



Heritage Preservation Commission

Regular Meeting

Monday, June 29, 2026, 6:30 PM
106 Center Street

Members of the public may attend the Heritage Preservation Commission meeting either in person or by joining via Zoom either online or by telephone at:

<https://us02web.zoom.us/j/88906091691?pwd=tcN9RLVaOAosyZN8fpsRmGnusZGJ8P.1>

Meeting chat link

<https://us02web.zoom.us/jc/88906091691>

Meeting ID: 889 0609 1691

Passcode: 897629

One tap mobile

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Some items on this agenda are important enough to City Councilmembers that quorum of the Council may be present to receive information leading to their future deliberations and eventual decision.

AGENDA

1. Call to Order/Roll Call
2. Agenda Approval
3. Consent Agenda
 - A. May 21, 2026 Heritage Preservation Commission Special Meeting Minutes
4. Citizen Reports or Comments
5. New Business
 - A. 254 Water Street SAP - Extension Request
 - B. 26 Water Street SAP - Partial Demolition of Tonka Theatre
6. Unfinished Business
7. Communications and Reports
 - A. Next regular City Council Meeting - July 20, 2026
 - B. Next regular HPC Meeting - July 28, 2026
 - C. Updates

8. Future Agenda Items
9. Adjournment

City of Excelsior
Minutes
Heritage Preservation Commission Special Meeting

Thursday, May 21, 2026
5:00 pm

1. CALL TO ORDER/ROLL CALL

Commissioners Present: Anderson, Caron, Condon, Gephart, Macpherson

Commissioners Absent: Dahlstrom

Others Present: Julia Mullin, Community Development Director

2. AGENDA APPROVAL

Gephart moved to approve the meeting agenda. Anderson seconded. Approved 5-0.

3. CONSENT AGENDA (including review and approval of minutes from previous meetings)

(a) April 28, 2026 Heritage Preservation Commission Minutes

Macpherson moved to approve the minutes with corrections. Anderson seconded. Approved 5-0.

4. CITIZEN REPORTS OR COMMENTS

5. NEW BUSINESS

None.

6. UNFINISHED BUSINESS

(a) HPC No. 2026-06 – Site Alteration Permit New Sign at 404-406 Second Street- Gardner Salon

This item was continued from the April HPC meeting. Commissioners added to the Resolution approving the SAP: Ensure the rail color is minimally visible and does not stand out. Commission thanked applicant for making the revisions discussed in April. Anderson moved to approve HPC Resolution 2026-06, as amended, approving the sign. Gephart seconded. Approved 5-0.

(b) Sign Ordinance - Amendment of Section 24 of Zoning Code

This item was continued from the April HPC meeting. The Commission reviewed the proposed amendment to the city sign ordinance and made recommendations which staff will report to the City Council at their meeting on June 15th.

7. COMMUNICATIONS AND REPORTS

(a) Next regular City Council Meeting – June 1, 2026

(b) Next regular HPC Meeting – May 26, 2026

(c) Updates – *Staff provided update on masonry work at the Masonic building and on proposed façade changes at 211 Water Street.*

8. FUTURE AGENDA ITEMS

9. ADJOURNMENT

Agenda
Heritage Preservation Special Commission Meeting
Thursday, May 21, 2026
Page 2

Macpherson moved to adjourn the meeting. Condon seconded. Approved 5-0. Meeting adjourned at 6:45 pm.

Respectfully submitted,

Julia Mullin, Community Development



ITEM REPORT

To: Heritage Preservation Commission
From: Julia Mullin, Community Development Director
Meeting Date: June 29, 2026
Department/Office: Community Development
Item Name: 254 Water Street SAP - Extension Request

Summary:

APPLICATION

The applicant, Tim Caron, Madelena Properties, received a Site Alteration Permit in June 2025 for interior and exterior renovations at 254 Lake Street. The approval is documented in HPC Resolution 2025-05 (attached). The applicant has not begun work on the project and requests an extension of the Site Alteration Permit.

City Ordinance, Chapter 20, Sec. 20-11 (f) states that once a site alteration permit has been issued, construction must begin within 12 months from the date of issuance. The code provides for one 12-month extension.

Section 20-11(f) Time Limitation. Construction for which a site alteration permit is issued shall begin within 12 months from the date of issuance of the site alteration permit.

(1) A one-time extension may be granted by the commission for a period up to 12 months from the date of expiration provided that:

a. The original site alteration permit has not expired at the time of application for an extension is filed; and

b. The site or building conditions have not changed on the subject property and adjacent properties.

(2) Upon expiration of the extension, the applicant must reapply for a site alteration permit

The applicant filed for an extension prior to the expiration of the permit and has confirmed that building conditions have not changed.

Recommended Action:

Staff recommends that the HPC grant a one-time 12-month extension for the site alteration permit issued for 254 Water Street and approve HPC Resolution 2026-07.

Budget:**Attachments:**

1. Letter from Applicant
2. HPC Resolution 2025-05
3. HPC Resolution 2025-06

MADELENA PROPERTIES, LLC

182 3rd Street
Excelsior, MN 55331
Phone: 612.328.3915
E-Mail: tgcaron@sprintmail.com

June 10, 2026

Julia Mullin
City of Excelsior
261 School Avenue
Excelsior, MN 55331

Re: Site Alteration Permit Extension--Apartment Renovation Project at 254 Water Street, Excelsior

Dear Julia:

I am writing to request a 12-month extension of the Site Alteration Permit that was approved by the Heritage Preservation Commission at its meeting on June 24, 2025.

The HPC Ordinance permits the Commission to approve a one-time extension of up to 12 months from approval of a Site Alteration Permit, pursuant to Section 20-11(f). While we have recently received our construction bids, we are not yet ready to start on the project, as we are still evaluating the use of Historic Tax Credits and have been advised that we cannot begin demolition or other rehabilitation work until we have submitted appropriate tax credit documentation to SHPO. We believe that we meet the terms of the city code for issuing an extension, as the site and building conditions on the property and adjacent properties have not changed since the SAP resolution was approved on June 24, 2025.

Thank you for your consideration. Please let us know if you have any questions or need anything further.

Sincerely,



Tim G. Caron
President, Madelena Properties, LLC

City of Excelsior
Heritage Preservation Commission
Resolution No. 2025-05

A Resolution Approving a Site Alteration Permit
for internal and external improvements to the upper-level apartment
at 254 Water Street.

WHEREAS, Tim Caron of Madelena Properties LLC, at 254 Water Street, Excelsior, MN 55331, (“Applicant”) has applied for a site alteration permit for internal and external improvements to the upper-level apartment.

NOW, THEREFORE, IT IS RESOLVED, that the Applicant is hereby approved a site alteration permit for internal and external improvements to the upper-level apartment at 254 Water Street based on the following:

FINDINGS OF FACT

1. Tim Caron of Madelena Properties LLC (“Applicant”) has applied for a site alteration permit for internal and external improvements to the upper-level apartment at 254 Water Street, including replacing five non-historic windows at the front (east) elevation, two (2) non-historic windows on the side (south) elevation, adding a deck to the secondary elevation at the rear, replacing a non-historic metal door and windows at the rear (west) elevation, replacing a foam roof with membrane roof, and replacing a gutter downspout with a copper half-round gutter downspout.
2. The building was built in 1910 and is a contributing structure in the Downtown Historic District.
3. The building is a multi-use property, with a storefront on the lower level and an apartment on the upper level.
4. Tim Caron purchased the property in September 2007.
5. In making a determination whether to approve or deny an application for a site alteration permit, the commission shall be guided by The Secretary of the Interior’s Standards and Guidelines for Rehabilitation and the City of Excelsior’s *Preservation Design Manual*.

CONCLUSIONS OF LAW

1. The proposed window replacements will replace non-historic windows that are deteriorated and ineffective in their existing openings.
2. The proposed door replacement will replace a non-historic door that opens to the rooftop at the rear (west) elevation.

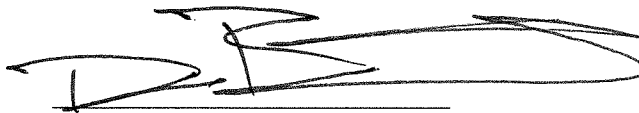
3. The deck appears to meet the guidelines in the Preservation Design Manual for location on a multi-story building, square footage, and design simplicity.
4. The proposed roof replacement will replace a non-historic roof that is currently made of foam and deteriorated.

CONDITIONS

1. The five non-historic vinyl windows at the front (east) elevation and the two non-historic vinyl windows on the side (south) elevation will be replaced with Pella Reserve double-hung wood windows with a white aluminum clad exterior to fit within the existing openings.
2. The non-historic metal door at the rear (west) elevation at the end of the hallway that leads to the existing rear rooftop and vinyl windows at the rear (west) elevation at the shall be replaced with black steel multi-paned doors with sidelight windows in the doors in order to create the two-bedroom remodel.
3. The deck/terrace leading from the two bedrooms to the rooftop at the rear (west) elevation shall be no greater than 200 square feet and surrounded by black aluminum guard rail.
4. The foam roof of the upper level is non-historic and shall be replaced with rubber membrane.
5. The gutter/downspout shall be replaced by a half-round gutter/downspout.

Adopted by the Heritage Preservation Commission of the City of Excelsior, Minnesota, on this 27th day of May 2025.

HERITAGE PRESERVATION COMMISSION



Dan Brattland, Chair

City of Excelsior
Heritage Preservation Commission
Resolution No. 2026-06

A Resolution Approving a 12-Month Extension of Site Alteration Permit for Internal and
External Improvements to the Upper-Level Apartment at 254 Water Street, Documented in HPC
Resolution 2025-05

WHEREAS, Tim Caron of Madelena properties LLC, at 254 Water Street, Excelsior, MN 55331, (“Applicant”), has applied for a 12-month extension of the site alteration permit granted for internal and external improvements to the upper-level apartment on June 24, 2025.

NOW, THEREFORE, IT IS RESOLVED, that the Applicant is hereby approved an extension based on the following:

FINDINGS OF FACT

1. The request for an extension was filed prior to the expiration of the Site Alteration Permit.
2. The building conditions have not changed since the Site Alteration Permit was granted.

CONCLUSIONS OF LAW

1. The request is consistent with requirements in Chapter 20, Section 20-11 (f) of the City Code of Ordinances which provides for the granting of an extension of a Site Alteration Permit.

Adopted by the Heritage Preservation Commission of the City of Excelsior, Minnesota, on this 29th day of June 2026.

HERITAGE PRESERVATION COMMISSION

Tim Caron, Chair

ITEM REPORT**To:** Heritage Preservation Commission**From:** Julia Mullin, Community Development Director, Amy Lucas, Historic Consultant**Meeting Date:** June 29, 2026**Department/Office:** Community Development**Item Name:** 26 Water Street SAP - Partial Demolition of Tonka Theatre**Summary:**

APPLICANT	Matt Mithun
PROPERTY OWNER	Same
LOCATION	26 Water Street
CASE NO.	HPC No. 2026-08
DEADLINE	August 17, 2026 / October 16, 2026

1. Application

The applicant, Matt Mithun, Mithun Companies, has submitted a Site Alteration Permit (SAP) for a partial demolition of the rear 51' 6" of the Tonka Theater (built in 1945) at 26 Water Street (total length of building is 125' 7"). The demolition of the theater addition (built in 1989) at 26 Water Street was previously recommended for approval at previous HPC meetings and included in HPC Resolutions 2025-04 and 2026-01 (attached). The SAP also proposes a new rear elevation design and alterations to the theater façade.

2. Summary Of Findings

1. The City of Excelsior designated the local and National Register Excelsior Commercial Historic District to protect historic properties and ensure compatible alterations. A major impetus for designating historic districts has been to protect properties from parking lot development and incompatible new construction.

2. The Tonka Theater is a contributing building in the historic district and the character-defining feature of a movie theater is the auditorium and the resulting overall mass of the structure. The proposed demolition would permanently damage the significance and integrity of the building and the historic district. The two-block historic district is a rare, cohesive group of commercial buildings that tell Excelsior's development history from 1886-1955.

3. The proposed partial demolition is not consistent with Chapter 20 of the city code of ordinances, the HPC Preservation Design Manual, or the Secretary of the

Interior Standards and Guidelines for Rehabilitation.

4. Allowing the partial demolition without meeting the prescribed criteria of the city's code would be precedent-setting for future demolition reviews in the historic district and for Landmark properties in Excelsior. Up to this point, the continuous development pressures of incompatible construction in Excelsior's historic district have been prevented by consistently following the statutes in the city code.

3. Background and Previous Reviews

The applicant purchased the property at 26 Water Street (Tonka Theater) with the attached 28 Water Street (currently Lago Tacos) in 2003 for \$1,250,000. The building at 26 Water Street continued to operate as a theater and appears to have closed during 2020 Covid epidemic. The theater briefly opened in 2022, but closed and has not been reopened.

On March 20, 2024, the HPC reviewed the sketch plan review/concept review of the proposed development at 10 Water Street. At that time, the development proposed a hotel on the vacant lot at 10 Water Street and envisioned using the Tonka Theater building for uses supportive to the hotel. No demolition was contemplated. (Fig. 1) The city provided feedback that a four-story building was not compatible with the Downtown Historic District.



Fig. 1 March 2024 site plan reviewed by HPC

In 2025, the project scope changed. The applicant could have returned to the HPC with a concept plan including the proposed demolitions for the purpose of obtaining the Commission's comments and recommendations as stated in Sec. 10-12 (b)(1) but did not. Instead, the applicant applied for a Preliminary Planned Unit Development (PUD) application to build an apartment building and demolish the rear (full auditorium) of the historic theater at 26 Water Street. (Figs. 2 and 3) At their meetings of April 29, May 27, and June 17, 2025, the HPC commented on the Preliminary PUD application and approved HPC Resolution 2025-04 (attached) providing findings of fact on conformity with approved design standards

and guidelines and recommendations. The recommendations for the design of the new building were forwarded to the Planning Commission and City Council as required by Ordinance, Sec. 20-11. The HPC stated in HPC Resolution 2025-04 that the non-contributing 1989 theater addition, which was built outside the period of significance for the historic district and is non-contributing to the historic district, is acceptable for demolition. The HPC did not recommend approval of the demolition or partial demolition of the historic Tonka Theater. The HPC resolution documented that a Site Alteration Permit for the proposed demolition is required for HPC review per city code.

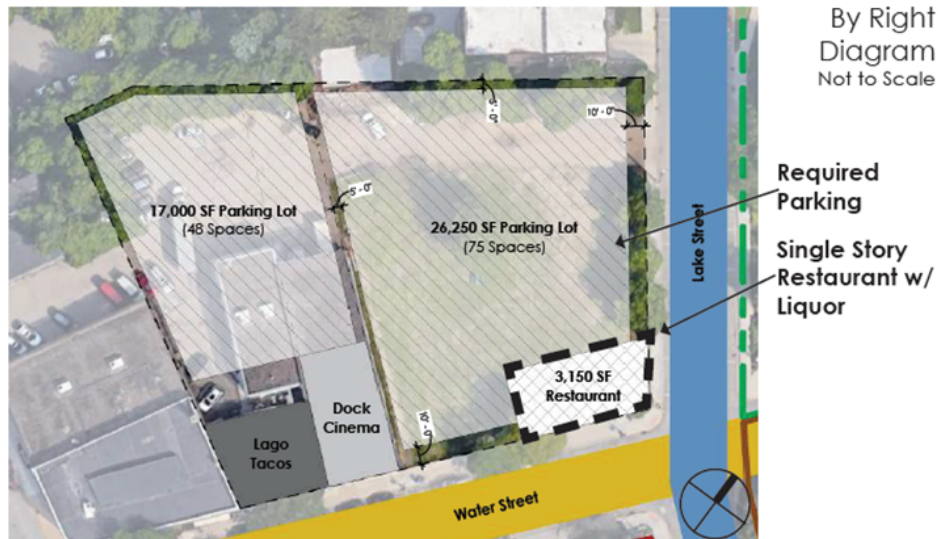


Fig. 2 April 2025 site plan reviewed by HPC

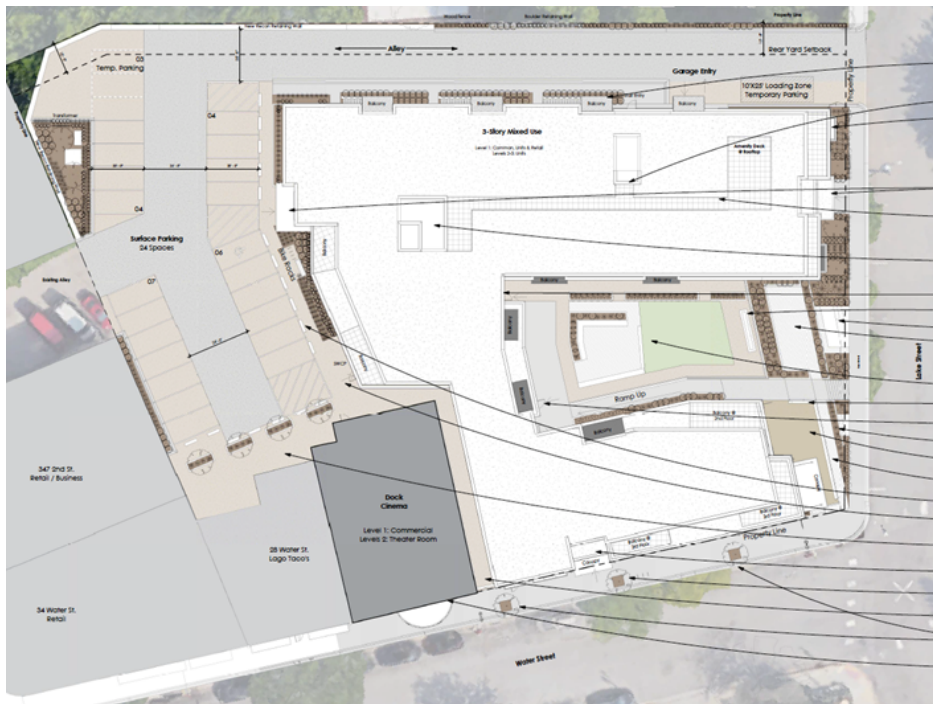


Fig. 3 April 2025 site plan reviewed by HPC

On February 24, 2026, the applicant returned to the HPC for a SAP application to demolish the rear 55 feet of the Tonka Theater. The City of Excelsior determined that the proposal razed more than 30 percent of the building and considered the application for a “demolition” of a historic building. At the meeting, the HPC denied the demolition of the rear 55 feet and the construction of a new rear wall, and approved the façade alterations, with conditions, and the demolition of the 1989 theater addition (HPC Resolution 2026-01 is attached).

4. Landmark History

The two-story, Streamline Moderne Tonka theater at 26 Water Street was built in 1945. The building is a contributing building in the local Excelsior Commercial Historic District (listed 1998) and the National Register of Historic Places Excelsior Commercial Historic District (listed 2021). The period of significance for the district is 1886-1955. The theater is an important reminder of Excelsior’s entertainment history and has been a community entertainment and gathering space for over 70 years. The theater building is a physical example of the building’s past and is designated as a historical and architectural reminder of its past history, but the “use” is not designated.



Fig. 4 Tonka Theater, façade

The Tonka Theater was designed by Minnesota architects, Liebenberg and Kaplan. The previous theater (1940) burned in January 1945 and the new theater was poured-concrete fireproof construction with a stucco exterior. The Streamline Moderne style emerged during the 1930s-1940s and the minimal design was in response to the economic restraint necessary called for during the Great Depression. The horizontal buildings favored white exteriors with flat roofs and integrated the design elements within the simple form. The Tonka Theater features a smooth, white stucco façade and fluted grooves into the curved wall at the upper floors and its scale is distinctive in the Downtown District. The theater was built with an auditorium for approximately 500 (original seats have been replaced) and a balcony. Two restrooms were in the lobby. In ca. 1972, the balcony was enclosed to create a smaller theater at the second floor above the lobby. In 1989, a second theater was built on the parcel at 28 Water Street behind the one-story Hennessy Building (1955, contributing) (present-day Lagos Tacos). At an unknown date, a corridor was built into the side of the Hennessy Building to access the 1989 theater. The 1970s wood siding at the façade continues over this corridor addition. The original plans for the Tonka Theater are located in the

Northwest Architectural Archives at the U of M.

The architects, Liebenberg and Kaplan, are responsible for a number of Minnesota movie theaters. Jacob “Jack” Liebenberg (1893-1985) and Seeman Kaplan (1895-1963), graduates of the University of Minnesota architecture school, formed a partnership in 1923 and became one of the most successful architecture firms in Minnesota. The firm specialized in “prestigious homes, Jewish temples, and movie theaters.” (Lathrop, *Minnesota Architects*) The firm is responsible for the state’s first theater built for sound pictures in 1928 (Granada a.k.a. Suburban World in Minneapolis) and embraced the Art Deco and Moderne styles to welcome the modern age of motion pictures. A survey of the firms’ surviving theaters has not been completed, but many of their theater designs in Minneapolis have been lost; including the Strand (1933, razed 1975), the Faust (1934, razed 1989), the Campus/Oak Street Cinema (1935, razed 2011), the Gopher (1938, razed 1980) and the Rialto (1937, razed 1980). A few of the firm’s theaters have been individually listed in the National Register of Historic Places; they include the Hennepin/Orpheum Theatre, Hollywood Theater and the Ely State Theater.

The two-block Excelsior Commercial Historic District has 32 contributing buildings and 4 noncontributing buildings. The cohesive district is unique because it features multiple commercial building types and a range of architectural styles from 1886 until 1955. The buildings are linked historically and architecturally and tell the story of Excelsior’s commercial history; they feature examples of a pharmacy, grocery, two fraternal organization buildings, an auto repair building, an auto dealership, multiple commercial buildings and one movie theater. The size and scale of each of these buildings reflects their historic use and the concentration of so many intact historical examples is exceptional. The continuous economic stability of the district is partially due to the high integrity and cohesiveness of the historic buildings.

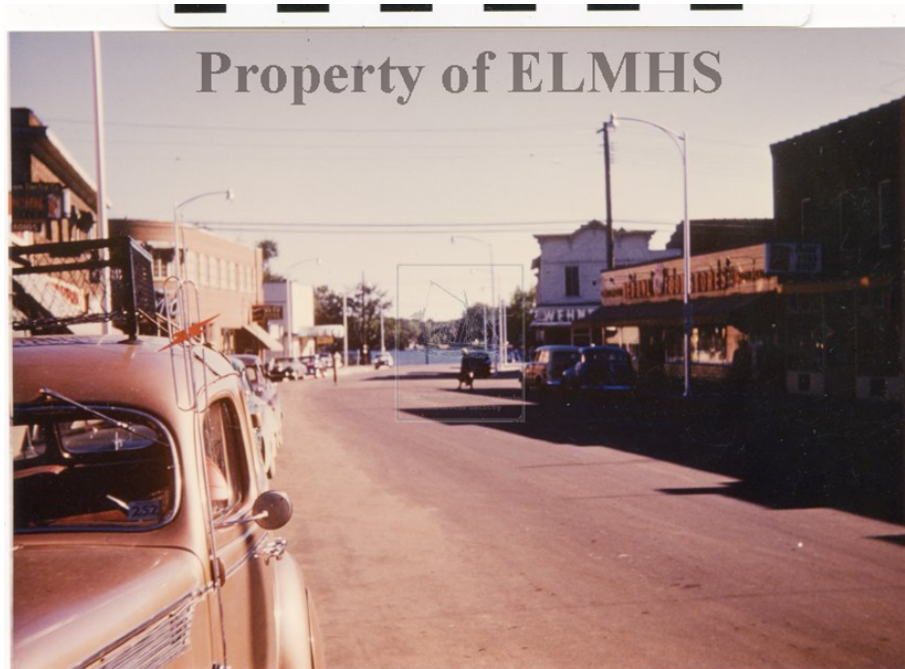


Fig. 5 Water Street in 1949

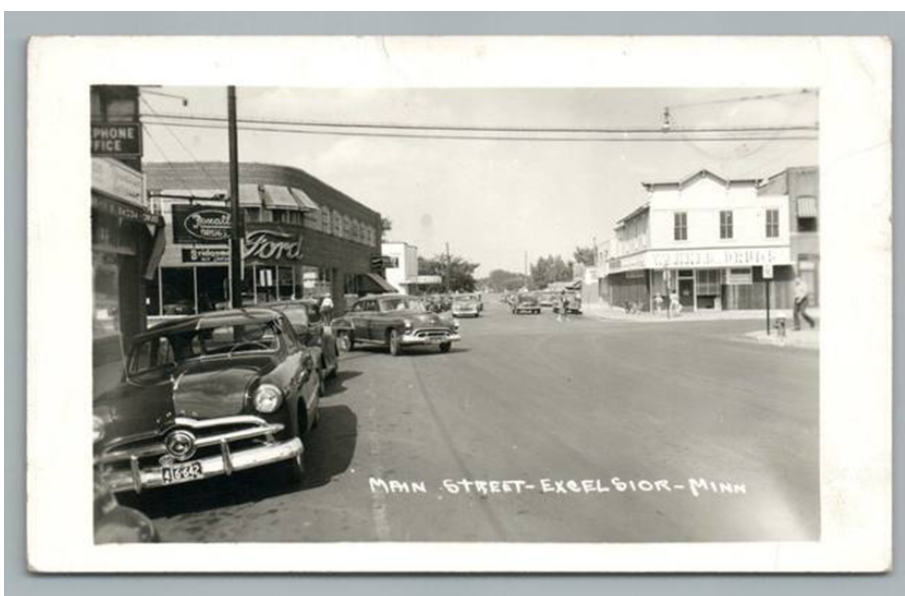


Fig. 6 Water Street in 1950



Fig. 7 Water Street in ca. 1950

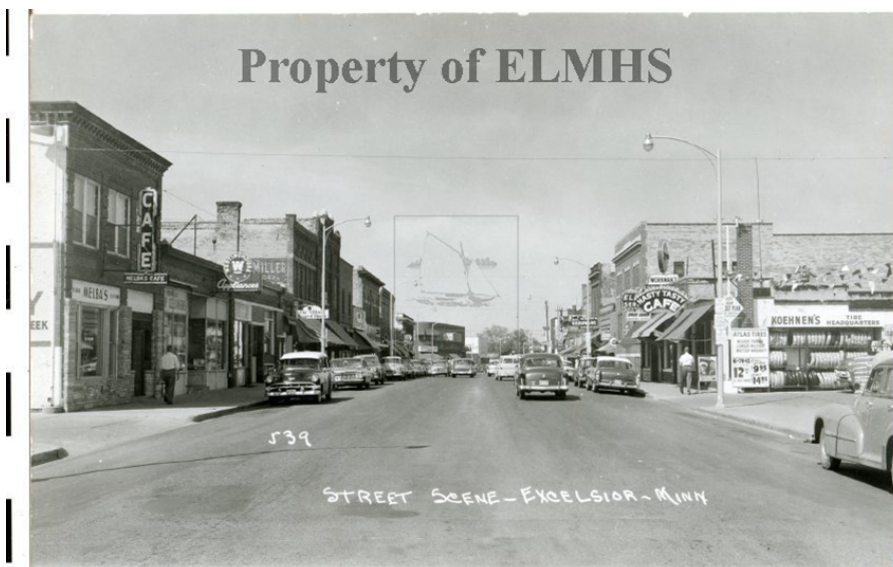


Fig. 8 Water Street in 1959



Fig. 9 Excelsior Commercial Historic District in 1955



Fig. 10 Excelsior Commercial Historic District in 1962

5. SAP Application Proposal for Partial Demolition and Renovation of Building

The applicant has provided a new SAP application.

The applicant is proposing to remove the rear 51' 6" (linear feet) of the building. This is 29.9% of the building and falls under the review for partial demolition. The remaining 74' 1" (linear feet) of the theater will be renovated. They propose to shore up the remaining three exterior walls of the building while the roof and interior are removed, and then rebuild. A new wall design is proposed for the rear elevation

and the façade will have new entrances and a marquee with signage.

At the façade, the wood siding and the marquee will be removed (Figs. 11-13). At this time, it is unknown what historic fabric remains under the wood siding. A new marquee and new entrance system are proposed. The proposed marquee and façade renovation do not follow the original design as depicted in photographs. The “TONKA” signage is proposed for the top of the canopy but was originally attached to the sign band of the canopy. The “TONKA” letters will be illuminated. Lights are proposed for under the marquee canopy. Lit letters and lighting under the canopy were not historically present. Façade materials are listed as “accent materials” and specifications for the doors were not provided. The new rear elevation is proposed as stucco with three, fixed windows and an offset door system. Materials are described as “accent materials” and specifications for the windows and doors were not included, providing added difficulty to evaluating the application as Excelsior City Code 20-11(h) requires the HPC be guided by 1) Secretary of the Interior’s Standards and Guidelines for Rehabilitation; and (2) the design guidelines and standards listed in the Preservation Design Manual.

The “architectural site plan” (Figure 14) is inaccurate and proposes a different rear wall alignment with a notch removed from the wall (different from Figures 12 and 15). This needs clarification. Additionally, the adjacent Hennessy building, 28 Water Street, is incorrectly illustrated. A design for the interior was not provided. Tenants and uses for the buildings have not been proposed.

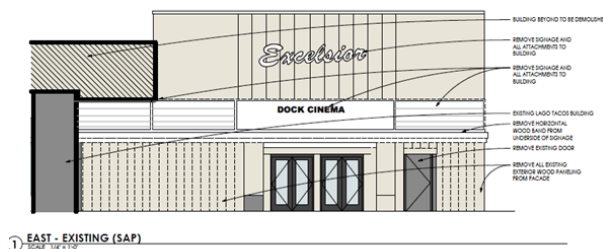


Fig. 11 Current facade



PROPOSED NEW

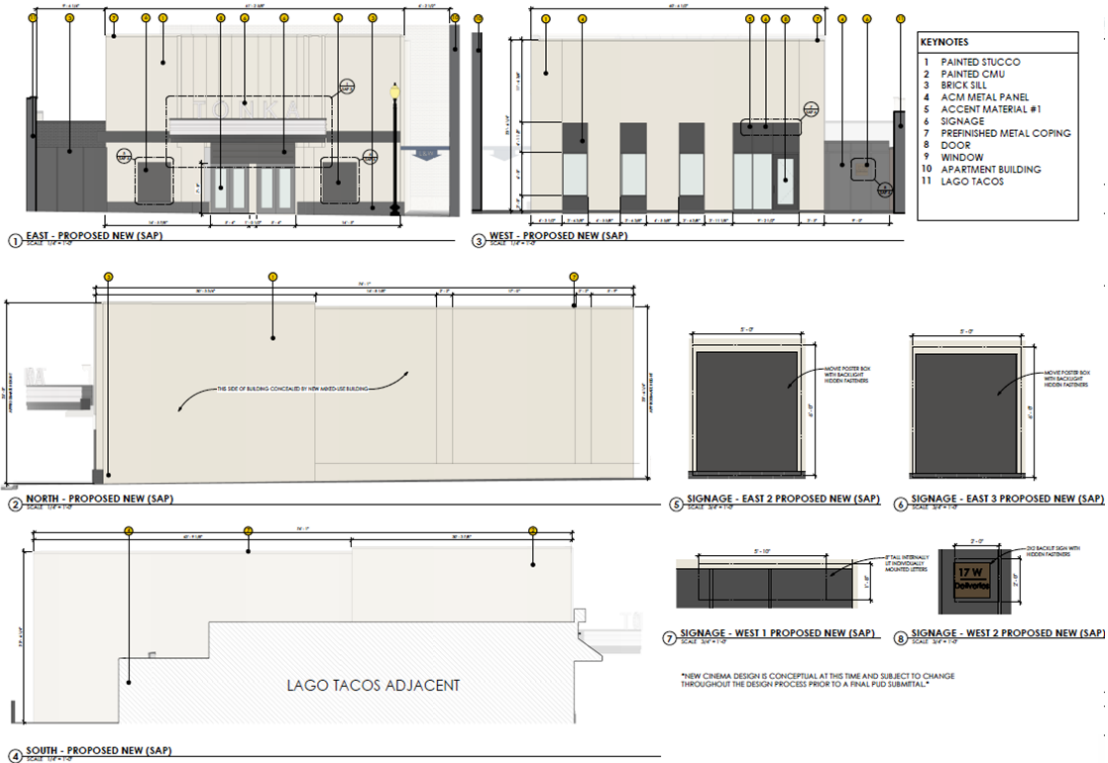


Fig. 12 Proposed elevations

PROPOSED NEW

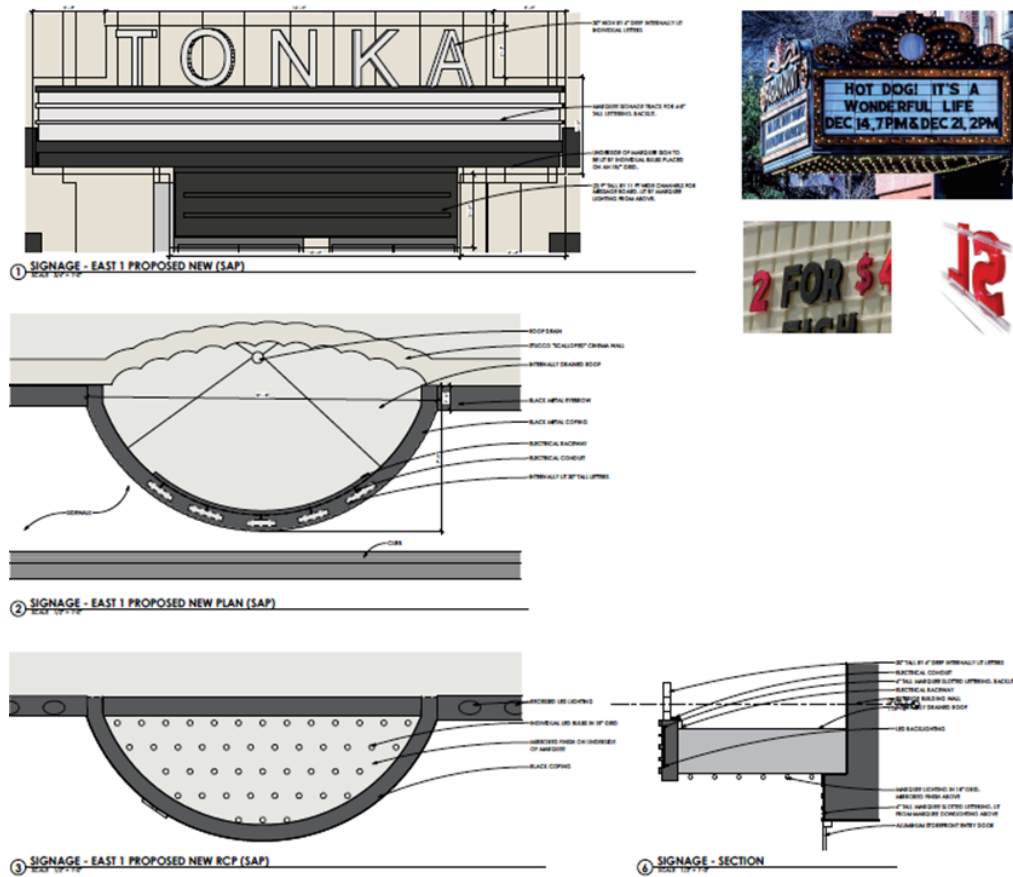
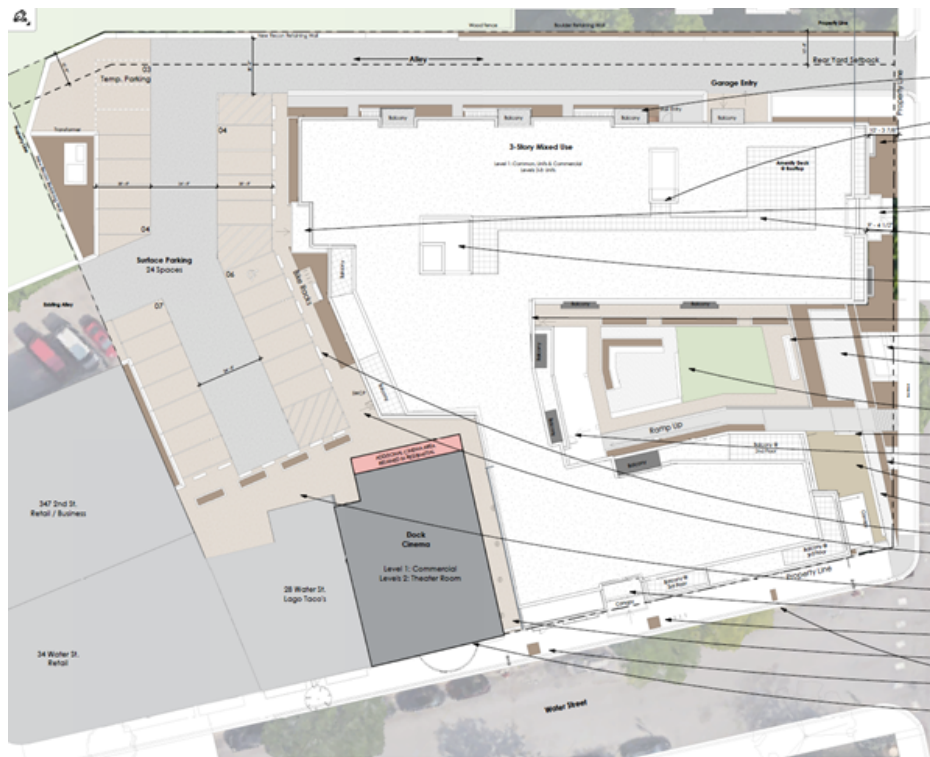


Fig. 13 Proposed signage



1 Architectural Site Plan
SCALE 1/8" = 1'-0"

Fig. 14 Proposed site plan with inaccurate building dimensions



Fig. 15 Hennepin County Property aerial map of Tonka Theater in blue outline

6. Criteria for Review

Chapter 20 of Excelsior City Code for Demolition authorizes the review and states:

Sec. 20-3. Definitions

Demolition. Any act that destroys or removes more than 30 percent of the building or other structure.

Demolition, partial. Partial demolition includes any act which destroys a portion of a building consisting of not more than 30% of the floor area of the building, and where the portion of the building to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the period of significance on any exterior elevation when the demolition is part of an act of restoring original historic elements of a building and/or restoring a building to its historical mass and appearance.

Sec. 20-11(h). Site alteration permit criteria

In making a determination whether to approve or deny an application for a site alteration permit, the commission shall be guided by the following criteria:

- 1) Secretary of the Interior's Standards and Guidelines for Rehabilitation.
- 2) Preservation Design Manual. The design guidelines and standards listed in the Preservation Design Manual.
- 3) Additional criteria for proposed alterations within designated historic districts. Before approving a site alteration permit that involves alterations to a property within an historic district, the commission (or city council on appeal) shall make the following findings:
 - a. The alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.
 - b. Granting the site alteration permit will be in keeping with the spirit and intent of this chapter and will not negatively alter the essential character of the historic district.
- 4) Criteria for moving and demolition is located in section 20-12 of this chapter.

Sec. 20-12. Demolition and relocation

(j) *Review criteria for partial demolition.* In reviewing an application requesting a site alteration permit for partial demolition, the Commission shall apply the following criteria:

- 1) The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and
- 2) The applicant has mitigated, to the greatest extent possible:
 - a. Impacts on the historic importance of the structure or structures located on the property; and
 - b. Impacts on the architectural integrity of the structure or structures located on the property.

7. The HPC Shall Make the Following Findings for the Site Alteration Permit Application

Sec. 20-11(h)(3) Additional criteria for proposed alterations within designated historic districts.

Before approving a site alteration permit that involves alterations to a property within an historic district, the commission (or city council on appeal) shall make the following findings:

- a. *The alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.*

The Tonka Theater is a contributing building to the historic district. The entire theater was built during the period of significance. The proposed partial demolition of the Tonka Theater alters the auditorium and scale of the building. The District contains 32 contributing structures and only 4 noncontributing. Partial demolition will remove the contributing status of the Tonka theater building and harms the concentration of historic buildings of varying scale and architectural style which is the essence of the downtown historic district in Excelsior. Approving the partial demolition of the building does not maintain the significance or integrity of the building or the historic district.

- b. *Granting the site alteration permit will be in keeping with the spirit and intent of this chapter and will not negatively alter the essential*

character of the historic district.

The partial demolition of the Tonka Theater is not in keeping with the spirit and intent of the preservation chapter of the city code. The City of Excelsior designated the historic district locally and nationally because it is an area of downtown whose buildings are linked historically and architecturally and as a whole tell the story of Excelsior's commercial history. The district is remarkably intact. The size and scale of these buildings contribute to their importance, both as individual structures and as a district as a whole. To remove part of the Tonka Theater building whose character-defining element is the auditorium and its scale, will negatively alter the essential character of the district.

Furthermore, it is important to understand the precedence of the proposed demolition. Allowing the demolition would not only alter the significance of the Tonka Theater and the historic district, it is also setting a precedent.

Allowing the partial demolition without any evidence of structural failure, cost analysis for rehabilitation, market and reuse studies, will set a precedent for future demolition reviews in the historic district and for landmarks in Excelsior.

Sec. 20-12 Demolition and Relocation

1. The partial demolition is required for the renovation, restoration or rehabilitation of the structure;

The applicant has not provided evidence that the partial demolition is required for renovation, restoration or rehabilitation of the theater. In fact, the partial demolition makes renovation, restoration and rehabilitation of the landmark impossible. The structural and environmental reports do not support partial demolition or provide a cost analysis for repairs. The demolition is proposed to accommodate surface parking and extension of the new construction on the neighboring parcel.

The owner has not provided economic evidence to support the impracticality of rehabilitation, nor has the owner provided costs for restoration or rehabilitation. Excelsior has provided multiple examples of rehabilitation and receiving high economic returns on the investment. It has not been proven that rehabilitation will reduce the property values, and, in Excelsior, historic buildings usually sell for higher values.

Chapter 20 allows the HPC to request a re-use study. It was requested and the owner declined to submit. (See applicant email, attached). A reuse

study is relevant and helpful because it evaluates possible re-use options for the building, based on the building's attributes, and evaluates costs of those options compared with cost of demolition and new construction. The owner has provided some costs for a restaurant in the theater. Movie theaters are one of the most reused and adapted buildings across the country. They are centrally located, well-situated on Main streets across the United States and have large volumes with clear, open spans and in many cases, they have fireproof construction. They have been successfully renovated, often using historic rehabilitation tax credits, into art centers, community centers, music venues, wedding venues, lecture halls, co-working spaces, restaurants/bars/liquor stores, libraries, sports arenas/gyms/climbing, recording studios and even apartments. The theater space could support the proposed new neighboring residential construction with amenity spaces like workout rooms, and party rooms.

Because this building is a contributing building in a National Register Historic District, it is eligible for historic rehabilitation tax credits. The state and federal credit allows for a 40% credit off the cost of the rehabilitation. The applicant has not provided evidence of investigating historic tax credits. The building will be ineligible for future tax credit applications if the character-defining features of its building type are removed. The auditorium space is THE character-defining feature of a theater. Costs to rehabilitate the historic building into a new use are covered; these include new code compliant stairs, elevator, restrooms, HVAC, and even leveling sloped floors. The owner has not provided costs for rehabilitation nor compared the costs of demolition and reconstruction vs. rehabilitation.

2. The applicant has mitigated, to the greatest extent possible:

a. Impacts on the historic importance of the structure or structures located on the property;

The Tonka Theater is a significant landmark in the history of Excelsior and provided entertainment and enrichment experiences for over 70 years. The theater auditorium was a purpose-built civic space designed for the shared experience and the building is intact today. The demolition of 51' 6" of the building cause the Tonka theater building to lose its contributing status in Excelsior's Downtown Historic District. The owner has not attempted to mitigate this impact to the building or the district.

b. Impacts on the architectural integrity of the structure or structures located on the property.

The Tonka Theater is a contributing structure to the local and National

Register Historic District. The two-story Streamline Moderne theater was designed by renowned architects, Liebenberg and Kaplan. The building retains the significant character-defining features of a theater including the prominent façade and the theater auditorium space. The auditorium has integrity and continues as a unique architectural landmark in Excelsior. It is an extant reminder of the size, scale, massing of the construction period and the mass behind the façade continues to tell the story of how the building operated.

The mass behind the facade is visible today from Water Street and Lake Street and will be visible from Water Street and the entrance to the proposed rear-facing retail and multifamily building. The view of the Tonka Theater building from Water Street will change significantly if it is shortened by 51' 6" through partial demolition and replaced with the proposed 3 story multifamily building. The three-story massing of the proposed multifamily building will rise above the shortened theater, diminishing its profile as seen from Water Street.

The applicant has not provided evidence of any attempts to mitigate the loss of the landmark space nor has the applicant provided costs for reuse or rehabilitation. Furthermore, allowing the partial demolition has the potential to alter the historic district with future demolition reviews.

8. The HPC shall be guided by the following criteria:

The Secretary of the Interior's Standards and Guidelines for Rehabilitation state:

- 1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*

The HPC does not govern or review 'use.' The HPC reviews alterations proposed for historic properties and guides the alterations towards minimal damage to the defining characteristics of the historic resources. A character-defining feature is what a building type is most associated with, and examples include a steeple for a church, grain elevator for a mill, canopy for a gas station. The character-defining feature of the Tonka Theater is the auditorium, and the applicant is proposing to remove the more than half the auditorium space and create a theater in the balcony space. The balcony theater is not a replacement of the use and the HPC does not review or require historic uses to remain in place. This SAP proposal removes the character-defining feature of the open auditorium space and scale of the building and permanently alters the building, site and environment. The partial demolition is not "minimal change", and the

proposal does not follow the guideline.

The City cannot guarantee or require a theater use. There is nothing to preclude the owner from changing the proposed use of the balcony theater after the SAP applications are approved.

2. *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

The Tonka Theater is a contributing structure to the local and National Register Historic District. The two-story Streamline Moderne theater was designed by renowned architects, Liebenberg and Kaplan. The character-defining feature of a theater is the historic auditorium space and the resulting scale of the building. A movie theater building type is recognized by its auditorium space. The removal and alteration of this historic space does not meet the guideline.

3. *Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.*

At this time, the proposed façade design is conjectural and lacks specific detail.

4. *Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.*

The exterior alterations of the 1989 theater addition, corridor addition into the neighboring building and facade siding have not acquired significance and retention is not recommended. The current marquee was also installed after the district's period of significance and may be replaced.

5. *Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.*

The most "distinctive feature" of a movie theater is the auditorium space and removal of 51.5 linear feet of a total 125.5 linear feet of the Tonka Theater building does not preserve this feature. The applicant proposes to

retain the stucco Streamline Moderne façade, which is an important design finish and preservation is recommended. The applicant proposes to replace the non-historic marquee, which does not characterize the historic property during the period of significance and is not an example of historic finish or craftsmanship.

6. *Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.*

The applicant has not provided evidence that the theater auditorium is deteriorated and requires partial demolition. The applicant provided a report from Meyer Borgman Johnson (MBJ), structural engineers, dated October 27, 2025. The report found the concrete building to have “acceptable structural performance.” The applicant provided a report from The Javelin Group, environmental consultant, dated October 23, 2025. These reports do not recommend demolition or replacement of a historic resource. The partial demolition proposes removal and replacement with surface parking and a new structure.

The applicant proposes to replace the non-original marquee; the replacement must match evidence from photographs of original. façade conditions under the wood siding should be evaluated and repaired rather than replaced, if extant.

7. *Chemical or physical treatments, such as sandblasting, that cause damage to historic materials that characterize the property. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.*

The applicant notes that surface cleaning will be undertaken in a gentle method and follow preservation standards. Staff recommends that the HPC include as a condition of any approval that the applicant submit samples of exterior repair for review.

8. *Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.*

The property does not have archaeological significance.

9. *New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

The applicant is proposing partial demolition of the theater auditorium for the new construction of a surface parking lot and construction of a neighboring residential building. This proposal destroys the historic materials and integrity that characterize the Tonka Theater. The neighboring new construction proposal does not protect the history integrity of the property or the historic district.

10. *New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

This guideline explains that alterations and new additions shall be reversible and non-permanent. The partial demolition of the theater is not reversible.

The *Preservation Design Manual* guidelines:

General Storefront Guidelines:

GS.3 If replacement is necessary, new elements should duplicate the original element closely in form, proportions, and profile.

The original theater store front is covered with wood siding. The siding should be removed and façade evaluated before design proposal. The new design should be guided by extant building fabric and historic images.

Door Guidelines:

D.5 The installation of new doors should closely resemble the design and proportions of the original door. Wood is preferred material, but steel or aluminum with baked enamel finish may also be used. Metal frame doors may be more appropriate than wood frame doors on later architectural style such as Art Deco façades.

The original doors have been replaced with aluminum system. The new

system may be aluminum and should reflect the original door style based on pictorial evidence. Specifications, measurements and material details have not been provided by the Applicant at this time.

D.9 When replacing a door, use a design that results in an appearance similar to the original. Where the original design is unknown, use a door design associated with the building style or type.

The original doors have been removed. The proposed new entrance system should be based on historic images. Specifications and details and materials of proposed doors have not been provided at this time.

Window Guidelines:

W.4 Greater flexibility in installing new windows may be considered on secondary and rear walls. If new windows are to be installed into original window openings, the new windows should match the existing windows in the building in shape, size, design, material, and spacing between windows. New openings shall be of the same size and heights as other window openings.

Windows are proposed at the new rear wall. Openings at the current rear wall or the proposed new rear wall are acceptable. The proposed window and door design at rear lacks detail of design, materials, color, scale, and measurements.

Architectural Detailing Guidelines

AD.2 When restoring or working on a historic building, property owners are encouraged to restore any ornamentation that may have been removed previously.

The SAP proposes to replace the non-historic marquee with a marquee that is similar to original design in historic images. The design of the marquee appears to meet the guidelines, but signage should be attached to the sign band to adhere to pictorial evidence. After the non-historic wood siding is removed, the remaining design and materials should be evaluated. The design may change following the removal of the siding. Historic images indicate that decorative metal bands were located above the entrances.

Back Entries and Additions Guidelines:

BEA.8 Rear entrances on existing buildings shall clearly be secondary entrances and avoid the appearance of a primary façade.

The proposed rear entrance design avoids the appearance of a primary façade. Details of the doors and windows are unclear. Specifications, colors, measurements and material samples have not been provided at

this time.

Signage and Lighting Guidelines:

CS.3 Signage should be placed at traditional sign locations.

CS.8 Signs should not conceal any architectural features.

CS.10 Sign attachment parts should be reused in their original location to protect the original building materials.

CS.26 Internally-lit or flashing signs are not allowed in the historic commercial district.

The SAP proposes internally lit letters on the marquee sign which does not meet the guidelines. Historic images indicate the letters were originally attached to the face of the marquee and not on the roof of the marquee. Historic images indicate the letters were not lit.

Recommended Action:

Adopt HPC Resolution 2026-07 to deny the partial demolition of the Tonka Theater at 26 Water Street. Approve the SAP alterations proposed for the façade of 26 Water Street with conditions for further details.

Budget:

Attachments:

1. HPC Resolution 2026-07_26 Water
2. 1_ Owner Cover Letter
3. 2_ Excelsior Modified SAP Application_MM260526
4. 3_ Mithun- Excelsior- SAP Narrative
5. 4_ Overall Site Plan
6. 5_ 2026 05-26 Dock Cinema - SAP Set_JMRFS
7. 6_ Excelsior Theater - Construction Scope Means-Methods
8. 7_ MBJ Structural Assessment Report - Dock Cinema - 10-27-2025
9. 8_ Excelsior_Demo89_Bar-Restaurant Reuse Tonka Theatre
10. 9_ Mithun Enterprises- SAP Denial Objection Letter 4917-4937-9982 v.3
11. 10_ Incomplete application letter_SAP_06_11_2026
12. 11_ Applicant Response to Incomplete letter
13. 12_ Section Divider
14. 13_ 2026 06-18 Lake & Water - Architectural Site Plan
15. 14_ 2026 06-18 Lake & Water - SAP 6
16. 15_ 2026 06-18 Lake & Water - SAP Combined Renderings

17. 16_ 2026 06-23 Lake Water - SAP SI1
18. 17_ Section Divider
19. 18_ Page 18 2025-04-01 10 Water prelim PUD
20. 19_ Page14 from 2025 04-01 10 Water St - Preliminary PUD Technical Drawings
21. 20_ Page 20_ 2025 04-01 10 Water - Prelim PUD TechDrawings-3
22. 21_ Section Divider
23. 22_ HPC Resolution 2025-04
24. 23_ HPC Resolution 2026-01

City of Excelsior
Heritage Preservation Commission
Resolution No. 2026-07

A Resolution Denying a Site Alteration Permit
for the partial demolition and rear wall design of the Tonka Theater at 26 Water Street
and
Approving the façade alterations, with conditions, of the Tonka Theater at 26 Water Street

WHEREAS, Matt Mithun of Mithun Companies, the owner of the Tonka Theater (built in 1945) at 26 Water Street and the theater addition (built in 1989) at 28 Water Street, Excelsior, MN 55331, (“Applicant”) has applied for a Site Alteration Permit for the partial demolition of the rear 51 feet 6 inches of the Tonka Theater at 26 Water Street, and alterations to the façade and rear elevations of the Tonka Theater;

WHEREAS, the Heritage Preservation Commission (“HPC”) considered Applicant’s application at its meeting on June 29, 2026.

NOW, THEREFORE, IT IS RESOLVED, that the Applicant is hereby denied a Site Alteration Permit to demolish the rear 51’6” feet and build a new rear wall of the Tonka Theater at 26 Water Street based on the following findings of fact,

AND, the Applicant is hereby approved a Site Alteration Permit to renovate the façade of the Tonka Theater at 26 Water Street with conditions based on the following findings of fact.

FINDINGS OF FACT

1. Matt Mithun, Mithun Companies, owner of 26 Water Street and 28 Water Street, Excelsior, MN 55331 (“Applicant”) has applied for a site alteration permit to demolish the rear 51’6” of the Tonka Theater at 26 Water Street, renovate the façade of 26 Water Street, create a new rear wall design at 26 Water Street.
2. The Tonka Theater at 26 Water Street was built in 1945 and is a contributing building in the local Excelsior Downtown Historic District (listed 1998) and the National Register of Historic Places Excelsior Commercial District (listed 2021). The Tonka Theater was designed by the prominent master architecture firm, Liebenberg and Kaplan, and is a significant example of the Streamline Moderne style in Excelsior. The theater is also significant as a physical reminder of Excelsior’s entertainment history and provided the region with a community and gathering space for over 70 years. The building retains integrity and continues to reflect its history as a movie theater with original design, massing, materials and scale.
3. The applicant purchased the building in 2003. The property was locally designated in 1998.
4. The owner purchased the parcels at 26 Water Street and 28 Water Street in 2003 for \$1,125,000. The parcel at 28 Water Street has the Hennessy Building (1955, present-day Lago Tacos tenant) and the theater addition (1989) connected to the neighboring Tonka Theater. The

property is assessed at \$1,215,000. The Tonka Theater at 26 Water Street ceased operations in 2020; the parcel at 26 Water Street is assessed at \$573,000.

5. At the HPC meeting on March 20, 2024, the commission considered a sketch plan for a hotel development on the parcel at 10 Water Street, that included re-use of the Tonka Theater, both the original building and the 1989 addition, for event space, cinema, rooftop deck, and food/concessions to support the hotel. No demolition was proposed at this time. The HPC commented that the proposed hotel building did not meet the standards of the Preservation Design Manual because it was too tall and not compatible with the established guidelines for the Downtown Historic District.
6. At the HPC meetings on April 29, May 27, and June 17, 2025, the commission considered an application for a Preliminary Planned Unit Development (PUD) application for construction of a mixed use development at 10 Water Street that included demolition of a portion of the rear of the Tonka Theater and the entire 1989 addition in order to accommodate surface parking and a new building. The commission approved HPC Resolution 2025-04 providing findings of fact and making recommendations to the City Council that included the finding that the city must review and approve a Site Alteration Permit for the proposed demolition of the Tonka Theater.
7. At the City Council meetings on July 21 and August 4, 2025, the City Council considered the application for a Preliminary PUD and approved resolution 2025-42 approving the Preliminary PUD with the condition, among other conditions, that a Site Alteration Permit application for the proposed demolition and the new construction be submitted to the City and approved.
8. At the HPC meeting on February 24, 2026, the commission denied the demolition of the rear 55' of the Tonka Theater at 26 Water Street (Resolution 2026-01) with conditions.
9. Section 20-3 of the Excelsior City Code defines "demolition" as *"Any act that destroys or removes more than 30 percent of the building or other structure"* and defines "partial demolition" as *"any act which destroys a portion of a building consisting of not more than 30% of the floor area of the building, and where the portion of the building to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the period of significance on any exterior elevation when the demolition is part of an act of restoring original historic elements of a building and/or restoring a building to its historical mass and appearance."*
10. The applicant is removing 29.9% of the original building, which is defined as "partial demolition" in Excelsior City Code. The portion of the building to be demolished is visible from Water Street and Lake Street.
11. Chapter 20-12(g) provides that the HPC may request a re-use study when considering a proposed demolition. The applicant did not comply with the requirement.

12. Section 20-11 (h) of the Excelsior City Code states *“In making a determination whether to approve or deny an application for a site alteration permit, the commission shall be guided by the following criteria:*

1) Secretary of the Interior’s Standards and Guidelines.

2) Preservation Design Manual. The design guidelines and standards listed in the Preservation Design Manual.

3) Additional criteria for proposed alterations within designated historic districts. Before approving a site alteration permit that involves alterations to a property within an historic district, the commission (or city council on appeal) shall make the following findings:

a. The alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.

b. Granting the site alteration permit will be in keeping with the spirit and intent of this chapter and will not negatively alter the essential character of the historic district.”

13. Section 20-12 (j) of the Excelsior City Code states *“In reviewing an application requesting a site alteration permit for partial demolition, the Commission shall apply the following criteria:*

1) The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and

2) The applicant has mitigated, to the greatest extent possible:

a. Impacts on the historic importance of the structure or structures located on the property; and

b. Impacts on the architectural integrity of the structure or structures located on the property.”

CONCLUSIONS OF LAW

1. The Tonka Theater at 26 Water Street is architecturally significant. The Tonka Theater at 26 Water Street is a contributing structure to the local and National Register Historic District. The two-story Streamline Moderne theater was designed by renowned architects, Liebenberg and Kaplan. The building retains the significant character-defining feature of the theater auditorium space. The scale, sightlines, sloped floor and acoustics were engineered for large groups and gave power to the theater experience. The building has good integrity and continues as a unique, architectural landmark in Excelsior. The auditorium is the character-defining architectural feature of the Tonka Theater and removing it permanently damages the historic integrity of the building and will remove the building as “contributing” resource in the historic district.
2. The Tonka Theater is historically significant. The Tonka Theater is a significant landmark in the history of Excelsior and provided entertainment and enrichment experiences for over 70 years. The theater space is a rare civic space in Excelsior and is significant as a community gathering place. During its use, the theater’s patrons invigorated the community and contributed to street

traffic and night traffic and provided commercial activity to the surrounding businesses. The theater auditorium was a purpose-built civic space designed for the shared experience and remains as a physical reminder of its time.

3. The Tonka Theater is linked historically and architecturally to the buildings in the Excelsior Commercial Historic District and their concentration and continuity possesses greater significance as a whole. The two-block Excelsior Commercial Historic District has 32 contributing buildings. The cohesive district is unique because it features multiple commercial building types and a range of architectural styles from 1886 until 1955. The buildings are linked historically and architecturally and tell the story of Excelsior's commercial history; they feature examples of a pharmacy, grocery, two fraternal organization buildings, an auto repair building, an auto dealership, multiple commercial buildings and one movie theater. The size and scale of each of these buildings reflects their historic use and the concentration of so many intact historical examples is exceptional. The continuous economic stability of the district is partially due to the high integrity and cohesiveness of the historic buildings.
4. The two condition reports provided to the HPC did not recommend demolition nor did they provide costs for repairs. These two reports did not provide evidence that the building is not sound and cannot be rehabilitated into modern uses.
5. The SAP does not meet the first of two "additional criteria for proposed alterations within designated historic districts" per Section 20-11 (h)(3). The Tonka Theater is a contributing building to the historic district. The entire theater was built during the period of significance. The proposed partial demolition of the Tonka Theater alters the auditorium and scale of the building. The District contains 32 contributing structures and only 4 noncontributing. Partial demolition will remove the contributing status of the Tonka theater building and harms the concentration of historic buildings of varying scale and architectural style which is the essence of the downtown historic district in Excelsior. Approving the partial demolition of the building does not maintain the significance or integrity of the building or the historic district.
6. The SAP does not meet the second of two "additional criteria for proposed alterations within designated historic districts: per Section 20-11 (h)(3). The partial demolition of the Tonka Theater is not in keeping with the spirit and intent of the preservation chapter of the city code. The City of Excelsior designated the historic district locally and nationally because it is an area of downtown whose buildings are linked historically and architecturally and as a whole tell the story of Excelsior's commercial history. The district is remarkably intact. The size and scale of these buildings contribute to their importance, both as individual structures and as a district as a whole. To remove part of the Tonka Theater building whose character-defining element is the auditorium and its scale, will negatively alter the essential character of the district.

Furthermore, it is important to understand the precedence of the proposed demolition. Allowing the demolition would not only alter the significance of the Tonka Theater and the historic district, it is also setting a precedent.

Allowing the partial demolition without any evidence of structural failure, cost analysis for rehabilitation, market and reuse studies, will set a precedent for future demolition reviews in the historic district and for landmarks in Excelsior.

7. The partial demolition of the Tonka Theater at 26 Water Street is not consistent with the required findings per Section 20-12 (h) of the Excelsior City Code for site alteration permit:

(a) The partial demolition is required for the renovation, restoration or rehabilitation of the structure. The applicant has not provided evidence that the partial demolition is required for renovation, restoration or rehabilitation of the theater. In fact, the partial demolition makes renovation, restoration and rehabilitation of the landmark impossible. The structural and environmental reports do not support partial demolition or provide a cost analysis for repairs. The demolition is proposed to accommodate surface parking and extension of the new construction on the neighboring parcel. The owner has not provided economic evidence to support the impracticality of rehabilitation, nor has the owner provided costs for restoration or rehabilitation. Excelsior has provided multiple examples of rehabilitation and receiving high economic returns on the investment. It has not been proven that rehabilitation will reduce the property values, and, in Excelsior, historic buildings usually sell for higher values.

b) The applicant has mitigated, to the greatest extent possible: Impacts on the historic importance of the structure or structures located on the property. The Tonka Theater is a significant landmark in the history of Excelsior and provided entertainment and enrichment experiences for over 70 years. The theater auditorium was a purpose-built civic space designed for the shared experience and the building is intact today. The demolition of 51' 6" of the building cause the Tonka theater building to lose its contributing status in Excelsior's Downtown Historic District. The owner has not attempted to mitigate this impact to the building or the district. And *Impacts on the architectural integrity of the structure or structures located on the property.*

The Tonka Theater is a contributing structure to the local and National Register Historic District. The two-story Streamline Moderne theater was designed by renowned architects, Liebenberg and Kaplan. The building retains the significant character-defining features of a theater including the prominent façade and the theater auditorium space. The auditorium has integrity and continues as a unique architectural landmark in Excelsior. It is an extant reminder of the size, scale, massing of the construction period and the mass behind the façade continues to tell the story of how the building operated.

The mass behind the facade is visible today from Water Street and Lake Street and will be visible from Water Street and the entrance to the proposed rear-facing retail and multifamily building. The view of the Tonka Theater building from Water Street will change significantly if it is shortened by 51' 6" through partial demolition and replaced with the proposed 3 story multifamily building. The three-story massing of the proposed multifamily building will rise above the shortened theater, diminishing its profile as seen from Water Street.

The applicant has not provided evidence of any attempts to mitigate the loss of the landmark space nor has the applicant provided costs for reuse or rehabilitation.

Furthermore, allowing the partial demolition has the potential to alter the historic district with future demolition reviews.

8. The “partial demolition” does not meet the “additional criteria for partial demolition findings” and the applicant has not provided any evidence that the partial demolition is required for the renovation, restoration or rehabilitation of the structure.
9. The applicant has not provided any attempts to mitigate the “the impacts of the historic importance of the structure” or the “architectural integrity of the structure” caused by the “partial demolition.”
10. The partial demolition is not consistent with the guidance in *The Secretary of the Interior’s Standards and Guidelines for Rehabilitation* which state: 1) a property shall be used for is historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment; 2) the historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
11. The design of the façade does not follow *The Secretary of the Interior’s Standards and Guidelines for Rehabilitation* and the *Preservation Design Manual* which require designs be based on the original design. The non-historic siding should be removed in order to evaluate the remaining historic fabric at the façade. The proposed design should be based on historic images and remaining fabric under the wood siding.
12. The general design of the rear wall follows the design guidelines of the *Preservation Design Manual*, but lacks specifications, measurements, colors required for final review. The “partial demolition” of the rear wall does not meet the required findings in the city code, but the proposed wall design can be accomplished in the current rear wall with further details.
13. The general design of the rear wall follows the design guidelines of the *Preservation Design Manual*, but lacks specifications, measurements, colors required for final review. The “partial demolition” of the rear wall does not meet the required findings in the city code, but the proposed wall design can be accomplished in the current rear wall with further details.
14. The proposed reconstruction of the marquee meets the guidelines in the *Preservation Design Manual*, but the marquee signage and lighting do not meet the guidelines. The *Preservation Design Manual* does not allow internally lit signage. Signs should follow historic precedent and historic images are available to guide the design. The marquee letters were historically placed on the face of the marquee and were not lighted.

CONDITIONS

1. The applicant shall remove the non-historic wood siding at the façade before further façade improvements are undertaken. The proposed alterations should be based on the historic images

and remaining historic fabric. The final façade alterations and design shall be submitted to HPC staff for final review.

2. Specifications of the proposed door systems at the façade shall be submitted to HPC staff for final review. The door design should be guided by historic images and remaining historic fabric under the wood siding.
3. Signage on the marquee shall be placed on the sign band of the marquee. Internally-lit letters are not approved and lighting under the canopy is not approved. The final design must be submitted to HPC staff for final review.
4. Tenant signage for the building shall be submitted in a Site Alteration Permit application for HPC review.
5. The site plan must be corrected to accurately illustrate building dimensions at the rear elevation of the Tonka Theater building and adjacent building at 28 Water Street.
6. The property owner must maintain the building and prevent further deterioration.
7. Seismic monitoring during construction at neighboring parcels must be undertaken to protect historic resources.
8. Before the 1989 theater addition is removed, the applicant shall provide conditions and repair of the theater wall for HPC review and approval.
9. This resolution is consistent with HPC Resolution 2026-01 and that resolution remains in effect.

Adopted by the Heritage Preservation Commission of the City of Excelsior, Minnesota, this 29th day of June 2026.

HERITAGE PRESERVATION COMMISSION

Tim Caron, Chair

City of Excelsior
Julia Mullin, Community Development Director
37 Water Street
Excelsior, MN 55331

Re: Site Alteration Permit for Tonka Theater

History and Period of Significance

The Tonka Theater was constructed in 1940 by the Streater Lumber Company of Spring Park, MN at a cost of \$30,000. The 500-seat theater opened on April 26, 1940, operated by Lyle Carisch and Raymond Lee of the Wayzata Theater Company. The east portion of the building facing Water Street was a two-story mass with a semi-circular canopy with a marquee. The façade above the canopy had a gentle recessed curve that was fluted. Behind (to the west) of the two-story mass, there was one story mass with a barrel vault roof which contained the theater.

In January of 1945 the theater suffered a severe fire. Despite material rationing due to World War II, the War Production Board granted the project clearances to rebuild. The reconstruction was designed by Liebenberg & Kaplan Architects and Engineers. According to the Excelsior-Lake Minnetonka Historical Society, "the reconstruction salvaged much of the original building, but the new building was described in the local paper as "strictly modern and fireproof. Nautical murals of steamboats and docks were added to the auditorium as well."

The name of the theater was changed to the Excelsior Theater in the 1960s, and there were some renovations during this time, but the full extent of those renovations are unknown. In the years between 1972 and 1974, many modifications were made to the historic theater, most of which are still currently in place. The curved canopy was removed and replaced with the flat band marquee that exists today. The rough-hewn wood siding that exists today was also added at this time. The upper level balcony was extended and enclosed to create the second theater space. The name was changed again, this time to Dock Cinema.

In 1989 an addition was added along the south side of the building, which accommodates a theater that seats approximately 225.

The "Period of Significance" for the Excelsior Commercial Historic District is 1886-1955. Features, materials, and spaces built outside of the period of significance are non-historic. For the Tonka Theater these include:

- 1989 Addition
- Storefronts and doors
- Flat Band Marquee
- Rough wood facing exterior

- Rough wood trim and wall facing in interior
- Upper level modified, extended, and enclosed balcony
- Acoustic materials and fabrics on walls in original theater and balcony
- Audience seats in original theater and upper balcony
- Restrooms
- Acoustic tile ceiling in lobby

Our rehabilitation of the Tonka Theater would restore elements from the period of significance and create a more authentically contributing building to the Excelsior Commercial Historic District.

Reasonable Economic Use of the Property

The Dock Cinema operated successfully through the 2000's and began to face financial challenges the following decade as the industry shifted to bigger multiplexes with 10+ auditoriums. The advent of in-home streaming services posed another challenge for the industry, followed by COVID-19, which was the death knell for many exhibitors. The Dock attempted to open its doors after the pandemic, but the financial hurdle was insurmountable. When the cinema was occupiable it could not cover its own operating costs on an annual basis. It was losing money when accounting for rent, property taxes and CAM (common area maintenance). Rehabilitation of the building for that primary use does not create reasonable economic use of the property, is impractical, and nonviable. Adaptive reuse of a functionally obsolescent, purpose-built building comes with substantial costs and does not create reasonable value for those costs.

Over the last six years as the doors were temporarily and then permanently closed, we have been working through concepts to remodel and reopen the space. After a few iterations, one concept that was deeply explored was to continue showing movies in the 1989 theater while using historic tax credits to restore the original auditorium as a restaurant and event space. Ultimately, the design constraints of historic tax credits for adaptive reuse of this purpose built structure became prohibitive, rendering the building a poor candidate.

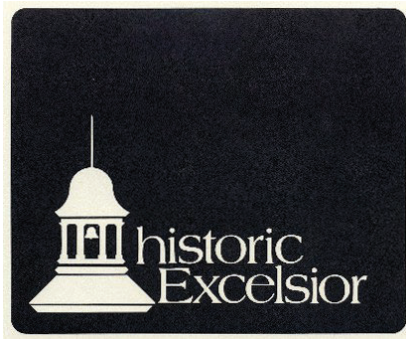
When we purchased the 10 Water St. land next door, the plan was refined giving us the best chance for restoration and reuse becoming part of an overall project. We were told the hotel concept that we presented to the City would not be approved as a 4-story project, which was necessary for financing and economic viability. All of the concepts up until that point kept the original building intact, but without the hotel, no longer could the full event space be supported. This has led us to where we are today, one final attempt to keep a meaningful portion of the building, restoring the historic front façade, marquee, lobby and revitalizing the historic use.

Please find attached the most recent total project cost budget and financial model for a simple bar/restaurant/retail concept adaptive reuse. This contemplated demolition of the unadaptable

1989 addition, retention of the main auditorium shell, complete interior demolition, code required work, and the bare minimum scope for viable bar/restaurant/retail space. Only minimum necessary improvements would be made to the rear alley portion of the building with only minor repairs on the retaining wall and nothing allocated for stormwater improvements.

This project was not viable even with only the bare-minimum scope and without making long-term improvements. The project would have cost \$4.5 million more than the building would have been economically worth when completed, was unfinanceable, and had almost no cash flow.

Thank you for your consideration.



City of Excelsior

339 Third Street, Excelsior, MN 55331

Telephone: 952-474-5233 Email:

APPLICATION FOR A SITE ALTERATION PERMIT

Applicant's Name: Matt Mithun

Address: 950 Wayzata Blvd Suite 104

Telephone: 952-473-6422

Authority to file application:

- ☒ Ownership
☐ Tenant
☐ Other _____

If not Owner, Owner's Name: _____

Address: _____

Telephone: _____

Project Address: _____

Do you have an architect/engineer or other designer for this project?

- ☒ Yes
☐ No

Name: Tushie Montgomery Architects

Address: 7645 Lyndale Ave Suite 100

Attach the following materials for all applications:

- ☒ A current photograph of the exterior sides of the building (or site) where work will take place.
☒ A scaled elevation drawing of the sides of the building illustrating the work to be performed.
☒ A scaled site plan (for any site changes).

Narrative Description of Proposed Site Alterations: (Include any changes to masonry walls or foundations, siding or paint, roofs or chimneys, doors or windows, porches or steps, awnings or shutters, fences or retaining walls, landscaping or lighting).

- (1) Institute civil action for injunctive relief to stop, prevent, or abate a violation of this chapter.
- (2) Issue a stop work order to prevent a continuing violation of this chapter.
- (3) Issue a one-year moratorium on all building permits for the subject property for alterations to a historic resource without an approved site alteration permit.
- (4) For removal or total or partial demolition of a historic resource without an approved site alteration permit, the zoning administrator may also:
 - a. Issue a five-year moratorium on all building permits for the structure and for the property, other than as may be required to comply with applicable health and safety requirements and regulations, and in no event shall any permit authorize the new construction to exceed the building square footage, height and lot coverage of the original structure; or
 - b. Issue a fee of 50 percent of the assessed value of the land and structure prior to demolition and replacement structure is not to exceed the footprint of the building that was demolished.

The applicant further acknowledges that any work which proceeds in violation of this chapter, in contravention of a stop work order, or in disregard of a court ordered injunction shall be a public nuisance and enforced pursuant to section 16-37 of the City Code and that a person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this chapter may be ordered by the court to pay the cost to restore or replicate a resource unlawfully constructed, altered, repaired, converted, moved, or subjected to demolition.

If you need additional space, please include additional sheets.

[illegible]

I hereby certify that the above information, the checklist below and all accompanying documents and information are true and accurate to the best of my knowledge.

R. Matt Mithun

5/26/2026

Applicant's signature

Date

Site Alteration Permit Checklist Overview

The Excelsior Heritage Preservation Commission (HPC) reviews land use activities that may affect Excelsior's historical and architectural attributes and has prepared a checklist to assist you in applying for a Site Alteration Permit. In addition to the general materials listed on page 1, applicants should refer to the checklist below for additional requirements applicable to particular types of projects. A summary of HPC Guidelines are also available at Excelsior City Hall.

Please be thorough in completing the checklist. The decision of the HPC will be based on the completed checklist and other materials you submit. Any unidentified alterations not shown on the checklist or application materials will need to be discussed with staff and possibly returned to the HPC for further review. Work completed without the HPC's approval is in violation of the City Code and may be subject to fines or penalties. The Excelsior City Staff is available to answer questions regarding the application and checklist. You may contact them at 952-474-5233.

HERITAGE PRESERVATION COMMISSION

Site Alteration Permit Checklist

NATURE OF SITE ALTERATION (check all that apply):

- ☐ SIGNAGE (Complete Section 1 below)
- ☐ CHANGES IN MATERIAL OR ADDITIONS (Complete Section 2 below)
- ☐ NEW CONSTRUCTION (Complete Section 3 below)
- ☐ DEMOLITION (Complete Section 4 below)
- ☐ RELOCATION OF STRUCTURE (Complete Section 5 below)
- ☐ LANDSCAPE OR PARKING ALTERATIONS (Complete Section 6 below)

1. SIGNS AND AWNINGS:

- ☐ Dimensional elevation drawn to scale identifying materials, colors, and lettering style. Include height, width and depth.
- ☐ Description of any proposed lighting.
- ☐ Description of location.

For a wall sign, show how and where it will be attached. For free-standing sign, show height measured from the existing and proposed grade and site plan with sign location and dimensions from property lines and dimensions from structures on lot.

2. CHANGES IN MATERIAL AND ADDITIONS:

- ☐ Scaled elevation drawing indicating proposed alterations. Minimum scale $1/4" = 1'0"$.
Color scale rendering is required for major alterations (those requiring City Design Standards approval). Include door and window design when proposed to be altered. Manufacturer's catalog data must be used, if applicable.
- ☐ Description of all exterior materials and colors.
Include all proposed materials samples and paint chips of proposed colors.
- ☐ Site plan showing dimensions of lot and location and dimensions of existing structures on lot.
Include location and dimensions of all proposed additions.
- ☐ Photographs of existing conditions from all elevations.
Historic photographs should accompany any request to return a structure to an earlier historic appearance.

3. NEW CONSTRUCTION:

- ☐ Scaled elevation drawing showing all sides and dimensions. Minimum scale $1/4" = 1'0"$.
Color scale rendering is required for all new construction. Include door and window design and description of all exterior design elements. Manufacturer's catalog data must be used, if applicable.

- ☐ Elevation drawings to scale showing relationship to height and massing of adjacent structures.
- ☐ Photographs of proposed site and adjoining properties.
- ☐ Site plan including building footprint and all landscape and parking features.
- ☐ Elevation drawings and material and color details for exterior features.
Include roofs, steps, doors, windows, siding, porches, foundations, walls, etc.
- ☐ Scale model may be required for major construction, as determined by the HPC.

4. DEMOLITION:

- ☐ Justification for proposed demolition.
Provide documentation that a building classified as historic is incapable of earning any economic return on its value as appraised by a qualified real estate appraiser. Provide proof that all reasonable alternatives for re- use and restoration have been exhausted.
- ☐ Proposed use of site after demolition.
Include plans and construction schedule for proposed structures and evidence of compatibility with all zoning and comprehensive plan requirements. Plans must demonstrate compatibility with adjacent historic structures or sites.
- ☐ Photographs of all structures to be demolished.

5. RELOCATION OF STRUCTURE:

- ☐ Photograph of existing structure on existing site.
- ☐ Photograph of proposed site and map of location.
- ☐ Reasons for request to move structure.
Information for relocations shall be the same as demolition (for the removal of a structure from a historic site or district) and new construction (for the relocation of a structure to a site within a historic site or district).

6. LANDSCAPE AND PARKING ALTERATIONS:

- ☐ Site plan showing location and layout.
- ☐ Description or depiction of materials, dimensions and design.
Include location and type of vegetation.
- ☐ Photograph of affected areas of site.

Procedure for Review of Site Alteration Permits

The application for a Site Alteration Permit, completed checklist and all supporting information must be received **no later than 21 calendar days** prior to the Heritage Preservation Commission meeting. Incomplete applications will not be reviewed by the Commission. The Heritage Preservation Commission normally meets the fourth Tuesday after the fourth Monday each month. Applicants are strongly encouraged to attend the meeting.

Decisions of the Heritage Preservation Commission may be appealed by filing notice with the City Clerk within 10 business days following the meeting.

The Site Alteration Permit does not relieve the property owner from the responsibility of obtaining any other required permits. Building permits and other permits may be required even if a Site Alteration Permit is not required. For more information, please contact Excelsior City Hall.

NOTICE TO PERSONS COMPLETING THIS FORM

Please be advised that the information requested in this application is sought for the purpose of evaluating your request.

Any information you submit with this application may be made available to various City employees, City officials, members of City boards or commissions, and the public.

You may refuse to provide any of the information requested but that refusal may limit the City's ability to act on your request or result in the denial of that request. If you believe that any information you are providing constitutes private or confidential data under the Minnesota Government Data Practice Act and you want to limit the dissemination of that data, please contact the City Manager prior to submitting that information to discuss whether dissemination of that data may be limited.

Please sign and date below and return with your application as confirmation that you were provided with this Notice.

R. Matt Withun

5/26/2026

Signature

Date

City Staff Use Only:

Downtown Historic District:

- ☐ Contributing
☐ Non-contributing

Designated Historic Site No. _____

Type of Alteration:

- ☐ Major change in materials/addition (subject to Design Standards review)
☐ Minor change in materials/addition (not subject to Design Standards review)
☐ New construction/relocation
☐ Landscape/parking alterations
☐ Demolition/relocation
☐ Signage/awning (Sign permit must also be filed)

Current Zoning: R-1 R-2 R-3 R-4 B-1 B-2 B-3 B-4 B-5 P Other : _____

Application deemed complete on _____ by _____

Heritage Preservation Commission Action:

On _____, the action requested in the foregoing application was:

☐ Approved

Conditions:

☐ Disapproved

Reasons:

City Council Determination on Appeal of HPC Action:

On _____, the City Council took the following action on the appeal:

- ☐ Sustained HPC Action
☐ Overturned HPC Action

City of Excelsior
Julia Mullin, Community Development Director
350 Highway 7
Suite 230
Excelsior, MN

Re: Approval of Site Alteration Permit for the Tonka Theater

Ms. Mullin:

On behalf of Mithun Enterprises, please find attached an application for a Site Alteration Permit (SAP) under Chapter 20 of the Excelsior City Code to authorize partial demolition and rehabilitation of the Tonka Theater structure located at 26 Water Street (the "Theater"). This proposal forms a key component of the broader redevelopment of 10 Water Street, introducing multifamily housing, retail, and restaurant uses on the adjacent parcel while preserving and reinvesting in the historic theater building itself.

Taking into account the feedback received from the Heritage Preservation Commission ("HPC") and in preliminary development plan review before the City Council and Planning Commission, the development team has refined its preliminary proposal to reduce demolition to only 30 percent of the original structure, retaining 70 percent for stabilization and reuse. The revised plan represents the least-intrusive, preservation-compliant path toward a commercially viable reuse of the Theater while maintaining its historic character. The portion proposed for removal is confined to the rear third of the building, which is structurally compromised and lacks character-defining features. By limiting demolition to these noncontributing, unsafe elements, the plan allows the remainder of the structure including its significant historic materials, spatial relationships, and architectural features to be retained and preserved. Retaining that compromised section is neither safe nor financially defensible. This plan is the fullest extent of rehabilitation that remains structurally and economically achievable.

I. History of the Tonka Theater

The Tonka Theater's history began in 1940 as a single-screen movie house. After being destroyed by fire in 1945, it was rebuilt with special approval due to wartime material restrictions, reopening with an art-deco façade. The original "barrel" design with arched ceilings was replaced by the current simpler concrete design. In the 1970s, a second theater was added, followed by a third in 1989. The proposed demolition will remove the 1989 addition, which is not part of the historic designation, along with a limited portion of the original building.

Within the City's submission for preservation, it described the Tonka Theater as a "two story concrete movie theater with a flat roof" with "additions not visible from Water Street." The report

remarks that the “building’s only ornamentation is a curved, fluted panel on the second floor.” These descriptive features will be retained by the plans.

I. Scope and Purpose of Work

Selective demolition will target areas affected by foundation settlement, roof deterioration, and grade differential, as documented in the Structural Condition Assessment (AET, Oct 27, 2025). The primary façade, marquee, and two-story theater volume will be retained, stabilized, and rehabilitated. Interior work will restore the historic theater's use, preserving its civic function. The adjacent parcel will be developed for multifamily, retail, and restaurant spaces designed to complement, not mimic, the historic form. This Project complies with the City Code, including reference to the Secretary of the Interior’s Standards for Rehabilitation, the Preservation Design Manual, and all findings required for alterations within the Historic District.

II. The revised Site Alteration Plans (SAP) meet the definition of a “Partial Demolition” under Section 20-12 of the City Code.

Under the Excelsior City Code “Partial Demolition means:

any act which destroys a portion of a building consisting of not *more than* 30 percent of the floor area of the building, and where the portion of the building to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the period of significance ... as part of restoring original historic elements of a building and/or restoring a building to its historical mass and appearance.

This proposal fits this definition: it involves demolishing structurally compromised portions of the Theater and removing the 1989 addition, which is outside the period of significance. The demolition will not be visible from Water Street and will maintain the Theater’s historic massing. Accordingly, the partial demolition standards outlined in 20-12 J apply.

III. Consistency with the Secretary of the Interior’s Standards for Rehabilitation

The proposed rehabilitation of the Theater is guided by the Secretary of the Interior’s Standards for Rehabilitation (the “Standards”), ensuring that the property’s historic purpose, character, and integrity are retained and preserved while accommodating contemporary needs. This approach prioritizes the continuum of importance advanced by the Standards- not all features are equal and the SAP protects and repairs significant historic features and materials. The proposed plans limit alternation while integrating life-safety, accessibility, and systems upgrades in a manner that does not diminish the Theater’s defining qualities. The following discussion explains how the scope, methods, and materials proposed meet these Standards by balancing the Theater’s continued viability and public safety with the preservation of its authentic historic fabric and setting.

1. *Use for Historic Purpose:* A historic property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment. The Theater will continue to be used for its historic purpose as a community gathering place.

2. *Retention of Historic Character:* The alteration proposed is compatible with and ensures continued significance and integrity of the Theater. Granting the SAP preserves the

essential character of the property by retaining the theater's historic scale, massing, and civic function while addressing structural failures that threaten the building's long-term viability. While this plan proposes alteration, it is necessary to preserve the theater use and create a functional, safe, ADA-compliant space for ongoing attendance. This restores the vibrancy of the site

3. *Authentic Record of Time and Place:* Each historic property shall be recognized as a physical record of its time, place, and use. Demolition should preserve to the extent possible, in this case 70% of the original structure, original materials as a primary document of the history of the building, reflecting the technology, craftsmanship, and cultural values of the time the Theater constructed (technically, rebuilt after the initial fire at the property after initial construction). After further study, it is possible to only demolish 30 percent of the original structure and still correct the structural issues described within the engineer's report. All replacement materials will be consistent with existing materials to the extent possible, as demonstrated on the attached plan set.

4. *Recognition of Significant Changes:* Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved. As described during concept plan review, the portion of the building that is not original and constructed outside of the period of significance will be fully removed. There is no evidence to show that the additions 1980's are significant. The wood paneling along the current façade shall be removed and the Theater restored to the original stucco material as shown in the attached plan set. The former Pizza Hut building that was previously demolished was attached to the Theater. The original Theater exterior was damaged by this adjacent structure, leaving a clear demarcation on the northeast side of the building where the former restaurant stood. To the extent appropriate and possible, the Theater exterior will be refined to mirror the original stucco of the 1940's theater.



5. *Preservation of Distinctive Features:* Distinctive features, finishes, and construction techniques shall be preserved. As previously described, the reconstructed 1945 Theater was crafted as a wartime- concrete block facility. The curved ceiling of the 1940 structure was not rebuilt. The original art deco fluting on the Water Street façade will be retained and preserved.

6. *Repair Rather Than Replacement:* Deteriorated historic features shall be repaired rather than replaced where possible however it is important to note that there has been broad and extensive change to this building over time. Where necessary, new features will match the old in design, color, texture, and material. The original Cinema marquee was removed upon expansion of the Theater in the 1970's. However, the fluted grooves above the original and current sign have remained and will be restored and are consistent with the period's

use of bold geometric shapes. Because the original marquee was destroyed, the historic marquee will be rebuilt and installed as a replica of the original design.

7. *Gentle Treatment Methods:* The surface cleaning of the exterior structure will be undertaken using the “gentlest means possible” as described within the Standards in order to ensure the building is maintained during construction. Rehabilitation will incorporate compatible paint coating systems following proper surface preparation and the building will be repainted with colors that are historically appropriate to the building.

8. *Protection of Archeological Resources:* The Standards require preservation of significant archeological resources. Based upon consultant review, no such items have been found on site. During the construction process protective measures will be undertaken to preserve any such resources.

IV. *The proposed alteration is consistent with the findings required by the City Code.*

1. The proposed alteration is compatible with, and will maintain the significance and integrity of contributing properties in the District based on its designated period of significance.

Between 1981 and 1982, the Historic Preservation Commission (HPC) designated thirty historic sites, which were subsequently approved by the City Council. The Theater was not among those sites originally designated. It was not until the completion of a further designation study in August 2002, that the Theater was identified as a contributing structure within an expanded historic district.

The revised district boundaries reflect Excelsior’s changing commercial development patterns from the late 19th and early 20th centuries, centering on Water Street and extending east along Second and Third Streets. The district captures the city’s transformation from a lakeside tourist destination to a suburban service center, with a period of significance spanning from the 1870s through approximately 1955.

By preserving over 70 percent of the structure, retaining the height of the Theater, and being intentional about restoration to the original marquee, the rehabilitation maintains the characteristics that defined the Property during its period of significance. The rear volume of the Theater, which is not visible from Water Street, plays no role in defining visual rhythm or pedestrian experience of the district. By addressing structural issues and removing non-contributing additions, the project maintains the integrity and significance of the Property within the district.

2. Revisions to the Theater are consistent with the spirit and intent of the preservation ordinance and will not negatively impact the essential character of the historic district.

Granting the site alteration permit aligns with the intent of Chapter 20 by preserving the essential character of the historic district. The project focuses on restoring the Theater’s historic use and appearance while ensuring safety and accessibility. The proposed changes are designed to enhance the district’s vibrancy without negatively impacting its historic essence, ensuring that the district’s character is respected and preserved.

At the prior HPC meeting, concerns were raised that approving the removal of a significant portion of the structure could establish a precedent for “facadectomies” thereby negatively impacting the essential character of the district. However, this proposal is fundamentally different and is not a “facadectomy.” The removal in question involves 1) non-contributing additions and 2) a limited portion of a deteriorated component of the original building as referenced within the attached structural engineering report. A true “facadectomy” contemplates retaining only the principal face of the building while constructing a completely new internal structure including changes in height, additional floors, and use.

The proposed removal neither diminishes the essential character of the Theater nor compromises its presence within the historic district. The proposed demolition does not remove distinctive materials, features, finishes, or construction techniques relevant to the integrity of the Theater. Instead, it reflects a reasoned, preservation-oriented response that maintains the entire visible massing, street-facing façade, and the historically significant portions of the building, only removing the structurally compromised elements in order to allow constructive reuse.

3. Proposed changes to the Theater do not threaten its role as a contributing structure.

A contributing classification means that a property adds to the historic association and/or architectural importance for which the district is significant. It must have been present during the district’s historic period of significance and must physically retain a majority of the architectural characteristics representing that era. In this case, in addition to the proposed SAP retaining the significant contributing features (like the art deco façade) it notably retains historic integrity. There is no proposal to move the structure, eliminate the physical characteristics that are reflective of the period of significance, and the Mithun team has worked diligently to ensure that the restored site will evoke the sense of time and place of its historic period. Perhaps most importantly the retention of the historic use of the Property as a theater continues to convey its importance as a community gathering place.

4. Proposed changes to the Theater do not threaten the scope of the District.

It is also important to note that the partial demolition of a contributing structure located at the “edge” of a historic district does not compromise the integrity of or protections of the District as a whole. The proposed changes to the Theater and construction of the Project will not alter the boundaries of the District. While the former Pizza Hut building was not a historic structure, the land it occupied remains within the designated District.

5. Partial demolition is required for the rehabilitation of the structure.

The Structural Condition Assessment (SCA) confirms that the broader building meets structural performance thresholds for safety and access, but acknowledges areas of significant structural deterioration. In particular 1) existing soil conditions allow for structural movement which is evident in exterior and interior cracking of the walks and foundation and 2) long term water intrusion creates risk of deterioration within the structural steel decking of the roof.

As described within *NPS Preservation Brief 15: Preservation of Historic Concrete*, the building displays characteristic signs of failure in concrete include cracking and staining. Cracking occurs in most concrete but will vary in depth, width, direction, pattern, and location, and can be either active or dormant. Active cracks as referenced in the SCA can widen, deepen, or migrate

through the concrete, while dormant cracks remain relatively unchanged in size. Some dormant cracks, such as those caused by early age shrinkage of the concrete during curing, are not a structural concern but when left unrepaired- in this case for over 70 years, can provide convenient channels for moisture penetration and subsequent damage.

Structural cracks can be caused by temporary or continued overloads, uneven foundation settling, seismic forces, or original design inadequacies. The SCA shows that structural cracks in this case are likely related to uneven foundation settling and original design constraints. Structural cracks are active if excessive loads are applied to a structure or if settlement is ongoing- and here settlement is ongoing.

The removal of non-historic concrete blocks from a historic structure are permissible under the Standards where the portion removed is determined to be outside the period of significance of the property, lack historic or architectural significance, or are so deteriorated that their integrity cannot be restored. Here not only does the portion of the building in question lack historic and architectural significance, but it is also deteriorated to the extent that its integrity cannot be restored. Removal is consistent with the overall historic character of the structure and the district.

By removing a portion of the rear section of the building, both the foundation work can be completed while also bringing the property into ADA compliance. Water intrusion and foundation settlement can be fully repaired through the SAP proposed here and without destruction of the historic materials, features and spatial relationships that characterize the Theater. The proposed SAP is essential for rehabilitation of the structure and mitigates to the greatest extent possible, impacts on its historic importance.

V. Inordinate Hardship

This application advances a viable rehabilitation plan for the Theater. One that preserves its defining historic signature elements, returns the building to productive use, and meets the Standards when evaluated in totality. The limited removal of deteriorated, non-character-defining materials is essential to returning the building to a state of utility and ensuring long-term preservation of the portions and features that do convey its historic significance. As detailed in the application, the cumulative effect of the proposed work is consistent with the Property's historic character and achieves the central purpose of the rehabilitation standards: facilitating continued use of a historic resource while retaining the qualities that make it eligible.

However, if partial demolition is not permitted especially where the record establishes it is both necessary and appropriate, the only remaining regulatory path for ownership is total demolition under the code's inordinate-hardship provision. That language requires the City to consider whether denial of a SAP effectively deprives the owner of reasonable economic use of the property. The structure as it stands today has no reasonable future. This is not pure conjecture or even a unique experience for this property. Under the code, inordinate hardship focuses on the relationship between (1) the cost of repairing the structure in its current deteriorated condition and (2) its reasonable value after repair.

Ownership has pursued multiple avenues for constructive reuse of the Theater, both as a theater or as a component of a larger project. One path- an associated entertainment venue with a hotel was rejected by policymakers. Hypothetical statements such as "turn it into a brewery" or "it can be fully converted into a restaurant and office space" ignore the structural realities of the building and the market context. Another path often cited is to simply reopen the

theater, while ignoring the needs of the property- like ADA compliance and mold remediation and the economic realities of the underlying business. For decades, as the industry shifted to bigger multiplexes with dozens of screens and intensive effects driven screening experiences independent exhibitors began collapsing. The collapse accelerated with the rise of in-home streaming services, followed by Covid-19. To the point that few independent exhibitors and theaters remain today.

Places like the Tonka Theater are not economically viable. Studies show a structural shift in consumer behavior: a 2020 Statista consumer survey confirmed widespread preference for at-home streaming over in-theater attendance, while the New York Times reported that nearly half of pre-pandemic moviegoers were no longer purchasing tickets at all. The casual moviegoing segment, once essential to the economic sustainability of small theaters, has eroded. Meanwhile, the cost of attendance has increased, concessions prices have become a barrier for families, and outdated facilities have further diminished the perceived value of the theater experience.

These consumer shifts intersect with broader industry disruptions. Labor-related production delays and strikes have tightened release schedules, reducing the number of films available to independent theaters. The dominance of effects-heavy blockbusters has left many patrons seeking alternatives that smaller theaters cannot reliably provide. This combination of decreased demand, fewer available titles, and elevated operating costs has created significant challenges for small, historic theaters nationwide. This is well documented and not unique to this Property.

Against that backdrop, the City's inordinate hardship provision supplies the necessary legal framework should partial demolition be denied. Under the ordinance, the inquiry centers on whether the preservation mandate would deprive the owner of reasonable economic use of the property. The analysis turns on the relationship between the cost of repairing severely deteriorated components and the property's reasonable post-repair value.

This local standard aligns with broader preservation jurisprudence. Courts addressing hardship in historic-preservation contexts distinguish between legitimate standards such as "substantial financial hardship" and the constitutionally impermissible requirement that an owner prove a complete denial of all reasonable use. The question is whether preservation restrictions impose undue financial burdens or render viable economic use unachievable. Judicial decisions evaluate factors including the feasibility of alternative uses, the compatibility of proposed alterations with the landmark's character, and whether the reviewing body rigorously investigated alternatives that would minimize harm. Historic-preservation zoning operates as an overlay on traditional zoning authority, typically constrained by enabling statutes, and must balance owners' rights with the governmental interest in preserving historic resources. This framework demands careful attention to economic impacts and the availability of adaptive reuse options while avoiding unnecessary harm to a historic property.

In this case, insisting on retention of deteriorated, non-character-defining components that cannot be feasibly rehabilitated would make it impossible to return the theater to safe, functional, code-compliant use. Under such circumstances, the ordinance contemplates evidence demonstrating that rehabilitation is impractical and that reasonable economic use cannot be achieved, including feasibility analyses, cost/value comparisons, adaptive-reuse scenarios, and attempts to sell, rent, or lease the property. As previously presented to staff, advisory boards and the City Council- all of these factors exist and are well documented.

The ownership group is expressly seeking to avoid total demolition of the structure. By proposing a narrow, preservation-consistent partial demolition as part of an overall rehabilitation that satisfies the Standards, the SAP preserves the building's historic character, returns it to productive use, and avoids the need to invoke the hardship framework that could otherwise trigger consideration of full demolition under the City's own code.

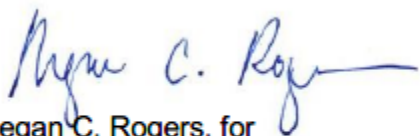
VI. Conclusion

Under federal regulations, "rehabilitation" refers to returning a building to a state of utility through repair or alteration, enabling efficient use while preserving significant historic, architectural, and cultural features. 36 C.F.R. § 67.2(b).

The proposed work aligns with this definition, involving alterations only as needed to ensure the building is safe, usable, and code-compliant, maintaining its historic role as a community gathering place. Alterations are limited to non-character-defining, structurally compromised, or heavily modified areas lacking integrity. These changes address structural deterioration, foundation settlement, roof failures, and non-compliant egress conditions documented in the SCA.

We respectfully request approval of the Site Alteration Permit for the partial demolition and rehabilitation of the Tonka Theater. The proposal preserves over 70% of the structure, ensuring the theater's historic materials, features, and character are retained and sensitively treated. The project complies with the Excelsior City Code, integrating compliance measures into its scope, sequencing, and construction methodologies. It balances preservation with revitalization, maintaining the theater's historic character while introducing new uses on the adjacent parcel for long-term viability. We appreciate your consideration and look forward to collaborating with the City to finalize any necessary conditions for this historically respectful and code-compliant rehabilitation.

Sincerely,



Megan C. Rogers, for
Larkin Hoffman

Direct Dial: (952) 896-3395

Direct Fax: (952) 842-1847

Email: mrogers@larkinhoffman.com



1 SCALE 1/16" = 1'-0"



DOCK CINEMA SITE ALTERATION PERMIT SET

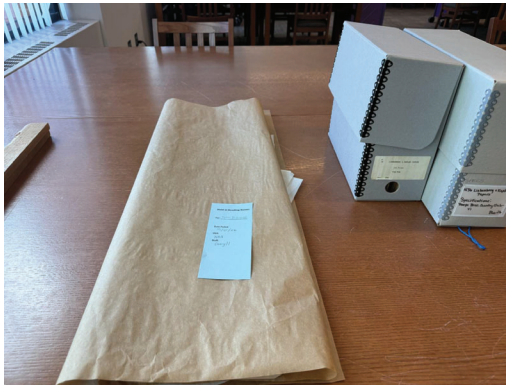
DOCK CINEMA EVOLUTION OF FACADE DESIGN



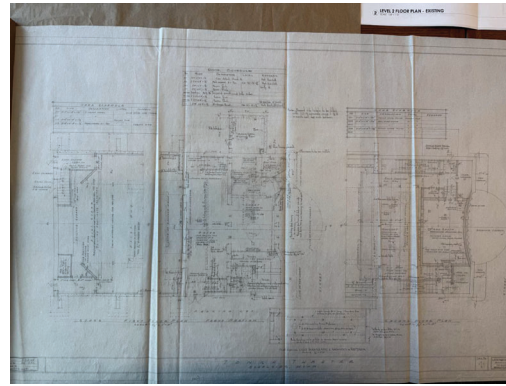
DESIGN PROCESS

STEP ONE: INFORMATION COLLECTION

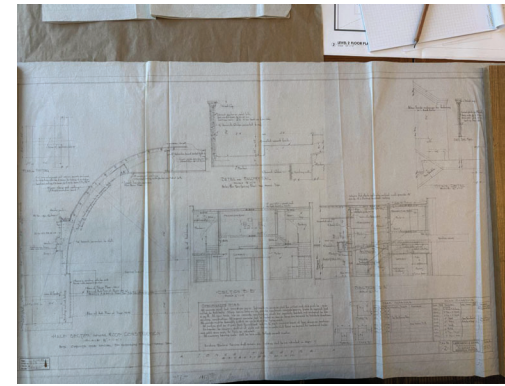
TMA WENT TO THE UNIVERSITY OF MN ARCHITECTURAL ARCHIVE LIBRARY ON MAY 1ST AND REVIEWED DRAWINGS OF THE 1945 RECONSTRUCTION OF THE TONKA THEATER.



TONKA THEATER DRAWINGS AND SPECIFICATIONS FROM 1945



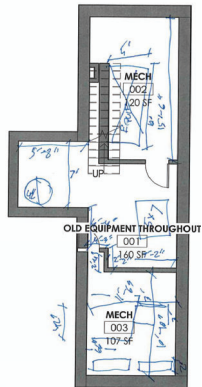
FIRST AND SECOND FLOOR PLANS



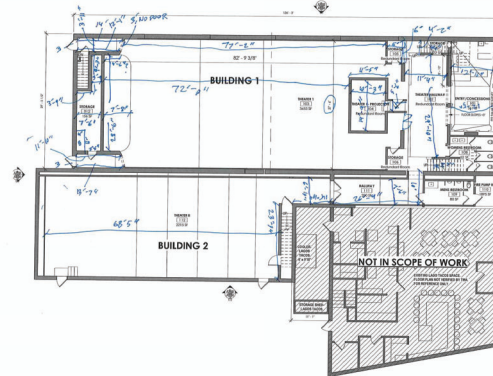
SECTIONS

STEP TWO: FIELD VERIFICATION

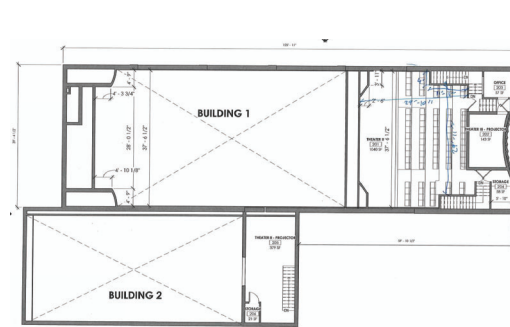
TMA FIELD VERIFIED BUILDING MEASUREMENTS AND LAYOUT ONSITE AT THE TONKA THEATER BUILDING.



BASEMENT FLOOR PLAN



FIRST FLOOR PLAN



SECOND FLOOR PLAN

STEP THREE: CREATE EXISTING BUILDING AND DEMO PLANS



BASEMENT



LOBBY

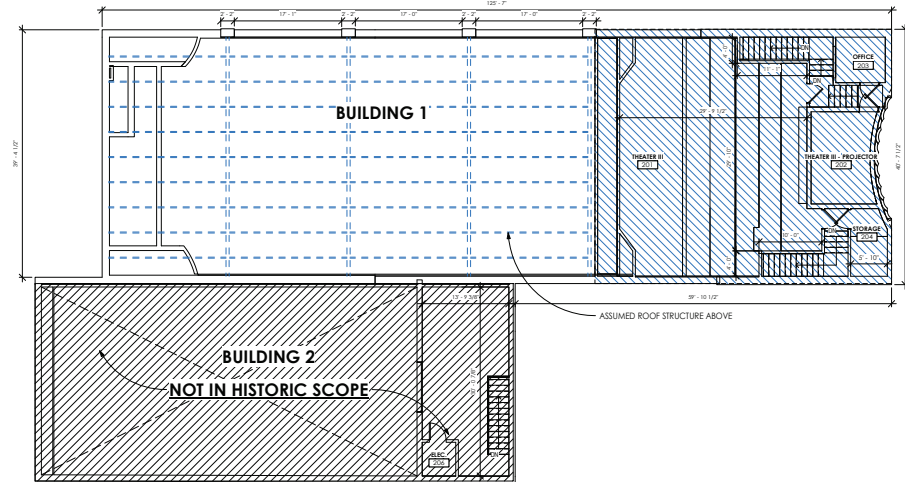
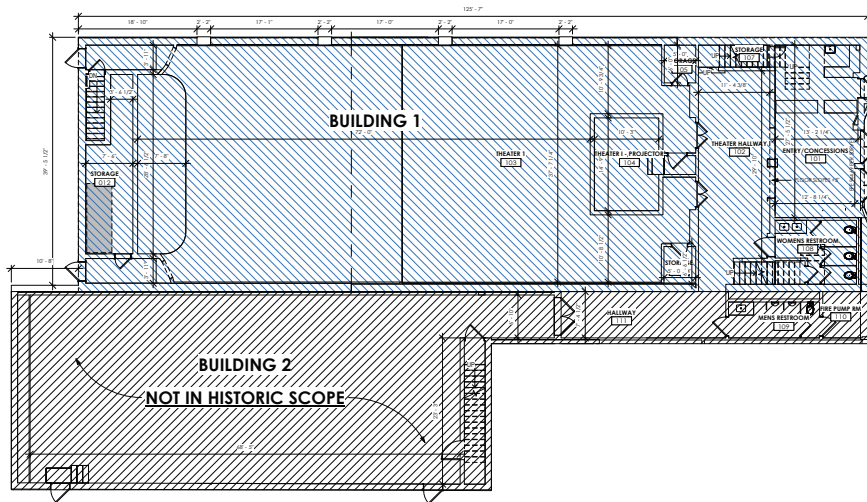


MAIN THEATER

EXISTING CONDITIONS OF BASEMENT

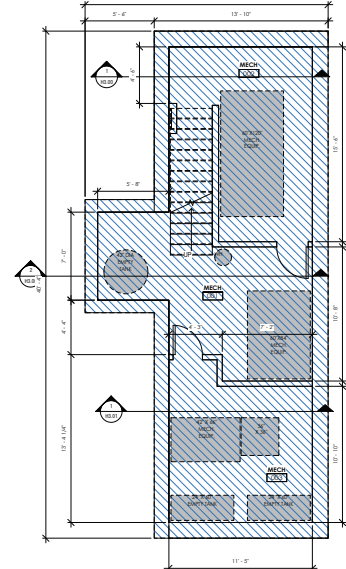


PROPOSED DEMO FLOOR PLANS



① LEVEL 1 FLOOR PLAN - EXISTING
SCALE: 1/8" = 1'-0"

② LEVEL 2 FLOOR PLAN - EXISTING
SCALE: 1/8" = 1'-0"



BASEMENT FLOOR AREA
TOTAL AREA - 607 SF

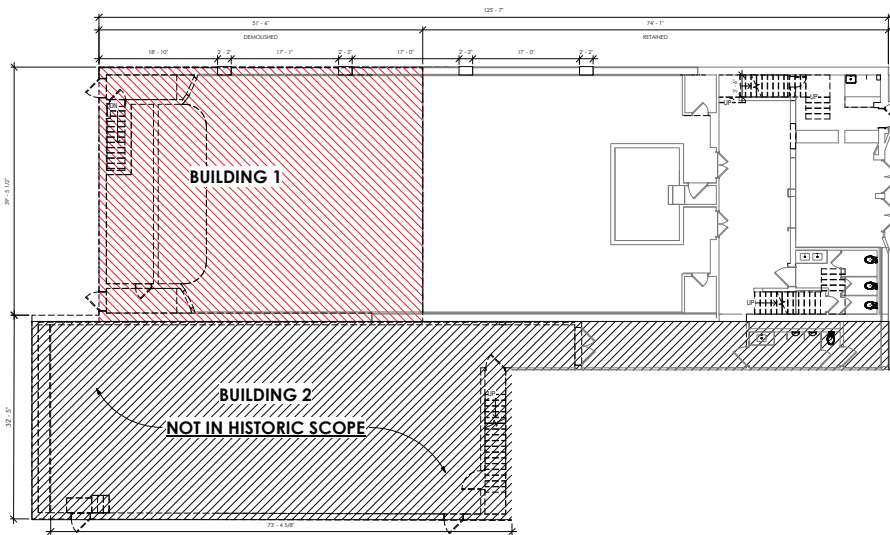
	PARTIAL DEMO SUMMARY (BASEMENT EXCLUDED)		
	EXIST. AREA	DEMO	PRESERVED AREA
BASEMENT	0 SF	0 SF (100%)	0 SF (0%)
FIRST FLOOR	5,066 SF	2,079 SF (41.04%)	2,987 SF (58.96%)
SECOND FLOOR	1,868 SF	0 SF (0%)	1,868 SF (100%)
TOTALS	6,934 SF	2,079 SF (29.98%)	4,855 SF (70.02%)

70.02% OF FLOOR AREA TO REMAIN
74'-1" OF CINEMA TO REMAIN

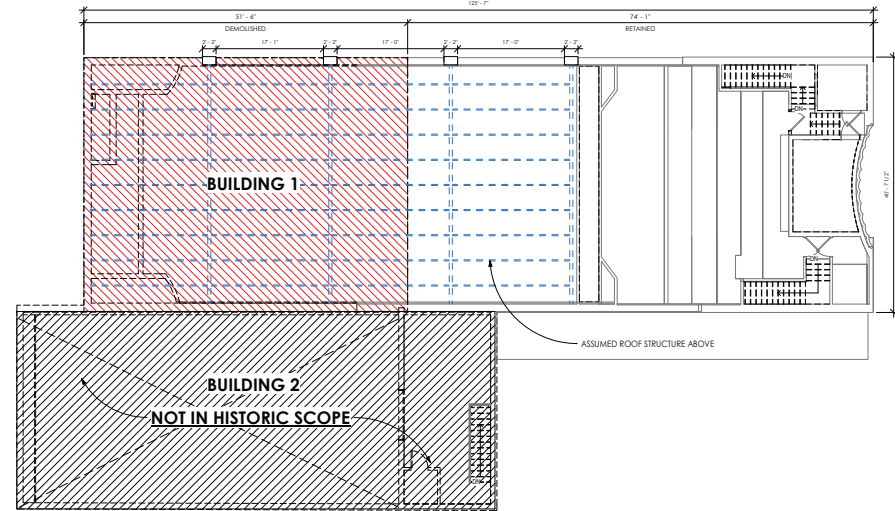
③ BASEMENT LEVEL - EXISTING
SCALE: 1/4" = 1'-0"

- ENTIRE BASEMENT AREA IS DEDICATED TO BUILDING INFRASTRUCTURE AND IS USED FOR ACCESSING AND SERVICING MECHANICAL EQUIPMENT. IT IS EXCLUDED FROM THE PARTIAL DEMOLITION CALCULATION.
- BLUE HATCH ON PLANS NOTE EXTENTS OF AREA MEASUREMENTS.
- RED HATCH ON PLANS NOTE EXTENTS OF DEMOLITION.
- GRAY HATCH ON PLANS NOTE PORTIONS OF THE BUILDING NOT INCLUDED IN THE CALCULATIONS.
- BLUE DASHED LINES SHOW ASSUMED ROOF STRUCTURE.

PROPOSED NEW



① LEVEL 1 FLOOR PLAN - PARTIAL DEMOLITION
SCALE: 1/8" = 1'-0"



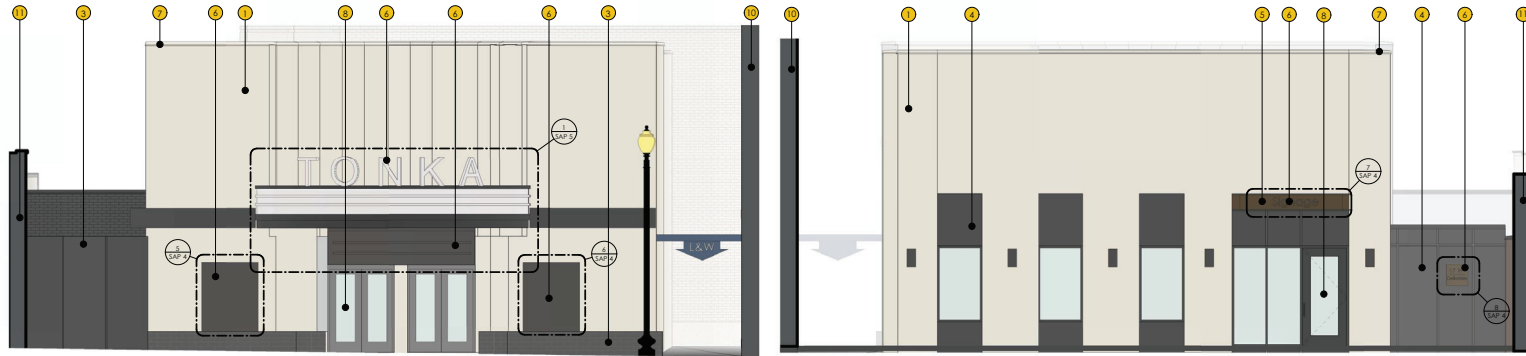
② LEVEL 2 FLOOR PLAN - PARTIAL DEMOLITION
SCALE: 1/8" = 1'-0"

	PARTIAL DEMO SUMMARY (BASEMENT EXCLUDED)		
	EXIST. AREA	DEMO	PRESERVED AREA
BASEMENT	0 SF	0 SF (100%)	0 SF (0%)
FIRST FLOOR	5,066 SF	2,079 SF (41.04%)	2,987 SF (58.96%)
SECOND FLOOR	1,868 SF	0 SF (0%)	1,868 SF (100%)
TOTALS	6,934 SF	2,079 SF (29.98%)	4,855 SF (70.02%)

- ENTIRE BASEMENT AREA IS DEDICATED TO BUILDING INFRASTRUCTURE AND IS USED FOR ACCESSING AND SERVICING MECHANICAL EQUIPMENT. IT IS EXCLUDED FROM THE PARTIAL DEMOLITION CALCULATION.
- BLUE HATCH ON PLANS NOTE EXTENTS OF AREA MEASUREMENTS.
- RED HATCH ON PLANS NOTE EXTENTS OF DEMOLITION.
- GRAY HATCH ON PLANS NOTE PORTIONS OF THE BUILDING NOT INCLUDED IN THE CALCULATIONS.
- BLUE DASHED LINES SHOW ASSUMED ROOF STRUCTURE.

70.02% OF FLOOR AREA TO REMAIN
74'-1" OF CINEMA TO REMAIN

PROPOSED NEW

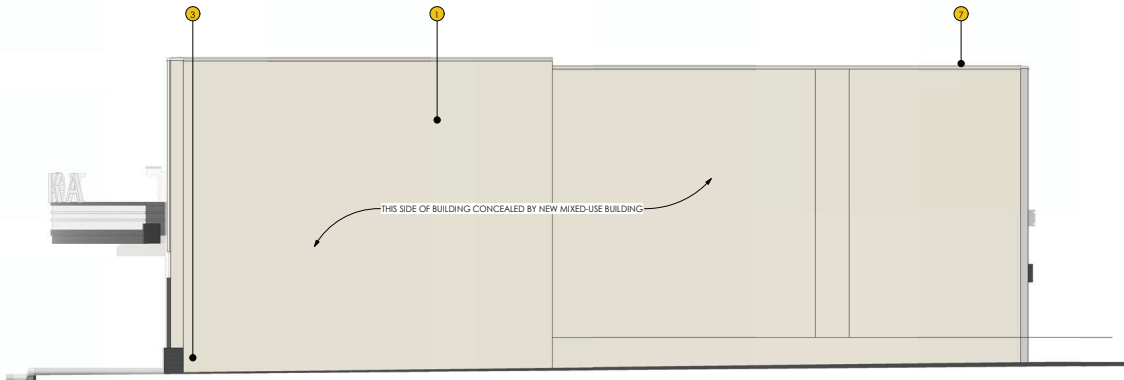


KEYNOTES

- 1 PAINTED STUCCO
- 2 PAINTED CMU
- 3 BRICK SILL
- 4 ACM METAL PANEL
- 5 ACCENT MATERIAL #1
- 6 SIGNAGE
- 7 PREFINISHED METAL COPING
- 8 DOOR
- 9 WINDOW
- 10 APARTMENT BUILDING
- 11 LAGO TACOS

① EAST - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"

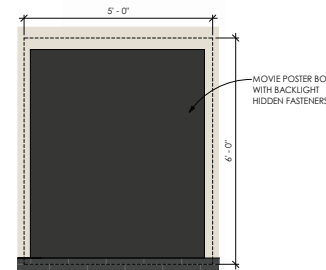
③ WEST - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"



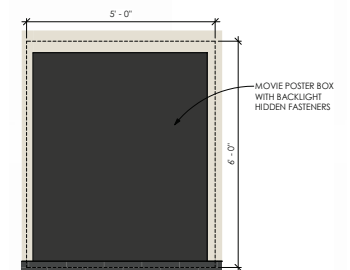
② NORTH - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"



④ SOUTH - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"



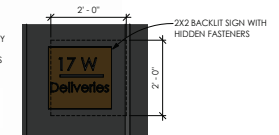
⑤ SIGNAGE - EAST 2 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"



⑥ SIGNAGE - EAST 3 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"

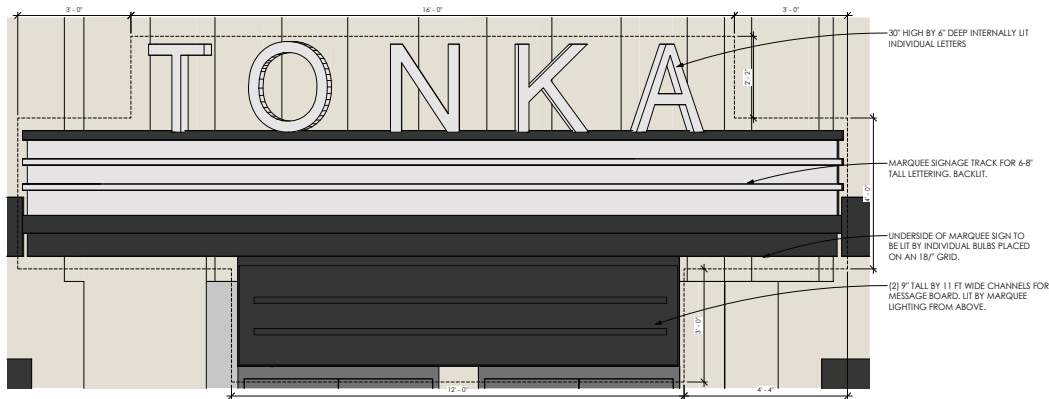


⑦ SIGNAGE - WEST 1 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"



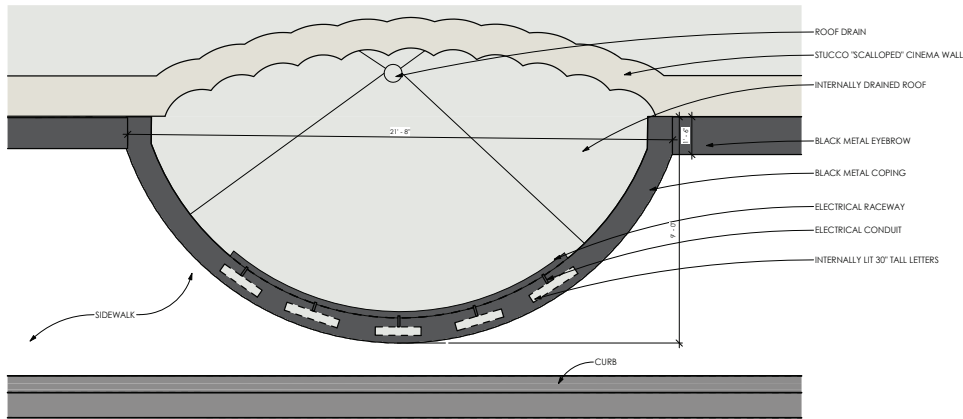
⑧ SIGNAGE - WEST 2 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"

PROPOSED NEW



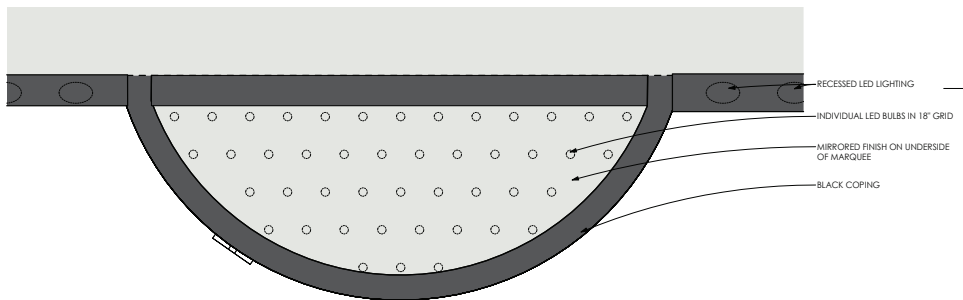
1 SIGNAGE - EAST 1 PROPOSED NEW (SAP)

SCALE 3/4" = 1'-0"



2 SIGNAGE - EAST 1 PROPOSED NEW PLAN (SAP)

SCALE 1/2" = 1'-0"



3 SIGNAGE - EAST 1 PROPOSED NEW RCP (SAP)

SCALE 1/2" = 1'-0"



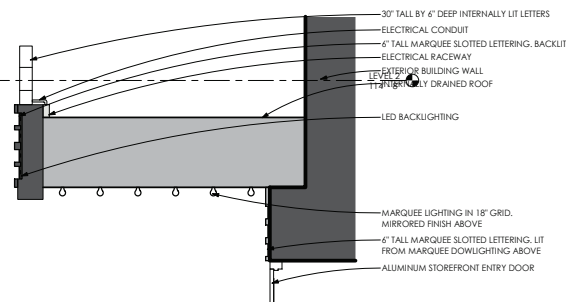
ABOVE: MARQUEE PRECEDENTS



LEFT: SLOTTED LETTER IMAGES

6 SIGNAGE - SECTION

SCALE 1/2" = 1'-0"



3D VIEWS



PERSPECTIVE LOOKING TOWARDS LAKE MINNETONKA FROM WATER ST EYE ELEVATION 5'-6" FROM 945.25' ONE STORY BUILDING



PERSPECTIVE LOOKING TOWARDS 2ND ST FROM WATER ST ONE STORY BUILDING

EYE ELEVATION 5'-6" FROM 943.08'



PERSPECTIVE LOOKING TOWARDS LAKE MINNETONKA FROM WATER ST EYE ELEVATION 5'-6" FROM 954.25' 28 FT TALL BUILDING



PERSPECTIVE LOOKING TOWARDS 2ND ST FROM WATER ST 28 FT TALL BUILDING

EYE ELEVATION 5'-6" FROM 943.08'

***ALL VIEWS SHOW CINEMA POST DEMOLITION**





May 20th, 2026

Matt Mithun

Mithun Enterprises Inc

950 Wayzata Blvd, Suite 104

Wayzata, MN 55391

Excelsior Dock Cinema – Historic Preservation

Dear Mr. Mithun,

Scope of Work:

The current owner, Mithun Enterprises, plans to revitalize the theater into a functional, modern space. This will require extensive renovations, which include the following:

- Contaminated Materials Abatement (Asbestos & Mold)
- Code Compliance Improvements (ADA, Emergency, MEP, Fire Protection, & Energy)
- Structural Repairs, Reconstruction, & Floor Reconstruction
- Soil Corrections, Underpinning, and Foundation Repair
- Full MEP and Utilities Replacement
- Demo, Shore, Rebuild Engineered Retaining Wall
- Circulation and Parking Reconstruction
- Roof Replacement
- Façade Repairs & Reconstruction
- Full Interior Renovation

The Remediation and deconstruction phase is expected to take approximately 1 to 2 months, while the build-back and reconstruction phase is projected to take around 4 to 6 months.

Goals & Concerns:

Our primary goal is to preserve the building's historic character and architectural integrity throughout the renovation process. Given the scope of work, heavy equipment will be required, which necessitates meticulous planning and execution to avoid any damage to existing structural elements that will remain.



Means & Methods:

David Kalogerson brings over 20 years of experience in construction management and has led more than 300 commercial construction projects, including several notable historic renovations:

- Malcolm Yards Market (1889)
- Stillwater Armory (1922)
- Keg & Case Market (1937)
- Forgotten Star Brewery (1940)
- Union Depot Restaurant & Bar (1917)

These projects have equipped Mr. Kalogerson with best practices for working with historic structures, such as selective demolition, vibration monitoring, the use of tracked (rather than wheeled) equipment, structural element reuse, and specialty temporary shoring.

One particularly effective method we propose using for this project is Rake Shoring to support the exterior walls during structural modifications. This technique was successfully implemented during the Malcolm Yards Market project, allowing us to preserve a 136-year-old fire-damaged structure.

Please see the photos below for reference:



Malcolm Yards Market – BEFORE Construction



Malcolm Yards Market – BEFORE Construction



Malcolm Yards Market – DURING Construction



Malcolm Yards Market – DURING Construction



Malcolm Yards Market – AFTER Construction



Malcolm Yards Market – AFTER Construction



The Rake Shoring concept enables secure support and preserve the portions of the building that will remain intact, while allowing for a precise saw cut between the areas to be retained and those designated for demolition. Once the building is fully separated – at the roof, exterior walls, floor slab, and strip foundation – major demolition work can proceed without risking damage to the preserved structure. This sequence is essential, as a portion of the building’s rear must be removed to allow access for the large tracked equipment required to complete the interior Scope of Work.

Summary:

We are fully committed to maintaining the historic and architectural significance of the Excelsior Dock Cinema. By utilizing proven best practices and specifically incorporating Rake Shoring during demolition, we are extremely confident in our ability to preserve and protect this important landmark.

I would be happy to personally tour the Malcolm Yards Market with you and its owner to demonstrate firsthand how these methods can be successfully applied to the Excelsior Dock Cinema.

Please let me know if you have any questions.

Thank you!

David Kalogerson

President - K2 Construction

STRUCTURAL CONDITION ASSESSMENT

of the
Dock Cinema
Excelsior, Minnesota

October 27, 2025

MBJ

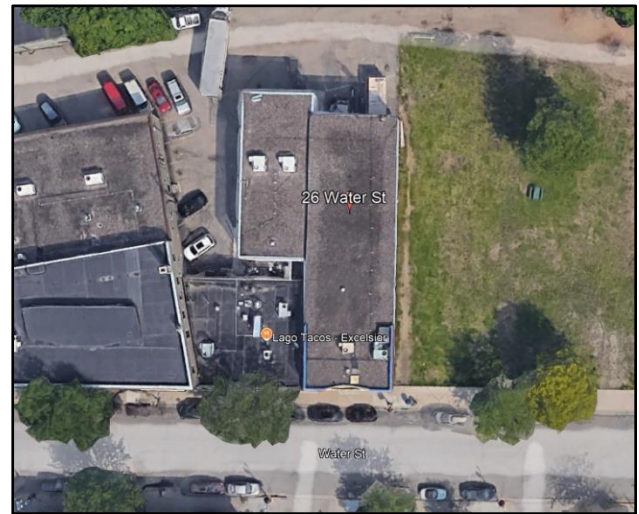
Project Address: 26 Water Street
Excelsior, MN
Date: October 27, 2025

To: Tim Marco, Mark McLane
Marco McLane

Prepared By: Matt Thomas, PE

Meyer Borgman Johnson
801 Nicollet Mall, Suite W2000
Minneapolis, MN 55402

MBJ Comm. No: M25.357.0



Please contact Matt Thomas, PE at 612-338-0713 or mthomas@mbjeng.com if you have questions regarding this report.

EXECUTIVE SUMMARY

A walk-through assessment was conducted on September 29, 2025 to review the overall condition of the downtown Excelsior Dock Cinema facility. The facility is comprised of an original 1940s-era theater building and an adjacent theater addition that was added in 1989.

This report summarizes our findings with respect to the condition and the necessary structural repairs, strengthening, or replacement that we find would be necessary to re-establish the facility as an occupiable and functional building use.

INTRODUCTION

The purpose of this Structural Condition Assessment is to investigate the existing facility located at 26 Water Street in Excelsior to evaluate the conditions of the structural elements and systems. An evaluation of the 1989 theater addition is not included in this report. The scope of investigation included

the visible areas of the basement mechanical area, the main floor and 2nd floor balcony areas, the exterior masonry walls, and interior structural framing were visible or exposed via selective demolition efforts. Findings were limited to areas where structural elements were exposed for observation. Methods of investigation included a review of past documentation, including previous building fit plans and a historic review report by New History dated February 7, 2022.

Visual observations of the exposed structural conditions and limited measurements were taken as needed to develop a basic level of understanding of the condition of the existing structural elements.

This report will provide a summary of our assessment study findings which will include recommendations to retrofit or strengthen, if necessary, damaged or deficient structural elements, photos of these structural elements that can inform the cost determination to be prepared by a general contractor, and recommendations for further testing or investigative work that may be needed based on the observed conditions.

GENERAL DESCRIPTION OF STRUCTURE

The primary theater and associated entry lobby is generally fully covered by finish materials allowing for limited observations of the structural configurations or condition. Areas of limited selective demolition were made to allow for observation of key structural configurations or interfaces.

The primary structural system for the building consists of a steel joist and steel beam roof system supporting a steel metal deck at the two-story high theater volume. A cast-in-place concrete structure (slabs, beams, walls) is used for the two-level lobby and 2nd floor balcony/theater space. When the 2nd floor balcony was converted to an upper level theater, dimensional lumber wood framing and concrete masonry was used for new wall and floor framing. Wood framed overframing appears to have been used above the original concrete balcony framing. A majority of the building's exterior walls are masonry and brick construction with a cementitious/stucco coating.

OBSERVATIONS

Main floor

Observations at the main floor (theater and lobby) include:

1. Water intrusion was noted at a portion of the lobby area at about the midlength of the building. Deteriorated ceiling tiles and extensive wetness and molding conditions were noted on the fixed seats and carpet at extensive areas.
 - a. Recommendation: Repair compromised roof area. Refer to recommendations by others for mitigation of moisture-impacted finishes.
2. The slab-on-grade slopes down to the main theater screen/stage area. The egress access at the alley end of the building appears to be quite steep and not compliant with ADA requirements

for slope and width. Although not a structural performance issue, extensive modification to the structural framing would be required to mitigate this condition.

- a. Recommendation: Amend both egress ways by demolishing and reconstructing the structural concrete framing over the mechanical basement area at the 'north' end of the building. Some reconfiguration of the basement mechanical may be necessary to allow for this reconstruction and for clearance for proper egress. See Figures 1 and 2.



Figure 1: Narrow and steep concrete slab at egress



Figure 2: Concrete construction at steep egress ramp

2nd Floor

Observations at the 2nd floor balcony and projection room include:

1. The concrete construction of the 2nd floor and the roof slab over the 2nd floor appeared to be in good condition. No structural issues were identified in the limited observations of the exposed structure. It was noted that the roof slab opening for access to the roof hatch is not compliant with several requirements related to safe worker access.
 - a. Recommendation: If renovations proceed for the building, we recommend that modifications to the existing roof hatch location or protective equipment for fall prevention and protection be considered.

Roof

Observations of the roof structure include:

1. As noted previously, it was observed that there is an active roof leak that is allowing moisture to enter the main theater space. Where we were able to observe the roof structure through openings made in the ceiling finishes, the steel roof joists bottom chord rods (deformed 'rebar' rods) have very minimal protective coating and have areas of surface corrosion. The steel roof deck also has spotty evidence of corrosion. The steel beams appear to have a more intact primer or coating protection. Exposure to moisture accelerates existing or previous corrosion effects.

- a. Recommendation: Where the roof is experiencing water intrusion, we recommend a plan to address corrosion and deterioration at the adjacent structural steel deck and steel joists. We recommend that an inspection be made of the whole roof area to investigate the extent of structural deterioration that will require structural work. See Figure 3.



Figure 3: Steel roof framing (not at roof leak area)

2. The roof framing appeared to be quite flat with minimal slope. One roof drain on the main roof was noted. Areas of ballast were not well distributed and the membrane may be compromised due to age and lack of ballast coverage. Roof elevations and degree of slope were not measured.
 - a. Recommendation: Further analysis of the roof structure, slope, and drainage is required. We recommend a budget for new roofing, additional drains, and/or tapered insulation (which may affect the parapet condition) be considered.

Exterior walls

Observations of the exterior and basement walls include:

1. A significant vertical crack was noted at the back wall of the main theater building wall in the stucco exterior. It is expected that the crack extends through the wall and is not just a shrinkage crack in the stucco material. This crack may be related to other cracked conditions at the

northeast portion of the building. See below of overall recommendations related to foundation conditions and the exterior wall.



Figure 4: Vertical crack at back wall of building

2. There is a small partial basement level housing mechanical equipment at the north end of the building. The access to this level is limited to one narrow door and stairway. The basement is constructed with both cast-in-place concrete and concrete masonry walls. At the east end of the south wall of this basement area, stairstep cracking was noted in the masonry wall indicating settlement of the foundations and east wall of the building has occurred. See Figure 5. Refer also to recommendations below of comments regarding foundation conditions at the east wall.



Figure 5: Basement wall cracking adjacent to east wall (looking south)

3. At the 'east' (lake side) exterior wall facing the empty lot additional stair step cracking was noted at about the 1/3 point location (from the back wall). The cracking projected through the exterior stucco finish and appeared to correspond to a concrete block module (8-in high and wide step increments). See Figure 6.



Figure 6: Cracking at east (lakeside) wall

4. The three incidents of wall cracking at the back wall, basement CMU, and exterior east wall indicate that there has been some settlement of the foundation condition at the 'northeast' portion of the building. Although significant structural distress has not yet been noted, there is potential for additional differential structural movement. Additionally, a review of the soil borings acquired in 2005 by Bruan Intertec and reproduced in AET's geotechnical report dated August 11, 2023 shows that there is a layer of organic clay material immediately adjacent to the Dock Cinema building east wall. This location of this weaker soil layer coincides with the stair step cracking in the east wall and may indicate a generally softer soil condition at this northeast area of the building.
 - a. Recommendations:
 - i. Further investigation of the soil conditions at the northeast portion of the building is warranted to understand the performance expectations of the building for long-term behavior as well as the risks associated of maintaining the integrity of the Dock Cinema building when adjacent construction would occur.
 - ii. To prevent further movement of the building foundations and to preclude settlement movement during adjacent construction several foundation stabilization techniques exist, including: traditional underpinning, micropile or helical pier foundations, or jet-grouting. Based on the clayey material conditions, soil stabilization methods such as permeation grouting would not be successful.
 - iii. With its relatively rigid exterior wall materials (CMU, brick, and stucco) we recommend that precautions be taken during any adjacent construction to control vibrations through selective methods to minimize the potential for further settlement related cracking. The back portion of the building appears to be most sensitive to this potential settlement risk.

CONCLUSIONS

In general, the original building structure has shown acceptable structural performance, but areas of potential structural deterioration and observed structural settlement have been noted. Accessibility and mold/fungal issues have also been identified and should be remedied in accordance with recommendations by others. Structural work advised includes investigation and mitigation, as needed, of roof sloping and drainage issues, and settlement risk related to foundation strengthening and support.

A key area that will require structural investigation and likely retrofit work is the roof structure deterioration due to the failed roofing condition. Additionally, settlements where cracking of the CMU walls was noted in the back portion of the building, where ongoing and progressive settlements are possible due to clayey soils, should be investigated and mitigated to prevent further damage.



LIMITATIONS

The professional engineering opinions and recommendations contained in this report exclusively concern structural elements, based on visual observation of accessible areas as defined by the limits of the scope of investigation and documents available to us at the time of this report. This assessment does not constitute a warranty or guarantee of performance, including future or latent conditions of the structure, nor does it provide verification of original structural design capacity, occupancy loading requirements or other code compliance, or compliance with existing documents, except where explicitly noted.

We appreciate the opportunity to prepare this report for your use. If you have any questions, please do not hesitate to contact us.

Sincerely,

MEYER BORGMAN JOHNSON

A handwritten signature in black ink that reads 'Matt Thomas'.

Matt Thomas, PE

PROJECT SUMMARY

Project:	Bar-Restaurant Reuse Tonka Theatre - 1989 Cinema Demo
Date:	

SITE ACQUISITION COSTS:		
Site Area:	0.60 acres	26,136 sf
Site Cost :	\$1,500,000	\$57.39/sf
Total Site Cost:		\$1,500,000

DESCRIPTION OF SPACE TO BE DEVELOPED:		Net Usable Area	Gross-Up	Area	Gross-Up Percentage	Total Gross & Net Rentable Area
First Floor		5,066 sf		00 sf	0.00%	5,066 sf
Mezzanine		1,868 sf		00 sf	0.00%	1,868 sf
TOTAL AREAS:		6,934 sf		00 sf	0.00% avg	6,934 sf

Ratio-Net Usable Building Area To Land Area =	26.53%
Ratio-Gross Building Area To Land Area =	26.53%
Ratio-Net Rentable Building Area To Gross Building Area =	100.00%

Parking Summary:	# of Spaces	SF Per Space (Net Parking SF)	Circulation Space Per Parking Space	Total Parking SF (Gross Parking SF)
Structured Parking-Under Ground	0	00 sf	00 sf	00 sf
Structured Parking-Above Ground	0	00 sf	00 sf	00 sf
Surface Parking	24	00 sf	00 sf	00 sf
Total Parking	24	0sf.- avg 00 sf	0sf.- avg 00 sf	00 sf
Parking Spaces Per 1,000sf of NRA =		3.46		6,934 sf

PROJECT COST STATEMENT

Project:	Bar-Restaurant Reuse Tonka Theatre - 1989 Cinema Demo
Date:	

Cost/SF Based on Usable Area				Costs/SF Based on GBA & NRA	Project Costs
Site ACQUISITION COSTS:					
Site Purchase Price			\$216.33/sf	\$216.33/sf	\$1,500,000
CONSTRUCTION (Hard) COSTS:					
SITEWORK COSTS:					
Site work - Soil Corrections - Shoring - Foundation Repairs - Parking			\$104.56/sf	\$104.56/sf	\$725,000
89 Cinema Demolition			\$37.50/sf	\$37.50/sf	\$260,000
HazMat Abatement			\$15.86/sf	\$15.86/sf	\$110,000
Storm Water			\$0.00/sf	\$0.00/sf	\$0
Onsite Improvements (Landscaping)			\$3.61/sf	\$3.61/sf	\$25,000
Engineered Rataining Wall design, demolition, and replacement			\$0.00/sf	\$0.00/sf	\$0
TOTAL SITEWORK COSTS:			\$161.52/sf	\$161.52/sf	\$1,120,000
BUILDING SHELL CONSTRUCTION COSTS:					
First Floor			\$345.31/sf	\$345.31/sf	\$1,749,340
Mezzanine			\$345.31/sf	\$345.31/sf	\$645,039
TOTAL BUILDING SHELL CONSTRUCTION COSTS:			\$345.31/sf	\$345.31/sf	\$2,394,380
* The cost per square foot for these spaces are based only on each specific space and not on the total					
PARKING COSTS:					
		# of Spaces	Cost Per Parking Space		
Structured Parking-Under Ground		0	\$ -	#DIV/0!	#DIV/0!
Structured Parking-Above Ground		0	\$ -	#DIV/0!	#DIV/0!
Surface Parking		24	\$ -	#DIV/0!	#DIV/0!
Total Parking Cost		24	\$0		\$0
* The cost per square foot for these spaces are based only on each specific space and not on the total					
TENANT IMPROVEMENT COSTS:					
First Floor			\$75.00/sf	\$75.00/sf	\$379,950
Mezzanine			\$0.00/sf	\$0.00/sf	\$0
TOTAL TENANT IMPROVEMENT COSTS:			\$54.80/sf	\$54.80/sf	\$379,950
* The cost per square foot for these spaces are based only on each specific space and not on the total					
Owner Hard Cost Contingency Reserve:		15.00%	\$60.02/sf	\$60.02/sf	\$416,149
TOTAL CONSTRUCTION (Hard) COSTS:			\$621.64/sf	\$621.64/sf	\$4,310,479

DEVELOPMENT & SOFT COST :				
Soft Costs Incurred in Connection with Site Acquisition:				
Closing Costs		\$0.00/sf	\$0.00/sf	\$0
Appraisal Fee		\$1.23/sf	\$1.23/sf	\$8,500
Real Estate Taxes		\$4.23/sf	\$4.23/sf	\$29,343
Mortgage Registration Tax	0.24% Of Mortgage Amount	\$0.60/sf	\$0.60/sf	\$4,176
Title/Recording		\$0.00/sf	\$0.00/sf	\$0
Title Transfer Tax		\$0.00/sf	\$0.00/sf	\$0
Title Insurance Premium		\$1.04/sf	\$1.04/sf	\$7,200
Architechural & Engineering:				
Civil Engineering	0.00%	\$6.49/sf	\$6.49/sf	\$45,000
Architecture/Interior/Specialty Theatre Design Consultants	0.00%	\$15.14/sf	\$15.14/sf	\$105,000
Structural Engineer	0.00%	\$9.37/sf	\$9.37/sf	\$65,000
MEP		\$6.49/sf	\$6.49/sf	\$45,000
Cinema Equipment		\$0.00/sf	\$0.00/sf	\$0
Landscape		\$0.00/sf	\$0.00/sf	
Legal Fees:				
Legal - Entitlements		\$0.00/sf	\$0.00/sf	\$0
Legal - Documentation		\$0.00/sf	\$0.00/sf	\$0
Legal - Lender		\$3.61/sf	\$3.61/sf	\$25,000
Other Soft Costs:				
Survey		\$0.44/sf	\$0.44/sf	\$3,023
Geotechnical Consultant		\$1.37/sf	\$1.37/sf	\$9,500
Environmental Consultants		\$2.24/sf	\$2.24/sf	\$15,500
Commercial Leasing Commissions		\$9.93/sf	\$9.93/sf	\$68,884
Permit Fees - Building		\$4.66/sf	\$4.66/sf	\$32,329
Offsite Parking During Construction		\$1.44/sf	\$1.44/sf	\$10,000
Market Studies		\$0.00/sf	\$0.00/sf	\$0
Planning/Zoning Fees		\$1.08/sf	\$1.08/sf	\$7,500
Park Dedication/Impact Fees		\$0.00/sf	\$0.00/sf	\$0
SAC/WAC Fees		\$0.00/sf	\$0.00/sf	\$0
Lender Architect/Engineering Inspections		\$1.59/sf	\$1.59/sf	\$11,000
Insurance - Owner Liability		\$0.00/sf	\$0.00/sf	\$0
Insurance - Builders Risk		\$3.12/sf	\$3.12/sf	\$21,657
Testing & Inspections		\$5.77/sf	\$5.77/sf	\$40,000
MEP Commissioning		\$3.61/sf	\$3.61/sf	\$25,000
		\$0.00/sf	\$0.00/sf	\$0
Operations Start-Up Costs		\$6.49/sf	\$6.49/sf	\$45,000
Operations Deficit		\$0.00/sf	\$0.00/sf	\$0
FFE		\$10.82/sf	\$10.82/sf	\$75,000
Development Consulting		\$0.00/sf	\$0.00/sf	\$0
Soft Cost Contingency	5.00%	\$5.04/sf	\$5.04/sf	\$34,931
DEVELOPMENT FEE	3.50%	\$34.04/sf	\$34.04/sf	\$236,000
SUBTOTAL DEVELOPMENT & SOFT COSTS :		\$139.82/sf	\$139.82/sf	\$969,542
Subtotal-Project Costs Before Financing Costs		\$977.79/sf	\$977.79/sf	\$6,780,021
FINANCING COSTS:				
Lender Required Contingency	0.00%	\$0.00/sf	\$0.00/sf	\$0
Construction Loan Brokerage/Origination Fees	0.50%	\$1.15/sf	\$1.15/sf	\$7,957
Loan Broker Placement Fee	0.00%	\$0.00/sf	\$0.00/sf	\$0
Construction Loan Interest Reserve		\$3.48/sf	\$3.48/sf	\$24,136
TOTAL FINANCING COSTS:		\$4.63/sf	\$4.63/sf	\$32,093
TOTAL PROJECT COSTS:		\$982.42/sf	\$982.42/sf	\$6,812,114

RENT AND EXPENSES

Project:	Bar-Restaurant Reuse Tonka Theatre - 1989 Cinema Demo
Date:	

I. Base Rental Income:	Rentable Area	First Year Base Rental Income/SF	First Year Annual Base Rent	Years In Lease Term	Stabilized Vacancy %	Stabilized Vacant SF
1 First Floor	5,066 sf	\$ 25.00	\$ 126,650	10.00	5.00%	253 SF
3 Mezzanine	1,868 sf	\$ 20.00	\$ 37,360	10.00	5.00%	93 SF
2 SubTotal /Average	6,934 sf		\$ 164,010		5.00% avg	347 SF

II. Base Rent Escalations:					
Input In One Of The Following Shaded Cells Only:					
Base Rent To Increase Annually By		\$ -	Per SF		FALSE
Base Rent To Increase Annually By		3.00%			TRUE
Base Rent To Increase Annually By		\$ -	Dollars		FALSE
Base Rent To Increase In Year	6	By	0.00%		FALSE

Additionally, Input Year 11 Base Rent Increase Percentage Below:

Base Rent To Increase In Year	11	By	3.00%		TRUE
-------------------------------	----	----	-------	--	------

III. Other Income:						
Parking-	# of Stalls Available	Monthly Rent/Stall	Total Potential Monthly Parking Rent	Total Potential Annual Parking Rent	Annual Parking Inflation Rate	Parking Vacancy Factor
Structured Parking-Under Ground	0	\$ -	\$ -	\$ -	0.00%	0.00%
Structured Parking-Above Ground	0	\$ -	\$ -	\$ -	0.00%	0.00%
Surface Parking	24	\$ -	\$ -	\$ -	0.00%	0.00%
Total Stalls	24	\$0.00/stall avg.	\$ -	\$ -	0.00%	0.00%

IV. First Stabilized Year Operating Expenses				
Expense Categories	Enter Expense Per SF		Annual Operating Expenses	Operating Expense Annual Inflation Rate
Real Estate Taxes	\$6.51/sf	\$	45,140	3.00%
Liability Insurance	\$0.50/sf	\$	3,467	3.00%
Utilities	\$0.00/sf	\$	-	3.00%
CAM	\$6.00/sf	\$	41,604	3.00%
Security	\$0.00/sf	\$	-	3.00%
Janitorial	\$0.00/sf	\$	-	3.00%
Landscaping	\$0.00/sf	\$	-	3.00%
Snow Removal	\$0.00/sf	\$	-	3.00%
Administrative	\$0.00/sf	\$	-	3.00%
Miscellaneous	\$0.00/sf	\$	-	3.00%
Landlord Expenses	\$0.00/sf	\$	-	3.00%
Ground Lease Payments	\$0.00/sf	\$	-	3.00%
Structural Reserve	\$0.10/sf	\$	693	3.00%
Re-Tenanting Reserve	\$0.10/sf	\$	693	3.00%
Management Fee	5.00% \$0.01/sf	\$	12,076	
Totals	\$14.95/sf	\$	103,674	

PROFORMA STATEMENT

Project:	Bar-Restaurant Reuse Tonka Theatre - 1989 Cinema Demo
Date:	

Potential Base Rental
Income:

Months to Project Stabilization=

8

Operating Year→		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
First Floor	5,066 SF	\$ 126,650	\$ 130,450	\$ 134,363	\$ 138,394	\$ 142,546	\$ 146,822	\$ 151,227	\$ 155,764	\$ 160,436	\$ 165,250
Mezzanine	1,868 SF	\$ 37,360	\$ 38,481	\$ 39,635	\$ 40,824	\$ 42,049	\$ 43,310	\$ 44,610	\$ 45,948	\$ 47,327	\$ 48,746
0	0 SF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Base Rent	6,934 SF	\$ 164,010	\$ 168,930	\$ 173,998	\$ 179,218	\$ 184,595	\$ 190,133	\$ 195,837	\$ 201,712	\$ 207,763	\$ 213,996
Parking Income:		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Expense Reimbursement:		\$ 90,211	\$ 92,918	\$ 95,705	\$ 98,576	\$ 101,534	\$ 104,580	\$ 107,717	\$ 110,949	\$ 114,277	\$ 117,705
Management Fee Reimbursement:		\$ 12,711	\$ 13,092	\$ 13,485	\$ 13,890	\$ 14,306	\$ 14,736	\$ 15,178	\$ 15,633	\$ 16,102	\$ 16,585
Potential Gross Income:		\$ 266,932	\$ 274,940	\$ 283,189	\$ 291,684	\$ 300,435	\$ 309,448	\$ 318,731	\$ 328,293	\$ 338,142	\$ 348,286
Vacancy:	5.00%	\$ (13,347)	\$ (13,747)	\$ (14,159)	\$ (14,584)	\$ (15,022)	\$ (15,472)	\$ (15,937)	\$ (16,415)	\$ (16,907)	\$ (17,414)
Effective Gross Income:		\$ 253,586	\$ 261,193	\$ 269,029	\$ 277,100	\$ 285,413	\$ 293,975	\$ 302,795	\$ 311,879	\$ 321,235	\$ 330,872
Operating Expenses:											
Real Estate Taxes		\$ (45,140)	\$ (46,495)	\$ (47,889)	\$ (49,326)	\$ (50,806)	\$ (52,330)	\$ (53,900)	\$ (55,517)	\$ (57,182)	\$ (58,898)
Liability Insurance		\$ (3,467)	\$ (3,571)	\$ (3,678)	\$ (3,788)	\$ (3,902)	\$ (4,019)	\$ (4,140)	\$ (4,264)	\$ (4,392)	\$ (4,524)
Utilities		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
CAM		\$ (41,604)	\$ (42,852)	\$ (44,138)	\$ (45,462)	\$ (46,826)	\$ (48,230)	\$ (49,677)	\$ (51,168)	\$ (52,703)	\$ (54,284)
Security		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Janitorial		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Landscaping		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Snow Removal		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Administrative		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Miscellaneous		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Management Fee	5.00%	\$ (12,076)	\$ (12,438)	\$ (12,811)	\$ (13,195)	\$ (13,591)	\$ (13,999)	\$ (14,419)	\$ (14,851)	\$ (15,297)	\$ (15,756)
Landlord Expenses		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ground Lease Payments		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Structural Reserve		\$ (693)	\$ (714)	\$ (736)	\$ (758)	\$ (780)	\$ (804)	\$ (828)	\$ (853)	\$ (878)	\$ (905)
Re-Tenanting Reserve		\$ (693)	\$ (714)	\$ (736)	\$ (758)	\$ (780)	\$ (804)	\$ (828)	\$ (853)	\$ (878)	\$ (905)
NOI		\$ (103,674)	\$ (106,784)	\$ (109,987)	\$ (113,287)	\$ (116,686)	\$ (120,186)	\$ (123,792)	\$ (127,506)	\$ (131,331)	\$ (135,271)
ROI (Return On Cost)		2.20%	2.27%	2.33%	2.40%	2.48%	2.55%	2.63%	2.71%	2.79%	2.87%
Market Cap Rate		6.50%									
Estimated Initial Stabilized Value		\$ 2,306,341									
5 year average		2.34%									
Estimated Current Market Cap Rate		6.50%									
Estimated Initial Stabilized Value	\$	2,306,341									

Assumes Sale at Completion:		
Project Cost	\$	6,812,114
Costs Of Sale	\$ 3.00%	69,190
Value	\$	(4,574,964)
Return On Cost If Sold		-67.16%

Annual Equity Return Assuming Build & Hold:																	
Permanent LTV Percentage	69.00%	(Based on Stabilized Value)															
Permanent Debt Amount	\$ 1,591,375	\$1,561,975	\$1,530,839	\$1,497,865	\$1,462,944	\$1,425,962	\$1,386,796	\$1,345,317	\$1,301,390	\$1,254,869	\$1,205,602						
Annual Interest Rate	5.75%																
Annual Debt Constant	7.55%																
Loan Amortization Period (Years)	25.00																
Annual Debt Service	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137	\$ 120,137			
Cash Flow After Debt Service	\$ 29,775	\$ 34,272	\$ 38,904	\$ 43,676	\$ 48,590	\$ 53,652	\$ 58,866	\$ 64,236	\$ 69,767	\$ 75,464							
Debt Service Coverage Ratio	1.25x	1.29x	1.32x	1.36x	1.40x	1.45x	1.53x	1.58x	1.63x								
Cash On Cash Return Equity (ROE)	0.57%	0.66%	0.75%	0.84%	0.93%	1.03%	1.13%	1.23%	1.34%	1.45%							

February 12, 2025

Heritage Preservation Commission
City of Excelsior
37 Water Street
Excelsior, MN

Bruce Anderson - bdahsa7@msn.com
Tim Caron - tgcaron@sprintmail.com
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Dear Mr. Chair and Members:

We represent Mithun Enterprises and its development team. Please accept this consolidated response for the administrative record regarding the Site Alteration Permit (“SAP”) and related demolition request for the Tonka Theater. As a threshold matter, the Applicant expressly reserves all rights with respect to the Commission’s failure to act within the mandatory timeframes set forth in its ordinance.¹ The ordinance requires the Commission to approve or deny the application within sixty (60) days and permits an extension only upon a formal finding of probable cause to reuse the historic resource.² No such finding was made. When a city deviates from its own ordinance, without explanation, Minnesota courts have found such failure to be arbitrary and capricious. Accordingly, the Applicant’s position is that this application has been approved by operation of law, and nothing in this submission should be construed as a waiver of that position.

This letter is intended to (i) clarify the record, (ii) correct material misstatements and overreach in the City’s historic preservation consultant memorandum dated January 27, 2026 (the “Consultant Memorandum”), and (iii) explain why the proposed changes to the Tonka Theater (the “Project”) comply with the Excelsior City Code.

The development team fully acknowledges the Tonka Theater’s historic significance as a contributing structure within the Excelsior Commercial Historic District. The site alteration permit proposal is preservation-oriented: it retains the entire street-facing façade; restores historically appropriate exterior materials; reconstructs the marquee; and returns the building to productive civic use. The narrow dispute is not whether the Theater is historic, but whether the City may deny a partial demolition by applying standards that are not found in (and exceed) the adopted ordinance criteria.

¹ Section 20-12 (e) *Action by commission*. Upon receiving an application requesting the demolition or relocation of a landmark or a contributing site located in an historic district, the commission within **60 days after receipt** of the application shall either approve or deny such application. If the commission finds that probable cause exists to reuse the historic resource, the commission may extend the review time to 90 days from the receipt of the application, and notify the applicant of such postponement. Staff was reminded by the Applicant that a public hearing was required for the SAP. Staff could have complied with the 60-day time period, but failed to notice a public hearing.

² *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 292 (Minn. 2013). Heritage preservation proceedings are akin to hearings on a conditional use permit directed at a specific property and related to specific property rights. HPC applications are a written request relating to zoning under Minn. Stat. 15.99.

I. The City's Historic Preservation Authority Is Limited to Those Powers Expressly Delegated to it Under Minnesota Law

Historic preservation authority in Minnesota operates through a multi-tiered statutory framework allocating responsibility among federal, state, and local actors. While municipalities play a critical regulatory role, that role is limited to powers delegated to the City by state statute and implemented through local ordinance. Local commissions therefore exercise regulatory authority, not free-floating discretion, and may not expand requirements beyond what the ordinance and adopted standards provide. Accordingly, the Commission's review of this SAP must be tethered to (a) the standards expressly adopted in Chapter 20 of the City Code, and (b) the specific findings required by that ordinance. Preservation policy preferences, even sincerely held, cannot substitute for ordinance criteria.

II. The City Code Contemplates Demolition and Does Not Authorize Categorical Prohibition

The plain language of the Excelsior City Code does not prohibit partial or full demolition of contributing structures. Section 20-12 expressly contemplates demolition (including full demolition) where the applicable findings are met. The ordinance establishes a criteria-based, discretionary review, not a categorical ban. City ordinances are strictly construed against the City, in favor of the property owner. Minnesota courts give weight to the interpretation that, while still within the confines of the language of the ordinance, is "least restrictive upon the rights of the property owner to use his land as he wishes."³

Against this backdrop, repeated assertions in the Consultant Memorandum that the historic district was "not designated to allow demolitions," or that approval would be improper because it would "set a precedent," are policy arguments unrelated to the plain language of the ordinance. Treating demolition as presumptively forbidden improperly converts a discretionary standard into compete ban. Permanently denying an owner beneficial use of historic property or requiring substantial investment in repairs over the owner's objection constitutes a compensable taking under Minnesota law.⁴

We must note that in the hours of public hearings held on this Project, staff report after staff report notes the proposed demolition as "partial demolition" subject to the partial demolition standards of the City Code.⁵ Not until 3 days before the proposed hearing before the HPC, did staff and the City Consultant provide notice to the development team that this Project would not be reviewed under the partial demolition standards but the demolition standards in section 20-

³ *Frank's Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604 (Minn. 1980).

⁴ To permanently deny an owner the beneficial use of his property except by requiring him to make a substantial investment in repairs and renovation, over his objection, would constitute a "taking" for which the owner has a right to compensation. *State by Powderly v. Erickson*, 301 N.W.2d 324, 326 (Minn. 1981).

⁵ In its final memo to the City Council, published in advance of the July 21, 2025 Council consideration of the preliminary PUD, staff writes:

Staff recommends that as the HPC considers the proposed *partial demolition* of the Tonka Theatre building the analysis should consider the impact of a *partial demolition* of a Contributing structure on the Downtown Historic District as a whole (emphasis added).

12. Section V demonstrates why the plans comply with the standards for 20-12, but as a threshold matter, we object to the characterization of this Project as a full demolition.

The proposed work meets the City Code definition of “partial demolition.” Removal is limited to (i) structurally compromised portions of the building and (ii) the non-contributing additions. All Water Street massing, height, and façade elements are retained. The portion proposed for removal is not readily visible from Water Street. The disagreement over percentage calculations reflects a broader concern regarding the purpose and analytical foundation of the Consultant Memorandum. In an apparent effort to characterize the application as triggering the full demolition standard, the memorandum introduces revised building square footage figures that are not supported by any engineering or architectural documentation.

The Consultant Memorandum adds the unused and unoccupiable basement square footage to push the building into the full demolition category, while essentially ignoring the work done by the development team and its professional engineers to save a significant portion of the original theater. To be clear, the basement square footage can be retained, and if it is retained, the building would by the consultant's new calculations fall within the 30-percent threshold for partial demolition. This is the type of issue appropriately raised with an applicant during the course of a nearly 70-day review process, not introduced for the first time three days before a hearing on the application. Instead, the consultant revised material calculations without addressing the Applicant's updated analysis or providing a meaningful opportunity for response.

III. Historic Designation Record Does Not Support the Consultant's Reframed Areas of Significance

The Consultant Memorandum repeatedly asserts that the building's volume and rear mass are “character-defining features” whose loss would permanently damage integrity. That assertion is not supported by the historic designation record. The designation narratives emphasize the Theater's east façade, marquee, Art Moderne detailing, and Water Street presence not rear massing, lake-facing visibility, or interior auditorium volume as independent sources of significance. The designation study providing for the designation of the district is attached as Exhibit A. The façade ornamentation is mentioned, Water Street massing is mentioned, but no other physical components are described. These features are maintained under the proposed SAP. Moreover, and for decades, the rear mass elevated by the Consultant Memorandum was obscured by non-contributing structures, including the former Pizza Hut building. Preservation analysis must be anchored in what is actually designated, not what is later asserted as significant without documentary support.

The Consultant Memorandum further asserts that the internal volume of the theater must be preserved in its entirety. Neither the Secretary of the Interior's Standards nor the City Code imposes a categorical prohibition on partial alteration of a single interior space. To the contrary, adaptive reuse of National Register listed theaters routinely involves subdivision, reconfiguration, or selective modification of interior volume while maintaining historic designation. The building's interior configuration is not identified as a defining element of its designation as a contributing structure. This further highlights internal inconsistency within the memorandum. It acknowledges that the HPC does not regulate use and that interior spaces commonly evolve over time, yet it effectively treats the auditorium's interior volume as though it were entitled to the same level of protection as the Water Street façade or the building's overall height and massing.

IV. The Consultant Memorandum Ignores the Procedural and Practical Record Established by the Development Team Over the Last Three Years.

The Consultant Memorandum misstates and omits key procedural context. The Project has been subject to multiple concept plans and extensive public process over several years, and revised concepts reflecting partial demolition were presented in public meetings involving the Planning Commission, HPC, and City Council. The memorandum ignores that an adaptive reuse model intended to retain 100% of the theater space was rejected by the City Council due to adjacent building height and parking concerns.

Similarly, the memorandum ignores that there has been extensive discussion of the underlying retention of the theater use. The consultant writes:

The owner has not provided tenant names or tenant signage to the building and the City cannot require the building remain a theater. While many Excelsior residents have a shared historic bond for continuing the theater use as a community space, the HPC's design review is not based on use and the HPC cannot require a theater use. Furthermore, there is nothing to hold the owner to the proposed second-story theater and interior plans could change in the future without HPC review. The owner has already claimed that theaters are obsolete, so the inclusion of a theater is confusing in the application.

This characterization is incorrect. The City is requiring the building to remain a theater and multipurpose community space. The resolution approving the Preliminary Planned Unit Development expressly conditions approval on continued theater and community use. Moreover, the HPC's review cannot proceed in isolation, as if the Project has not already undergone extensive review and analysis through the City's broader land use process.

The proposed *non-profit* theater use has been consistently and repeatedly presented, analyzed, and affirmed as a foundational element of the Project. Members of the Mithun design team and FilmNorth have testified on multiple occasions regarding the intended long-term theater and community programming use of the building. The continued operation of the theater is not an incidental or "confusing feature" of the application; it is a central public-benefit component of the Project and should be evaluated accordingly.

V. Approval of the submitted SAP is Required Under the Ordinance

The purpose of the HPC is to preserve, protect, perpetuate, and enhance structures within the historic district that possess special historic, community, or aesthetic value. The Commission is charged with stewardship of the City's heritage. But this purpose language is not limited to preservation and protection alone. It expressly includes *perpetuation* and *enhancement*. This Project is consistent with all four of those objectives

Nevertheless, the City and its consultant refuse to acknowledge that alignment, instead elevating the apparent policy preferences of a small subset of individuals over the demonstrated commitment of the broader community and the extensive, community-engaged design process this Project has undertaken over the past three years. There is zero emphasis in the Consultant Memorandum on perpetuation and enhancement, two areas in which this Project excels.

Rather than grounding its analysis in the practical realities established through expert testimony submitted by the Applicant and multiple rounds of public review, the Consultant Memorandum speculates and overstates alleged compliance deficiencies while disregarding the HPC's affirmative duties under the ordinance, including its obligation to:

1. Strengthen the local economy;
2. Promote the use of buildings and structures for economic prosperity, education, inspiration, and the general welfare of people of the City; and
3. Assist, encourage, and provide incentives to owners for the preservation, restoration, rehabilitation, and productive use of historic buildings, structures, objects, and sites.

In reviewing the SAP, the Consultant Memorandum disregards the extensive presentations, design work, and technical analysis prepared in connection with this Project. It ignores multiple concept plan reviews conducted for this site and instead approaches the application with a predetermined objective of identifying a basis for denial.

As previously noted, the analysis reflects a selective and inconsistent application of the ordinance, recasting the Applicant's partial demolition request as a full demolition. The City accepted the SAP as a complete partial demolition application and never rejected it as incomplete. Nevertheless, the consultant seeks to extract the Project from the plain language definition of partial demolition, and instead attempts to recharacterize it as a full demolition by shifting analytical assumptions mid-process. Notwithstanding the foregoing procedural and analytical deficiencies, the Project independently satisfies the findings and approval criteria applicable to *full demolition*, as demonstrated below.

Requirement	Consultant Determination	Applicant Response
Concept review / process history	Concept review was not properly submitted.	The Project has undergone multiple concept plan reviews for both the Theater and the adjacent mixed-use component. Plans were revised in response to HPC comments (including height/design details along Water Street).
Concept Review	Concept review failed to account for retaining entirety of the Theater	A full-retention concept was presented. City Council rejected the proposal.
Non-contributing structures	Additions outside the period of significance are non-contributing; consultant suggests applicant assumptions about additions are incorrect	Prior City materials and staff reports have treated later additions (including the 1989 addition) as non-contributing and not visible from Water Street. The proposal removes non-contributing components while preserving contributing, Water Street-facing features.
Public Hearing	Public hearing scheduled for February 24.	Despite completeness determination in November, notice and hearing scheduling were delayed for months.

Requirement	Consultant Determination	Applicant Response
Decision timeline	HPC has 120 days to approve or deny under Minn. Stat. § 15.99. ⁶	The ordinance language is more restrictive: it provides a 60-day decision period with limited extension tied to probable cause regarding reuse. Owner preserves this procedural issue for the record.
Engineering / structural documentation	The Engineering study is insufficient to support partial demolition; consultant questions structural unsoundness.	The qualified engineer's report documents structural deterioration and supports the proposed scope. The City has not offered a contrary engineering opinion; consultant interpretation is not a substitute for professional engineering evidence. ⁷
Total demolition criterion: Alternative undertakings and reuse assertions	Full retention could be supported through tax credits or alternative uses; Applicant failed to explore these mechanisms.	Full retention was explored in prior concepts; feasibility is constrained by physical limitations and lack of on-site parking. Suggested uses (e.g., internal amenity concepts) do not demonstrate reasonable economic use. While Consultant lists "alternatives" the ordinance imposes a proactive duty on the part of City staff, HPC and its consultant to facilitate alternative funding mechanisms for retention. The design team has been engaged in this process for over three years.
Total demolition criterion: Architectural significance	Façade is valuable, but rear massing and lake visibility are determinative.	Designation materials emphasize Water Street façade, marquee, and Art Moderne detailing; they do not identify rear massing or lake-facing visibility as determinative. Historically the rear was obscured by non-contributing structures.
Total demolition criterion: Historical significance / interior auditorium	Interior auditorium volume is of particular significance; loss undermines integrity.	The designation narrative does not elevate the auditorium volume as an independent source of integrity. This is a new interpretation made by the consultant for the first time in this report. The proposal retains

⁶ In *Moreno v. City of Minneapolis*, the court addressed whether an appeal to a city council triggers a new 60-day deadline under Section 15.99 or must be decided within the original 60-to-120-day period. The court held that under Minneapolis's appeals process which mirrors the City's HPC appeal process, a zoning application is not approved or denied for purposes of Section 15.99 until the city council—not the planning commission—has resolved all appeals challenging the application. This means the appeal is part of the original request timeline, not a separate process with its own deadline. *Moreno v. City of Minneapolis*, 676 N.W.2d 1 (2004).

⁷ "In making its decision, a municipality may not 'reject expert testimony without adequate supporting reasons.'" *BECA of Alexandria, L.L.P. v. County of Douglas ex rel. Bd. of Com'rs*, 607 N.W.2d 459, 463 (Minn. Ct. App. 2000) (quoting *SuperAmerica Grp., Inc. v. City of Little Canada*, 539 N.W.2d 264, 267 (Minn. Ct. App. 1995)). "Non-experts can supply adequate reasons to counter or reject expert opinions, but those reasons must be concrete and based on observations, not merely on fears or speculation." *Id.* (citations omitted). In *BECA of Alexandria*, the court held arbitrary and capricious a condition the county placed on a CUP prohibiting docks, rafts, buoys, and mooring stations after finding the condition was "based solely on unscientific concerns rather than factual data[.]" *Id.*

Requirement	Consultant Determination	Applicant Response
		defining historic exterior features and enables continued civic use.
Total demolition criterion: Attempt to maintain the structure	Owner's roof repairs indicate the structure is sound.	Maintenance efforts do not negate documented deterioration and safety/code constraints. The Consultant's report acknowledges there is no evidence of owner neglect.
Total demolition criterion: Retention of the resource constitutes a hazard to public safety that cannot be eliminated by economic means available to the owner	Owner could sell the property to someone for a price equivalent to the assessed value.	The hotel-theater concept plan review process documented a \$6 million dollar cost to retain the whole of the theater. The 26 Water Street property is currently assessed at \$573,000. Minnesota courts have long recognized that permanently denying an owner beneficial use of historic property or requiring substantial investment in repairs over the owner's objection would constitute a compensable taking. ⁸
Total demolition criterion: District continuity	Continuity of District requires that the theater remain.	Interpreting continuity to prohibit any meaningful alteration would function as a de facto ban inconsistent with the ordinance, which expressly contemplates demolition where findings are met. Under this interpretation <i>no property</i> within the District could be partially or fully demolished because of its alleged significance to the broader district.
Total demolition criterion: Comp plan alignment	Not addressed.	As reflected in concept review and preliminary PUD approvals, the Project advances Comprehensive Plan goals for downtown reinvestment, pedestrian orientation, and a diverse mix of uses including entertainment. ⁹
Total demolition criterion: Structural integrity	Consultant disputes the engineer's conclusions based on a site visit facilitated by the Applicant.	A qualified structural engineering report documents deterioration and supports the proposed scope; consultant opinion is not a substitute for professional engineering analysis. ¹⁰
Total demolition criterion: effects on surrounding properties	Not addressed.	Partial demolition facilitates constructive reuse of the theater and enables the adjacent residential project, supporting downtown vitality and minimizing blight risk.
Relocation feasibility	Narrative does not address whether the structure can be moved.	The preservation intent is to retain and restore the Water Street façade and maintain the Theater's presence in place as an integral downtown feature. Consultant

⁸ *Supra*, Footnote 4

⁹ 2040 Comprehensive Plan- City of Excelsior, Chapter 3: Land Use (2019) available at: <https://www.ci.excelsior.mn.us/DocumentCenter/View/1459/Comp-Plan-v19-final-with-East-Side-Plan>

¹⁰ *Supra*, Footnote 7

Requirement	Consultant Determination	Applicant Response
		suggestion that relocation should be or failed to be studied, ignores the investment the broader Project is attempting to make in meeting community desire for retention of the majority of the building.

VI. The Project Satisfies the Ordinance's Inordinate Hardship Standard

The ordinance's inordinate hardship inquiry focuses on the relationship between (a) the cost of repair/rehabilitation and (b) the reasonable value and economic use of the property after repair, and (c) whether rehabilitation is impractical, not merely undesirable. The record provided by the Applicant demonstrates that this standard is met.

A. Extraordinary rehabilitation cost relative to value and use

Credible cost estimates previously provided to the City reflect that full retention and rehabilitation (including the auditorium volume) would require approximately \$6 million in investment, grossly disproportionate to the reasonable economic value and income-producing potential of the building in a full-preservation configuration.

B. Longstanding, repeated efforts to reuse and redevelop the property

Redevelopment has been attempted since at least 2021. This development team pursued multiple concept plans over an extended period; only the current proposal has successfully navigated the City's planned unit development process. This reflects sustained good-faith reinvestment efforts.

C. Lack of reasonable economic use under full-preservation scenarios

The ordinance requires reasonable economic use, not hypothetical occupancy. Here, the Project's zoning and lack of on-site parking materially constrains the assembly and institutional uses proposed by the consultant. A 6,300-square-foot church sanctuary (the size of the original auditorium) typically accommodates between approximately 430 and 900 persons, depending on seating configuration. Even at the lowest end of that range, a 430-person assembly-use would require a minimum of 108 parking stalls. By contrast, a comparably sized modern theater with approximately 250 reclining seats requires only 25 parking stalls under the City's ordinance. The consultant's suggestion that the building could be preserved in full and repurposed for assembly or institutional use, like a church, fails to address with the practical realities of the structure itself. The building consists of a deep, windowless floor plate designed for a single-purpose auditorium use. Absent substantial alteration, that space is not readily adaptable to viable office, retail, or community uses. And if subdivided or reconfigured to create leasable areas, the result would be a series of small, interior, light-deficient rooms. This outcome would both undermine marketability and, ironically, alter the very interior volume the Consultant Memorandum highlights.

Speculation that some unidentified user might occupy the building under a full preservation scenario does not constitute evidence of reasonable economic use and a basis for denial. The ordinance requires more than hypothetical possibilities; it requires a demonstrated ability for the property to function feasibly within real market conditions and applicable code constraints. The project development team has repeatedly testified in multiple public sessions regarding its good-faith efforts to evaluate and pursue constructive adaptive reuse options, including outreach,

financial analysis, and alternative programming concepts. Those efforts have not produced a viable path forward under a full-preservation scenario. Simply advancing theoretical alternatives, without evidentiary or financial support, does not satisfy the ordinance's findings requirement and does not provide a defensible basis for denial.

D. Hardship is not self-created

The Theater remained in active use until 202. Current conditions reflect functional obsolescence and documented deterioration, not intentional disinvestment. The ownership group has maintained the theater since its closure, but as demonstrated in the submitted engineering reports, structural issues will continue to contribute to deteriorating condition.

E. Total rehabilitation is impractical under the ordinance standard

Taken together, the extraordinary investment required for full retention, the extended record of attempted adaptive reuse, and the absence of reasonable economic use under full-preservation scenarios demonstrate inordinate hardship if strict full-retention were required. The proposed demolition is the feasible path that preserves defining features and restores productive use.

VII. Constitutional Limits Prohibit Indefinite Preservation

Minnesota courts recognize historic preservation regulations as a legitimate exercise of police power, while also emphasizing constitutional limits where regulation permanently denies beneficial use or effectively forces substantial investment in repairs over the owner's objection. In *State by Powderly v. Erickson*, the Minnesota Supreme Court drew a critical boundary: permanently denying an owner the beneficial use of historic property except by requiring substantial investment in repairs over the owner's continued objection constitutes a compensable taking. The Court further held that where neither the owner nor any public body elects, after a reasonable period of time, to preserve a historic structure through acquisition or legislation, the owner retains a constitutional right to demolish the structure or put the property to any other lawful use.

Subsequent cases apply the *Penn Central* framework, focusing on economic impact, interference with investment-backed expectations, and the character of the governmental action. Importantly, financial feasibility is not evaluated at the time of designation in the abstract, but when an owner seeks approval for a specific alteration. Precisely where we are now. That flexibility is the mechanism that keeps preservation regulation within constitutional bounds. Approval of this SAP preserves defining historic features, retains contributing status, restores productive use, and avoids indefinite restriction without public acquisition, compensation, or viable private reuse. This reinforces why the City should approve this Project in compliance with its ordinance.

For the reasons above, the proposed SAP advances the core purpose of Chapter 20 by protecting historic resources through continued, viable use. It retains the Theater's defining historic exterior features and qualifies as partial demolition under the ordinance. Thinking about this Project as "total demolition" ignores the practical reality that this Project retains a significant component of the theater. The Consultant Memorandum applies new standards, selectively weighs evidence, and introduces hypotheticals that are not tied to market realities. It should not serve as the basis for denial. The Owner respectfully requests approval of the Site Alteration Permit and welcomes continued collaboration on reasonable conditions that ensure the long-term preservation and success of the Tonka Theater.

Please do not hesitate to reach out to any member of the Mithun team with questions in advance of the February 24, 2026 meeting.

Sincerely,


Megan C. Rogers, for
Larkin Hoffman

Direct Dial: (952) 896-3395

Direct Fax: (952) 842-1847

Email: mrogers@larkinhoffman.com

cc: Kristi Luger, City Manager (kluger@excelsiormn.org)
Julia Mullin, Community Development Director (jmullin@excelsiormn.org)
Ronald Batty, City Attorney (rbatty@kennedy-graven.com)
Matt Mithun (matt@mithunent.com)
Mayor Gary Ringate (gringate@excelsiormn.org)
Councilmember Tim Bildsoe (tbildsoe@excelsiormn.org)
Councilmember Jennifer Caron (jcaron@excelsiormn.org)
Councilmember Chrystal O'Hanlon (cohanlon@excelsiormn.org)
Councilmember Anne Vogel (avogel@excelsiormn.org)



June 11, 2026

Matt Mithun
Mithun Enterprises
950 Wayzata Boulevard E, Suite 104
Wayzata, MN 55391

Re: Site Alteration Permit Application for Partial Demolition of Tonka Theater Building
Email transmittal: matt@mithunent.com

Cc: Kristi Luger, Excelsior City Manager; Ron Batty, Kennedy Graven,

Dear Matt,

The application for a Site Alteration Permit (SAP) for a partial demolition of the Tonka Theater building at 26 Water Street is incomplete. Please submit the following pursuant to Chapter 20 of the city code of ordinances:

1. A scaled elevation drawing of the proposed exterior (rear and side) of the building, post demolition. Page SAP 6 of the permit set provides renderings of the elevations; however, they are not scaled.
2. Re-use study. You have provided a pro forma for the development of a bar/restaurant in the existing building. This is helpful for the Commission; however, a re-use study is a broader analysis. For example, it identifies whether the building has potential for re-use and what those uses might be; identifies building characteristics and character-defining features that would guide potential re-use; considers market demand for any proposed re-use. (HPC Resolution 2026-01 also identifies this requirement - attached.)
3. Drawing or photographs showing the property in the context of its surroundings. You provided site line views in the Preliminary PUD application; it must be included here as well, updated to reflect the proposed changes to the Tonka Theater building and showing views from multiple vantage points on Water Street.
4. A completed SAP application form. Here is the link to the application form:
<https://www.ci.excelsior.mn.us/DocumentCenter/View/2922/2---Modified-SAP-Form>

In addition, the Commission will want to review the following:

- On p. SAP 5 of the permit set, please include the proposed new basement with dimensions.

Once you've submitted the required items, we will confirm the HPC meeting schedule with you. We want to keep your application moving through the city review process as efficiently as possible and will look at scheduling a Special HPC meeting if that makes the most sense.

Sincerely,

Julia Mullin
Community Development Director

From: [Mark McLane](#)
To: [Julia Mullin](#); [Matt Mithun](#); [Tim Marco](#); [Rogers, Megan C.](#)
Cc: [Kristi Luger](#); [Jess Long](#); [Batty, Ronald H.](#); [Furcich, Alexander W.](#); [Tolar, Siobhan L.](#)
Subject: RE: 26 Water Street Site Alteration Permit application
Date: Monday, June 15, 2026 10:57:48 AM
Attachments: [image001.png](#)
[3226 Council Meeting Follow Up.msg](#)
[proposed partial demolition.msg](#)
[Incomplete application letter SAP_06_11_2026.docx](#)

Julia,

We are in receipt of your June 11 email and Incomplete Application Letter regarding our Site Alteration Permit Application for Partial Demolition of Tonka Theater Building submitted May 26, 2026.

After our City Council meeting we were encouraged to resubmit a new application to be evaluated under the review criteria of a Partial Demolition application. We were hesitant to do so as staff, the staff's consultant, and HPC had taken discretion to interpret our initial application as a Total Demolition. We do not have interest in repeating that process. For the avoidance of any doubt, we reached out directly to you, as staff liaison to HPC, to understand clear and definitive submission requirements for a Partial Demolition application to be deemed complete. Your response email from April 2, 2026 attached above. We provided initial and supplemental information required from that communication for a new SAP application. Your Incomplete Application Letter dated June 11, 2026 is not consistent with information required from your email. Had we known a re-use study would be required, we would not have spent additional time and resources on this process.

A re-use study is an ambiguous and perfunctory exercise based on assumptions and not grounded in market and economic realities nor specific site and city political constraints. Assumptions that are impossible to substantiate. Conclusions derived from cursory review of elements of seemingly comparable buildings or projects without the writer ever having complete information on the comparable buildings or projects. Authored by consultants that risk nothing in their recommendations and conclusions. We would not spend time and resources on this type of exercise and would never rely on it for decision making. Ownership has shared the economic realities of the years of losses incurred operating the Dock Cinema as a movie theater, have fully vetted multiple redevelopment and reuse projects at substantial cost, have provided the city's financial advisor with multiple full financial models, and have provided alternative proforma of validated interest for reuse of the Dock Cinema.

In direct response to the items on your list, our comments are as follows:

1. We can add dimensions and scale to the elevation pages you requested. They are noted on the building drawings but can be added on the renderings as well.
2. We will not spend time debating the merits of a fictional study. The decision at hand is whether or not there is support for the larger project and adaptive reuse of the 26 Water

property. Reference to the previous resolution is irrelevant. That application was denied and is no longer applicable to this application.

3. We are confused by this request. We provided new site line views from Water Street out of our CAD model in the submission. There are no material changes to the site plan. Additional views with the added 3ft will provide no substantial changes to current project materials. Furthermore, this request would be satisfied with the final set of plans. In particular, Section 20 of the City Code requires that any SAP permit be accompanied by the approval of the project requiring the alteration. In this case, the project requiring the alteration is the adjacent 10 Water St building that would completely and fully block any view of the revised 26 Water St building from both Water St and Lake St.
4. As noted in your follow up email, a full application and payment of the application fee was submitted May 26, 2026.
 - We are not understanding the request in the additional bullet point. There will be no new proposed basement.

To clearly summarize and communicate our position, we are willing to provide the clarifications as noted in item 1 of the letter and are open to understanding the request for item 3. However, we are not going to move forward with a re-use study. We request that staff deem our application complete and HPC review our application without the requirement of a re-use study. Please confirm if we will be heard at an HPC meeting. If HPC is unwilling to accept our application under the guise of incomplete information, we would rescind our application. The City of Excelsior process to date has been arbitrary and capricious and we are unwilling to further participate. The biggest disappointment in all of this is the disservice to the residents of Excelsior.

Please respond ASAP. If we don't hear back by this Thursday, June 18th, we will begin pursuing other plans.

Thank you,
Matt, Mark, and Tim

MARK MCLANE
MOBILE 612.360.3313
MARCO MCLANE DEVELOPMENT

From: Julia Mullin <jmullin@excelsiormn.org>

Sent: Thursday, June 11, 2026 5:22 PM

To: Matt Mithun <matt@mithunent.com>; Mark McLane <Mark@marcomclane.com>; Tim Marco <Tim@marcomclane.com>; Rogers, Megan C. <mrogers@larkinhoffman.com>

Cc: Kristi Luger <kluger@excelsiormn.org>; Jess Long <jlong@excelsiormn.org>; Batty, Ronald H. <rbatty@Kennedy-Graven.com>; Furcich, Alexander W. <afurcich@kennedy-graven.com>; Tolar, Siobhan L. <stolar@kennedy-graven.com>

Subject: 26 Water Street Site Alteration Permit application

Hello Matt. I have reviewed the site alteration permit application you submitted for a partial demolition of the Tonka Theater building and have found it to be missing several items. It is incomplete at this time. Please see the attached letter for a description of what is needed.

Let me know if you have questions; we can meet in person or have a phone conversation, whichever works best for you.

Regards,

Julia

Julia Mullin – Community Development Director

Direct Phone 952.653.3674 | jmullin@excelsiormn.org

www.excelsiormn.org

Excelsior business hours are 7:30-5:30, Monday through Thursday. Closed Fridays.



PO BOX 558
Excelsior, MN 55331

26 WATER STREET

APPLICATION MATERIALS SUBMITTED IN RESPONSE TO INCOMPLETE APPLICATION LETTER

1. Revised Site Plan
2. Scaled rear elevation drawing of proposed Tonka Theater building
3. Street views of proposed Tonka Theater building with proposed mixed-use building at 10 Water Street.

Prepared For



Project

10 Water St
10 Water St, Excelsior, MN 55331

Phase

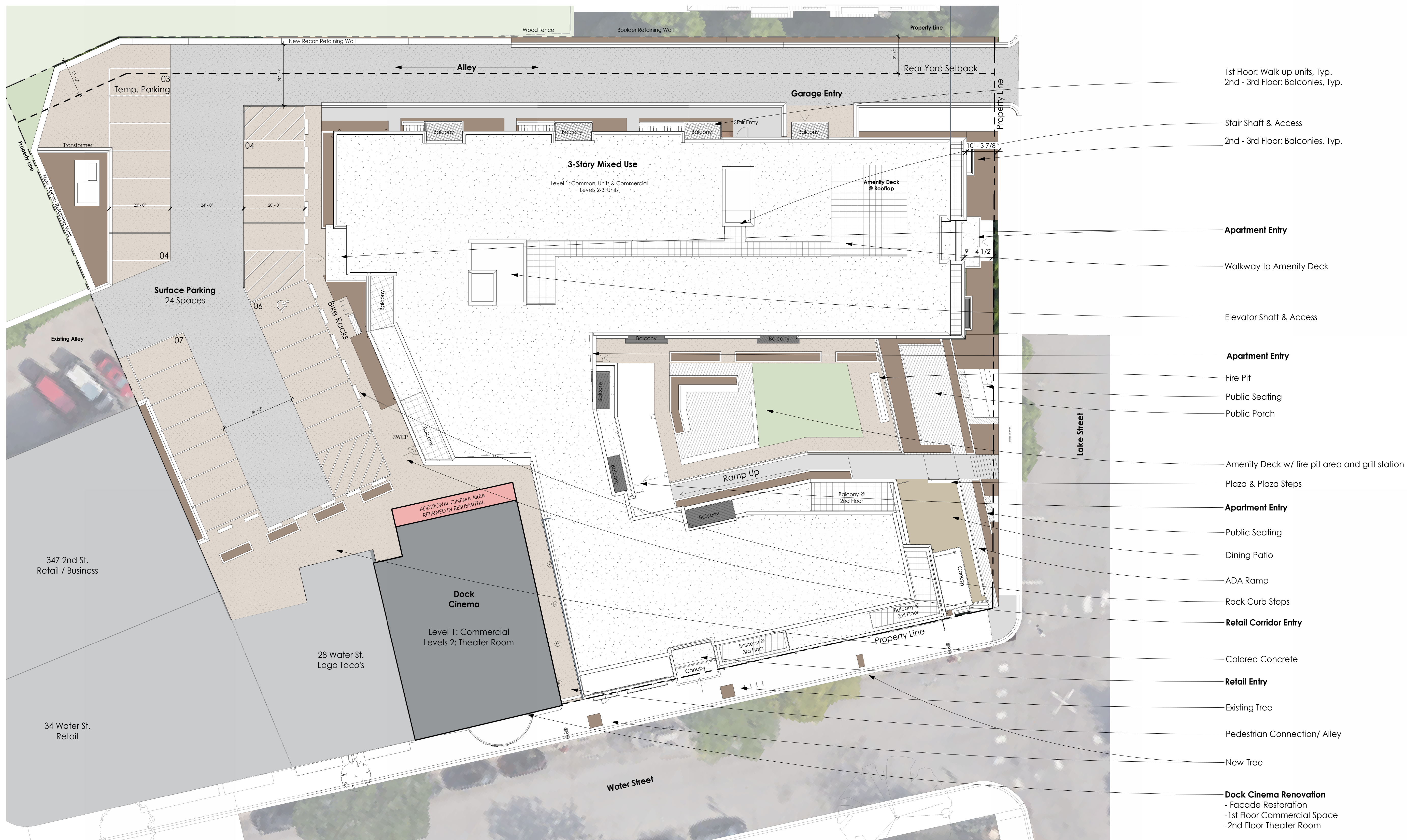
**SCHEMATIC
DESIGN****NOT FOR
CONSTRUCTION**

Issuance

Preliminary PUD 04.01.2025

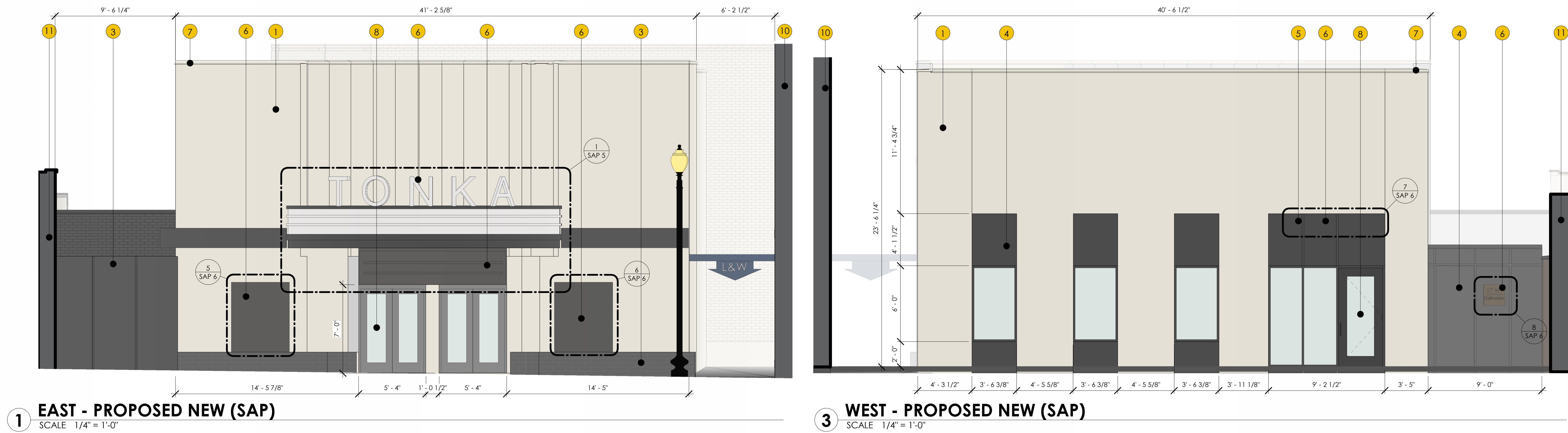
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Revisions

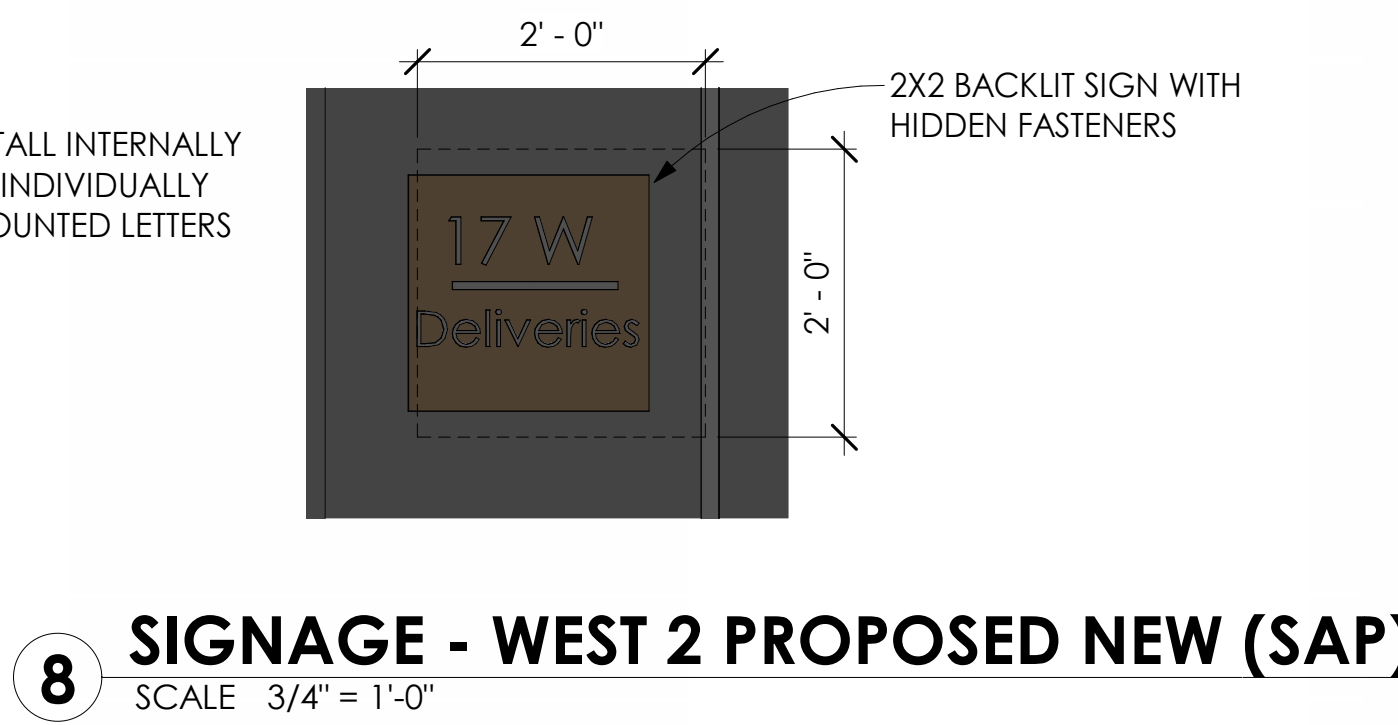
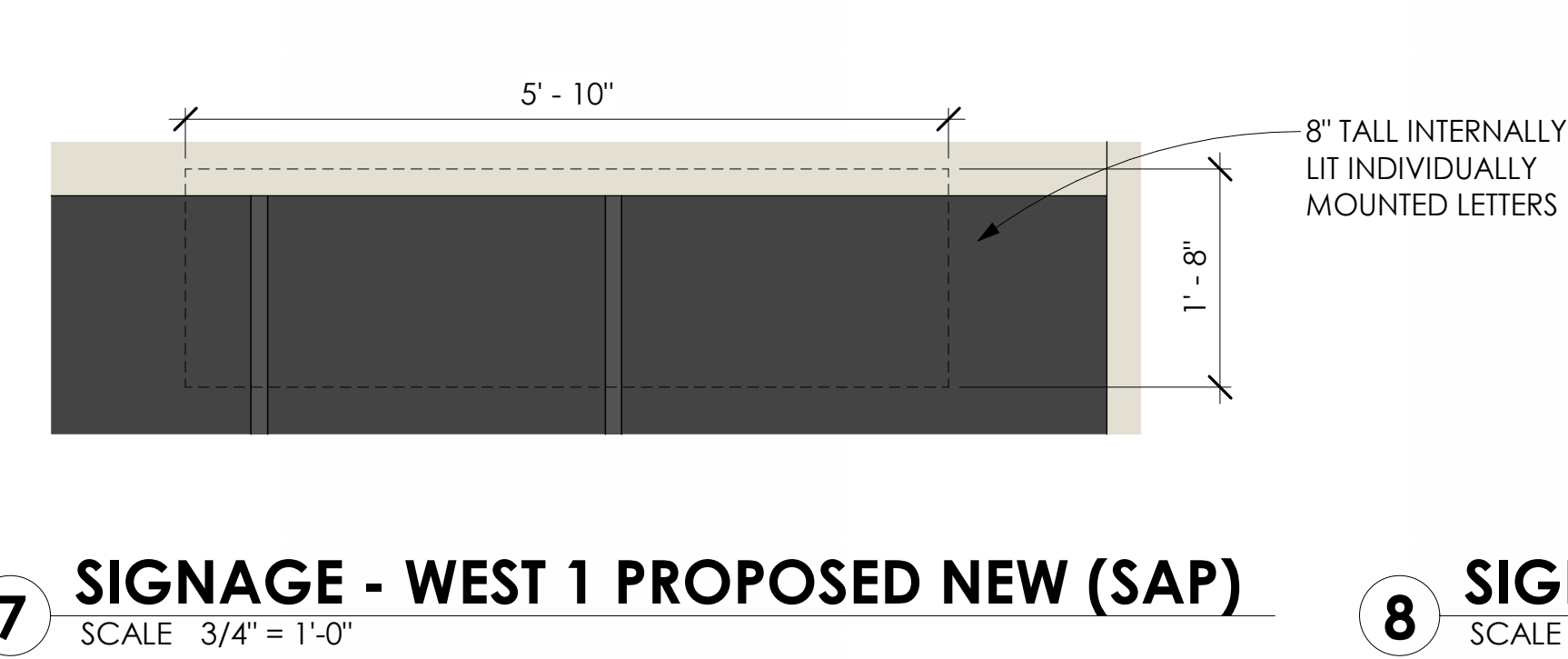
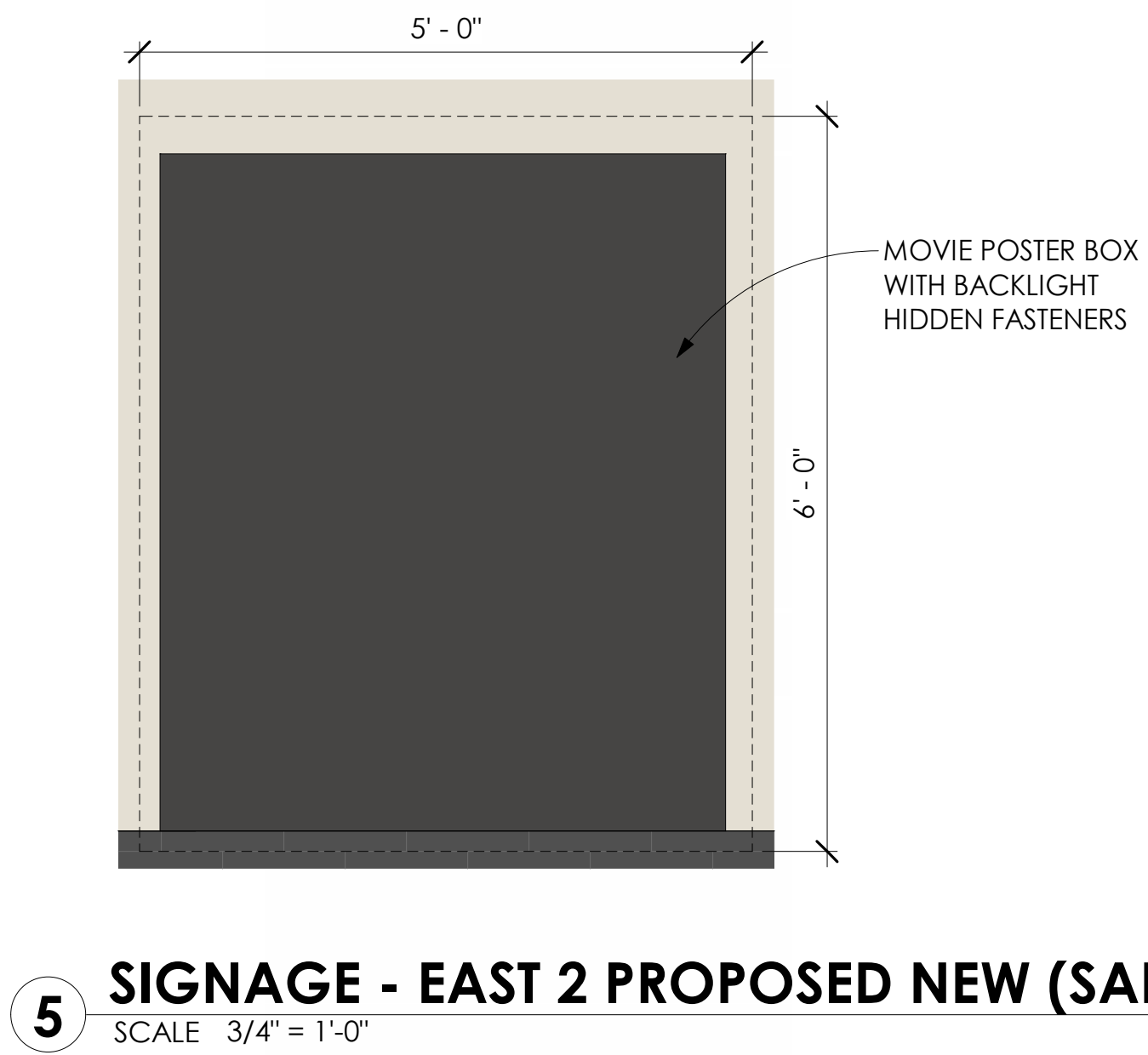
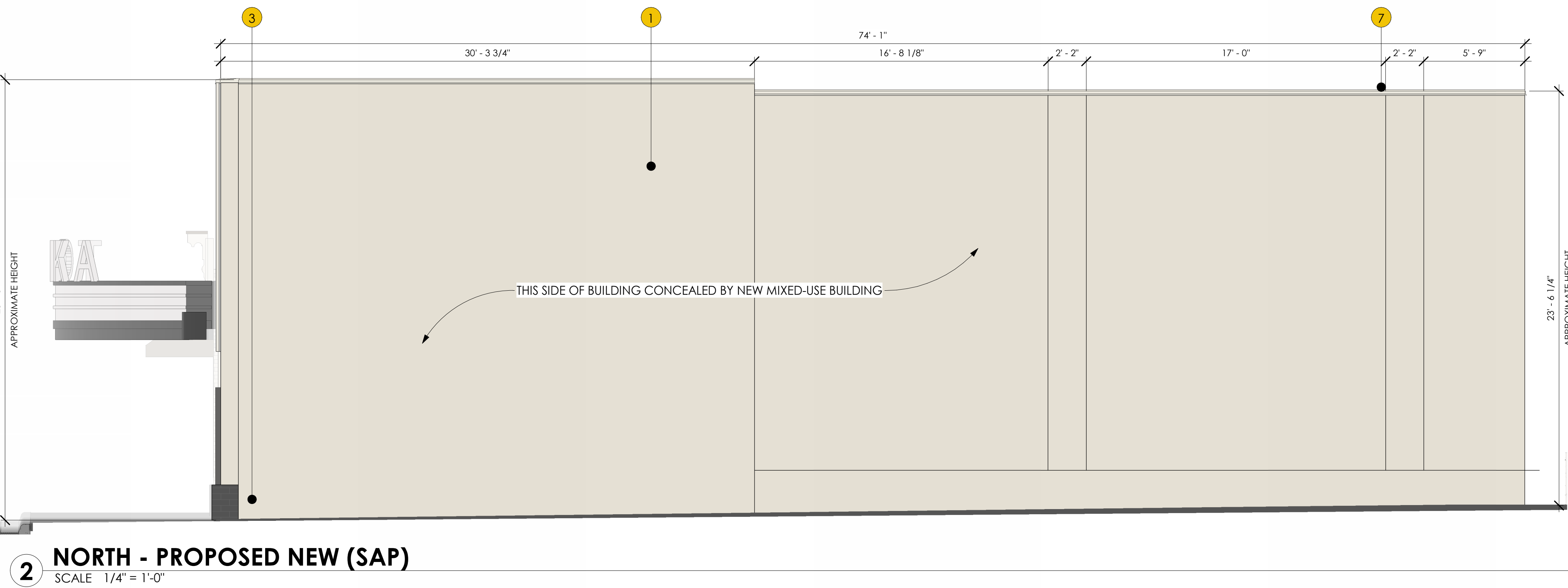
224158A**Architectural Site
Plan****A02****1 Architectural Site Plan**

SCALE 1/16" = 1'-0"

PROPOSED NEW



KEYNOTES	
1	PAINTED STUCCO
2	PAINTED CMU
3	BRICK SILL
4	ACM METAL PANEL
5	ACCENT MATERIAL #1
6	SIGNAGE
7	PREFINISHED METAL COPING
8	DOOR
9	WINDOW
10	APARTMENT BUILDING
11	LAGO TACOS



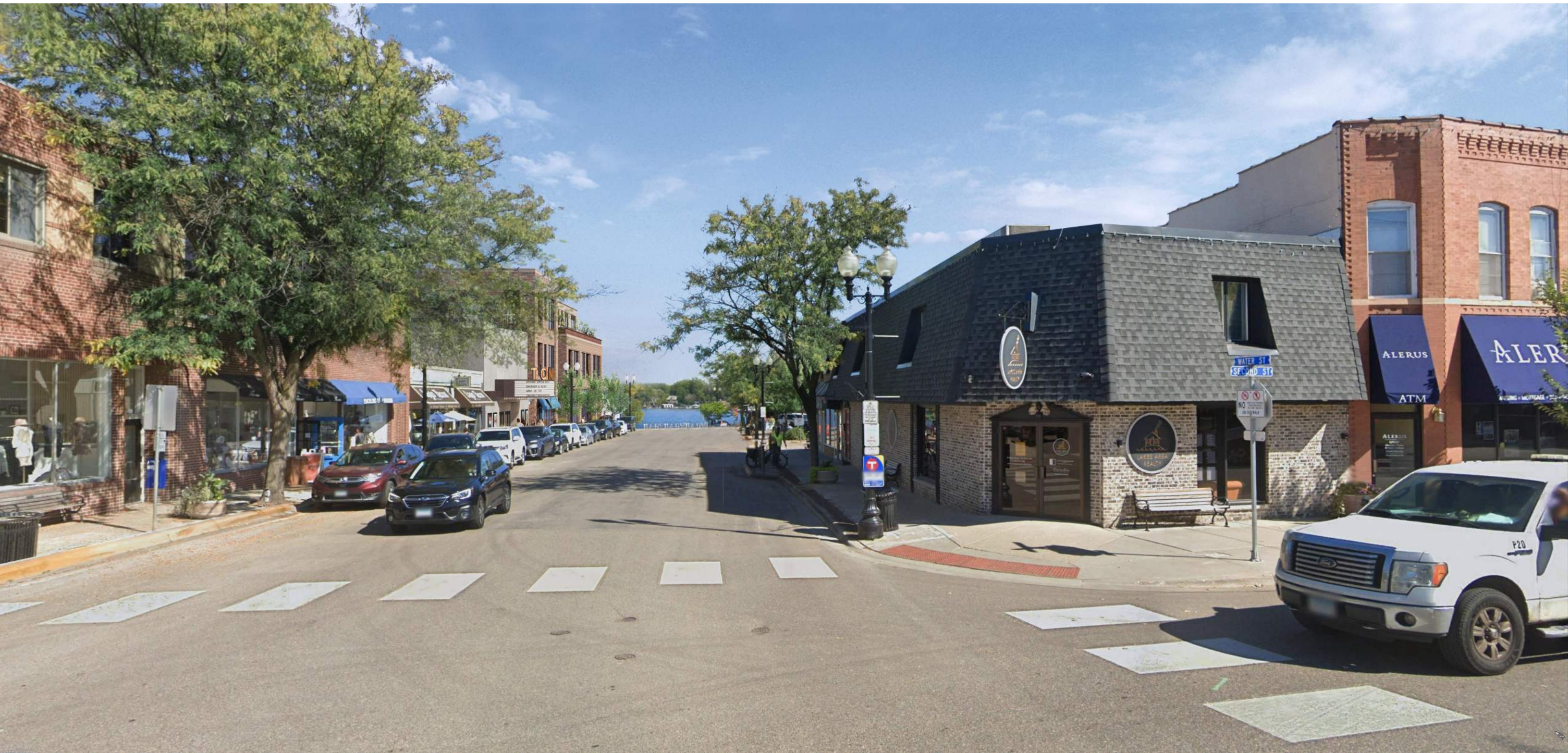
*NEW CINEMA DESIGN IS CONCEPTUAL AT THIS TIME AND SUBJECT TO CHANGE
THROUGHOUT THE DESIGN PROCESS PRIOR TO A FINAL PUD SUBMITTAL.*

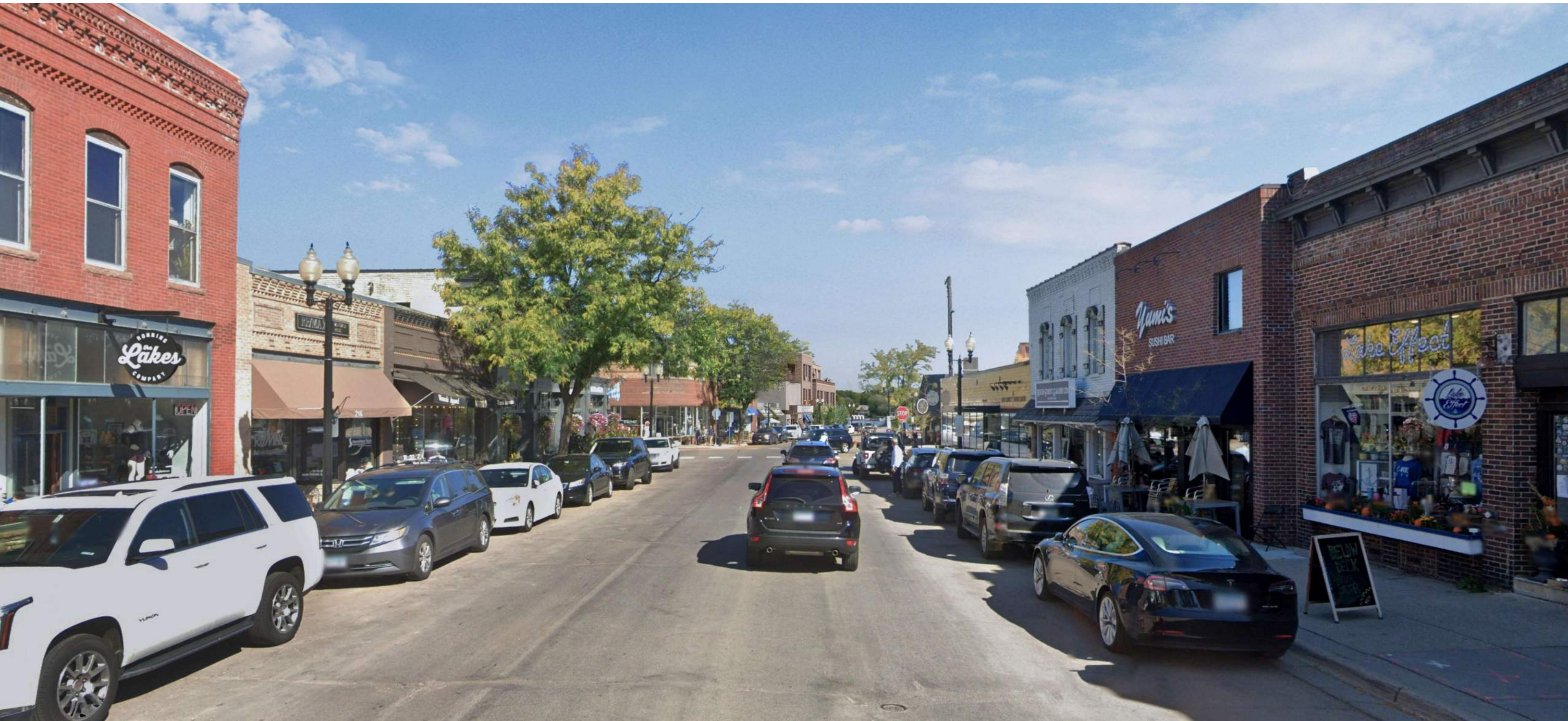










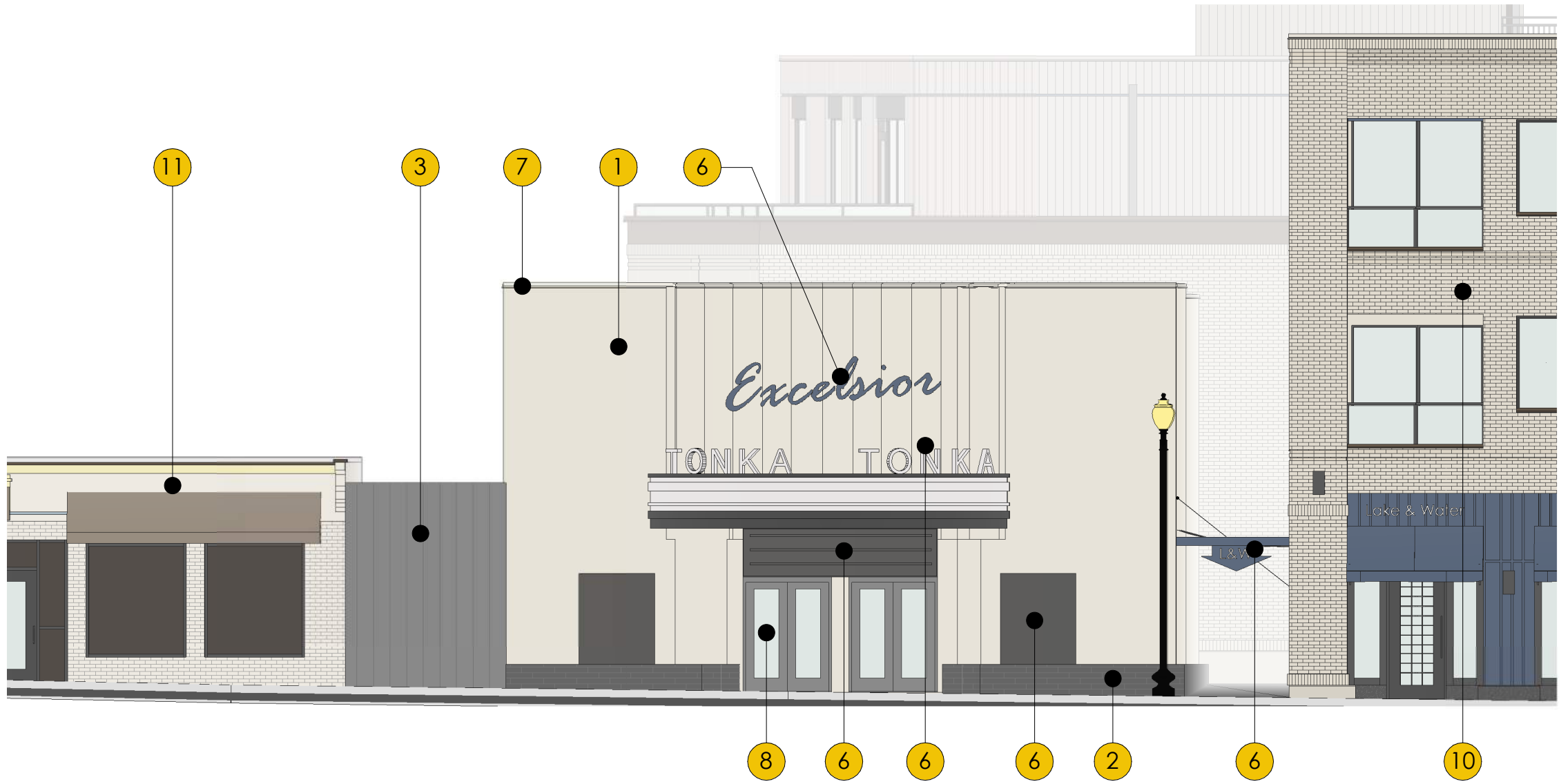




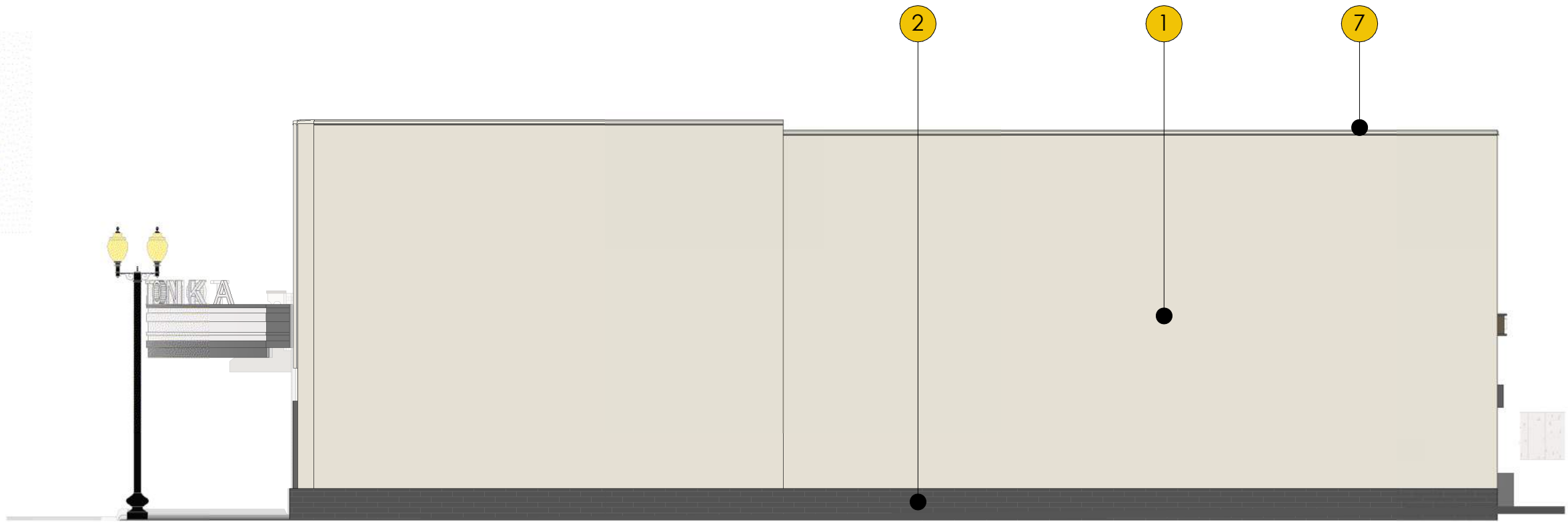
26 WATER STREET

APPLICATION MATERIALS SUBMITTED IN RESPONSE TO INCOMPLETE APPLICATION LETTER

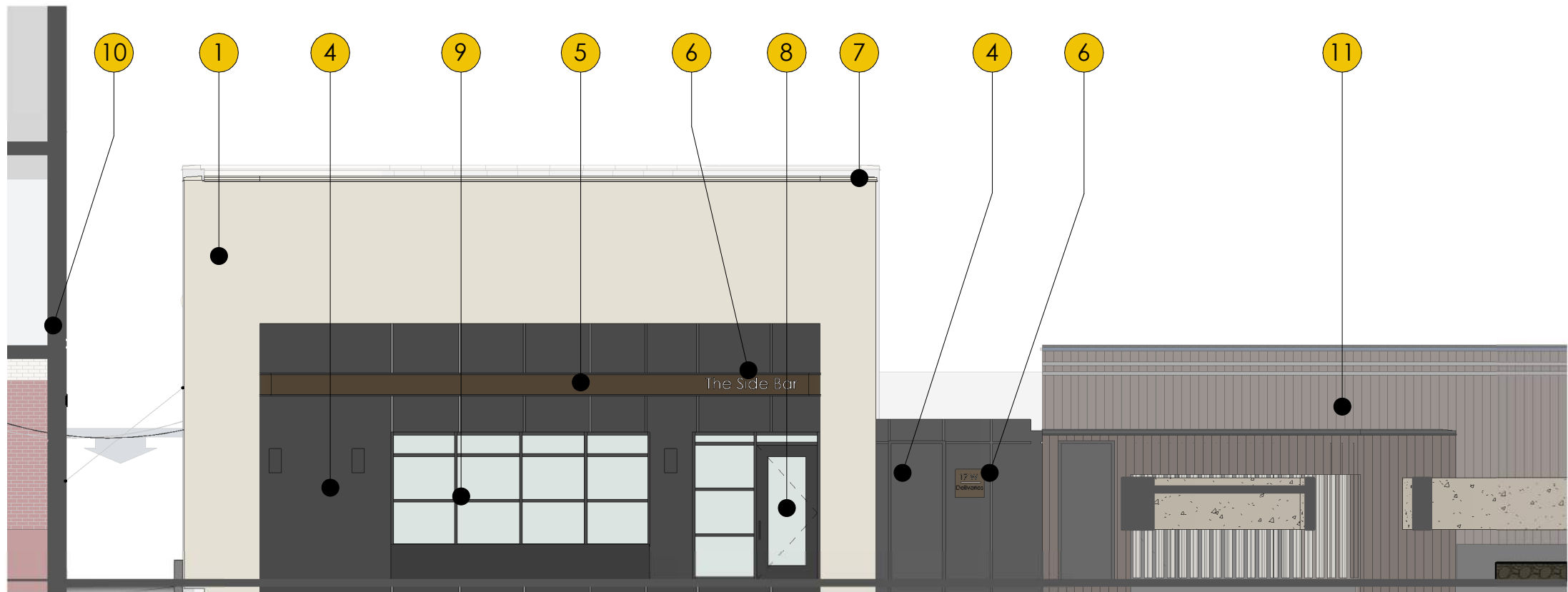
Additional site line views of Tonka Theater building (from Preliminary PUD application materials, 07/2025).



1 Dock Cinema - SE Elevation
SCALE 1/8" = 1'-0"



2 Dock Cinema - NE Elevation
SCALE 1/8" = 1'-0"



3 Dock Cinema - SW Elevation
SCALE 1/8" = 1'-0"

KEYNOTES	
1	STUCCO
2	STONE
3	VERTICAL WOOD
4	ACCENT MATERIAL #1
5	ACCENT MATERIAL #2
6	SIGNAGE
7	PREFINISHED METAL COPING
8	DOOR
9	WINDOW
10	APARTMENT BUILDING
11	LAGOS TACOS

Prepared For



Project

Lake & Water
10 Water St., Excelsior, MN 55331

Phase

Preliminary PUD

NOT FOR
CONSTRUCTION

Issuance

Preliminary PUD 04.01.2025

... ..
... ..
... ..

Revisions

224158A

Building Elevations

A05

**1 SE Elevation (Water St.)**
SCALE 1/8" = 1'-0"**2 NE Elevation (Lake St.)**
SCALE 1/8" = 1'-0"

FINISH KEY			
	1 BRICK MASONRY #1	MANUFACTURER:	GLEN-GERY OR HEBRON
		TYPE:	MODULAR, 1/3 RUNNING BOND
		COLOR:	SMOKY MT. WILLIAMSBURG, HARBOUR TOWN OR CITY LOFT
		MORTAR:	TBD
	2 CAST STONE #1	MANUFACTURER:	TBD
		TYPE:	CAST STONE
		COLOR:	TO MATCH BRICK
		MORTAR:	TBD
	3 CAST STONE #2	MANUFACTURER:	TBD
		TYPE:	CAST STONE
		COLOR:	CHARCOAL
		MORTAR:	TBD
	4 ACCENT MATERIAL #1	MANUFACTURER:	ALUCOBOND OR MAC
		TYPE:	ACM OR NORWOOD
		COLOR:	TRICORN BLACK OR BLACK WALNUT
	5 ACCENT MATERIAL #2	MANUFACTURER:	ALUCOBOND
		TYPE:	ACM
		COLOR:	DARK BRONZE ANNOXIDIZED OR RUSSET MICA
	6 ACCENT MATERIAL #3	MANUFACTURER:	ALUCOBOND OR SIMILAR
		TYPE:	ACM
		COLOR:	AZURE BLUE OR SIMILAR
	7 WOOD #1	MANUFACTURER:	NICHIIHA, ARBOR OR MAC
		TYPE:	AWP 1818, VERTICAL IN 5 3/8
		COLOR:	WIDTH OR NORWOOD VINTAGEWOOD SPRUCE, ASH OR SMOKED BIRCH
ADDITIONAL KEYNOTES			
8	ALUMINUM + GLASS RAILING SYSTEM		
9	ALUMINUM RAILING SYSTEM		
10	PATIO DOOR		
11	WINDOW		
12	ELEVATOR OVERRUN		
13	STAIR OVERRUN		
14	STONE BENCH		
15	PLANTER		
16	SIGNAGE		
17	METAL AWNING		
18	ALUMINUM CANOPY		
19	PREFINISHED METAL COPING		
20	WOODEN BENCH		
21	STONE PARKING STOP		
22	STOREFRONT GLAZING		



Apartment Entry Looking Down Alley



Axon Looking at the Corner of Lake Street and Water Street



View From Public Porch Looking to Courtyard



View From Sidewalk Looking to Public Porch

Preliminary PUD	04.01.2025
...	...
...	...
...	...

26 WATER STREET

HPC RESOLUTIONS

1. HPC Resolution 2025-04
2. HPC Resolution 2026-01

City of Excelsior
Heritage Preservation Commission
Resolution No. 2025-04

A Resolution Providing Findings of Fact On the Conformity with Approved Design Standards
and Guidelines and Recommendations to the City Council on the PUD Preliminary Plan
Application for a Mixed-use Development and Renovation of the Tonka Theater Building at 10
Water Street

WHEREAS, Matt Mithun, Water & Lake LLC, 950 Wayzata Blvd., Ste. 104, Wayzata, MN 55391 (“Applicant”) has submitted a Planned Unit Development (PUD) Preliminary Plan application for a mixed-use development and renovation of the Tonka Theater Building at 10 Water Street; and

WHEREAS, the Heritage Preservation Commission (“HPC”) considered the application and its conformance with the Preservation Design Manual Guidelines at their meeting on April 29, 2025; and

WHEREAS, the HPC directed staff to prepare recommendations to the City Council based on the HPC’s review of the project.

NOW, THEREFORE, IT IS RESOLVED, that the HPC provides recommendation to the City Council in the form of this resolution.

FINDINGS OF FACT

1. Matt Mithun, Water & Lake LLC, 950 Wayzata Blvd., Ste. 104, Wayzata, MN 55391 (“Applicant”) has submitted to the City a PUD Preliminary Plan application.
2. The applicant proposes a mixed-use development and the renovation of the Tonka Theater building at 10 Water Street.
3. The location of the proposed project is in the Excelsior Downtown Historic District and in the National Register Excelsior Commercial District.
4. Pursuant to Sec. 65-7(b)(4) of the city’s Zoning Ordinance, if the subject property is located within Excelsior’s historic district, then the PUD Preliminary Plan application shall be reviewed by the HPC prior to the Planning Commission’s review of the request. The HPC shall make findings of fact on the project’s conformity with approved design standards and guidelines and forward such findings to the City Council.
5. At the HPC meeting of April 29, 2005, the HPC voted 4-0 to direct staff to draft a resolution with findings and recommendations for the City Council based on the Commission’s review of the proposed project and bring the resolution to the May 27, 2025, meeting for HPC approval. At the HPC meeting of May 27, 2025, there were questions regarding the historic status of the Tonka Theater and potential loss of

designation due to demolition. The resolution was continued to a special meeting of the HPC on June 17, 2025.

ADDITIONAL FINDINGS OF FACT AND RECOMMENDATIONS

1. The Commission prefaces its findings and recommendations with the following: The proposed project sites comprise an important location in the City and in both the Excelsior Downtown Historic District and National Register Excelsior Commercial District. The HPC considers the precedent it sets when it makes recommendations about proposed projects in the district.
2. The height of the proposed building should meet the Preservation Design Guidelines standard for height of new construction in the district: *A new building's height should relate to the average height of existing adjacent structures* (NC.1). The proposed height of the building on Water Street (over 40 feet) exceeds both the average height of adjacent structures in the district and the height of the tallest building in the district and the block in which it is situated. The height of the new construction along Water Street should be no taller than the two-story Tonka Building (Second and Water) (28'-29') or the Dock Cinema building (24.75'). These are the tallest buildings on this side of Water Street, and both are contributing structures in the historic district. A one-story building, Hennessy Building (Lago Tacos) (14.5'), is contributing and adjacent to the historic theater.
3. The proportions of the stories of the front façade on the proposed new building are not compatible with the adjacent historic buildings on the streetscape. Preservation Design Guideline NC.2 states: *Façade proportion of new construction should be compatible in height and width to its adjacent buildings and the streetscape. The Commission recommends that* the height of each story should be reduced to make the building more compatible in scale and proportion with other buildings in the downtown historic district and to reduce the overall building height. In addition, the large mass of the proposed building obscures the small-scale nature of Excelsior's historic district. The historic scale of Water Street is one of the most defining aspects of the district. The historic district is a mix of one and two-story buildings; there are no three-story buildings on Water Street or in the district. Visually, the 3-4 story new building will be highly visible, looming behind and above the historic buildings on the block from much of Water Street. The size, proportions and spacing of the historic buildings is also not continued along the proposed Lake Street elevation, which is highly visible from The Commons, the historic Port of Excelsior, and Lake Minnetonka.

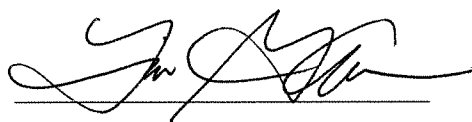
4. There are no balconies on the second level of buildings on Water Street; rather, there are masonry walls with regular patterns of vertical windows with projecting masonry sills. The proposed recessed balconies with glass railings create a non-historic elevation along Water Street. These large square openings are ceiling-to-floor and are not characteristic of historic elevations along Water Street. They do not meet the Preservation Design Guidelines on relationship of solids to voids: *The ratio of window area to solid wall should be similar to neighboring buildings* (NC.8). The Commission recommends an alternative design to the recessed balconies on the upper story on Water Street.
5. The proposed windows and doors do not meet historic guidelines for size and proportion of façade openings. Preservation Design Guidelines state: *The size and proportion of window and door openings should be similar to those on surrounding facades* (NC.7). The windows on the ground floor are tall compared with most openings in the historic district. On the ground floor level, the windows and doors should not be floor to ceiling; a bulkhead is recommended to resemble buildings along Water Street. The Commission also recommends that more verticality should be added to windows in upper stories and should more closely resemble the windows in historic buildings in the district which do not have large square openings. In addition, the Commission recommends that a door should be added to each bay in the proposed building so that it better reflects the pattern of historic storefronts in the district. The doors do not have to be operational today, but they would provide flexibility for future use of the space.
6. The proposal for the rear of the Tonka Theater building calls for a new storefront entrance and display windows in the rear. This is contrary to the standard for rear entries, which should not look like a primary street entrance.. Preservation Design Guidelines state: *Rear entrances on existing buildings shall clearly be secondary entrances and avoid the appearance of a primary façade* (BEA.8).
7. The darker brick color and the architectural detail that have been added since sketch plan review are significant changes that make the building more compatible with those in the downtown historic district. The Commission recommends incorporation of additional ornamentation on the building facade to break up the large windows.
8. The proposed use of fiber cement or concrete panels on the Water Street façade of the proposed building does not conform to the Guidelines for new construction materials “New construction façade should be composed of materials similar to surrounding facades.” (NC.9). These materials are not used on the facades of surrounding buildings in the district.
9. Rooftop decks are not permitted in the downtown historic district unless the deck is located on the rear most part of the building, the upper story or parapet wall screens the

deck from the street, and the deck does not exceed 200 square feet in size (BEA.19). The applicant should submit the locations of mechanical equipment and vents. It is recommended that they be placed on the roof or at rear of building and that they be appropriately screened.

10. A Site Alteration Permit application is required to be reviewed by the HPC for the proposed partial demolition of the historic Tonka Theater building. Information about the existing condition of the theater building is needed in order for the HPC to consider the partial demolition request. The later theater side addition from 1989 that is non-contributing (and not visible from Water Street) is acceptable for demolition. Additional details will need to be provided to the HPC for any proposed exterior alterations to the Tonka Theater building in connection with the proposed renovation.
11. Section 20-12 of the City Code states that “The demolition or relocation of historic resources is deemed detrimental to the public interest ...” It is critical that the downtown historic district designations, both local and national, which the city has earned are not harmed by this project. The HPC has never approved a demolition or partial demolition of a contributing building in the downtown commercial historic district. This decision can be precedent setting for future reviews.
12. The proposed partial demolition of the theater building should be considered in the context of its broader implications for the Downtown Historic District as a whole. The proposed partial demolition of the Tonka Theater building, which is a contributing building in a National Register district, is likely to remove the building from the National Register listing and deem it ineligible for future historic rehabilitation tax credits.

Adopted by the Heritage Preservation Commission of the City of Excelsior, Minnesota, on this 17th day of June 2025.

HERITAGE PRESERVATION COMMISSION



Tim Caron, Chair

City of Excelsior
Heritage Preservation Commission
Resolution No. 2026-01

A Resolution Denying a Site Alteration Permit
for the rear demolition and rear wall design of the Tonka Theater at 26 Water Street
and
Approving the façade alterations, with conditions, of the Tonka Theater at 26 Water Street and
the demolition of the theater addition (1989) at 28 Water Street

WHEREAS, Matt Mithun of Mithun Companies, the owner of the Tonka Theater (1945) at 26 Water Street and the theater addition (1989) at 28 Water Street, Excelsior, MN 55331, (“Applicant”) has applied for a Site Alteration Permit for the demolition of the theater addition (1989) at 28 Water Street, demolition of the rear 55 feet of the Tonka Theater at 26 Water Street, and alterations to the façade and rear elevations of the Tonka Theater;

WHEREAS, the Heritage Preservation Commission (“HPC”) considered Applicant’s application at its meeting on February 24, 2026.

NOW, THEREFORE, IT IS RESOLVED, that the Applicant is hereby denied a Site Alteration Permit to demolish the rear 55 feet and build a new rear wall of the Tonka Theater at 26 Water Street based on the following findings of fact,

AND, the Applicant is hereby approved a Site Alteration Permit to renovate the façade of the Tonka Theater at 26 Water Street with conditions and for the demolition of the theater addition of 1989 at 28 Water Street based on the following findings of fact.

FINDINGS OF FACT

1. Matt Mithun, Mithun Companies, owner of 26 Water Street and 28 Water Street, Excelsior, MN 55331 (“Applicant”) has applied for a site alteration permit to demolish the rear 55 feet of the Tonka Theater at 26 Water Street, renovate the façade of 26 Water Street, create a new rear wall design at 26 Water Street and demolish the theater addition (1989) at 28 Water Street.
2. The Tonka Theater at 26 Water Street was built in 1945 and is a contributing building in the local Excelsior Downtown Historic District (listed 1998) and the National Register of Historic Places Excelsior Commercial District (listed 2021). The Tonka Theater was designed by the prominent master architecture firm, Liebenberg and Kaplan, and is a significant example of the Streamline Moderne style in Excelsior. The theater is also significant as a physical reminder of Excelsior’s entertainment history and provided the region with a community and gathering space for over 70 years. The building retains integrity and continues to reflect its history as a movie theater with original design, massing, materials and scale.
3. The applicant purchased the building in 2003. The property was locally designated in 1998.
4. The addition to the Tonka Theater at 28 Water Street was built in 1989. The addition was built outside the period of significance for the historic district, 1886-1955, and is not a contributing addition in the historic district.

5. The owner purchased the parcels at 26 Water Street and 28 Water Street in 2003 for \$1,125,000. The parcel at 28 Water Street has the Hennessy Building (1955, present-day Lago Tacos tenant) and the theater addition (1989) connected to the neighboring Tonka Theater. The property is assessed at \$1,215,000. The Tonka Theater at 26 Water Street ceased operations in 2020; the parcel at 26 Water Street is assessed at \$573,000.
6. At the HPC meeting on March 20, 2024, the commission considered a sketch plan for a hotel development on the parcel at 10 Water Street, that included re-use of the Tonka Theater, both the original building and the 1989 addition, for event space, cinema, rooftop deck, and food/concessions to support the hotel. No demolition was proposed at this time. The HPC commented that the proposed hotel building did not meet the standards of the Preservation Design Manual because it was too tall and not compatible with the established guidelines for the Downtown Historic District.
7. At the HPC meetings on April 29, May 27, and June 17, 2025, the commission considered an application for a Preliminary Planned Unit Development (PUD) application for construction of a mixed use development at 10 Water Street that included a partial demolition of the rear of the Tonka Theater and the 1989 addition in order to accommodate surface parking and a new building. The commission approved HPC Resolution 2025-04 providing findings of fact and making recommendations to the City Council that included the finding that the city must review and approve a Site Alteration Permit for the proposed demolition of the Tonka Theater.
8. At the City Council meetings on July 21 and August 4, 2025, the City Council considered the application for a Preliminary PUD and approved resolution 2025-42 approving the Preliminary PUD with the condition, among other conditions, that a Site Alteration Permit application for the proposed demolition and the new construction be submitted to the City and approved.
9. Section 20-3 of the Excelsior City Code defines “demolition” as “Any act that destroys or removes more than 30 percent of the building or other structure” and defines “partial demolition” as “any act which destroys a portion of a building consisting of not more than 30% of the floor area of the building, and where the portion of the building to be demolished is not readily visible from the street. Partial demolition also includes the demolition or removal of additions or materials not of the period of significance on any exterior elevation when the demolition is part of an act of restoring original historic elements of a building and/or restoring a building to its historical mass and appearance.”
10. The applicant is removing 39% of the original building, which is defined as “demolition” in Excelsior City Code. The portion of the building to be demolished is visible from Water Street and Lake Street. The demolition of the 1989 addition is not part of an act of restoring the original historic elements of the building and/or restoring the building to its historical mass and appearance. The applicant’s calculations for demolition included the 1970s hallway addition to the Tonka Theater. This addition is not part of the original building and the applicant is demolishing more than 30 percent of the original theater building.

11. Section 20-12 (h) of the Excelsior City Code states “In determining the appropriateness of any application for the demolition or relocation of a landmark or contributing building in a historic district, the commission shall use the following criteria:”
 - 1) The architectural significance of the building or structure.
 - (2) The historical significance of the building or structure.
 - (3) Despite evidence of the owner's efforts to properly maintain the structure, retention of the resource constitutes a hazard to public safety that cannot be eliminated by economic means available to the owner, including the sale of the structure on its present site to any purchaser willing to preserve the structure.
 - (4) Whether a building or structure is linked, historically or architecturally, to other buildings or structures, so that their concentration or continuity possesses greater significance than the particular building or structure individually.
 - (5) The significance of the building or structure or its proposed replacement in furthering the comprehensive plan's goals.
 - (6) The condition and structural integrity of the building or structure, as indicated by documentation prepared by a qualified professional or licensed contractor, or other information, provided to the commission for examination.
 - (7) Effect on surrounding properties.
 - (8) Inordinate hardship. This inquiry is concerned primarily with the relationship between the cost of repairing a building or structure and its reasonable value after repair. An inordinate hardship is an instance when preservation will deprive the owner of reasonable economic use of the property. Any hardship created by action of the applicant—including any condition resulting from the applicant's own neglect of the building or structure—shall not be considered in support of any application. To establish inordinate hardship under this section the applicant must submit evidence that rehabilitation of the building or structure is impractical and that the applicant cannot make reasonable economic use of the property. Such evidence may include proof of consideration of plans for adaptive reuse, and attempts to sell, rent or lease the property.
12. Section 20-12 (i) of the Excelsior City Code states “In addition to the general criteria listed in subsection 20-12(h), the applicant must also demonstrate:
 - (1) If requesting demolition, that the structure cannot be practically moved to another site in Excelsior.
 - (2) If requesting relocation, that structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure.
13. Section 10-12(g) of the Excelsior City Code for “alternative undertakings” states “Within the initial review period of such demolition of any historic resource, the commission shall take steps to ascertain what the city council can or may do to preserve such building, including consultation with private civic groups and interested private citizens and including investigation of the potential use of the power of eminent domain when the preservation of a given building is clearly in the interest of the general welfare of the community and of certain historic and architectural

significance. The commission may also require a reuse study be completed, at the owner's expense, to determine potential reuses of the building proposed to be demolished.”

14. Section 20-12(k) of the Excelsior City Codes states “The commission shall not approve a site alteration permit for demolition or relocation without reviewing at the same time post-demolition plans. The approval of a site alteration permit for demolition or relocation shall be conditioned on issuance of a Site Alteration Permit and all other city approvals for the new construction on the site.” The HPC shall also review the proposed changes to the Tonka Theater.
15. In making a determination whether to approve or deny an application for a Site Alteration Permit for the Tonka Theater façade alterations, the commission shall be guided by *The Secretary of the Interior’s Standards and Guidelines for Rehabilitation* and the *Preservation Design Manual* and the “Additional Criteria for Proposed Alteration within an historic district.”

CONCLUSIONS OF LAW

1. The demolition of the Tonka Theater at 26 Water Street is not consistent with the required findings per Section 20-12 of the Excelsior City Code for demolition and is not permitted.
2. The demolition and proposed alterations are not consistent with the guidance in *The Secretary of the Interior’s Standards and Guidelines for Rehabilitation* or the *Preservation Design Manual*.
3. The Tonka Theater at 26 Water Street is architecturally significant. The Tonka Theater at 26 Water Street is a contributing structure to the local and National Register Historic District. The two-story Streamline Moderne theater was designed by renowned architects, Liebenberg and Kaplan. The building retains the significant character-defining features of a theater including the prominent façade with marquee and the theater auditorium space. The scale, sightlines, sloped floor and acoustics were engineered for large groups and gave power to the theater experience. The building has good integrity and continues as a unique, architectural landmark in Excelsior. The auditorium is the character-defining architectural feature of the Tonka Theater and removing it permanently damages the historic integrity of the building and will remove the building as “contributing” resource in the historic district.
4. The Tonka Theater is historically significant. The Tonka Theater is a significant landmark in the history of Excelsior and provided entertainment and enrichment experiences for over 70 years. The theater space is a rare civic space in Excelsior and is significant as a community gathering place. During its use, the theater’s patrons invigorated the community and contributed to street traffic and night traffic and provided commercial activity to the surrounding businesses. The theater auditorium was a purpose-built civic space designed for the shared experience and remains as a physical reminder of its time.
5. The owner has not proven that retention of the Tonka Theater is a hazard to public safety that cannot be eliminated by economic means. The owner has not tried to sell the building. The owner has not provided plans or costs for reuse or rehabilitation of the entire theater.

6. The Tonka Theater is linked historically and architecturally to the buildings in the Excelsior Commercial Historic District and their concentration and continuity possesses greater significance as a whole. The two-block Excelsior Commercial Historic District has 32 contributing buildings. The cohesive district is unique because it features multiple commercial building types and a range of architectural styles from 1886 until 1955. The buildings are linked historically and architecturally and tell the story of Excelsior's commercial history; they feature examples of a pharmacy, grocery, two fraternal organization buildings, an auto repair building, an auto dealership, multiple commercial buildings and one movie theater. The size and scale of each of these buildings reflects their historic use and the concentration of so many intact historical examples is exceptional. The continuous economic stability of the district is partially due to the high integrity and cohesiveness of the historic buildings.

7. The demolition of the Tonka Theater is not supported in Excelsior's adopted Comprehensive Plan which states:
 1. *Heritage properties are scarce, non-renewable community resources, the preservation, protection, and use of which are critical to the public welfare. When historical and architectural resources are destroyed, they are gone forever.*
 2. *Heritage preservation is an important public service and a legitimate responsibility of city government. Historic buildings, sites, and districts give the City much of its special character and community identity.*
 3. *Saving significant historic resources for the benefit of future generations is always in the public interest.*
 4. *Collaboration between the private and public sectors is absolutely necessary to preserve the City's significant historic resources.*
 5. *Not everything that is old is worth preserving, nor is heritage preservation concerned primarily with the creation of museums or other public attractions. To be considered for preservation, a property must be demonstrably significant in history, architecture or archaeology, and it must also be adaptable for modern needs and uses.*
 6. *Heritage preservation is entirely compatible with economic development and growth. Preservation pays, and everybody profits by reusing historically significant buildings and adapting them to new, economically viable uses.*

Demolition of the Tonka Theater is not supported by Excelsior's Comprehensive Plan Preservation Guiding Principles. The property has demonstrated significance in history and architecture and is a contributing building in the local and National Register historic district. The Comprehensive Plan supports rehabilitation and accepts that a building can be adapted for modern needs and uses. The Comprehensive Plan and the HPC design review support the adaptation of historic buildings and very few of Excelsior's historic buildings retain their original use. Theaters are adaptable for modern needs and uses and multiple examples exist in the country. The applicant has never provided a reuse plan that would evaluate viable uses. The applicant has never produced rehabilitation plans for the property or economics of rehabilitation, therefore, the City of Excelsior HPC has never been able to review the potential reuse options and the related design. Retaining the Tonka Theater is a "legitimate responsibility of city government" and saving historic resources benefits future generations and is always in the public interest.

8. The two condition reports provided to the HPC did not recommend demolition. The report from Meyer Borgman Johnson (MBJ), structural engineers, dated October 27, 2025, found the concrete building to have “acceptable structural performance” and recommended further investigation into the roof and settlement at rear. No photos of the roof or any holes in the roof were provided, but the report noted that water intrusion was noticed at the lobby ceiling tiles; the lobby is the portion of the building the applicant wants to retain. The report noted the slope at the rear egress is steep and should be reconstructed; the costs were not presented for this option, but the City of Excelsior and HPC support life-safety alterations. The report noted three “incidents of wall cracking at the back wall” stucco, but noted that the interior wall coverings were not removed and the extent of damage through the building was unknown. The photograph appears to show typical stucco cracks. The report from The Javelin Group, environmental consultant, dated October 23, 2025 assumed asbestos in the ceiling and floor tiles and lead paint on wood, but no actual testing was completed on the building. Nor were any costs for abatement provided. The firm recommended an asbestos and lead-based paint testing and noted that abatement for asbestos would be required before demolition. These two reports did not provide evidence that the building is not sound and cannot be rehabilitated into modern uses.
9. The demolition of the Tonka Theater will negatively affect surrounding properties. The demolition will be detrimental for its loss to Excelsior’s history and streetscape. Approving the demolition of a designated historic property without meeting the standards for review will set a precedent for the future of Excelsior’s historic landmarks. The City of Excelsior has never approved a demolition of a contributing building in the historic district. The theater is not structurally unsound and the opportunities and costs for reuse have never been provided. Approval of the demolition without meeting the required findings will have significant long-term negative effects on the future of Excelsior’s historic buildings.
10. To prove inordinate hardship the applicant must provide the costs of repairing and value after repair and submit evidence that rehabilitation is impractical. The property is assessed at \$573,000. The owner claims the original use is obsolete, but the City and HPC have never required the original use be retained. The property has never been listed for sale so the potential for rehabilitation and new uses have not been explored through a sale and/or new ownership. The costs for roof or structural repairs were not provided, but they cannot be more than the project costs provided by K2 Construction for “Rake Shoring” the building for demolition and reconstruction. The building is eligible for the Historic Rehabilitation Tax Credit program, but the owner has not provided exploration of the program. Additionally, if the owner claims hardship then it is unclear why half of the building is still being retained. The owner has never provided rehabilitation costs or tried to sell the building and inordinate hardship has not been proven.
11. The applicant has not provided costs or evaluation for relocating the building per Section 20-12(h) of the Excelsior Codes.
12. The demolition of the rear half of the Tonka Theater is not recommended for approval and, therefore, the new rear wall of the theater is not approved.
13. *The Secretary of the Interior’s Standards and Guidelines for Rehabilitation* and the *Preservation Design Manual* and the “Additional Criteria for Proposed Alteration within an historic district”

guide the proposed theater façade alterations. The non-historic siding should be removed in order to evaluate the remaining historic fabric at the façade. The proposed design should be based on historic images and remaining fabric under the wood siding.

14. The applicant has not identified any tenants at this time. A “theater” is proposed for the second floor, but tenant signage does not identify this tenant.
15. The SAP does not meet the two “additional criteria for proposed alterations within designated historic districts” per Section 20-11 (h) (3). The alteration is not compatible with and will not ensure continued significance and integrity of the district. Granting the site alteration permit is not in keeping with the spirit and intent of the Excelsior preservation code and it will negatively alter the essential character of the historic district. In fact, allowing a demolition of a contributing building in the historic district without meeting the findings per City Code sets a significant precedent for future historic demolition reviews.
16. Section 20-12 (g) of the Excelsior City Code for *Alternative Undertakings* states “Within the initial review period of such demolition of any historic resource, the commission shall take steps to ascertain what the city council can or may do to preserve such building, including consultation with private civic groups and interested private citizens and including investigation of the potential use of the power of eminent domain when the preservation of a given building is clearly in the interest of the general welfare of the community and of certain historic and architectural significance. The commission may also require a reuse study be completed, at the owner's expense, to determine potential reuses of the building proposed to be demolished.” Excelsior's guidelines, comprehensive plan and city code welcome the opportunity for a new use in historic buildings. Movie theaters are one of the most reused and adapted buildings across the country. They are centrally located, well-situated on Main streets across the United States and have large volumes with clear, open spans and in many cases, they have fireproof construction. They have been successfully renovated, often using historic rehabilitation tax credits, into performing arts theaters, bowling alleys, art centers, community centers, nightclubs, wedding venues, religious venues, lecture halls, co-working spaces, restaurants/bars/liquor stores, libraries, sports arenas/gyms/climbing, recording studios and even apartments. These rehabilitations guide new uses and often have skylights and new openings. The theater space could support the proposed new construction with amenity spaces like workout rooms, party rooms, dog runs, which would allow for more apartments in the new construction. A reuse study is recommended.

CONDITIONS

1. The applicant shall remove the non-historic wood siding at the façade before further façade improvements are undertaken. The proposed alterations should be based on the historic images and remaining historic fabric. The final façade alterations and design shall be submitted to HPC staff for final review.
2. Specifications of the proposed door systems at the façade shall be submitted to HPC staff for final review. The door design should be guided by historic images and remaining historic fabric under the wood siding.

3. Signage on the marquee shall be placed on the sign band of the marquee and submitted to HPC staff for final review.
4. Tenant signage for the building shall be submitted in a Site Alteration Permit application for HPC review.
5. A reuse study shall be completed to determine potential reuses of the building. The reuse study should provide the economics of repairs to the building, costs for rehabilitation, comparison of costs for repair and demolition.
6. The property owner must maintain the building and prevent further deterioration.
7. Seismic monitoring during construction at neighboring parcels must be undertaken to protect historic resources.
8. Before the 1989 theater addition is removed, the applicant shall provide conditions and repair of the theater wall for HPC review and approval.

Adopted by the Heritage Preservation Commission of the City of Excelsior, Minnesota, this 24th day of February, 2026.

HERITAGE PRESERVATION COMMISSION

A handwritten signature in black ink, appearing to read 'Tim Caron', written over a horizontal line.

Tim Caron, Chair



Item: 7.B.

ITEM REPORT

To: Heritage Preservation Commission

From:

Meeting Date: June 29, 2026

Department/Office: Community Development

Item Name: Next regular HPC Meeting - July 28, 2026

Summary:

Recommended Action:

Budget:

Attachments:

None



Item: 7.C.

ITEM REPORT

To: Heritage Preservation Commission

From:

Meeting Date: June 29, 2026

Department/Office: Community Development

Item Name: Updates

Summary:

Recommended Action:

Budget:

Attachments:

None