

Monday, July 20, 2026, 6:30 PM
106 Center Street

Members of the public may attend the City Council meeting either in person or by joining via Zoom either online or by telephone at:

<https://us02web.zoom.us/j/86346794494>

Meeting chat link

<https://us02web.zoom.us/jc/86346794494>

Meeting ID: 863 4679 4494

One tap mobile

+13092053325,,86346794494# US

+13126266799,,86346794494# US (Chicago)

AGENDA

1. Call to Order
2. Roll Call
3. Meeting Agenda Approval
4. Approval of Minutes

a) June 15, 2026 Work Session Minutes

b) June 15, 2026 City Council Minutes

5. Open Forum

This is the time for the public to speak. Open Forum will be limited to one-half hour. No person may speak more than 5 minutes or more than once. Each subject will have a limit of 10 minutes. Council members may ask questions of the speaker. With the agreement of the Council, such matters taken up during the "Open Forum" may be scheduled on the current or a future Agenda. Members of the public interested in speaking on an agenda item may direct a request to be recognized to the Mayor.

6. City Council Communications, Questions, and Reports

a) Council Work Group Updates

b) Elections Update

- c) Construction Updates
- d) South Lake Minnetonka Police Department Update
- 7. Meet Excelsior
- 8. Consent Agenda
 - a) Review Verified Claims under \$20,000 and Approve Verified Claims over \$20,000
 - b) Resolution 2026-38 Calling for Public Hearing on Assessment for 2022-2023 Street and Utility Improvements Project (MCES L20)
 - c) Second Reading and Approval of Ordinance No. 696 Amending City Ordinance, Appendix E, Section 24 Signs
 - d) Resolution 2026-37 Appointing Election Judges and Absentee Ballot Board for the 2026 State Primary and General Election
 - e) 2026 Goal Report - Second Quarter
 - f) May Financials
 - g) Second Quarter Gambling Report
 - h) Fat Oil Grease (FOG) Program Ordinance - Rescheduled
 - i) Division Street Watermain Lining Project - Approve Pay Voucher No. 1
 - j) Third and Center Street SUIP - Approve Pay Voucher No. 1
 - k) Parks and Recreation Bench Donation - John "Punk" Seamans
 - l) Parks and Recreation Bench Donation - Michael McNulty
- 9. Public Hearings
 - a) Appeal of HPC Decision to Deny Site Alteration Permit for Partial Demolition of the Tonka Theater Building, 26 Water Street (7:00 PM)
 - b) Ordinance No. 697 Amending City Ordinance, Appendix E, Chapter 15, Section 15-4 Nonconforming Structures to Clarify Definitions of "Expansion" (8:00 PM)
- 10. Petitions, Requests, and Communications
- 11. Ordinances and Resolutions
- 12. Reports of Officers, Boards, and Committees
- 13. Unfinished Business
- 14. New Business
- 15. Adjournment

City of Excelsior
City Council Work Session

Minutes

Monday, June 15th, 2026

106 Center Street – Entrance located off Center Street

5:30 P.M. – 6:30 P.M.

1. CALL TO ORDER/ROLL CALL

Mayor Ringate called the work session to order at 5:32 PM.

Present: Mayor Ringate and Councilmembers Caron, O'Hanlon, Bildsoe, and Vogel

Also Present: City Manager Luger, Assistant City Manager Lindberg, City Clerk Vokovan, and City Attorney Tolar.

2. APPROVAL OF AGENDA

O'Hanlon moved to approve the work session agenda. Bildsoe seconded. Motion carried 5/0.

3. NEW BUSINESS

(a) Greenwood Involvement in South Lake Minnetonka Police Department Operating Committee

Mayor Ringate provided an update.

(b) Proposed Changes to the Excelsior Fire District Joint Power Agreement (JPA)

Caron provided an update.

4. ADJOURNMENT

Bildsoe moved to adjourn. Vogel seconded. Motion carried 5/0. The work session adjourned at 6:21 PM.

Respectfully submitted,

Hilary Vokovan
City Clerk

City of Excelsior
City Council Meeting

Minutes

Monday, June 15th, 2026

106 Center Street, Excelsior, MN 55331 – Entrance is located on Center Street

6:30 P.M.

1. CALL TO ORDER/ROLL CALL

Mayor Ringate called the meeting to order at 6:31 PM.

Present: Mayor Ringate and Councilmembers Caron, O’Hanlon, Bildsoe, and Vogel.

Also Present: City Manager Luger, Assistant City Manager Lindberg, City Clerk Vokovan, Public Works Director Amundsen, Finance Director Palmer, and City Attorney Tolar.

2. APPROVAL OF AGENDA

Bildsoe moved to approve the agenda. Vogel seconded. Motion carried 5/0.

3. APPROVAL OF MINUTES

(a) June 1st, 2026 Work Session Minutes

(b) June 1st, 2026 City Council Minutes

Bildsoe moved approval of both sets of minutes. O’Hanlon seconded. Motion carried 5/0.

4. OPEN FORUM

This is the time for the public to speak. Open forum will be limited to one-half hour. No person may speak more than 5 minutes of more than once. Each subject will have a limit of 10 minutes. Council members may ask questions of the speaker. With the agreement of the Council, such matters taken up during the “Open Forum” may be scheduled on the current or future Agenda. Members of the public interested in speaking on an agenda item may direct a request to be recognized to the Mayor.

Bruce Kelly, 165 Maple Street expressed concern about parking for Art on The Lake and charitable gambling proceeds.

Matt Mueller, Marine Max Excelsior expressed concern about wake boarding restrictions.

Gabriel Jabor, 985 Minnetonka Blvd expressed concern about wake boarding restrictions.

Rich Anderson, Orono LMCD Representative expressed concern about wake boarding restrictions.

5. City Council Communications, Questions and Reports

(a) Council Work Group Updates

None.

(b) Public Works Construction Updates

Public Works Director Amundsen provided an update.

(c) Mini Master Park Plan Popup Event at Concerts in The Commons

June 17, 2026 from 5:00 PM to 8:30 PM

Mayor Ringate provided an update.

(d) Candidate Filing Information

City Clerk Vokovan provided an update

6. Meet Excelsior

Representative Myers and Senator Johnson Stewart – 2026 Bonding Updates – 6:45 PM

Representative Myers was present to provide an update on bonding for the City of Excelsior.

Councilmembers expressed gratitude for the legislators.

Excelsior Fire District Interim Chief Basinger – 7:00 PM

Interim Chief Basinger introduced himself and provided district updates.

7. Consent Agenda

(a) Review Verified Claims under \$20,000 and Approve Verified Claims over \$20,000

(b) 2026 Sanitary Sewer Lining Project – Authorize Advertisement for Bids

Bildsoe pulled item “B” for further clarification.

Bildsoe moved approval of the Consent Agenda. Caron seconded. Motion carried 5/0.

8. Public Hearings

(a) Resolution 2026-34 Proposal to Adopt a Street Reconstruction Plan

Resolution 2026-35 Intent to Issue General Obligation Street Reconstruction Bonds –
7:15 PM

Mayor Ringate opened the public hearing at 7:29 PM. Mayor Ringate closed the public hearing at 7:30 PM. No public comment.

Bildsoe moved to approve Resolution 2026-34 Proposal to Adopt a Street Reconstruction Plan. Vogel seconded. Motion carried 5/0.

Bildsoe moved to approve Resolution 2026-35 Intent to Issue General Obligation Street Reconstruction Bonds. Vogel seconded. Motion carried 5/0.

9. Petitions, Requests and Communications

Rotary Charitable Gambling Donations Resolution 2026-33 Authorizing and Accepting

Donations for the South Lake Minnetonka Police Department and Excelsior Fire District

Caron moved to approve Resolution 2026-33 Authorizing and Accepting Donations for the

South Lake Minnetonka Police Department and Excelsior Fire District. O’Hanlon seconded.

Motion carried 5/0.

10. Ordinances and Resolutions

(a) Discussion of Amplified Sound for Special Events

Resolution 2026-36 Setting License and Permit Fees and Utility Rates – 8:00 PM

Assistant City Manager Lindberg provided information and Council discussed.

Caron moved to approve Resolution 2026-36 Setting License and Permit Fees and Utility Rates. Bildsoe seconded. Motion carried 5/0.

11. Reports of Officers, Boards and Committees

None.

12. Unfinished Business

None.

13. New Business

(a) Fat Oil Grease (FOG) Ordinance Discussion – 8:30 PM

Public Works Director Amundsen provided information. Council discussed. A public hearing will be set at the July 20, 2026 Council Meeting.

14. Adjournment

Bildsoe moved to adjourn. O'Hanlon seconded. Motion carried 5/0. The City Council adjourned at 8:36 PM.

Respectfully submitted,

Hilary Vokovan
City Clerk



Item: 6.b.

ITEM REPORT

To: City Council

From: Hilary Vokovan, City Clerk

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: Elections Update

Summary:

Candidate Filing

- July 14, 2026 – July 28, 2026 until 5 PM
- File at City Hall
261 School Ave, Third Floor, Excelsior, MN
- Filing information can be found at the City Website

Early Voting – Primary Election

- Starting July 24, 2026 (Excelsior will start on July 27, 2026, since City Hall is closed on Fridays)

Public Accuracy Test – Primary Election

- July 29, 2026 at 6 PM
- Council Chambers
106 Center Street, Excelsior, MN

Primary Election Day

- August 11, 2026
7 AM – 8 PM
- Mount Calvary Lutheran Church
301 County Road 19, Excelsior, MN

Recommended Action:

Information only.

Budget:

Attachments:

None

07/14/2026

CHECK REGISTER FOR CITY OF EXCELSIOR
CHECK DATE 06/10/2026 - 07/14/2026

Check Date	Check	Amount
Bank GEN WELLS F		
06/10/2026	3561(E)	15,211.74
06/10/2026	3562(E)	900.00
06/10/2026	3563(E)	8,661.41
06/10/2026	3564(E)	2,711.70
06/11/2026	93708	228.18
06/11/2026	93709	384.00
06/11/2026	93710	801.81
06/11/2026	93711	40.31
06/11/2026	93712	17,613.50
06/11/2026	93713	1,725.00
06/11/2026	93714	60.93
06/11/2026	93715	701.43
06/11/2026	93716	1,702.37
06/11/2026	93717	348.45
06/11/2026	93718	89.25
06/11/2026	93719	1,313.44
06/11/2026	93720	137.70
06/11/2026	93721	3,019.86
06/11/2026	93722	1,336.05
06/11/2026	93723	211.29
06/11/2026	93724	12,238.75
06/11/2026	93725	100.00
06/11/2026	93726	372.82
06/11/2026	93727	5,705.25
06/11/2026	93728	18,852.41
06/11/2026	93729	80.00
06/11/2026	93730	1,100.00
06/11/2026	93731	58.89
06/11/2026	93732	1,532.81
06/11/2026	93733	210.60
06/11/2026	93734	306.35
06/11/2026	93735	183.88
06/11/2026	93736	101.04
06/11/2026	93737	594.83
06/11/2026	93738	77.00
06/11/2026	93740	404.18
06/11/2026	93741	13.64
06/11/2026	93742	2,412.36
06/11/2026	93743	950.00
06/11/2026	93744	7,500.00
06/11/2026	93745	60.00
06/11/2026	93746	30.20
06/11/2026	93747	183.02
06/11/2026	93749	2,585.35
06/11/2026	93750	0.16

06/11/2026	93751	5,306.62
06/11/2026	93752	177.00
06/11/2026	93753	15,000.00
06/11/2026	93754	91.00
06/18/2026	3577(E)	9,737.74
06/20/2026	3585(E)	95.04
06/20/2026	3586(E)	18,728.65
06/20/2026	3587(E)	617.50
06/20/2026	3588(E)	52.00
06/20/2026	3589(E)	973.61
06/22/2026	93755	288.02
06/22/2026	93756	836.20
06/22/2026	93757	9,075.00
06/22/2026	93758	8,946.00
06/22/2026	93759	1,384.20
06/22/2026	93760	84.99
06/22/2026	93761	59.51
06/22/2026	93762	950.00
06/22/2026	93763	57.37
06/22/2026	93764	212.60
06/22/2026	93765	271.31
06/22/2026	93766	401.16
06/22/2026	93767	5,024.22
06/22/2026	93768	3,600.00
06/22/2026	93769	100.00
06/22/2026	93770	3,391.00
06/22/2026	93771	266.94
06/22/2026	93773	313.51
06/22/2026	93774	220.00
06/22/2026	93775	129.68
06/22/2026	93776	156.94
06/22/2026	93777	1,048.67
06/22/2026	93778	2,660.00
06/22/2026	93779	75.00
06/22/2026	93780	270.09
06/22/2026	93781	74.25
06/22/2026	93782	143.23
06/22/2026	93783	231.00
06/22/2026	93784	175.00
06/22/2026	93785	15.10
06/22/2026	93786	590.00
06/22/2026	93787	141.00
06/24/2026	3572(E)	16,784.34
06/24/2026	3573(E)	900.00
06/24/2026	3574(E)	8,602.64
06/24/2026	3575(E)	2,945.59
06/25/2026	93789	3,667.00
06/25/2026	93790	2,449.05
06/25/2026	93791	585.97
06/25/2026	93792	6,780.00
06/25/2026	93793	10,014.50

06/25/2026	93794	59.99
06/25/2026	93795	38.86
06/25/2026	93796	43.78
06/25/2026	93797	226.77
06/25/2026	93798	171.17
06/25/2026	93799	1,850.00
06/25/2026	93800	15.10
06/25/2026	93801	687.14
06/29/2026	3576(E)	145.19
06/29/2026	93802	4,980.00
07/01/2026	93803	9,081.90
07/01/2026	93804	1,789.31
07/01/2026	93805	75.00
07/01/2026	93806	464.50
07/01/2026	93807	1,639.00
07/01/2026	93810	91.62
07/01/2026	93811	95.62
07/01/2026	93812	1,044.19
07/01/2026	93813	30.00
07/01/2026	93814	173.00
07/01/2026	93815	41.91
07/01/2026	93816	35.96
07/01/2026	93817	1,862.07
07/01/2026	93818	644.78
07/01/2026	93819	97.61
07/01/2026	93820	112.24
07/01/2026	93821	25.99
07/01/2026	93822	175.88
07/01/2026	93823	3,767.50
07/01/2026	93824	40.35
07/01/2026	93825	6,750.00
07/01/2026	93826	575.00
07/01/2026	93827	6.00
07/01/2026	93828	342.63
07/01/2026	93829	728.04
07/01/2026	93831	8,586.54
07/01/2026	93832	100.00
07/01/2026	93833	2,763.25
07/01/2026	93834	82.50
07/01/2026	93835	21.98
07/01/2026	93836	15.10
07/06/2026	3579(E)	2,384.55
07/08/2026	3580(E)	15,731.52
07/08/2026	3581(E)	900.00
07/08/2026	3582(E)	8,819.62
07/08/2026	3583(E)	2,805.63
07/13/2026	93837	364.00
07/13/2026	93838	950.00
07/13/2026	93839	540.99
07/13/2026	93840	614.15
07/13/2026	93841	63.71

07/13/2026	93842	600.00
07/13/2026	93843	22.27
07/13/2026	93844	11,981.42
07/13/2026	93845	403.03
07/13/2026	93846	1,480.58
07/13/2026	93847	382.50
07/13/2026	93848	149.85
07/13/2026	93849	3,320.03
07/13/2026	93850	211.29
07/13/2026	93851	13,722.36
07/13/2026	93852	100.00
07/13/2026	93853	118.09
07/13/2026	93854	84.00
07/13/2026	93855	156.94
07/13/2026	93856	18,852.41
07/13/2026	93857	4,179.33
07/13/2026	93858	556.00
07/13/2026	93859	277.05
07/13/2026	93860	462.21
07/13/2026	93861	1,661.57
07/13/2026	93862	4,249.00
07/13/2026	93863	9.68
07/13/2026	93864	934.73
07/13/2026	93865	1,676.72
07/13/2026	93866	231.00
07/13/2026	93867	60.00
07/13/2026	93868	15.10
07/13/2026	93869	750.00
07/13/2026	93870	211.32
07/13/2026	93871	267.16
07/13/2026	93872	114.66
07/13/2026	93873	770.38
07/13/2026	93874	16.92
07/13/2026	93875	62.49
07/13/2026	93876	465.37
GEN TOTALS:		
Total of 182 Check		408,759.30
Less 0 Void Checks		0.00
Total of 182 Disbur		408,759.30

07/14/2026

CHECK REGISTER FOR CITY OF EXCELSIOR
CHECK DATE 06/10/2026 - 07/14/2026

Check Date	Check	Amount
Bank GEN WELLS FARGO		
06/11/2026	93739	69,076.69
06/11/2026	93748	183,671.00
06/22/2026	3570(E)	89,801.67
06/22/2026	3571(E)	263,903.00
06/22/2026	93772	79,692.00
07/01/2026	93809	29,076.50
07/01/2026	93830	38,490.00
GEN TOTALS:		
Total of 7 Checks:		753,710.86
Less 0 Void Checks:		0.00
Total of 7 Disbursements:		753,710.86



Item: 8.b.

ITEM REPORT

To: City Council

From: Morgan Dawley, City Engineer

Meeting Date: July 20, 2026

Department/Office: Public Works

Item Name: Resolution 2026-38 Calling for Public Hearing on Assessment for 2022-2023 Street and Utility Improvements Project (MCES L20)

Summary:

At the December 20, 2021 Regular Council meeting and following a Public Hearing, the Council ordered the improvements for the 2022-2023 Street and Utility Improvements Project (MCES L20). Minnesota Statutes require that the City Council adopt a resolution declaring the costs to be assessed, ordering the preparation of the proposed assessment, and calling for the public hearing on the assessments. Attached is a resolution with the language required by Minnesota Statutes to set the date for the public hearing for August 17, 2026.

Recommended Action:

Adopt Resolution No. 2026-38 – Resolution Declaring Cost to be Assessed, Ordering Preparation of Proposed Assessment, and Calling for Public Hearing on Assessments for 2022-2023 Street and Utility Improvements Project (MCES L20).

Budget:

Attachments:

1. Resolution 2026-38

RESOLUTION 2026 - 38

RESOLUTION DECLARING COST TO BE ASSESSED, ORDERING PREPARATION OF PROPOSED ASSESSMENT, AND CALLING FOR PUBLIC HEARING ON THE ASSESSMENTS FOR THE 2022-2023 STREET AND UTILITY IMPROVEMENTS PROJECT (MCES L20)

WHEREAS, a contract has been let for the 2022-2023 Street and Utility Improvements project (MCES L20), which includes the following areas:

- William Street – from College Avenue to approximately 90 feet southwest of George Street
- College Street – from Water Street to William Street
- Water Street – from State Highway 7 to Oak Street
- Grathwol Lane – from Water Street to western terminus
- Oak Street – from William Street to approximately 280 feet southeast of Beehrle Avenue

The cost for such improvement is \$4,739,964 and the expenses incurred or to be incurred in the making of such improvement amount to \$1,137,592 so that the total cost of the improvement will be \$5,877,556.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EXCELSIOR, MINNESOTA:

1. The portion of the cost of such improvement to be paid by the City is hereby declared to be \$2,080,753 and the portion of the cost to be assessed against benefited property owners is declared to be \$205,728.
2. Assessments shall be payable in equal annual installments extending over a period of 20 years, the first of the installments to be payable on or before the first Monday in January 2027 and shall bear interest at the rate of 5.93 percent per annum from the date of the adoption of the assessment resolution.
3. The City Clerk, with the assistance of the consulting City Engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and he/she shall file a copy of such proposed assessment in his/her office for public inspection.
4. The City Clerk shall upon the completion of such proposed assessment, notify the Council

thereof.

5. A hearing shall be held at 6:30 p.m. on Monday, August 17, 2026, in the Council Chambers located at 106 Center Street to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment.
6. The City Clerk is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and she shall state in the notice the total cost of the improvement. She shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.
7. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole assessment on such property, with interest accrued to the date of payment, to the Finance Director, except that no interest shall be charged if the entire assessment is paid prior to November 13, 2026. An owner may at any time, thereafter, pay to the City of Excelsior the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.

Adopted by the City Council of the City of Excelsior on this 20th day of July 2026.

Approved:

Gary Ringate, Mayor

Attest:

Hilary Vokovan, City Clerk

Kristi Luger, City Manager

ITEM REPORT

To: City Council

From: Julia Mullin, Community Development Director, Jess Long, City Planner

Meeting Date: July 20, 2026

Department/Office: Community Development

Item Name: Second Reading and Approval of Ordinance No. 696 Amending City Ordinance, Appendix E, Section 24 Signs

Summary:

UPDATE

Background

At the City Council meeting on June 1, 2026, the Council approved the First Reading and scheduled the second reading and approval for July 20, 2026, of Ordinance 696 amending Excelsior's sign ordinance. At that meeting, Council considered a draft prepared by staff and reviewed by the Planning Commission and Heritage Preservation Commission and held a public hearing.

The goal of revising the Sign Ordinance is to:

1. Make the ordinance easier to use (for businesses and staff) by reorganizing it and adding tables and graphics to display information.
2. Ensure that maximum sign sizes are appropriate for the scale of Excelsior's commercial properties.
3. Review policy on illuminating signs.
4. Increase clarity about signs that are prohibited.
5. Increase clarity about temporary signs and how they are administered.
6. Update definitions and standards to reflect today's sign technology.

The Council requested that staff provide more information on the following items:

1. Review of existing sandwich board signs to confirm that proposed size requirements in zoning amendment are appropriate.

Staff measured sandwich board signs on Water Street between Lake and Third Streets to provide some context for the recommended maximum size. The signs ranged in size from 5.3 sf – 8.4 sf; and heights ranged from 38" to 45". Staff recommends a maximum sign size of 40" in height and a total area no greater than 7 sf. This recommendation is based on finding the signs outside Excelsior Books and the Sitting Room, 24" x 40", and 6.7 sf to be pedestrian scaled, easily leaving 5' clearance on the sidewalk, and

being visible but not imposing. The typical white plastic signs (with handles on top) were 45" tall and 8.4 sf. The city's parking sign for the public parking garage, placed at West Drive and Third Street, is 29.5" tall and 10.9 sf, which is large but this sign is meant to be seen from vehicles and from a distance, and the larger size makes sense.

2. Is 75 sf for maximum wall sign size in the General Commercial district too large? The "Inspiri" sign at 361 Morse Avenue, facing Hwy 7, is the largest wall sign and is 73 sf. There are large wall signs on the Ridgeview Clinic on Hwy 7 but they are smaller. 75 sf is the existing maximum size and staff recommends that we keep it.

3. Staff did a visual survey of storefronts along Water Street and found that windows generally are not more than 25% covered with signage. Staff took into consideration decals (that are signs), posted flyers, menus, etc. The windows of Vagabondo at 406 Second Street are more than 25% covered in decals, but most of the decals (the floral designs) are not considered "signs"; they are decorative; signage does not cover more than 25% of the windows. Staff recommends that we allow windows to be covered up to 25% with signage.



Example of storefront window; "Re/Max Advantage Plus" is sign; one flyer on door; parking QR code in window; additional lettering in window that falls within the 6 sf of lettering the code excludes from total signage.



Example of window more than 25% covered; up to three signs, less than 4sf each, posted inside window are permitted.



Example of window more than 25% covered; however, floral decals are not considered signs; “Gnocchi” is considered a sign and falls within 6 sf of window lettering excluded from total signage and contributes to window coverage.

5. Existing monument signs – Do we want to prohibit from DT historic district?
Currently, there are none. The HPC recommends that we prohibit them.

Based on Council feedback, staff revised the draft and a redlined version is attached for review. Additionally, a clean copy of the proposed Ordinance amendment is attached and recommended for approval.

Recommended Action:

Staff recommends that the City Council waive the second reading and approve Ordinance 696 which repeals the existing sign ordinance (*Section 24, Signs*) and replaces it with proposed Ordinance 696, and amends *Section 2 Rules and Definitions* and *Section 15 Nonconforming Uses, Structures, Lots and Signs*.

Budget:**Attachments:**

1. 1_ REDLINE Ord 696_ Signs_ CC_07_20_2026
2. 2_ Ord 696_ Signs_ CC_07_20_2026

ORDINANCE NO. 696

AN ORDINANCE TO AMEND APPENDIX E, SECTION 2 RULES AND DEFINITIONS, SECTION 15
NONCONFORMING USES, STRUCTURES, LOTS AND SIGNS, AND SECTION 24 SIGNS, TO UPDATE THE
SIGN ORDINANCE

The City Council of the City of Excelsior hereby ordains as follows:

ARTICLE 2. RULES AND DEFINITIONS

Section 1. Appendix E, Article 2, Rules and Definitions, is amended to add the following:

Sign related.

Abandoned sign. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or variance shall also be subject to the definition of an abandoned sign.

Artificial light. Illumination resulting from internal or external artificial light sources, including glare and reflected light byproducts of artificial light sources.

Awning: A structure made of fabric, metal, or other material, affixed to a building in such a manner that the structure serves as a protective cover over a door, entrance, walkway, or window.

Awning Sign: A sign with copy painted or affixed flat to the surface of an awning which does not extend vertically or horizontally beyond the limits of such awning.

Banners. Attention getting devices which resemble flags and are of a paper, cloth, or plastic consistency.

Billboard. (See off-premises sign.)

Blade Sign: See Projecting Sign.

Changeable copy sign.

Changeable copy sign, electronic.

Commercial Sign: Any sign which serves to advertise and/or identify a product, service, or activity conducted on or off the premises on which the sign is located.

Conduit for Illuminated Signs: A protective piping system that houses and safeguards electrical wiring to attach to a power supply, ensuring a safe and organized installation, typically made of metal or plastic to shield wiring from moisture, dust, UV exposure, and physical damage. Conduit conceals wiring for a clean and professional appearance.

Copy. The wording on a sign surface either permanent or removable letter form.

Double-sided sign.

Dynamic display.

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Electronic graphic display sign.

Feather sign: A freestanding temporary sign consisting of a piece of flexible cloth, plastic or other similar material that is attached lengthwise to a single pole and designed to flutter/wave in the wind.

Flag. Any fabric or similar lightweight material attached at one end, usually to a pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices.

Flashing sign.

Freestanding sign.

Ghost sign.

Ground or low profile sign.

Illuminated sign. A sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.

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Interpretive Panel: A sign that provides information that interprets, via photographs or text, a natural, historical, or cultural resource, event, or site. Panels shall be located only on sites directly related to the information contained in the sign.

~~Feather sign: A freestanding temporary sign consisting of a piece of flexible cloth, plastic or other similar material that is attached lengthwise to a single pole and designed to flutter/wave in the wind.~~

Lawn Sign: A freestanding temporary sign consisting of a piece of corrugated, plastic or other similar material that is attached to a wire "H-shaped" stake and inserted into the ground.

LED Sign Lighting: Lighting that uses light-emitting diodes (LEDs) to produce illumination.

Marquee.

Message sign.

Monument Sign: A freestanding sign that contains a solid or enclosed base and where the sign support post(s) is/are not visible. Base shall be constructed of materials that are consistent with and complementary to the building on the parcel.



Monument sign

Multivision sign. Any sign composed in whole or part of a series of vertical or horizontal slat or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time of one or two or more images.

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Multiple tenant site. Any site which has more than one tenant, and each tenant has a separate ground level exterior public entrance.

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Mural: A mural is an unlit painting, mosaic, fresco, photograph, or other artwork attached or applied directly to the exterior of a structure by or on behalf of the building owner. A mural does not include commercial signage, graffiti, billboards, campaign signs or ghost signs. Murals ~~(like ghost signs)~~ are considered public art, ~~rather than~~ and are not signs.

Noncommercial Sign: Any sign that is not a commercial sign.

Neon sign. Electric sign lit by luminous gas-discharge tubes that contain rarefied neon or other gases.

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Off-premises sign. A sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same parcel where the sign is located. For purposes of this Appendix E, easements and other appurtenances shall be considered to be outside such parcel and any sign located in an easement or other appurtenance shall be considered an off-premises sign.

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Official sign.

Outdoor signage.

Portable sign. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, structure, or sales display device. A temporary sign.

Prohibited signs. Signs not allowed in the city.

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Projecting Sign: A type of sign that extends outward from a building or structure, typically mounted at an angle to the façade building, making it visible from a distance to pedestrians or drivers, and containing a business's graphics, text, or logo.

Public entrance. Any passage or opening which affords entry and access to the general public or customer.

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Pylon sign. A freestanding sign mounted on top of a single post which is greater than 10 feet in height.

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Reader board. A message sign with an electronic changing message.

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Roof sign. A sign constructed, or attached, wholly or in part upon or over the roof of a building.

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Sandwich board sign. Two boards with messages, hinged at the top and used on sidewalks or yards for advertising.

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Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign area. The area within the marginal lines of the surface of a sign. It is that area which is included in the smallest rectangle or series of geometric figures used to circumscribe the message, figure or symbol displayed thereon.

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Temporary sign. A sign constructed or displayed for a specified period of time.

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Time and/or temperature sign. A sign that displays the current time and/or temperature.

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Valance: A type of decorative fabric placed at the bottom and horizontally of an awning or canopy.

Video display sign.

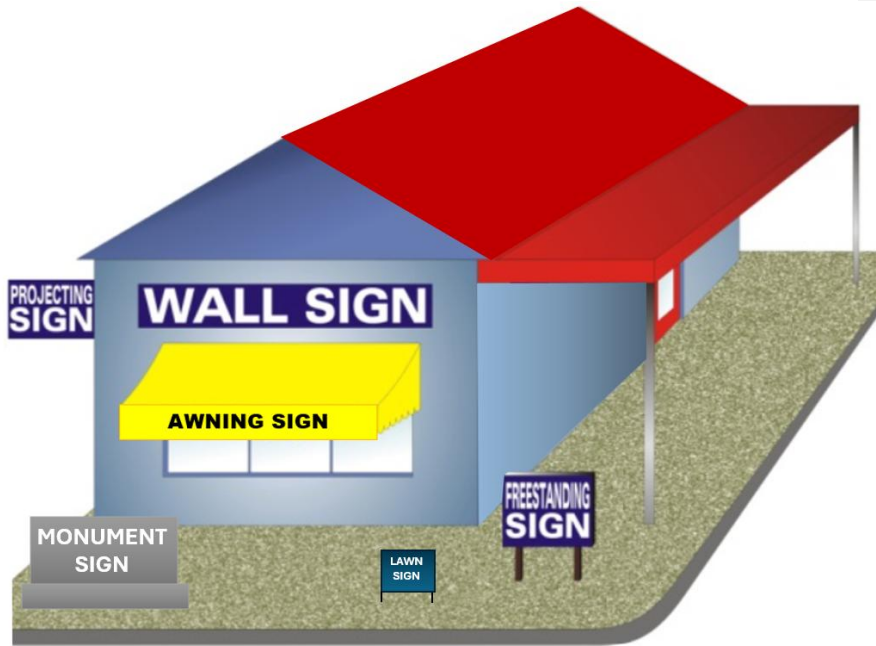
Wall Sign: A sign affixed, attached, posted, printed, or painted directly to the exterior wall of a building, and which is parallel to the building wall.

Window sign. A sign affixed to the interior or exterior of a window in view of the general public. This does not apply to merchandise on display.

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Sacred community.

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ARTICLE 24. SIGNS

Section 2. Appendix E, Article 24, Signs, is repealed and replaced with the following:

Sec. 24-1. Intent.

The purpose of this section is to protect and promote the public health, safety, and general welfare of the citizens of the City of Excelsior through the establishment of a comprehensive and impartial set of regulations governing the installation, display, and use of signs serving as a visual media to persons on public or private properties within the City of Excelsior.

These regulations are intended to:

- (a) Preserve and protect property values and civic beauty, and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance (or lack thereof), spacing, or illumination.
- (b) Provide for signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.

- (c) Control signs which invade privacy, constitute a public nuisance, or increase the likelihood of accidents by distracting attention or obstructing vision.
- (d) Establish standards which will permit businesses a reasonable and equitable opportunity for effective communication but will avoid excessive and unreasonable visual competition among sign displays.
- (e) Allow a reasonable freedom of choice, while promoting a concern for the visual amenities for those persons designing, displaying, erecting, or utilizing signs in the City of Excelsior.
- (f) Assure that the public health, safety, and general welfare of the citizens of the City of Excelsior is preserved.

Sec. 24-2. Signs - prohibited

- (a) Feather signs. (Except with Special Event Permit, Chapter 10, Article XIV.)



- (b) Sign or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.
- (c) Balloons attached to signs and stringers.
- (d) Signs that are tacked, painted, or posted on trees, fences, bridges, towers, similar public structures, utility posts, or other such supports.
- (e) Roof signs.
- (f) Billboards.
- (g) Signs with rotating, moving parts, or electronically changeable copy.
- (h) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
- (i) Content classified as "obscene" as defined by Minn. Stats. § 617.241.
- (j) Pylon signs. (add 10' to graphic)



- (k) Multivision signs.
- (l) Video display signs.
- (m) Electronic graphic display signs.
- (n) Illuminated signs which change in color or intensity of light, flash, scroll, or are animated other than except electronic reader boards for time and temperature, or official signs, and non-electronic reader board signs.

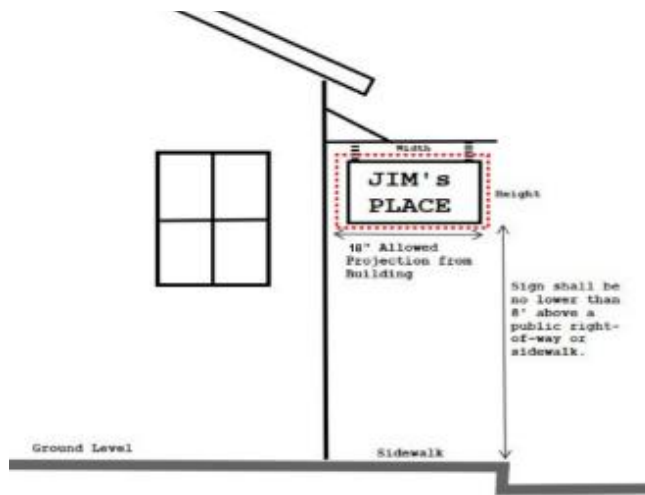
~~signs with copy stating open or closed and barber poles~~ as permitted under Commercial zoning allowances of this article.

- (o) ~~Exterior neon signs. (For discussion.)~~
- (p) Inflatable signs.
- (q) Monument signs in the DC historic district.
- (r) Any sign, signal, marking or device which purports to be, is an imitation of, or resembles any official traffic control device, railroad sign or signal, emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal shall be prohibited.
- (s) Signs within an easement, except for signs installed by authorized governmental agencies or approved by the holder of the easement.
- (t) Signs that resemble any official marker erected by a governmental agency or that displays such words as "Stop" or "Danger", which are not erected by legal authority.
- (u) All other signs not expressly permitted by this ordinance.

Sec. 24-3. Signs - general requirements and standards

- (a) Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated, or defaced shall be reprinted, repaired, or replaced by the owner or agent of the building upon which the sign stands. The ground around any sign shall be kept free of weeds and litter in conformance with [Chapter 16](#) of the Code.
- (b) The construction of all permitted signs shall be in conformance with the provisions of the Minnesota Building Code.
- (c) No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the city building official.
- (d) No signs, guys, stays or attachments shall be erected, placed or maintained on rocks, fences or trees nor interfere with any electric light, power, telephone, or telegraph wires or the supports thereof.
- (e) A sign and/or its structural components shall not move as a result of wind pressure.
- (f) The sign height shall be measured from the grade of the lot at the location of the sign as approved by the Zoning Administrator.
- (g) An awning sign shall be printed on the awning valance only.
- (h) A freestanding sign or sign structure (excluding sandwich boards) shall be constructed so that the two sign faces are set at an angle less than twenty (20) degrees unless the total area of both sign faces does not exceed the maximum allowable sign area for the parcel.
- (i) No sign or sign structure shall protrude over the public right-of-way except:
 - a. projecting signs may protrude a maximum of five (5) feet),
 - b. wall signs may protrude a maximum of six (6) inches;
 - c. awning, canopy, and marquee signs may protrude a maximum of five (5) feet).

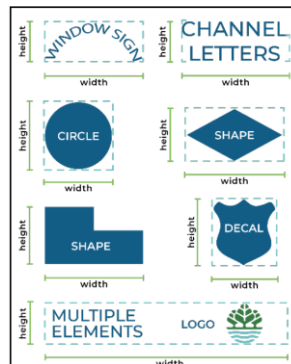
All signs protruding over public right-of-way or over any public or private access route (sidewalk, etc.) shall be located a minimum of eight (8) feet above surface grade.



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- (j) Sandwich board signs:
- may only have two sign faces
 - shall be displayed only during business hours.
 - shall not impede pedestrian traffic or access to other public improvements.
 - shall be located on the ground in front of and within five (5) feet of the main entrance of the business it is advertising.
 - shall be a maximum of ~~three and a half (3.5) feet~~ forty (40) inches in height and shall be no greater than seven (7) square feet in size.
 - shall be made of wood or metal material.
 - if related to ~~Special Events, such as event parking, or event parking,~~ shall be reviewed the ~~zoning~~ zoning ~~Administrator~~ Administrator
 - number of sandwich boards allowed:
 - one (1) sandwich board per business, per street frontage.
 - one (1) additional sandwich board if for valet parking, only during hours of valet service operation.
- (k) Interpretive panels are not subject to sign requirements and require approval of zoning administrator.
- (l) Temporary or permanent window signs or business graphics, whether printed or attached, may not ~~cover~~ exceeding more than 25% of window ~~area~~ space in which they are displayed.
- (m) Sign Size Calculation

The area of a sign or area within a sign frame shall be used to calculate the square footage of the sign area. Should letters or graphics be mounted directly on a wall or fascia or in such a way as to be without a frame, the dimensions for calculating the ~~sign area~~ square footage shall be as in the definition of sign area, as found in Article 2 of this Appendix E. ~~Any symbols, flags, pictures, working figures or other forms of graphics printed on or attached to windows, walks, awnings, freestanding structures, suspended by balloons or kites or on persons, animals or vehicles shall be considered as a sign.~~



(n) Obsolete Signs

The owner or agent of the building and property shall remove any sign that has become obsolete including by reason of termination of the business or vacation of the premises within thirty (30) days.

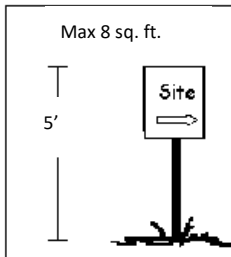
(o) All signage shall comply with ~~city~~ the design standards and the requirements of the Heritage Preservation Commission, where applicable, as found in Chapter 20 of the Code.

(p) Signs for motor fuel facilities

a. Signs for motor fuel facilities shall be regulated by the sign provisions for the zoning district in which the facility is located, except that within a sign, with an area not to exceed ten (10) square feet shall be allowed for non-electronic changeable copy identifying current fuel process in accordance with Minn. Stats. 239.751

Sec. 24-4. Signs—no permit required.

- (a) Identification signs for one- and two-family dwellings, provided that such signs are less than two (2) square feet in area, address numbers exempted. Landmark property identification signs are subject to HPC approval.
- (b) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than five (5) feet in height, -provided such sign does not constitute traffic hazard.



- (c) Traffic control signs, non-commercial governmental signs, local notices, railroad crossing signs, and temporary non-advertising safety or emergency signs.
- (d) Signs denoting the architect, engineer, contractor, or owner as follows:

One non illuminated sign when placed upon a work site, which does not exceed an aggregate of ten (10) square feet for residential property and thirty-two (32) square feet in area and eight (8) feet in height for non-residential property. Such signs must be removed within one (1) year of the date of issuance of a building permit or when the project is completed, whichever is sooner.
- (e) Non-commercial speech signs of any size and number may be posted on private property with the permission of the property owner beginning 46 days before the state primary in a state general election year until ten (10) days following the state general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election. Sign installation shall comply with the Fair Campaign Practices Act contained in Minn. Stats., Chapter 211B.
- (f) Real estate signs as follows:
 - (1) Temporary signs for the purpose of selling or leasing individual lots or buildings provided that such signs are less than ten (10) square feet for residential property and thirty-two (32) square feet for other property, have a maximum height of ten (10) feet, unless located on the building, and provided that only one (1) sign is permitted for each property. The signs must be removed within seven (7) days following the lease or sale.
 - (2) If parcel is located in the Downtown Historic District, a Temporary Sign permit is required.
- (g) Flags or insignia of any government or governmental agency.
- (h) Three (3) signs, not exceeding two (2) square feet each, posted on the interior of a window.
- (i) Up to three (3) lawn signs.
- (j) Existing historic signs as allowed by the Heritage Preservation Commission.
- (k) Maintenance of signs including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.

Sec. 24-5. Signs—permit required.

- (a) The following signs are allowed with the issuance of a sign permit.

Table A. WALL SIGNS		
Zoning District	Number Allowed	Max Area
DC & CC (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	27 sf per sign
DC & CC (Multi-Tenant)	One (1) per tenant located on first floor	27 sf per sign
MU (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	27 sf per sign
MU (Multi-Tenant)	One (1) per tenant located on first floor	27 sf per sign
GC (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	75 sf per sign
GC (Multi-Tenant)	One (1) per tenant located on first floor	75 sf per sign
Sacred community, other public places [1]	One (1) or Two (2) if located on street corner with double frontage	32 sf per sign
[1] Exemptions to height and area requirements may be reviewed under a Conditional Use Permit as provided for in Article 4 of this Appendix E.		

Table B. FREESTANDING SIGNS AND MONUMENT SIGNS				
Zoning District	Number Allowed	Max Height	Max Area	Collaborative sign outside of Historic District
DC	One (1) free standing sign in	6 ft maximum	27 sf maximum	

	front yard of residential structure used for commercial purpose No monument signs allowed			
CC	One (1) free standing sign in front yard of residential structure used for commercial purpose Or One (1) monument sign	Freestanding: 6 ft maximum Monument: 4.5 ft maximum	27 sf maximum	
MU	One (1) free standing sign Or One (1) monument sign			
GC	One (1) free standing sign Or One (1) monument sign	8 ft maximum	75 sf maximum	May substitute for a collaborative monument sign between multiple lots. Max area of 75 sf and max height 15 ft.
Sacred communities, or other public places [1]	One (1) free standing Or One (1) monument sign	8 ft maximum	32 sf maximum	
[1] Double frontage lots may have two signs, one for each frontage. Exemptions to height and area requirements may be reviewed under a Conditional Use Permit.				

Table C. PROJECTING SIGNS			
Zoning District	Number Allowed	Max Area	Additional General Requirements

DC & CC	One (1) <u>per tenant located on first floor</u>	Eight (8) sf	Bottom of sign must be a minimum of eight (8) ft above the ground. Sign and bracket shall extend no more than five (5) ft from building façade.
MU & GC	One (1) <u>per tenant located on first floor</u>	Ten (10) sf	
R-1 & R-2 (Home Occupation)	One (1)	Eight (8) sf	

Table D. AWNINGS SIGNS				
Zoning District	Number Allowed Single frontage	Number Allowed Corner lot with double frontage	Additional General Requirements	Maximum Dimensions
All Districts	One (1)	Two (2)	Must be a minimum of eight (8) ft above the ground. Maximum extension of five (5) ft from building façade	Seven (7) square feet and eight (8) inches in height. Signage must be placed on valance.

Sec. 24-6 Signs – Additional District Requirements

(a) Downtown Commercial (DC) and Cottage Commercial (CC) Districts.

- ~~(4)~~ Businesses shall not display more than three (3) permanent signs, of any type. Businesses may display one (1) additional sign on the rear elevation of the building at a business entrance.
- ~~(1)~~ Window lettering signs of less than six (6) square feet shall be excluded from this regulation.
- (2) Business located on second floor may list business name on first floor primary entrance door.
- (3) More than three (3) signs shall be allowed for multi-tenant buildings, provided that size requirements are met and the aggregate square footage of sign space as outlined above is complied with and an administrative permit is approved by the zoning administrator in accordance with article 8 of this Appendix E.
- (4) No individual sign shall exceed twenty seven (27) square feet in area, nor shall two or more signs be so arranged and integrated as to create a sign area of over forty (40) square feet.
- (5) *Wall Signs.*
 - a. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign in accordance with Table A except that a tenant space which has its only entrance on the side of the building not abutting a public street shall be allowed one (1) sign meeting the size requirements of Table A and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially zoned property.

- b. Wall signs, if painted, shall not be applied directly onto unpainted brick or stone masonry. Exceptions may be made for concrete block. A backdrop shall be applied for painted wall signs and attached to brick or stone masonry

(6) *Awning Signs.*

- a. Awnings installed on buildings in the DC District shall not obscure significant architectural features.

(b) Mixed Use Commercial (MU) and General Commercial (GC) Districts.

- (1) Businesses shall not display more than three permanent signs, whether such signs be projecting, wall, freestanding, window, or awning, including signs for rear entrances.
- (2) Window lettering signs of less than six square feet shall be excluded from this regulation.
- (3) More than three signs shall be allowed for multi-tenant buildings, provided that the aggregate square footage of sign space as outlined above is complied with and an administrative permit is approved by the zoning administrator in accordance with article 8 of this Appendix E.
- (4) No individual sign surface shall exceed twenty seven (27) square feet in area (seventy five (75) square feet in area in the GC district), nor shall two (2) or more signs be so arranged and integrated as to create a sign area of over forty (40) square feet (-one hundred (100-) square feet in area in the GC district).

(5) *Wall Signs.*

- a. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign in accordance with Table B except that a tenant space which has its only entrance on a side of the building not abutting a public street shall be allowed one (1) sign meeting the size requirements of Table B and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially zoned property.

(6) *Awning Signs.*

- a. Awnings installed on buildings in the MU District shall not obscure significant architectural features.

(c) Residential Districts (R-1, R-2, R-3, R-4).

- (1) The following zoning districts are allowed one (1) wall sign per household for a home occupation:
 - a. R-1, R-2, one (1) wall sign not to exceed two (2) square feet, with a distance of six (6) inches from the back of the sign to the wall face.
- (2) Sacred communities and other public places may have one (1) monument sign up to six (6) feet in height and one (1) wall sign. Total signage area must be no greater than thirty-two (32) square feet.
- (3) Residential subdivisions or multi-family complexes, four (4) units or more, may have one (1) wall or one (1) monument sign. Total signage area must be no greater than thirty-two (32) sf and height no greater than four (4) feet.

Sec. 24-7. Temporary Signs – Administrative temporary permit required.

- (a) ~~Temporary signs shall require an administrative permit. The following signs shall require an administrative permit in compliance with Article 8 of this Appendix E: Banners, flags, posters, pennants, ribbons, displays, streamers or spinners used as a sign on private property.~~
- (b) Administrative permits, for temporary signage, may be issued for a period not to exceed fourteen (14) consecutive days. Three (3) such permits may be allowed for each premises per calendar year, with the exception that each new commercial or industrial business, may be allowed one (1) additional fourteen (14) day permit, to announce the opening of the new business, provided such business has been issued a current Certificate of Occupancy for that business space. Permits may be issued for consecutive fourteen (14) day periods.
- (c) For all uses in the Public Institutional district and Sacred Communities in all districts temporary signage shall be limited to a period not to exceed thirty (30) days annually. There shall be no more than three such signs on any parcel and the total signage shall not exceed thirty (30) square feet.
- (d) Temporary on-premises signs shall not be placed in the public right of way.
- (e) Temporary signs, off-premises. Off-premises temporary signs shall be limited to noncommercial Excelsior entities, displayed no more than ten (10) business days, and located on private, city property or in the public right of way.
- (f) The Zoning Administrator shall be authorized to issue a temporary conditional administrative permit to alleviate hardships associated with public road construction projects.

Sec. 24-8. Sign Setbacks.

- (a) The following minimum requirements shall be observed in Residential Districts:

Sign Setbacks (Excluding Monument Signs[1]) in Residential Districts				
	R1	R2	R3	R4
Front Yard Setback (feet)	3 feet	3 feet	3 feet	3 feet
Side Yard Setback (feet)	6 feet	5 feet	5 feet	5 feet
Rear Yard Setback (feet)	3 feet	3 feet	3 feet	3 feet

[1] No part of any monument sign shall be closer than ten (10) feet from any lot line, or from the public right-of-way.

- (b) The following minimum requirements shall be observed in Commercial Districts:

Sign Setbacks (Excluding Monument Signs [2]) in Commercial Districts				
	DC	CC	GC	MU
Front Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet

Side Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet
Rear Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet

[2] No part of any monument sign shall be closer than ten (10) feet from any lot line, or from the public right-of-way.

Sec. 24-9. Permits Required.

- (a) *Sign Permits.* No sign shall hereafter be erected, re-erected or altered, including the replacement of the business message, unless a permit for each sign has been obtained, unless no permit is required pursuant to Section 24-5. In addition, electrical permits from the State of Minnesota shall be obtained for all electric signs. Applications for a sign permit shall be made in writing on forms furnished by the Planning Department. Such application shall contain the location by street and number of the proposed sign structure, the erector, a scale drawing of the sign indicating material copy, and color location. Maintenance of signs including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.
- (b) *Sign Permit Fees.* Permit fees shall be in accordance with the City fee schedule as adopted by City Council. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign. Permit fees shall be reduced by 50% for properties designated as historic.
- (c) *Revocation of Permit.* The Planning Department is hereby authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this Chapter.
- (d) *Expiration of Permit.*
 - (1) A permit shall expire if the sign is not installed within one hundred eighty (180) days after issuance.

Sec. 24-10. Noncommercial speech.

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

Sec. 24-11. General provisions regulating use of artificial light sources for illuminated signs.

- ~~(a)~~ No internal lighting ~~or back-lighting~~ of signs shall be allowed, regardless of the light source.
- ~~(a)~~~~(b)~~ Backlit signs are permitted.
- ~~(b)~~~~(c)~~ Signage shall utilize illuminating devices mounted above and facing down or below and facing up toward the sign. Artificial light sources shall not be placed at any height taller than is essential to accomplish the intended purpose.
- ~~(c)~~~~(d)~~ All lighting shall be of a warm color and glare or reflected light which is a by-product of all light shall be kept to a minimum.
- (d) All signage shall comply with the outdoor lighting standards found in [Section 16-5](#) of this Appendix E.
- (e) The light source shall not be directly visible and shall be arranged to reflect away from adjoining premises.
- (f) The illumination source shall not be placed so to cause confusion or hazard to traffic, or to conflict with official or traffic signs, signals, or lights. This includes indoor signs which are visible from public streets.
- (g) All artificial illumination of signs shall be turned off at the close of business or at 11:00 p.m., whichever occurs later.

- (h) Neon signs may be allowed in the Downtown Historic District with HPC approval consistent with Chapter 20.
- (h) Lighting underneath awnings, and up- and down-lighting of building facades, is prohibited
- (i) Electrical wiring for sign illumination shall be concealed with conduit. The conduit and electrical wiring for the light source shall be installed and arranged inconspicuously utilizing low-profile conduit, paint or cover, running conduit behind structures such as walls, furniture, or architectural features, raceway channels, or undergrounding.
- (j) ~~Sign conduit shall be installed in a way that~~To minimize damage to the building, ~~conduit that is drilled~~ through exterior walls to the interior of a building shall be drilled through the mortar joints, not masonry, and shall be weatherproofed and sealed to prevent moisture intrusion. The mortar joint shall be wide enough to accommodate the conduit without compromising stability. If the conduit is larger than the mortar joint, drilling through the wall shall be prohibited.

Sec. 24-12. Enforcement.

- (a) It shall be the responsibility of the Zoning Administrator to administer and enforce the provisions of this section.
- (b) If any provision of this ordinance shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other provisions of this ordinance.
- (c) It shall be unlawful for any person, firm, or corporation, to erect, alter, repair, move, equip, or maintain any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this ordinance.
- (d) Nonconforming signs shall be regulated as provided in [Article 15](#) of this Appendix E.

Sec. 24-13. Removal.

- (a) The Zoning Administrator shall remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the City shall be assessed to the owner of the property on which such sign is located or may be collected in appropriate legal proceedings.
- (b) Signs in violation of this Ordinance placed on public property or in the public right-of-way are subject to immediate removal.
- (c) The owner, lessee, or manager of the property where a sign is located shall remove or correct a sign within thirty (30) days of the receipt of written notice from the Zoning Administrator that the sign is in violation or prohibited by this Appendix E.

Sec. 24-14. Variance.

The City Council may approve a variance, in conformance with article 6 of this Appendix E.

ARTICLE 15. NONCONFORMING, USES, STRUCTURES, LOTS AND SIGNS

Section 3. Appendix E, Article 5, Nonconforming Uses, Structures, Lots and Signs, is amended as follows:

Sec. 15-6. Nonconforming signs.

Any sign that existed lawfully on the effective date of the sign regulations of this Article that remains or becomes nonconforming by reason of adoption of these sign regulations or because of subsequent amendments to these sign regulations are considered nonconforming signs and their continuance is allowed in accordance with the following regulations:

- (a) Ordinary repairs and maintenance, including the removing and replacing of outer panels is permitted, provided that the panels are replaced with identical panels and then no structural alterations or other work that extends the normal life of the nonconforming sign is permitted.
- (b) Single panels on nonconforming multi-panel signs for multi-tenant buildings may be changed to reflect tenant changes.
- (c) Besides (a) and (b) of this section, nonconforming signs may not be changed unless they are brought into compliance with the sign ordinance.
- (d) No repair or alteration that increases the size of a nonconforming sign is permitted.
- (e) No nonconforming sign may be moved in whole or in part to any other location on the same or any other premises unless every portion of such sign is made to conform to all regulations of these sign regulations.
- (f) If a nonconforming sign is abandoned or the described business discontinued for a continuous period of thirty (30) days or more, it must be discontinued, and any subsequent sign must conform to all of the sign regulations in this article.
- (g) If a nonconforming sign must be removed temporarily or is misplaced, the responsible party for that sign may receive administrative approval to continue the sign upon written request within the thirty (30) day period of allowance of (f).

Section 4. This Ordinance is effective in accordance with Section 3.06 of the Excelsior City Charter.

Adopted by the Council of the City of Excelsior, Minnesota, this _____ day of _____ 2026.

Gary Ringate, Mayor

ATTEST:

Hilary Vokovan, City Clerk

Kristi Luger, City Manager

First Reading of Ordinance: June 1, 2026

Second Reading and Adoption: July 20, 2026

Publication of Ordinance: July 30, 2026

July 20, 2026

Effective Date: August 31, 2026

ORDINANCE NO. 696

AN ORDINANCE TO AMEND APPENDIX E, SECTION 2 RULES AND DEFINITIONS, SECTION 15 NONCONFORMING USES, STRUCTURES, LOTS AND SIGNS, AND SECTION 24 SIGNS, TO UPDATE THE SIGN ORDINANCE

The City Council of the City of Excelsior hereby ordains as follows:

ARTICLE 2. RULES AND DEFINITIONS

Section 1. Appendix E, Article 2, Rules and Definitions, is amended to add the following:

Sign related.

Abandoned sign. Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or variance shall also be subject to the definition of an abandoned sign.

Artificial light. Illumination resulting from internal or external artificial light sources, including glare and reflected light byproducts of artificial light sources.

Awning: A structure made of fabric, metal, or other material, affixed to a building in such a manner that the structure serves as a protective cover over a door, entrance, walkway, or window.

Awning Sign: A sign with copy painted or affixed flat to the surface of an awning which does not extend vertically or horizontally beyond the limits of such awning.

Banners. Attention getting devices which resemble flags and are of a paper, cloth, or plastic consistency.

Billboard. (See off-premises sign.)

Blade Sign: See Projecting Sign.

Changeable copy sign.

Changeable copy sign, electronic.

Commercial Sign: Any sign which serves to advertise and/or identify a product, service, or activity conducted on or off the premises on which the sign is located.

Conduit for Illuminated Signs: A protective piping system that houses and safeguards electrical wiring to attach to a power supply, ensuring a safe and organized installation, typically made of metal or plastic to shield wiring from moisture, dust, UV exposure, and physical damage. Conduit conceals wiring for a clean and professional appearance.

Copy. The wording on a sign surface either permanent or removable letter form.

Double-sided sign.

Dynamic display.

Electronic graphic display sign.

Feather sign: A freestanding temporary sign consisting of a piece of flexible cloth, plastic or other similar material that is attached lengthwise to a single pole and designed to flutter/wave in the wind. Any fabric or similar lightweight material attached at one end, usually to a pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices.

Flashing sign.

Freestanding sign.

Ghost sign.

Ground or low profile sign.

Illuminated sign. A sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.

Interpretive Panel: A sign that provides information that interprets, via photographs or text, a natural, historical, or cultural resource, event, or site. Panels shall be located only on sites directly related to the information contained in the sign.

Lawn Sign: A freestanding temporary sign consisting of a piece of corrugated, plastic or other similar material that is attached to a wire “H-shaped” stake and inserted into the ground.

LED Sign Lighting: Lighting that uses light-emitting diodes (LEDs) to produce illumination.

Marquee.

Message sign.

Monument Sign: A freestanding sign that contains a solid or enclosed base and where the sign support post(s) is/are not visible. Base shall be constructed of materials that are consistent with and complementary to the building on the parcel.



Multivision sign. Any sign composed in whole or part of a series of vertical or horizontal slat or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time of one or two or more images.

Multiple tenant site. Any site which has more than one tenant, and each tenant has a separate ground level exterior public entrance.

Mural: A mural is an unlit painting, mosaic, fresco, photograph, or other artwork attached or applied directly to the exterior of a structure by or on behalf of the building owner. A mural does not include commercial signage, graffiti, billboards, campaign signs or ghost signs. Murals are considered public art and are not signs.

Noncommercial Sign: Any sign that is not a commercial sign.

Neon sign. Electric sign lit by luminous gas-discharge tubes that contain rarefied neon or other gases.

Off-premises sign. A sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same parcel where the sign is located. For purposes of this Appendix E, easements and other appurtenances shall be considered to be outside such parcel and any sign located in an easement or other appurtenance shall be considered an off-premises sign.

Official sign.

Outdoor signage.

Portable sign. A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, structure, or sales display device. A temporary sign.

Prohibited signs. Signs not allowed in the city.

Projecting Sign: A type of sign that extends outward from a building or structure, typically mounted at an angle to the façade building, making it visible from a distance to pedestrians or drivers, and containing a business's graphics, text, or logo.

Public entrance. Any passage or opening which affords entry and access to the general public or customer.

Pylon sign. A freestanding sign mounted on top of a single post which is greater than 10 feet in height.

Reader board. A message sign with an electronic changing message.

Roof sign. A sign constructed, or attached, wholly or in part upon or over the roof of a building.

Sandwich board sign. Two boards with messages, hinged at the top and used on sidewalks or yards for advertising.

Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign area. The area within the marginal lines of the surface of a sign. It is that area which is included in the smallest rectangle or series of geometric figures used to circumscribe the message, figure or symbol displayed thereon.

Temporary sign. A sign constructed or displayed for a specified period of time.

Time and/or temperature sign. A sign that displays the current time and/or temperature.

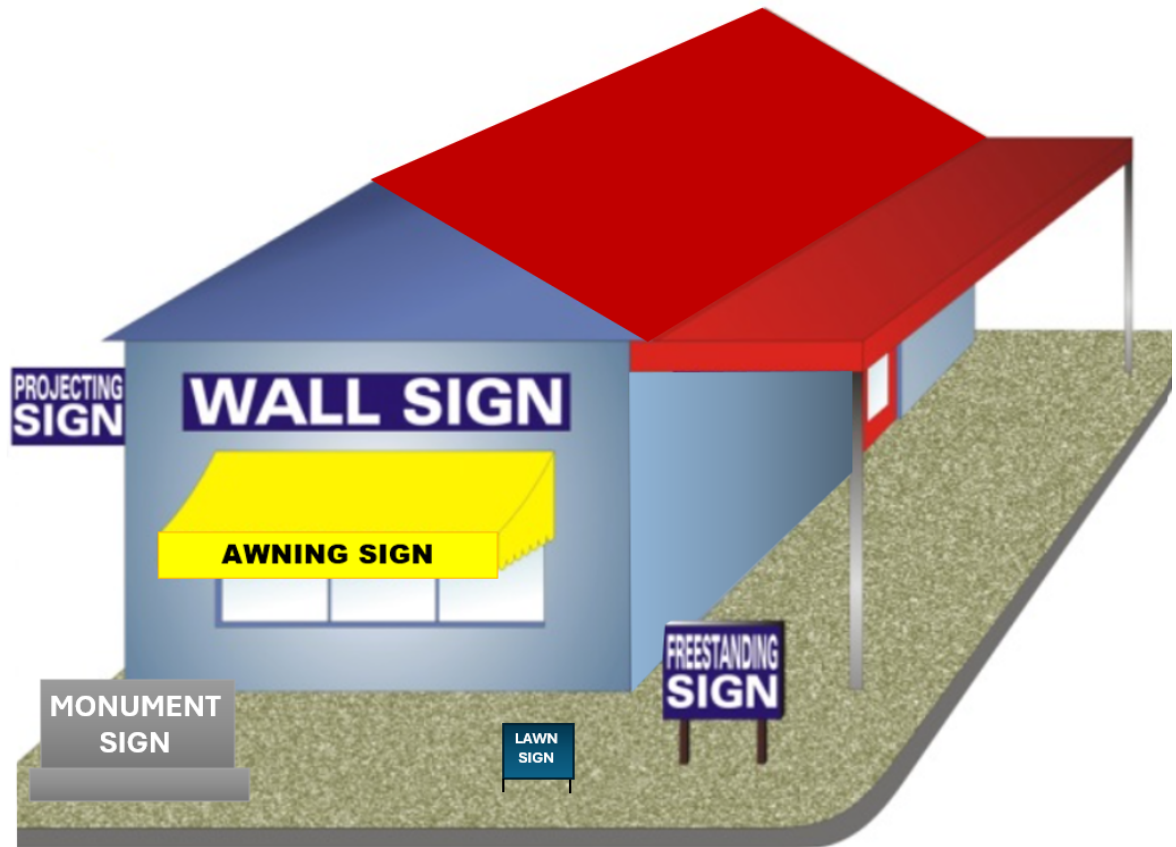
Valance: A type of decorative fabric placed at the bottom and horizontally of an awning or canopy.

Video display sign.

Wall Sign: A sign affixed, attached, posted, printed, or painted directly to the exterior wall of a building, and which is parallel to the building wall.

Window sign. A sign affixed to the interior or exterior of a window in view of the general public. This does not apply to merchandise on display.

Sacred community.



ARTICLE 24. SIGNS

Section 2. Appendix E, Article 24, Signs, is repealed and replaced with the following:

Sec. 24-1. Intent.

The purpose of this section is to protect and promote the public health, safety, and general welfare of the citizens of the City of Excelsior through the establishment of a comprehensive and impartial set of regulations governing the installation, display, and use of signs serving as a visual media to persons on public or private properties within the City of Excelsior.

These regulations are intended to:

- (a) Preserve and protect property values and civic beauty, and not allow signs which detract from this objective due to excess size, height, number, visual impact, undesirable location, maintenance (or lack thereof), spacing, or illumination.
- (b) Provide for signs which are compatible with their surroundings and appropriate to the type of activity to which they pertain.
- (c) Control signs which invade privacy, constitute a public nuisance, or increase the likelihood of accidents by distracting attention or obstructing vision.

- (d) Establish standards which will permit businesses a reasonable and equitable opportunity for effective communication but will avoid excessive and unreasonable visual competition among sign displays.
- (e) Allow a reasonable freedom of choice, while promoting a concern for the visual amenities for those persons designing, displaying, erecting, or utilizing signs in the City of Excelsior.
- (f) Assure that the public health, safety, and general welfare of the citizens of the City of Excelsior is preserved.

Sec. 24-2. Signs - prohibited

- (a) Feather signs. (Except with Special Event Permit, Chapter 10, Article XIV.)



- (b) Sign or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.
- (c) Balloons attached to signs.
- (d) Signs that are tacked, painted, or posted on trees, fences, bridges, towers, similar public structures, utility posts, or other such supports.
- (e) Roof signs.
- (f) Billboards.
- (g) Signs with rotating, moving parts, or electronically changeable copy.
- (h) Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
- (i) Content classified as “obscene” as defined by Minn. Stats. § 617.241.
- (j) Pylon signs. (add 10’ to graphic)

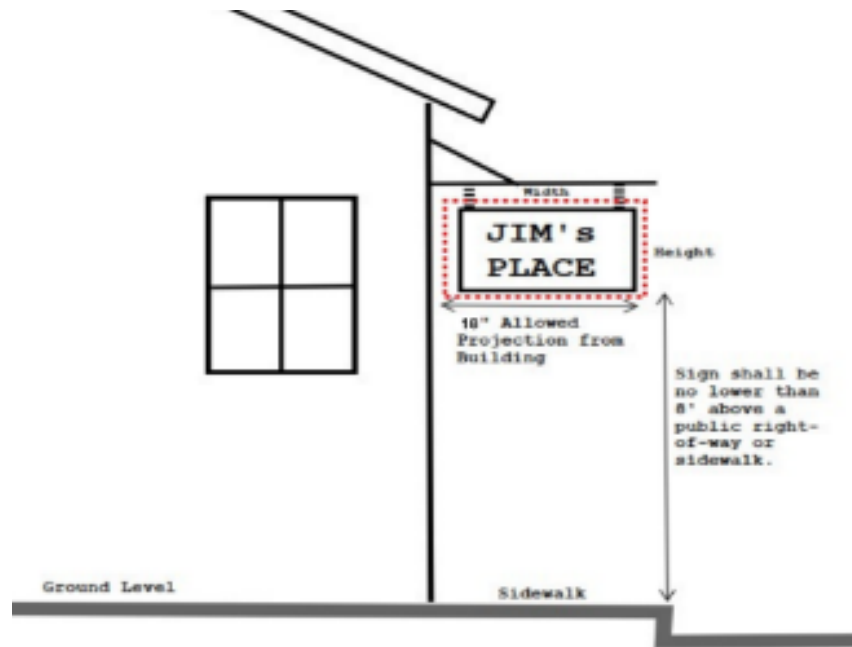


- (k) Multivision signs.
- (l) Video display signs.
- (m) Electronic graphic display signs.
- (n) Illuminated signs which change in color or intensity of light, flash, scroll, or are animated except electronic reader boards for time and temperature, official signs, non-electronic reader board signs, signs with copy stating open or closed as permitted under Commercial zoning allowances of this article.
- (o)

- (p) Inflatable signs.
- (q) Monument signs in the DC historic district.
- (r) Any sign, signal, marking or device which purports to be, is an imitation of, or resembles any official traffic control device, railroad sign or signal, emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal shall be prohibited.
- (s) Signs within an easement, except for signs installed by authorized governmental agencies or approved by the holder of the easement.
- (t) Signs that resemble any official marker erected by a governmental agency or that displays such words as "Stop" or "Danger", which are not erected by legal authority.
- (u) All other signs not expressly permitted by this ordinance.

Sec. 24-3. Signs - general requirements and standards

- (a) Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated, or defaced shall be reprinted, repaired, or replaced by the owner or agent of the building upon which the sign stands. The ground around any sign shall be kept free of weeds and litter in conformance with [Chapter 16](#) of the Code.
- (b) The construction of all permitted signs shall be in conformance with the provisions of the Minnesota Building Code.
- (c) No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the city building official.
- (d) No signs, guys, stays or attachments shall be erected, placed or maintained on rocks, fences or trees nor interfere with any electric light, power, telephone, or telegraph wires or the supports thereof.
- (e) A sign and/or its structural components shall not move as a result of wind pressure.
- (f) The sign height shall be measured from the grade of the lot at the location of the sign as approved by the Zoning Administrator.
- (g) An awning sign shall be printed on the awning valance only.
- (h) A freestanding sign or sign structure (excluding sandwich boards) shall be constructed so that the two sign faces are set at an angle less than twenty (20) degrees unless the total area of both sign faces does not exceed the maximum allowable sign area for the parcel.
- (i) No sign or sign structure shall protrude over the public right-of-way except:
 - a. projecting signs may protrude a maximum of five (5) feet),
 - b. wall signs may protrude a maximum of six (6) inches;
 - c. awning, canopy, and marquee signs may protrude a maximum of five (5) feet).All signs protruding over public right-of-way or over any public or private access route (sidewalk, etc.) shall be located a minimum of eight (8) feet above surface grade.

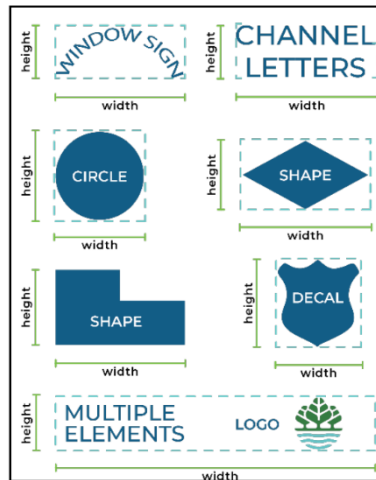


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- (j) Sandwich board signs:
- may only have two sign faces
 - shall be displayed only during business hours.
 - shall not impede pedestrian traffic or access to other public improvements.
 - shall be located on the ground in front of and within five (5) feet of the main entrance of the business it is advertising.
 - shall be a maximum of forty (40) inches in height and shall be no greater than seven (7) square feet in size.
 - shall be made of wood or metal material.
 - if related to Special Events or event parking, shall be reviewed the zoning administrator
 - number of sandwich boards allowed:
 - one (1) sandwich board per business, per street frontage.
 - one (1) additional sandwich board if for valet parking, only during hours of valet service operation.
- (k) Interpretive panels are not subject to sign requirements and require approval of zoning administrator.
- (l) Temporary or permanent window signs or business graphics, whether printed or attached, may not cover more than 25% of window area in which they are displayed.
- (m) Sign Size Calculation

The area of a sign or area within a sign frame shall be used to calculate the square footage of the sign area. Should letters or graphics be mounted directly on a wall or fascia or in such a way as to be without a frame,

the dimensions for calculating the sign area shall be as in the definition of sign area, as found in [Article 2](#) of this Appendix E.



(n) Obsolete Signs

The owner or agent of the building and property shall remove any sign that has become obsolete including by reason of termination of the business or vacation of the premises within thirty (30) days.

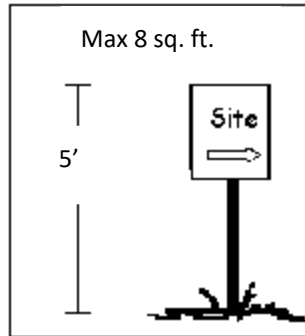
(o) All signage shall comply with city design standards and the requirements of the Heritage Preservation Commission, where applicable, as found in [Chapter 20](#) of the Code.

(p) Signs for motor fuel facilities

a. Signs for motor fuel facilities shall be regulated by the sign provisions for the zoning district in which the facility is located, except that within a sign, with an area not to exceed ten (10) square feet shall be allowed for non-electronic changeable copy identifying current fuel process in accordance with Minn. Stats. 239.751

Sec. 24-4. Signs—no permit required.

- (a) Identification signs for one- and two-family dwellings, provided that such signs are less than two (2) square feet in area, address numbers exempted. Landmark property identification signs are subject to HPC approval.
- (b) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than five (5) feet in height, provided such sign does not constitute traffic hazard.



- (c) Traffic control signs, non-commercial governmental signs, local notices, railroad crossing signs, and temporary non-advertising safety or emergency signs.
- (d) Signs denoting the architect, engineer, contractor, or owner as follows:

One non illuminated sign when placed upon a work site, which does not exceed an aggregate of ten (10) square feet for residential property and thirty-two (32) square feet in area and eight (8) feet in height for non-residential property. Such signs must be removed within one (1) year of the date of issuance of a building permit or when the project is completed, whichever is sooner.
- (e) Non-commercial speech signs of any size and number may be posted on private property with the permission of the property owner beginning 46 days before the state primary in a state general election year until ten (10) days following the state general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election. Sign installation shall comply with the Fair Campaign Practices Act contained in Minn. Stats., Chapter 211B.
- (f) Real estate signs as follows:
 - (1) Temporary signs for the purpose of selling or leasing individual lots or buildings provided that such signs are less than ten (10) square feet for residential property and thirty-two (32) square feet for other property, have a maximum height of ten (10) feet, unless located on the building, and provided that only one (1) sign is permitted for each property. The signs must be removed within seven (7) days following the lease or sale.
 - (2) If parcel is located in the Downtown Historic District, a Temporary Sign permit is required.
- (g) Flags or insignia of any government or governmental agency.
- (h) Three (3) signs, not exceeding two (2) square feet each, posted on the interior of a window.
- (i) Up to three (3) lawn signs.
- (j) Existing historic signs as allowed by the Heritage Preservation Commission.
- (k) Maintenance of signs including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.

Sec. 24-5. Signs—permit required.

- (a) The following signs are allowed with the issuance of a sign permit.

Table A. WALL SIGNS		
Zoning District	Number Allowed	Max Area
DC & CC (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	27 sf per sign
DC & CC (Multi-Tenant)	One (1) per tenant located on first floor	27 sf per sign
MU (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	27 sf per sign
MU (Multi-Tenant)	One (1) per tenant located on first floor	27 sf per sign
GC (Single Tenant)	One (1) or Two (2) if located on street corner with double frontage	75 sf per sign
GC (Multi-Tenant)	One (1) per tenant located on first floor	75 sf per sign
Sacred community, other public places [1]	One (1) or Two (2) if located on street corner with double frontage	32 sf per sign
[1] Exemptions to height and area requirements may be reviewed under a Conditional Use Permit as provided for in Article 4 of this Appendix E.		

Table B. FREESTANDING SIGNS AND MONUMENT SIGNS				
Zoning District	Number Allowed	Max Height	Max Area	Collaborative sign outside of Historic District
DC	One (1) free standing sign in	6 ft maximum	27 sf maximum	

	front yard of residential structure used for commercial purpose No monument signs allowed			
CC	One (1) free standing sign in front yard of residential structure used for commercial purpose Or One (1) monument sign	Freestanding: 6 ft maximum Monument: 4.5 ft maximum	27 sf maximum	
MU	One (1) free standing sign Or One (1) monument sign			
GC	One (1) free standing sign Or One (1) monument sign	8 ft maximum	75 sf maximum	May substitute for a collaborative monument sign between multiple lots. Max area of 75 sf and max height 15 ft.
Sacred communities, or other public places [1]	One (1) free standing Or One (1) monument sign	8 ft maximum	32 sf maximum	
[1] Double frontage lots may have two signs, one for each frontage. Exemptions to height and area requirements may be reviewed under a Conditional Use Permit.				

Table C. PROJECTING SIGNS

Zoning District	Number Allowed	Max Area	Additional General Requirements
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DC & CC	One (1) per tenant located on first floor	Eight (8) sf	Bottom of sign must be a minimum of eight (8) ft above the ground. Sign and bracket shall extend no more than five (5) ft from building façade.
MU & GC	One (1) per tenant located on first floor	Ten (10) sf	
R-1 & R-2 (Home Occupation)	One (1)	Eight (8) sf	

Table D. AWNINGS SIGNS				
Zoning District	Number Allowed Single frontage	Number Allowed Corner lot with double frontage	Additional General Requirements	Maximum Dimensions
All Districts	One (1)	Two (2)	Must be a minimum of eight (8) ft above the ground. Maximum extension of five (5) ft from building façade	Seven (7) square feet and eight (8) inches in height. Signage must be placed on valance.

Sec. 24-6 Signs – Additional District Requirements

(a) Downtown Commercial (DC) and Cottage Commercial (CC) Districts.

- (1) Businesses shall not display more than three (3) permanent signs, of any type. Businesses may display one (1) additional sign on the rear elevation of the building at a business entrance. Window lettering signs of less than six (6) square feet shall be excluded from this regulation.
- (2) Business located on second floor may list business name on first floor primary entrance door.
- (3) More than three (3) signs shall be allowed for multi-tenant buildings, provided that size requirements are met and an administrative permit is approved by the zoning administrator in accordance with article 8 of this Appendix E.
- (4) No individual sign shall exceed twenty seven (27) square feet in area, nor shall two or more signs be so arranged and integrated as to create a sign area of over forty (40) square feet.
- (5) *Wall Signs.*
 - a. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign in accordance with Table A except that a tenant space which has its only entrance on the side of the building not abutting a public street shall be allowed one (1) sign meeting the size requirements of Table A and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially zoned property.
 - b. Wall signs, if painted, shall not be applied directly onto unpainted brick or stone masonry. Exceptions may be made for concrete block. A backdrop shall be applied for painted wall signs and attached to brick or stone masonry

(6) *Awning Signs.*

- a. Awnings installed on buildings in the DC District shall not obscure significant architectural features.

(b) Mixed Use Commercial (MU) and General Commercial (GC) Districts.

- (1) Businesses shall not display more than three permanent signs, whether such signs be projecting, wall, freestanding, window, or awning, including signs for rear entrances.
- (2) Window lettering signs of less than six square feet shall be excluded from this regulation.
- (3) More than three signs shall be allowed for multi-tenant buildings, provided that the aggregate square footage of sign space as outlined above is complied with and an administrative permit is approved by the zoning administrator in accordance with article 8 of this Appendix E.
- (4) No individual sign surface shall exceed twenty seven (27) square feet in area (seventy five (75) square feet in area in the GC district), nor shall two (2) or more signs be so arranged and integrated as to create a sign area of over forty (40) square feet (one hundred (100) square feet in area in the GC district).

(5) *Wall Signs.*

- a. Multi-tenant buildings shall have wall signs of similar design. Each tenant is allowed one (1) wall sign in accordance with Table B except that a tenant space which has its only entrance on a side of the building not abutting a public street shall be allowed one (1) sign meeting the size requirements of Table B and located on the same wall as the tenant's only entrance. No signage is permitted for tenant entrances immediately adjacent to residentially zoned property.

(6) *Awning Signs.*

- a. Awnings installed on buildings in the MU District shall not obscure significant architectural features.

(c) Residential Districts (R-1, R-2, R-3, R-4).

- (1) The following zoning districts are allowed one (1) wall sign per household for a home occupation:
 - a. R-1, R-2, one (1) wall sign not to exceed two (2) square feet, with a distance of six (6) inches from the back of the sign to the wall face.
- (2) Sacred communities and other public places may have one (1) monument sign up to six (6) feet in height and one (1) wall sign. Total signage area must be no greater than thirty-two (32) square feet.
- (3) Residential subdivisions or multi-family complexes, four (4) units or more, may have one (1) wall or one (1) monument sign. Total signage area must be no greater than thirty-two (32) sf and height no greater than four (4) feet.

Sec. 24-7. Temporary Signs – Administrative temporary permit required.

- (a) Temporary signs shall require an administrative permit.
- (b) Administrative permits, for temporary signage, may be issued for a period not to exceed fourteen (14) consecutive days. Three (3) such permits may be allowed for each premises per calendar year, with the exception that each new commercial or industrial business, may be allowed one (1) additional fourteen (14) day permit, to announce the opening of the new business, provided such business has been issued a current

Certificate of Occupancy for that business space. Permits may be issued for consecutive fourteen (14) day periods.

- (c) For all uses in the Public Institutional district and Sacred Communities in all districts temporary signage shall be limited to a period not to exceed thirty (30) days annually. There shall be no more than three such signs on any parcel and the total signage shall not exceed thirty (30) square feet.
- (d) Temporary on-premises signs shall not be placed in the public right of way.
- (e) Temporary signs, off-premises. Off-premises temporary signs shall be limited to noncommercial Excelsior entities, displayed no more than ten (10) business days, and located on private, city property or in the public right of way.
- (f) The Zoning Administrator shall be authorized to issue a temporary conditional administrative permit to alleviate hardships associated with public road construction projects.

Sec. 24-8. Sign Setbacks.

- (a) The following minimum requirements shall be observed in Residential Districts:

Sign Setbacks (Excluding Monument Signs[1]) in Residential Districts				
	R1	R2	R3	R4
Front Yard Setback (feet)	3 feet	3 feet	3 feet	3 feet
Side Yard Setback (feet)	6 feet	5 feet	5 feet	5 feet
Rear Yard Setback (feet)	3 feet	3 feet	3 feet	3 feet

[1] No part of any monument sign shall be closer than ten (10) feet from any lot line, or from the public right-of-way.

- (b) The following minimum requirements shall be observed in Commercial Districts:

Sign Setbacks (Excluding Monument Signs [2]) in Commercial Districts				
	DC	CC	GC	MU
Front Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet
Side Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet
Rear Yard Setback (feet)	0 feet	0 feet	3 feet	3 feet

[2] No part of any monument sign shall be closer than ten (10) feet from any lot line, or from the public right-of-way.

Sec. 24-9. Permits Required.

- (a) *Sign Permits.* No sign shall hereafter be erected, re-erected or altered, including the replacement of the business message, unless a permit for each sign has been obtained, unless no permit is required pursuant to Section 24-5. In addition, electrical permits from the State of Minnesota shall be obtained for all electric signs. Applications for a sign permit shall be made in writing on forms furnished by the Planning Department. Such application shall contain the location by street and number of the proposed sign structure, the erector, a scale drawing of the sign indicating material copy, and color location. Maintenance of signs including repainting without changing the wording, composition, size, or colors; or minor nonstructural repairs, (except electrical repairs) shall not require a permit.
- (b) *Sign Permit Fees.* Permit fees shall be in accordance with the City fee schedule as adopted by City Council. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign. Permit fees shall be reduced by 50% for properties designated as historic.
- (c) *Revocation of Permit.* The Planning Department is hereby authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this Chapter.
- (d) *Expiration of Permit.*
 - (1) A permit shall expire if the sign is not installed within one hundred eighty (180) days after issuance.

Sec. 24-10. Noncommercial speech.

Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

Sec. 24-11. General provisions regulating use of artificial light sources for illuminated signs.

- (a) No internal lighting of signs shall be allowed, regardless of the light source.
- (b) Backlit signs are permitted.
- (c) Signage shall utilize illuminating devices mounted above and facing down or below and facing up toward the sign. Artificial light sources shall not be placed at any height taller than is essential to accomplish the intended purpose.
- (d) All lighting shall be of a warm color and glare or reflected light which is a by-product of all light shall be kept to a minimum.
- (d) All signage shall comply with the outdoor lighting standards found in [Section 16-5](#) of this Appendix E.
- (e) The light source shall not be directly visible and shall be arranged to reflect away from adjoining premises.
- (f) The illumination source shall not be placed so to cause confusion or hazard to traffic, or to conflict with official or traffic signs, signals, or lights. This includes indoor signs which are visible from public streets.
- (g) All artificial illumination of signs shall be turned off at the close of business or at 11:00 p.m., whichever occurs later.
- (h) Neon signs may be allowed in the Downtown Historic District with HPC approval consistent with Chapter 20.
- (h) Lighting underneath awnings, and up- and down-lighting of building facades, is prohibited
- (i) Electrical wiring for sign illumination shall be concealed with conduit. The conduit and electrical wiring for the light source shall be installed and arranged inconspicuously utilizing low-profile conduit, paint or cover, running conduit behind structures such as walls, furniture, or architectural features, raceway channels, or undergrounding.
- (j) To minimizedamage to the building, conduit that is drilled through exterior walls to the interior of a building shall be drilled through the mortar joints, not masonry, and shall be weatherproofed and sealed to prevent

moisture intrusion. The mortar joint shall be wide enough to accommodate the conduit without compromising stability. If the conduit is larger than the mortar joint, drilling through the wall shall be prohibited.

Sec. 24-12. Enforcement.

- (a) It shall be the responsibility of the Zoning Administrator to administer and enforce the provisions of this section.
- (b) If any provision of this ordinance shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other provisions of this ordinance.
- (c) It shall be unlawful for any person, firm, or corporation, to erect, alter, repair, move, equip, or maintain any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this ordinance.
- (d) Nonconforming signs shall be regulated as provided in [Article 15](#) of this Appendix E.

Sec. 24-13. Removal.

- (a) The Zoning Administrator shall remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the City shall be assessed to the owner of the property on which such sign is located or may be collected in appropriate legal proceedings.
- (b) Signs in violation of this Ordinance placed on public property or in the public right-of-way are subject to immediate removal.
- (c) The owner, lessee, or manager of the property where a sign is located shall remove or correct a sign within thirty (30) days of the receipt of written notice from the Zoning Administrator that the sign is in violation or prohibited by this Appendix E.

Sec. 24-14. Variance.

The City Council may approve a variance, in conformance with article 6 of this Appendix E.

ARTICLE 15. NONCONFORMING, USES, STRUCTURES, LOTS AND SIGNS

Section 3. Appendix E, Article 5, Nonconforming Uses, Structures, Lots and Signs, is amended as follows:

Sec. 15-6. Nonconforming signs.

Any sign that existed lawfully on the effective date of the sign regulations of this Article that remains or becomes nonconforming by reason of adoption of these sign regulations or because of subsequent amendments to these sign regulations are considered nonconforming signs and their continuance is allowed in accordance with the following regulations:

- (a) Ordinary repairs and maintenance, including the removing and replacing of outer panels is permitted, provided that the panels are replaced with identical panels and then no structural alterations or other work that extends the normal life of the nonconforming sign is permitted.

- (b) Single panels on nonconforming multi-panel signs for multi-tenant buildings may be changed to reflect tenant changes.
- (c) Besides (a) and (b) of this section, nonconforming signs may not be changed unless they are brought into compliance with the sign ordinance.
- (d) No repair or alteration that increases the size of a nonconforming sign is permitted.
- (e) No nonconforming sign may be moved in whole or in part to any other location on the same or any other premises unless every portion of such sign is made to conform to all regulations of these sign regulations.
- (f) If a nonconforming sign is abandoned or the described business discontinued for a continuous period of thirty (30) days or more, it must be discontinued, and any subsequent sign must conform to all of the sign regulations in this article.
- (g) If a nonconforming sign must be removed temporarily or is misplaced, the responsible party for that sign may receive administrative approval to continue the sign upon written request within the thirty (30) day period of allowance of (f).

Section 4. This Ordinance is effective in accordance with Section 3.06 of the Excelsior City Charter.

Adopted by the Council of the City of Excelsior, Minnesota, this _____ day of _____ 2026.

Gary Ringate, Mayor

ATTEST:

Hilary Vokovan, City Clerk

Kristi Luger, City Manager

First Reading of Ordinance:	June 1, 2026
Second Reading and Adoption:	July 20, 2026
Publication of Ordinance:	July 30, 2026
Effective Date:	August 31, 2026



Item: 8.d.

ITEM REPORT

To: City Council

From: Hilary Vokovan, City Clerk

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: Resolution 2026-37 Appointing Election Judges and Absentee Ballot Board for the 2026 State Primary and General Election

Summary:

Minnesota State Statute 204B.21, Subdivision 2, states the City Council must appoint the Election Judges and Absentee Ballot Board Election Judges for the 2026 State Primary and General Election.

Recommended Action:

Adopt Resolution 2026-37 Appointing Election Judges and Absentee Ballot Board Election Judges for the 2026 State Primary and General Election.

Budget:

Attachments:

1. Resolution 2026-37

CITY OF EXCELSIOR
CITY COUNCIL
RESOLUTION NO. 2026-37

**RESOLUTION APPOINTING ELECTION JUDGES AND ABSENTEE BALLOT BOARD ELECTION
JUDGES FOR THE 2026 STATE PRIMARY AND GENERAL ELECTION**

WHEREAS, the State Primary Election will be held on August 11, 2026 and the General Election on November 3, 2026; and

WHEREAS, the city is responsible for hiring and training election judges and absentee ballot board election judges and utilize individuals that participated in the caucus process, those individuals who have previously served as election judges or who are new and city staff; and

WHEREAS, per State Statute, 204B.21, Subd. 2, the city may appoint additional election judges and absentee ballot board election judges within 25 days prior to any election if additional election judges will be required; and

WHEREAS, attached to this resolution is the list of individuals to be appointed for the 2026 elections.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF EXCELSIOR, MINNESOTA that the attached list of individuals are appointed to serve as election judges and absentee ballot board election judges for the 2026 elections.

BE IT FURTHER RESOLVED that all members appointed to the Hennepin County Absentee Ballot Board as authorized under State Statute, 203B.121, Subd. 1, under the direction of the Election Manager are also appointed to serve as election judges of Excelsior's Absentee Ballot Board.

BE IT FURTHER RESOLVED that the City Clerk is authorized to appoint additional election judges and absentee ballot board judges as deemed necessary within 25 days prior to both elections without further action.

Adopted by the City Council of the City of Excelsior, Minnesota, this 20th day of July, 2026.

Gary Ringate, Mayor

ATTEST:

Hilary Vokovan, City Clerk

Kristi Luger, City Manager

Listing of Election Judges for
2026 Primary and General Elections

Name
Becky Fuxa
Ann Nachtigal
Mary Jurgens
Kari Knapp
Jerry Kerber
Sharon Freeman
Chrystal O’Hanlon
Stephanie Lutz
Jane Stark
Brian Zais
John Knox
Lillian Hohag
Petra Cripe
Kristi Luger
Hilary Vokovan
Cari Lindberg
Kristin Gilbertson



Item: 8.e.

ITEM REPORT

To: City Council

From: Kristi Luger, City Manager

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: 2026 Goal Report - Second Quarter

Summary:

Included in the packet is the second quarter overview of the City's 2026 objectives. This format is meant to provide the Council with a quick progress report of their goals. A color code is used to rate the quarterly progress made on each item:

- Red – progress on the item is at less than 25% and work has started
- Orange – progress on the item is at 25%-49% and work is underway
- Yellow – progress on the item is at 50%-75% and work is well underway
- Green – progress on the item is at 76%-99% and work is almost complete
- Gray – item has been completed

Recommended Action:

No action required – information only.

Budget:

Attachments:

1. Q2 Report on 2026 Objectives

City of Excelsior 2026 Objectives

2026 Progress

Color-Coded Rating (R <25%, O 25-49%, Y 50-75%, G 76-99%)

Top Priorities	Responsible Party	Q1 Mar	Q2 June	Q3 Sept	Q4 Dec	Status
<u>Financial Planning</u> - Formalize long range capital improvement plan and capital outlays and consider creating a separate enterprise fund for the Commons	Jenny, Tim, Morgan, and Kristi					Staff is finalizing the capital improvement plan (CIP) and utility rate study with Baker Tily. In the fall, Northland will further refine the CIP. At a future work session, the Council will discuss whether to create a separate enterprise fund for the Commons.
<u>Communications</u> - Increase communication efforts (newsletters, open houses, updated website, etc.) and consider a social media strategy	Cari, Kristin, Hilary, and Jess					Staff is looking into the costs and logistics of a paper newsletter. The new website will launch in July and the Council will review the social media/communications plan at the August 3 meeting.
<u>261 School Avenue</u> - Complete remodeling for city hall, update tenant leases, and create an enterprise fund	Cari and Kristi					The architects are close to assembling a bid package for the remodeling of city hall based on input from the Council and staff. Many of the leases are updated, tenants are in the process of building out new spaces, and staff is creating a budget.
Planning and Heritage Preservation Priorities	Responsible Party	Q1 Mar	Q2 June	Q3 Sept	Q4 Dec	Status
Non-Conforming Structures Ordinance	Julia and Jess					The Council will review a draft of the non-conforming structures ordinance at the July 20 meeting.
Sign Ordinance	Julia and Jess					The Council will review the final version of the sign ordinance at the July 20 Council meeting.
Code Enforcement	Julia and Jess					A new planner tech will be hired in August that will also do code enforcement. Staff has also started the enforcement process on a dilapidated garage.
Parking Work Group	Julia					The work group continues to have productive meetings and are pushing to have a recommendation in August.
RRP Process for Landmark Properties	Julia and Jess					The Planning Commission will discuss the topic again at a future meeting.
106 Center Street	Julia and Kristi					Minnetonka Center for the Arts has until November 9 to exercise an option to extend the contingency period for 30 days.

Planning and Heritage Preservation Priorities	Responsible Party	Q1 Mar	Q2 June	Q3 Sept	Q4 Dec	Status
Reviewing HPC Guidelines	Jess					The HPC consultant is putting together a cost estimate for completing updates to the HPC guidelines.
HPC Public Relations	Jess					Staff is thinking about creating a 'StoryMap' for the historic properties, which allows users to click on a property located on a map and learn about the history of it.
PUD Ordinance Update	Julia and Jess					The Planning Commission will discuss the PUD ordinance at a high level at their July meeting.
Comprehensive Plan	Julia and Jess					At a future work session, likely third or fourth quarter, the Council will discuss the Comprehensive Plan process.
Outdoor Lighting Standards	Julia and Jess					The Planning Department will work on outdoor lighting standards during the third quarter of the year.
Good Neighbor Guidelines/ Zoning Amendments	Julia and Jess					The Planning Department will work on zoning amendments during the fourth quarter of the year.
Public Works and Parks Priorities	Responsible Party	Q1 Mar	Q2 June	Q3 Sept	Q4 Dec	Status
Commons Use Policy	Cari and Tim	COMPLETE				The Council approved the Commons Use Policy on April 20
Excelsior-Studer Park	Kevin					The Park and Recreation Commission will discuss whether this park should be programmed.
Inflow and Infiltration (I&I) Initiatives	Tim					The I&I ordinance will be reviewed by the city attorney and staff.
Mini Master Park Plan for the Commons	Tim and Kevin					A pop up event to gather additional feedback is scheduled for July 1 at the Rotary concert.
Oak Hill Cemetery	Kevin and Julia					SHPO is reviewing the historic nomination form. The management plan will be put together after the SHPO review.
Update the Tree Ordinance	Tim, Kevin, and Jess					A draft ordinance is almost ready for the tree ordinance work group to review.
St. Alban's Bay Bridge	Morgan, Tim, and Hilary					The consultant is preparing to present a report on the St. Alban's Bay Bridge in September.

MEMORANDUM

Re: Item 8(f)- May Financials

Date: July 20, 2026

To: City Council

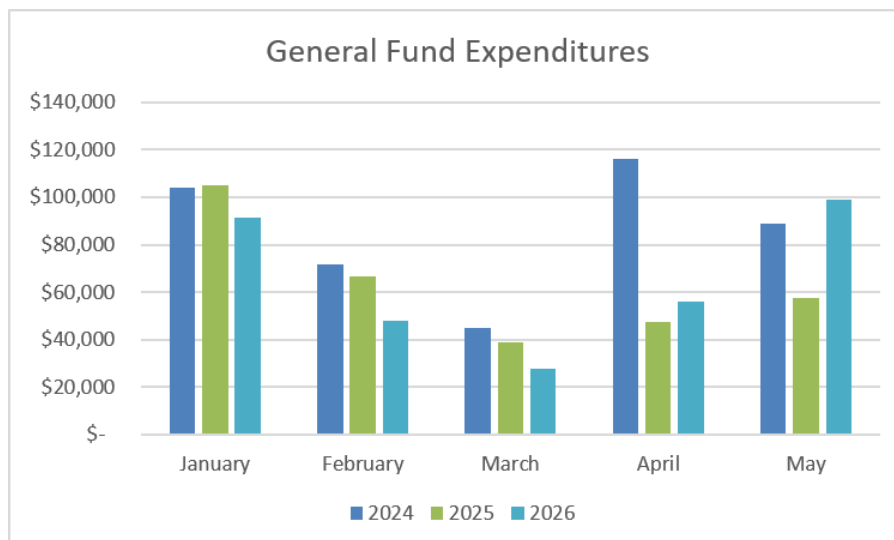
From: Jenny Palmer-Finance Director

General Fund Revenues

The May target budget is 41.67%. Revenues are under budget but higher than last year at the same time period. The first half tax settlement deposit won't happen until June 22nd. Revenues over previous years for May are trending better even without the parking meter revenue.

GENERAL FUND	<u>BUDGET</u>	May REVENUE	YTD REVENUE	VARIANCE	PERCENT <u>RECEIVED</u>
Taxes and Franchise Fees	2,087,125	11,990	36,863	2,050,262	1.77%
Business Licenses	120,925	300	4,775	116,150	3.95%
Non-Business Licenses/Permits	271,050	72,313	161,611	109,439	59.62%
Intergovernmental Revenue	57,000	-	7,223	49,777	12.67%
Charges for Services	73,900	5,796	28,405	45,495	38.44%
Fines	15,000	4,282	4,282	10,718	28.55%
Water Tower and Kayak Rental	46,500	517	49,268	(2,768)	105.95%
Park Vendor, Garden and Cemetery Plots	42,000	1,930	9,860	32,140	23.48%
Transfers from Other Funds	625,000			625,000	0.00%
Other Revenue	144,500	1,778	19,470	125,030	13.47%
GENERAL FUND TOTAL	3,483,000	98,906	321,757	3,161,243	9.24%

	May YTD Revenues	Annual Revenues	% of Annual Revenues
2024	\$ 425,515	\$ 3,097,442	13.74%
2025	\$ 315,032	\$ 3,486,562	9.04%
2026	\$ 321,757	\$ 3,483,000	9.24%

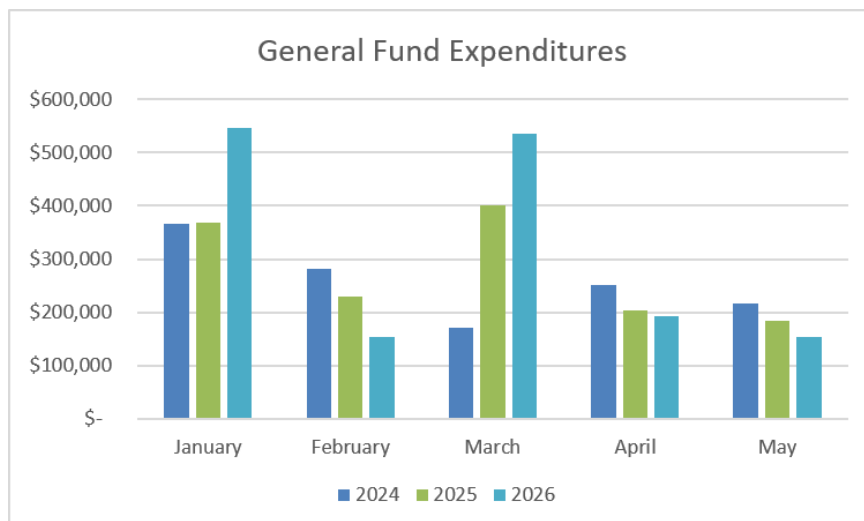


General Fund Expenses

General Fund target expenses are 41.67%; currently expenses are 3.71% over target budget. Police and Fire are both at 50% due to half of the expenses paid for the year. Expenses for Streets are higher than the target budget due to equipment repairs for snow removal equipment and Workers Comp for the year is paid in April. City Manager/Clerk is slightly higher due to annual training being paid in January. City Administration expenses are higher due to purchasing planning software in January and paying for the 2026 audit expenses in April. Expenses are still in line with prior years.

GENERAL FUND	<u>BUDGET</u>	<u>May EXPENSE</u>	<u>YTD EXPENSE</u>	<u>VARIANCE</u>	<u>PERCENT EXPENDED</u>
Council	19,469	115	4,545	14,924	23.35%
City Manager/Clerk	245,652	18,612	113,429	132,223	46.17%
Elections	7,624	-	867	6,757	11.37%
Finance	84,549	6,997	36,685	47,864	43.39%
Planning & Zoning	275,411	18,336	115,387	160,024	41.90%
City Administration	336,653	19,587	150,956	185,697	44.84%
Heritage Preservation	25,500	727	10,040	15,460	39.37%
Police	1,064,764	-	533,827	530,937	50.14%
Fire	361,208	-	179,604	181,604	49.72%
Building Inspections	75,000	2,190	16,574	58,426	22.10%
Engineering	50,000	2,190	16,574	33,426	33.15%
Streets	308,302	21,779	141,006	167,296	45.74%
Park Maintenance	528,368	55,732	216,555	311,813	40.99%
Recreation Program	500	-	458	42	91.60%
Trees and Plantings	100,000	6,527	44,103	55,897	44.10%
GENERAL FUND TOTAL	3,483,000	152,793	1,580,608	1,902,392	45.38%

	May	Annual	% of Annual
	YTD Expenses	Expenses	Expenses
2024	\$ 1,286,764	\$ 3,097,442	41.54%
2025	\$ 1,387,389	\$ 3,346,062	41.46%
2026	\$ 1,580,608	\$ 3,483,000	45.38%

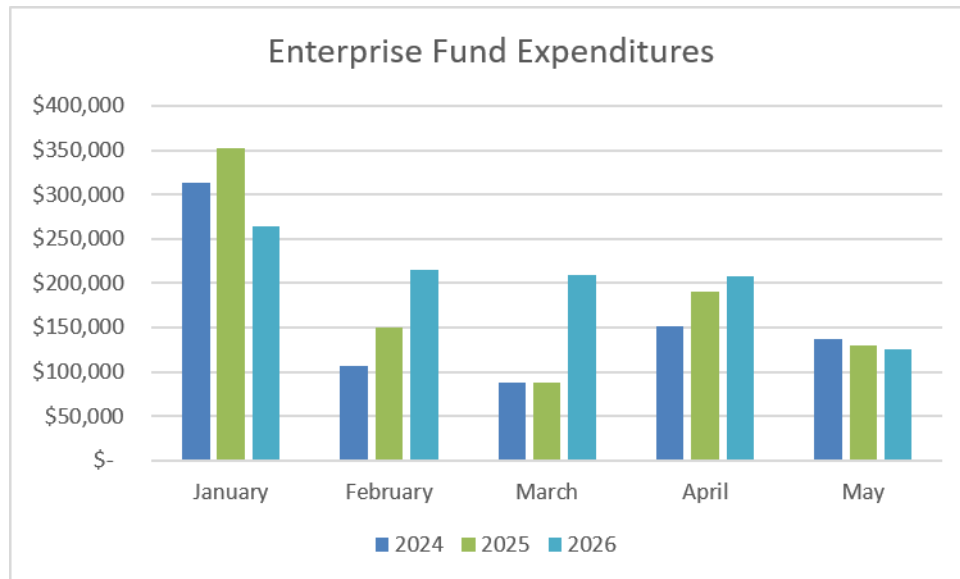


Enterprise Funds Revenue

The Enterprise Fund revenues are slightly under budget by 1.38%. The months included in the revenues for Water and Sewer are October 25-March 26 and are the lower usage months. The months of April-October are the high water usage months so these rates will stabilize over the summer season. Charter boat invoices went out in June so the revenues in the Dock Fund will also increase over the summer months.

	<u>BUDGET</u>	May REVENUE	YTD REVENUE	VARIANCE	PERCENT <u>RECEIVED</u>
Water Fund	1,379,370	140,205	491,179	888,191	35.61%
Sewer Fund	1,030,096	114,669	387,858	642,238	37.65%
Street Lighting Fund	76,000	10,263	36,831	39,169	48.46%
Docks Fund	537,007	6,991	291,795	245,212	54.34%
Surface Water Mgmt Fund	380,400	53,726	163,476	216,924	42.97%
ENTERPRISE FUND TOTAL	3,402,873	325,854	1,371,139	2,031,734	40.29%

	May YTD Revenues	Annual Revenues	% of Annual Revenues
2024	\$ 1,195,460	\$ 2,584,550	46.25%
2025	\$ 1,447,023	\$ 2,836,495	51.01%
2026	\$ 1,371,139	\$ 3,402,873	40.29%

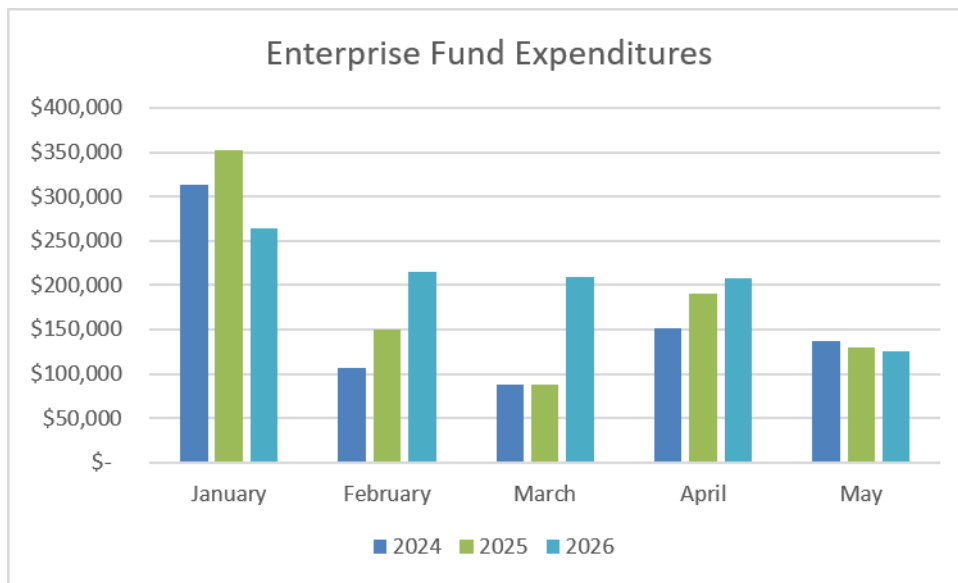


Enterprise Funds Expenditures

The Enterprise Fund expenses are 8.28% under the target budget of 41.67% for May.

	<u>BUDGET</u>	<u>May EXPENSE</u>	<u>YTD EXPENSE</u>	<u>VARIANCE</u>	<u>PERCENT EXPENDED</u>
Water Fund	926,074	38,084	350,589	575,485	37.86%
Sewer Fund	1,045,025	48,022	400,805	644,220	38.35%
Street Lighting Fund	91,331	6,174	34,323	57,008	37.58%
Docks Fund	564,892	18,274	100,289	464,603	17.75%
Surface Water Mgmt Fund	430,306	14,616	135,024	295,282	31.38%
ENTERPRISE FUND TOTAL	3,057,628	125,170	1,021,030	2,036,598	33.39%

		May	Annual	% of Annual
		YTD Expenses	Expenditures	Expenditures
2024	\$	796,024	\$ 2,657,378	29.96%
2025	\$	908,531	\$ 2,449,727	37.09%
2026	\$	1,021,030	\$ 3,057,628	33.39%



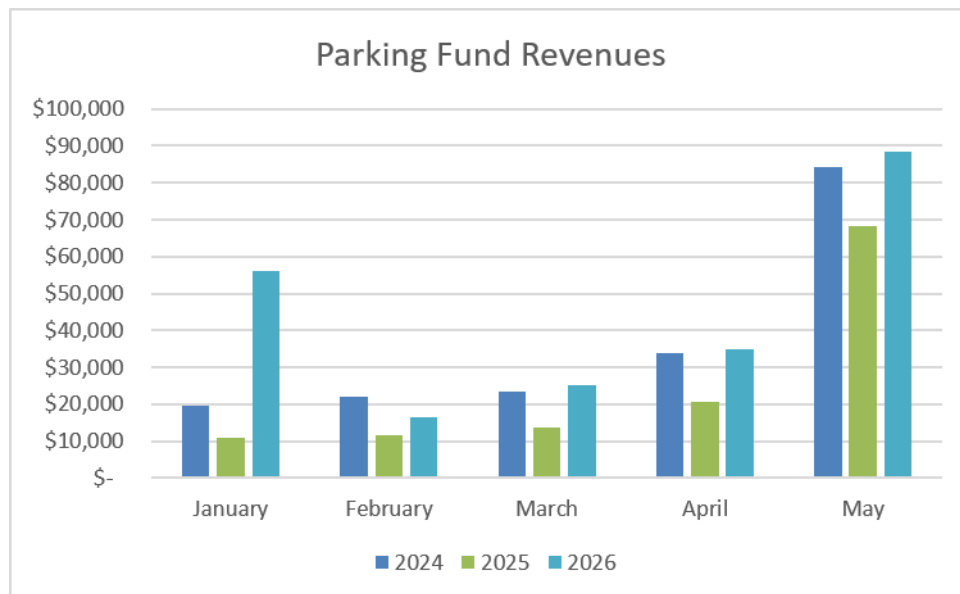
Parking Fund Revenues

The parking revenues are now tracked in their own fund. The main revenue generating months for parking are May-August. While parking revenues are under budget, they are in line with prior years. Parking permit revenues are significantly higher than the target budget of 41.67% due to customers renewing their permits in the beginning of the year. Parking Citation revenue is also higher because it includes fine revenue from Hennepin County in addition to citations from Interstate.

Revenues

	May	Annual	% of Annual
	YTD Revenues	Revenues	Revenues
2024	\$ 183,051	\$ 745,122	24.57%
2025	\$ 125,263	\$ 602,394	20.79%
2026	\$ 221,052	\$ 1,096,400	20.16%

PARKING FUND	<u>BUDGET</u>	May REVENUE	YTD REVENUE	VARIANCE	PERCENT <u>RECEIVED</u>
Special Event Parking	62,200	0	2,626	59,574	4.22%
Metered Parking	883,000	73,161	148,036	734,964	16.77%
Parking Permits	25,000	8,957	28,523	(3,523)	114.09%
Parking Citations	50,000	6,327	27,380	22,620	54.76%
Parking Impact Fees	0	0	0	-	0.00%
Charter Boat Maintenance Fees	30,300	0	0	30,300	0.00%
Parking Lot Maintenance Fees	45,900	0	14,487	31,413	31.56%
PARKING FUND TOTAL	1,096,400	88,445	221,052	875,348	20.16%

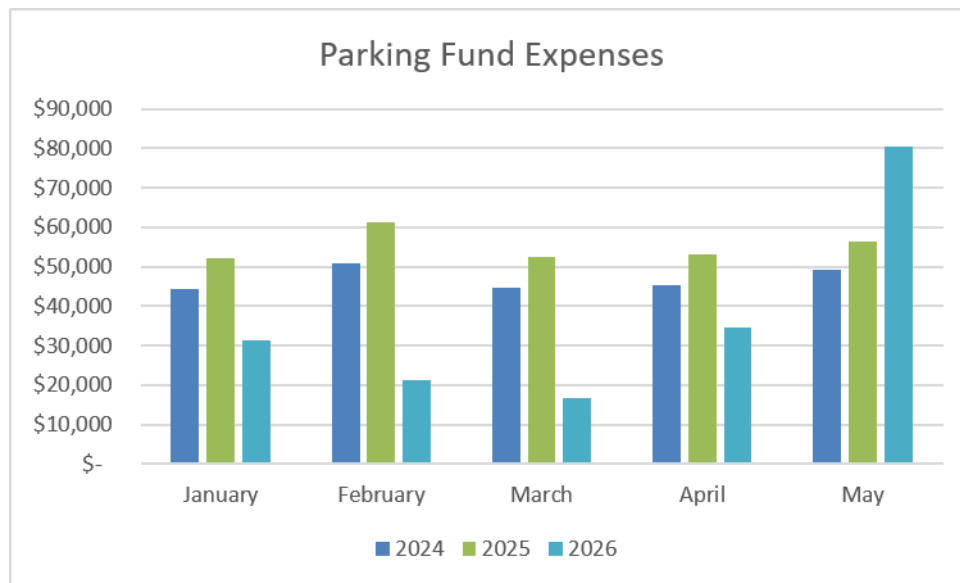


Parking Fund Expenses

Parking Fund expenses are under budget and less than prior years due to the operator fees being structured to match the months with higher revenues. Also, the budget for Ramp Reserves for Major Repairs has been updated to reflect the budget from Interstate Parking. Ramp Maintenance is over budget due to the Parking Fund's share of the annual street sweeper lease payment made in February. City Staff is over budget due to worker's compensation paid in full in April.

PARKING FUND	BUDGET	May EXPENSE	YTD EXPENSE	VARIANCE	PERCENT EXPENDED
Ramp Reserves for Major Repairs	18,945	3,157	6,315	12,630	33.33%
Ramp Insurance, Utilities, Supplies	10,500	337	4,095	6,405	39.00%
Ramp Maintenance	11,000		10,097	903	91.79%
City Staff	96,162	9,234	47,692	48,470	49.60%
Parking Operator	401,150	50,000	77,200	323,950	19.24%
Permitting, Office, Bank Fees, Admin Costs	86,305	12,058	36,146	50,159	41.88%
Downtown Beautification	35,000	2,977	3,072	31,928	8.78%
Transfer to General Fund	350,000		0	350,000	0.00%
Transfer to Debt Service	204,559		0	204,559	0.00%
PARKING FUND TOTAL	1,213,621	77,763	184,617	1,029,004	15.21%

	May	Annual	% of Annual
	YTD Expenses	Expenses	Revenues
2024	\$ 234,478	\$ 587,913	39.88%
2025	\$ 275,966	\$ 685,746	40.24%
2026	\$ 184,617	\$ 1,213,621	15.21%



Capital and Special Revenue Funds

Revenues	<u>BUDGET</u>	<u>May ACTIVITY</u>	<u>YTD</u>	<u>VARIANCE</u>	<u>PERCENT EXPENDED</u>
Local Sales Tax - The Commons	802,000	54,016	284,762	517,238	35.51%
Debt Service Funds	1,423,885	675,703	701,013	722,872	49.23%
Capital Project Funds	1,430,622	115,090	174,693	1,255,929	12.21%
Expenditures					
Local Sales Tax - The Commons	875,000	673,000	702,748	172,252	80.31%
Debt Service Funds	1,654,270	2,700	1,358,560	295,710	82.12%
Capital Project Funds	619,300	174,693	289,632	329,668	46.77%

Revenues:

- Capital Project fund is under budget due to the anticipated sale of 106 Center Street.

Expenditures:

- Debt Service Funds are over budget due to principal and interest payments due in January. These funds will stabilize throughout the year.

Council Action: Accept report for filing.



Item: 8.g.

ITEM REPORT

To: City Council
From: Jenny Palmer, Finance Director
Meeting Date: July 20, 2026
Department/Office: Finance
Item Name: Second Quarter Gambling Report

Summary:

Staff has received the following charitable gambling donations during the second quarter of 2026 totaling \$8,584.89. These contributions are reflected in the Park Improvement Fund Financial Statement that follows this report.

Haskell's – Minnetonka Youth Hockey Association

April	\$3,970.14
May	\$2,009.35
June	\$0.00

Maynards – Rotary Club of Lake Minnetonka-Excelsior

April	\$0.00
May	\$2,416.02
June	\$189.38

All Charitable Gambling proceeds are committed to The Commons Master Plan Park Improvements and must be spent on lawful purpose expenditures as defined in MN Statute 349.12, Subdivision 7a.

Recommended Action:

Acknowledge charitable gambling donations.

Budget:**Attachments:**

None



Item: 8.h.

ITEM REPORT

To: City Council

From: Hilary Vokovan, City Clerk

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: Fat Oil Grease (FOG) Program Ordinance - Rescheduled

Summary:

Notice of a Public Hearing for the Fat Oil Grease (FOG) Program Ordinance was given for the July 20, 2026 City Council meeting. Upon further review, the ordinance does not need a public hearing and will be on the August 3, 2026 City Council meeting for Council review.

Recommended Action:

No action required. Informational only.

Budget:

Attachments:

None



Item: 8.i.

ITEM REPORT

To: City Council

From: Morgan Dawley, City Engineer

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: Division Street Watermain Lining Project - Approve Pay Voucher No. 1

Summary:

All work by the contractor included in Construction Pay Voucher No. 1 has been completed on the Division Street Watermain Lining Project, and the quantities have been reviewed and agreed upon by the contractor. Staff recommends approval of the attached Construction Pay Voucher No. 1 in the amount of \$219,734.05.

Major items of work completed during this pay period include temporary water installation, pavement and curb removal, utility pit excavation, and lining of the existing watermain. The project funding source is 2026C bond issuance revenue with debt service by watermain utility funds.

Recommended Action:

Approve Construction Pay Voucher No. 1 for the Division Street Watermain Lining Project and authorize payment in the amount of \$219,734.05 to Bituminous Roadways, Inc.

Budget:

Attachments:

1. Construction Pay Voucher No. 1
2. WSB Recommendation Letter

Client: City of Excelsior 37 Water Street Excelsior, MN 55331	Contractor: Bituminous Roadways, Inc. 1520 Commerce Drive Mendota Heights, MN 55120
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WSB Project No.: 031327-000
Client Project No.:
State Project No.:
Federal Project No.:

Contract Amount		Funds Encumbered	
Original Contract	\$402,370.00	Original	\$402,370.00
Contract Changes	\$0.00	Additional	N/A
Revised Contract	\$402,370.00	Total	\$402,370.00

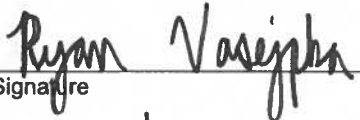
Work Certified To Date	
Base Bid Items	\$231,299.00
Contract Changes	\$0.00
Material On Hand	\$0.00
Total	\$231,299.00

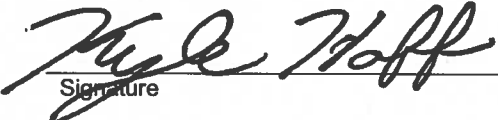
Work Certified This Voucher	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
\$231,299.00	\$231,299.00	\$11,564.95	\$0.00	\$219,734.05	\$219,734.05
Percent Retained: 5%			Percent Complete: 57.48%		

This is to certify that the items of work shown in this Pay Voucher have been actually furnished for the work comprising the above-mentioned project in accordance with the plans and specifications heretofore approved.

Approved By Bituminous Roadways, Inc.

Approved By WSB


Signature


Signature

7/14/26
Date

July 14, 2026
Date

Approved By City of Excelsior

Signature

Date

Payment Summary				
No.	Up Through Date	Work Certified Per Voucher	Amount Retained Per Voucher	Amount Paid Per Voucher
1	07/03/26	\$231,299.00	\$11,564.95	\$219,734.05

Funding Category Name	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
1 - Local Funding	\$231,299.00	\$11,564.95	\$0.00	\$219,734.05	\$219,734.05

Accounting Number	Funding Source	Amount Paid This Voucher	Revised Contract Amount	Funds Encumbered To Date	Paid Contractor To Date
1 - Local Funding	Local	\$219,734.05	\$402,370.00	\$402,370.00	\$219,734.05

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
1	2021.501	MOBILIZATION	LS	\$70,000.00	1	1	\$70,000.00	1	\$70,000.00
2	2104.502	REMOVE GATE VALVE & BOX	EACH	\$1,000.00	3	3	\$3,000.00	3	\$3,000.00
3	2104.502	REMOVE HYDRANT	EACH	\$2,500.00	1	0	\$0.00	0	\$0.00
4	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	\$5.00	20	0	\$0.00	0	\$0.00
5	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$2.50	300	211.6	\$529.00	211.6	\$529.00
6	2104.503	REMOVE WATER MAIN	L F	\$40.00	70	16.1	\$644.00	16.1	\$644.00
7	2104.503	REMOVE CURB & GUTTER	L F	\$20.00	90	22.8	\$456.00	22.8	\$456.00
8	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	S Y	\$50.00	10	0	\$0.00	0	\$0.00
9	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	\$50.00	10	0	\$0.00	0	\$0.00
10	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$10.00	440	70.7	\$707.00	70.7	\$707.00
11	2106.507	EXCAVATION - COMMON	C Y	\$75.00	110	0	\$0.00	0	\$0.00
12	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOUR	\$185.00	10	3	\$555.00	3	\$555.00
13	2123.610	UTILITY CREW	HOUR	\$1,050.00	5	0	\$0.00	0	\$0.00
14	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$55.00	100	3.4	\$187.00	3.4	\$187.00
15	2360.504	TYPE SP 9.5 WEAR CRS MIX (2,B) 3.0" THICK	S Y	\$40.00	10	0	\$0.00	0	\$0.00
16	2360.509	TYPE SP 9.5 WEARING COURSE MIX (2,B)	TON	\$100.00	40	8.21	\$821.00	8.21	\$821.00
17	2360.509	TYPE SP 12.5 WEARING COURSE MIX (2,B)	TON	\$110.00	70	0	\$0.00	0	\$0.00
18	2504.601	TEMPORARY WATER SERVICE	LS	\$50,000.00	1	1	\$50,000.00	1	\$50,000.00
19	2504.602	ROBOTICALLY REINSTATE WATER SERVICE	EACH	\$980.00	14	0	\$0.00	0	\$0.00
20	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$2,000.00	7	0	\$0.00	0	\$0.00
21	2504.602	HYDRANT	EACH	\$20,000.00	1	0	\$0.00	0	\$0.00
22	2504.602	ADJUST GATE VALVE	EACH	\$2,000.00	1	0	\$0.00	0	\$0.00
23	2504.602	6" GATE VALVE & BOX	EACH	\$7,500.00	4	1	\$7,500.00	1	\$7,500.00
24	2504.602	RECONNECT WATER SERVICE	EACH	\$10,000.00	1	0	\$0.00	0	\$0.00
25	2504.602	WATERMAIN SPOT REPAIR	EACH	\$5,000.00	1	0	\$0.00	0	\$0.00
26	2504.603	6" PVC WATERMAIN	L F	\$100.00	70	0	\$0.00	0	\$0.00
27	2504.603	LINING WATER MAIN 6"	L F	\$135.00	720	712	\$96,120.00	712	\$96,120.00
28	2504.608	DUCTILE IRON FITTINGS	LB	\$40.00	380	0	\$0.00	0	\$0.00
29	2506.502	ADJUST FRAME & RING CASTING	EACH	\$1,500.00	3	0	\$0.00	0	\$0.00
30	2506.602	CHIMNEY SEAL	EACH	\$300.00	3	0	\$0.00	0	\$0.00
31	2531.503	CONCRETE CURB & GUTTER DESIGN B618	L F	\$45.00	90	0	\$0.00	0	\$0.00
32	2531.504	6" CONCRETE DRIVEWAY PAVEMENT	S Y	\$160.00	10	0	\$0.00	0	\$0.00
33	2573.502	STORM DRAIN INLET PROTECTION	EACH	\$250.00	5	2	\$500.00	2	\$500.00

Contract Item Status

Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
34	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	\$7.00	150	40	\$280.00	40	\$280.00
35	2574.507	COMMON TOPSOIL BORROW	C Y	\$100.00	20	0	\$0.00	0	\$0.00
36	2575.504	SODDING TYPE LAWN	S Y	\$30.00	110	0	\$0.00	0	\$0.00
37	2575.523	WATER	MGAL	\$100.00	3	0	\$0.00	0	\$0.00
Bid Totals:							\$231,299.00		\$231,299.00

Project Category Totals

Category	Amount This Voucher	Amount To Date
A. BASE BID: SURFACE AND WATERMAIN IMPROVEMENTS	\$231,299.00	\$231,299.00

Contract Change Item Status

CC	CC No.	Line No.	Item	Description	Units	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
Contract Change Totals:											

Contract Change Totals

No.	Contract Change	Description	Amount This Voucher	Amount To Date

Material On Hand Additions

Line No.	Item	Description	Date	Added	Comments

Material On Hand Balance

Line No.	Item	Description	Date	Added	Used	Remaining



July 14, 2026

Ms. Kristi Luger
City Manager
City of Excelsior
PO Box 558
Excelsior, MN 55331

Re: Construction Pay Voucher No. 1
Division Street Watermain Lining
City of Excelsior, MN
WSB Project No. 031327-000

Dear Ms. Luger:

Please find attached Construction Pay Voucher No. 1 in the amount of \$219,734.05 for the above-referenced project. The quantities completed to date have been reviewed and agreed upon by the contractor, and we hereby recommend that the City of Excelsior approve Construction Pay Voucher No. 1 in the amount of \$219,734.05 for Bituminous Roadways, Inc.

Once processed, please keep one copy for your records and return two copies to our office, one for the contractor and one for our files.

If you have any questions, please contact me at 608.632.1432. Thank you.

Sincerely,

WSB

Kyle Hoff, PE
Project Manager

Attachment

cc: Hilary Vokovan, City of Excelsior
Tim Amundsen, City of Excelsior
Morgan Dawley, WSB

srb



Item: 8.j.

ITEM REPORT

To: City Council

From: Morgan Dawley, City Engineer

Meeting Date: July 20, 2026

Department/Office: Administration

Item Name: Third and Center Street SUIP - Approve Pay Voucher No. 1

Summary:

All work by the contractor included in Construction Pay Voucher No. 1 has been completed on the Third and Center Street SUIP, and the quantities have been reviewed and agreed upon by the contractor. Staff recommends approval of the attached Construction Pay Voucher No. 1 in the amount of \$341,829.50.

Major items of work completed during this pay period include street removals and sanitary sewer and watermain replacement in Phase 1 of the project (Third Street between Lake Minnetonka and Smith Street).

Recommended Action:

Approve Construction Pay Voucher No. 1 for the Third and Center Street SUIP and authorize payment in the amount of \$341,829.50 to GMH Asphalt Corporation.

Budget:

Attachments:

1. Construction Voucher No. 1
2. WSB Recommendation Letter

Client: City of Excelsior 37 Water Street Excelsior, MN 55331	Contractor: GMH Asphalt Corporation 9180 Laketown Road Chaska, MN 55318
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WSB Project No.: 030889-000
Client Project No.:
State Project No.:
Federal Project No.:

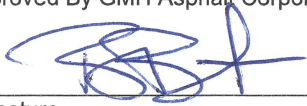
Contract Amount		Funds Encumbered	
Original Contract	\$4,736,389.43	Original	\$4,736,389.43
Contract Changes	\$0.00	Additional	N/A
Revised Contract	\$4,736,389.43	Total	\$4,736,389.43

Work Certified To Date	
Base Bid Items	\$359,820.53
Contract Changes	\$0.00
Material On Hand	\$0.00
Total	\$359,820.53

Work Certified This Voucher	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
\$359,820.53	\$359,820.53	\$17,991.03	\$0.00	\$341,829.50	\$341,829.50
Percent Retained: 5%			Percent Complete: 7.6%		

This is to certify that the items of work shown in this Pay Voucher have been actually furnished for the work comprising the above-mentioned project in accordance with the plans and specifications heretofore approved.

Approved By GMH Asphalt Corporation

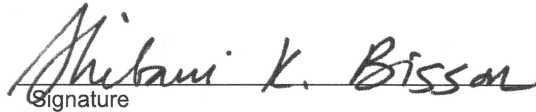


Signature

7-14-26

Date

Approved By WSB



Signature

July 14, 2026

Date

Approved By City of Excelsior

Signature

Date

Payment Summary				
No.	Up Through Date	Work Certified Per Voucher	Amount Retained Per Voucher	Amount Paid Per Voucher
1	07/03/26	\$359,820.53	\$17,991.03	\$341,829.50

Funding Category Name	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Voucher	Total Amount Paid To Date
1 - Local Funding	\$359,820.53	\$17,991.03	\$0.00	\$341,829.50	\$341,829.50

Accounting Number	Funding Source	Amount Paid This Voucher	Revised Contract Amount	Funds Encumbered To Date	Paid Contractor To Date
1 - Local Funding	Local	\$341,829.50	\$4,736,389.43	\$4,736,389.43	\$341,829.50

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
1	2011.601	VIBRATION MONITORING	LS	\$47,475.00	1	0	\$0.00	0	\$0.00
2	2021.501	MOBILIZATION	LS	\$230,000.00	1	0.2	\$46,000.00	0.2	\$46,000.00
3	2101.502	CLEARING	EACH	\$595.00	28	1	\$595.00	1	\$595.00
4	2101.502	GRUBBING	EACH	\$397.00	28	1	\$397.00	1	\$397.00
5	2104.502	REMOVE SIGN	EACH	\$26.40	18	0	\$0.00	0	\$0.00
6	2104.502	SALVAGE SIGN	EACH	\$26.40	19	0	\$0.00	0	\$0.00
7	2104.502	SALVAGE BENCH	EACH	\$250.00	2	0	\$0.00	0	\$0.00
8	2104.503	SAWING CONCRETE PAVEMENT (FULL DEPTH)	L F	\$7.20	210	131	\$943.20	131	\$943.20
9	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$2.59	726	314	\$813.26	314	\$813.26
10	2104.503	REMOVE CURB & GUTTER	L F	\$3.50	4832	1085.7	\$3,799.95	1085.7	\$3,799.95
11	2104.503	SALVAGE FENCE	L F	\$10.15	42	30	\$304.50	30	\$304.50
12	2104.504	REMOVE CONCRETE DRIVEWAY PAVEMENT	S Y	\$19.50	544	49	\$955.50	49	\$955.50
13	2104.504	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	S Y	\$9.00	427	159	\$1,431.00	159	\$1,431.00
14	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$1.65	12508	2543.22	\$4,196.31	2543.22	\$4,196.31
15	2104.518	REMOVE CONCRETE WALK	S F	\$1.00	25662	0	\$0.00	0	\$0.00
16	2104.618	SALVAGE BRICK PAVERS	S F	\$16.70	268	76.4	\$1,275.88	76.4	\$1,275.88
17	2106.507	EXCAVATION - COMMON (P)	C Y	\$43.75	3983	0	\$0.00	0	\$0.00
18	2106.507	EXCAVATION - SUBGRADE	C Y	\$42.50	6928	0	\$0.00	0	\$0.00
19	2106.507	SELECT GRANULAR EMBANKMENT (CV)	C Y	\$33.60	8040	0	\$0.00	0	\$0.00
20	2106.507	COMMON EMBANKMENT (CV)	C Y	\$7.70	2000	0	\$0.00	0	\$0.00
21	2106.507	STABILIZING AGGREGATE (CV)	C Y	\$44.50	974	52.35	\$2,329.58	52.35	\$2,329.58
22	2106.607	EXCAVATION - SUBGRADE (CONTAMINATED)	C Y	\$16.30	2000	0	\$0.00	0	\$0.00
23	2106.607	HAUL & DISPOSE OF CONTAMINATED MATERIAL (PETROLEUM IMPACTED SOIL)	C Y	\$52.10	2000	0	\$0.00	0	\$0.00
24	2106.609	HAUL & DISPOSE OF CONTAMINATED MATERIAL (COAL TAR IMPACTED BITUMINOUS PAVEMENT)	TON	\$33.90	2780	868	\$29,425.20	868	\$29,425.20
25	2106.609	HAUL & DISPOSE OF CONTAMINATED MATERIAL (COAL TAR IMPACTED SOIL)	TON	\$15.00	3128	0	\$0.00	0	\$0.00
26	2108.604	GEOTEXTILE FABRIC TYPE 5	S Y	\$3.05	11682	0	\$0.00	0	\$0.00
27	2112.519	SUBGRADE PREPARATION	RDST	\$550.00	34	0	\$0.00	0	\$0.00
28	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	WATER	\$195.00	50	9	\$1,755.00	9	\$1,755.00
29	2130.523	WATER	MGAL	\$85.00	59	0	\$0.00	0	\$0.00
30	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$48.95	2978	0	\$0.00	0	\$0.00
31	2301.504	CONCRETE PAVEMENT 6" HIGH-EARLY	S Y	\$90.25	914	0	\$0.00	0	\$0.00
32	2231.503	BITUMINOUS PATCHING MIXTURE	L F	\$6.50	6366	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
33	2360.504	TYPE SP 9.5 WEAR CRS MIX(2,B)3.0" THICK	S Y	\$66.20	97	0	\$0.00	0	\$0.00
34	2360.509	TYPE SP 9.5 WEARING COURSE MIX (2;C)	TON	\$99.30	1321	0	\$0.00	0	\$0.00
35	2360.509	TYPE SP 12.5 WEARING COURSE MIX (2,C)	TON	\$92.20	1321	0	\$0.00	0	\$0.00
36	2504.602	ADJUST CURB BOX	EACH	\$223.00	1	0	\$0.00	0	\$0.00
37	2506.502	ADJUST FRAME & RING CASTING	EACH	\$1,453.00	2	0	\$0.00	0	\$0.00
38	2521.518	4" CONCRETE WALK	S F	\$6.55	27547	0	\$0.00	0	\$0.00
39	2521.518	6" CONCRETE WALK	S F	\$14.20	1157	0	\$0.00	0	\$0.00
40	2531.503	CONCRETE CURB & GUTTER HAND FORM	L F	\$33.10	600	0	\$0.00	0	\$0.00
41	2531.503	CONCRETE CURB & GUTTER DESIGN B418	L F	\$20.15	578	0	\$0.00	0	\$0.00
42	2531.503	CONCRETE CURB & GUTTER DESIGN B618	L F	\$22.15	5188	0	\$0.00	0	\$0.00
43	2531.603	7" CONCRETE VALLEY GUTTER	L F	\$48.25	67	0	\$0.00	0	\$0.00
44	2531.618	TRUNCATED DOMES	S F	\$62.20	274	0	\$0.00	0	\$0.00
45	2540.602	INSTALL BENCH	EACH	\$250.00	2	0	\$0.00	0	\$0.00
46	2540.602	TEMPORARY MAIL BOX	EACH	\$195.00	75	16	\$3,120.00	16	\$3,120.00
47	2540.602	MAIL BOX	EACH	\$185.00	2	0	\$0.00	0	\$0.00
48	2540.602	MAIL BOX SUPPORT	EACH	\$52.75	2	0	\$0.00	0	\$0.00
49	2540.618	INSTALL BRICK PAVERS	S F	\$21.85	343	0	\$0.00	0	\$0.00
50	2557.603	INSTALL FENCE	L F	\$129.00	42	0	\$0.00	0	\$0.00
51	2563.601	TRAFFIC CONTROL	LS	\$10,550.00	1	0.2	\$2,110.00	0.2	\$2,110.00
52	2564.618	SIGN PANELS TYPE C	S F	\$63.30	121	0	\$0.00	0	\$0.00
53	2564.502	INSTALL SIGN PANEL TYPE SPECIAL	EACH	\$211.00	15	0	\$0.00	0	\$0.00
54	2564.502	INSTALL SIGN	EACH	\$211.00	18	0	\$0.00	0	\$0.00
55	2571.502	DECIDUOUS TREE 2" CAL B&B	EACH	\$717.00	28	0	\$0.00	0	\$0.00
56	2571.602	TREE TRENCH	EACH	\$28,000.00	3	0	\$0.00	0	\$0.00
57	2572.503	CLEAN ROOT CUTTING	L F	\$7.50	1830	0	\$0.00	0	\$0.00
58	2572.506	WATER	GAL	\$1.00	1830	0	\$0.00	0	\$0.00
59	2572.507	ROOTING TOPSOIL BORROW	C Y	\$100.00	114	0	\$0.00	0	\$0.00
60	2572.510	PRUNE TREES	HOURL	\$262.00	20	2	\$524.00	2	\$524.00
61	2572.604	HYDROVAC AND PLACE CU STRUCTURAL SOIL BORROW	HOURL	\$416.00	48	0	\$0.00	0	\$0.00
62	2573.501	STABILIZED CONSTRUCTION EXIT	LS	\$800.00	1	0.2	\$160.00	0.2	\$160.00
63	2573.502	STORM DRAIN INLET PROTECTION	EACH	\$158.00	25	8	\$1,264.00	8	\$1,264.00
64	2573.503	SEDIMENT CONTROL LOG TYPE WOOD FIBER	L F	\$4.15	559	1525	\$6,328.75	1525	\$6,328.75
65	2574.507	COMMON TOPSOIL BORROW	C Y	\$72.80	472	0	\$0.00	0	\$0.00
66	2574.508	FERTILIZER TYPE 3	LB	\$1.58	308	0	\$0.00	0	\$0.00
67	2575.504	SODDING TYPE LAWN	S Y	\$10.50	6369	0	\$0.00	0	\$0.00
68	2575.508	HYDRAULIC STABILIZED FIBER MATRIX	LB	\$2.00	3948	0	\$0.00	0	\$0.00
69	2575.523	WATER	MGAL	\$31.65	96	0	\$0.00	0	\$0.00
70	2582.518	CROSSWALK MULTI COMP	S F	\$13.30	217	0	\$0.00	0	\$0.00
71	2021.501	MOBILIZATION	LS	\$1,000.00	1	0	\$0.00	0	\$0.00
72	2104.502	REMOVE DRAINAGE STRUCTURE	EACH	\$381.00	7	0	\$0.00	0	\$0.00
73	2104.503	REMOVE SEWER PIPE (STORM)	L F	\$13.15	235	0	\$0.00	0	\$0.00
74	2502.503	8" PVC PIPE DRAIN	L F	\$133.00	125	0	\$0.00	0	\$0.00
75	2502.503	4" PERF PVC PIPE DRAIN	L F	\$25.00	150	0	\$0.00	0	\$0.00
76	2503.503	12" RC PIPE SEWER CLASS V	L F	\$69.05	48	0	\$0.00	0	\$0.00
77	2503.503	15" RC PIPE SEWER CLASS V	L F	\$64.50	1089	0	\$0.00	0	\$0.00
78	2503.503	18" RC PIPE SEWER CLASS V	L F	\$76.85	59	0	\$0.00	0	\$0.00
79	2503.602	CONNECT TO EXISTING STORM SEWER	EACH	\$2,026.00	1	0	\$0.00	0	\$0.00
80	2506.502	CASTING ASSEMBLY	EACH	\$1,314.00	9	0	\$0.00	0	\$0.00
81	2506.503	CONST DRAINAGE STRUCTURE DESIGN H	L F	\$249.00	5	0	\$0.00	0	\$0.00
82	2506.503	CONST DRAINAGE STRUCTURE DES 48-4020	L F	\$475.00	32	0	\$0.00	0	\$0.00
83	2506.503	CONST DRAINAGE STRUCTURE DES 60-4020	L F	\$779.00	9	0	\$0.00	0	\$0.00

Contract Item Status									
Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
84	2506.602	CONNECT INTO EXISTING DRAINAGE STRUCTURE	EACH	\$1,519.00	2	0	\$0.00	0	\$0.00
85	2506.602	CONST DRAINAGE STRUCTURE DESIGN SPEC (2'X3')	EACH	\$2,377.00	5	0	\$0.00	0	\$0.00
86	2021.501	MOBILIZATION	LS	\$1,000.00	1	0.2	\$200.00	0.2	\$200.00
87	2104.502	REMOVE MANHOLE	EACH	\$599.00	12	4	\$2,396.00	4	\$2,396.00
88	2104.502	REMOVE CASTING	EACH	\$475.00	12	4	\$1,900.00	4	\$1,900.00
89	2104.503	REMOVE SEWER PIPE (SANITARY)	L F	\$10.75	3203	392	\$4,214.00	392	\$4,214.00
90	2104.503	REMOVE SANITARY SERVICE PIPE	L F	\$1.08	1999	171	\$184.68	171	\$184.68
91	2106.601	DEWATERING	LS	\$0.01	1	0	\$0.00	0	\$0.00
92	2123.610	UTILITY CREW	HOURL	\$779.00	38	2.25	\$1,752.75	2.25	\$1,752.75
93	2503.601	SANITARY SEWER BYPASS PUMPING	L S	\$5,511.00	1	0.2	\$1,102.20	0.2	\$1,102.20
94	2503.602	CONNECT TO EXISTING SANITARY SEWER	EACH	\$3,464.00	8	4	\$13,856.00	4	\$13,856.00
95	2503.602	CONNECT TO EXISTING MANHOLES (SAN)	EACH	\$3,344.00	1	0	\$0.00	0	\$0.00
96	2503.602	CONNECT TO EXISTING SANITARY SEWER SER	EACH	\$1,042.00	74	4	\$4,168.00	4	\$4,168.00
97	2503.602	4" CLEAN-OUT ASSEMBLY	EACH	\$8,054.00	12	0	\$0.00	0	\$0.00
98	2503.602	8"X4" PVC WYE	EACH	\$1,490.00	74	12	\$17,880.00	12	\$17,880.00
99	2503.603	8" PVC PIPE SEWER	L F	\$66.10	2934	670	\$44,287.00	670	\$44,287.00
100	2503.603	4" PVC SANITARY SERVICE PIPE	L F	\$30.35	1812	181.5	\$5,508.53	181.5	\$5,508.53
101	2503.603	6" PVC SANITARY SERVICE PIPE	L F	\$115.00	47	23.5	\$2,702.50	23.5	\$2,702.50
102	2503.603	8" DUCTILE IRON PIPE SEWER	L F	\$146.00	80	20	\$2,920.00	20	\$2,920.00
103	2503.603	LINING SEWER PIPE 12"	L F	\$113.00	309	0	\$0.00	0	\$0.00
104	2503.603	LINING SEWER PIPE LATERAL	L F	\$24.80	398	0	\$0.00	0	\$0.00
105	2503.603	TELEVISION SANITARY SEWER	L F	\$2.64	3323	0	\$0.00	0	\$0.00
106	2504.604	4" POLYSTYRENE INSULATION	S Y	\$77.40	20	0	\$0.00	0	\$0.00
107	2506.602	CHIMNEY SEAL	EACH	\$0.01	15	0	\$0.00	0	\$0.00
108	2506.602	CASTING ASSEMBLY (SANITARY)	EACH	\$1,659.00	15	0	\$0.00	0	\$0.00
109	2506.603	CONSTRUCT 8" OUTSIDE DROP	L F	\$903.00	30	10.81	\$9,761.43	10.81	\$9,761.43
110	2506.603	CONSTRUCT 48" DIA SANITARY MANHOLE	L F	\$333.00	172	51.75	\$17,232.75	51.75	\$17,232.75
111	2021.501	MOBILIZATION	LS	\$1,000.00	1	0.2	\$200.00	0.2	\$200.00
112	2104.502	REMOVE GATE VALVE & BOX	EACH	\$684.00	23	3	\$2,052.00	3	\$2,052.00
113	2104.502	REMOVE CURB STOP & BOX	EACH	\$110.00	64	0	\$0.00	0	\$0.00
114	2104.502	REMOVE HYDRANT	EACH	\$435.00	9	2	\$870.00	2	\$870.00
115	2104.503	REMOVE WATER MAIN	L F	\$3.35	3675	559	\$1,872.65	559	\$1,872.65
116	2104.503	REMOVE WATER SERVICE PIPE	L F	\$1.08	1465	52	\$56.16	52	\$56.16
117	2123.610	UTILITY CREW	HOURL	\$779.00	14	7	\$5,453.00	7	\$5,453.00
118	2504.601	TEMPORARY WATER SERVICE	LS	\$60,966.00	1	0.2	\$12,193.20	0.2	\$12,193.20
119	2504.602	CONNECT TO EXISTING WATER MAIN	EACH	\$1,290.00	16	2	\$2,580.00	2	\$2,580.00
120	2504.602	CONNECT TO EXISTING WATER SERVICE	EACH	\$320.00	64	2	\$640.00	2	\$640.00
121	2504.602	CONNECT TO EXISTING HOUSE SERVICE	EACH	\$2,365.00	5	0	\$0.00	0	\$0.00
122	2504.602	HYDRANT	EACH	\$10,630.00	9	2	\$21,260.00	2	\$21,260.00
123	2504.602	ABANDON WATER SERVICE	EACH	\$272.00	5	0	\$0.00	0	\$0.00
124	2504.602	ABANDON CURB STOP	EACH	\$817.00	1	0	\$0.00	0	\$0.00
125	2504.602	1" CORPORATION STOP	EACH	\$1,399.00	64	2	\$2,798.00	2	\$2,798.00
126	2504.602	4" GATE VALVE & BOX	EACH	\$2,728.00	1	0	\$0.00	0	\$0.00
127	2504.602	6" GATE VALVE & BOX	EACH	\$3,031.00	12	2	\$6,062.00	2	\$6,062.00
128	2504.602	8" GATE VALVE & BOX	EACH	\$4,347.00	21	4	\$17,388.00	4	\$17,388.00
129	2504.602	10" GATE VALVE & BOX	EACH	\$6,524.00	1	0	\$0.00	0	\$0.00
130	2504.602	1" CURB STOP & BOX	EACH	\$685.00	64	2	\$1,370.00	2	\$1,370.00
131	2504.603	WATER SERVICE (DIRECTIONAL DRILLED)	L F	\$74.05	266	0	\$0.00	0	\$0.00
132	2504.603	1" TYPE PE PIPE	L F	\$17.20	1421	49	\$842.80	49	\$842.80
133	2504.603	4" WATERMAIN DUCTILE IRON CL 52	L F	\$103.00	5	0	\$0.00	0	\$0.00
134	2504.603	6" WATERMAIN DUCTILE IRON CL 52	L F	\$130.00	17	0	\$0.00	0	\$0.00

Contract Item Status

Line No.	Item	Description	Unit	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
135	2504.603	8" WATERMAIN DUCTILE IRON CL 52	L F	\$97.00	5	0	\$0.00	0	\$0.00
136	2504.603	6" PVC WATERMAIN	L F	\$51.05	144	23	\$1,174.15	23	\$1,174.15
137	2504.603	8" PVC WATERMAIN	L F	\$56.45	3003	650	\$36,692.50	650	\$36,692.50
138	2504.603	8" PVC WATERMAIN (DIRECTIONAL DRILLED)	L F	\$108.20	545	0	\$0.00	0	\$0.00
139	2504.603	10" PVC WATERMAIN	L F	\$77.95	9	0	\$0.00	0	\$0.00
140	2504.604	4" POLYSTYRENE INSULATION	S Y	\$77.40	20	0	\$0.00	0	\$0.00
141	2504.608	DUCTILE IRON FITTINGS	LB	\$15.30	2671	557	\$8,522.10	557	\$8,522.10
142	2104.601	SALVAGE AND REINSTALL LANDSCAPE STRUCTURES	LS	\$50,000.00	1	0	\$0.00	0	\$0.00
143	2504.601	IRRIGATION SYSTEM REPAIR	L S	\$35,000.00	1	0	\$0.00	0	\$0.00
144	2021.501	MOBILIZATION	LS	\$1,000.00	1	0	\$0.00	0	\$0.00
145	2104.503	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$15.00	14	0	\$0.00	0	\$0.00
146	2104.503	REMOVE CURB & GUTTER	L F	\$25.00	10	0	\$0.00	0	\$0.00
147	2104.504	REMOVE BITUMINOUS PAVEMENT	S Y	\$50.00	3	0	\$0.00	0	\$0.00
148	2104.518	REMOVE CONCRETE WALK	S F	\$10.00	60	0	\$0.00	0	\$0.00
149	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$132.00	2	0	\$0.00	0	\$0.00
150	2360.504	TYPE SP 9.5 WEARING COURSE MIX (2,C)	S Y	\$165.00	3	0	\$0.00	0	\$0.00
151	2360.504	TYPE SP 12.5 WEARING COURSE MIX (2,C)	S Y	\$165.00	3	0	\$0.00	0	\$0.00
152	2521.518	4" CONCRETE WALK	S F	\$14.10	60	0	\$0.00	0	\$0.00
153	2502.503	4" PVC PIPE DRAIN	L F	\$53.75	22	0	\$0.00	0	\$0.00
154	2502.602	4" PVC PIPE DRAIN CLEANOUT	EACH	\$1,834.00	2	0	\$0.00	0	\$0.00
155	2503.603	4" HDPE PIPE SEWER-DIRECTIONAL DRILLED	L F	\$46.25	516	0	\$0.00	0	\$0.00
156	2506.602	CONNECT INTO EXISTING DRAINAGE STRUCTURE	EACH	\$3,452.00	1	0	\$0.00	0	\$0.00
Bid Totals:							\$359,820.53		\$359,820.53

Project Category Totals

Category	Amount This Voucher	Amount To Date
A. SURFACE IMPROVEMENTS	\$107,728.13	\$107,728.13
B. STORM SEWER IMPROVEMENTS	\$0.00	\$0.00
C. SANITARY SEWER IMPROVEMENTS	\$130,065.84	\$130,065.84
D. WATERMAIN IMPROVEMENTS	\$122,026.56	\$122,026.56
E. PROVISIONAL IMPROVEMENTS	\$0.00	\$0.00
F. ALTERNATE 1	\$0.00	\$0.00

Contract Change Item Status

CC	CC No.	Line No.	Item	Description	Units	Unit Price	Contract Quantity	Quantity This Voucher	Amount This Voucher	Quantity To Date	Amount To Date
Contract Change Totals:											

Contract Change Totals

No.	Contract Change	Description	Amount This Voucher	Amount To Date

Material On Hand Additions

Line No.	Item	Description	Date	Added	Comments

Material On Hand Balance

Line No.	Item	Description	Date	Added	Used	Remaining



July 15, 2026

Ms. Kristi Luger
City Manager
City of Excelsior
PO Box 558
Excelsior, MN 55331

Re: Construction Pay Voucher No. 1
Third and Center Street SUIP
City of Excelsior, MN
WSB Project No. 030889-000

Dear Ms. Luger:

Please find attached Construction Pay Voucher No. 1 in the amount of \$341,829.50 for the above-referenced project. The quantities completed to date have been reviewed and agreed upon by the contractor, and we hereby recommend that the City of Excelsior approve Construction Pay Voucher No. 1 in the amount of \$341,829.50 for GMH Asphalt Corporation.

Once processed, please keep one copy for your records and return two copies to our office, one for the contractor and one for our files.

If you have any questions, please contact me at 612.360.1304. Thank you.

Sincerely,

WSB

Shibani Bisson, PE
Project Manager

Attachment

cc: Hilary Vokovan, City of Excelsior
Tim Amundsen, City of Excelsior
Morgan Dawley, WSB

srb

ITEM REPORT**To:** City Council**From:** Kevin Quinn, Parks Manager**Meeting Date:** July 20, 2026**Department/Office:** Public Works**Item Name:** Parks and Recreation Bench Donation - John "Punk" Seamans**Summary:**

At the July 14 Parks and Recreation (PNR) Commission meeting, PNR approved a motion (5/0) to install a memorial bench for John "Punk" Seamans on top of the ballfield seating behind home plate with the precise bench location to be determined by PNR. John's wife, Mary Seamans provided the following details about her late husband:

"John Spencer "Punk" Seamans, born April 26, 1942, in Minneapolis, MN, was a Minnetonka High School graduate (class of 1960) and a lifelong sports enthusiast. Before his softball career, he was an all-conference football player and played preseason football with the Houston Oilers [Legacy.com](#).

Seamans built a strong reputation as a coach and organizer in the Minnetonka School District, dedicating 25 years to 7th & 8th grade football and several years to baseball. He also ran the South Shore Softball League for over five years, earning the Minnetonka Community Ed Adult Program Volunteer of the Year award in 2008 - 2009 [Legacy.com](#).

*His contributions to the sport of softball were recognized in **2010** when he was inducted into the **Minnesota Softball Hall of Fame** [Facebook+1](#). The Minnesota Softball Hall of Fame honors individuals who have made significant contributions to the game in Minnesota, and Seamans' induction celebrated his decades of coaching, organizing, and community involvement.*

Seamans retired from sales at Zero-Max Inc. in 2001 and remained active in sports and community life until his passing on January 17, 2025, in Shorewood, MN [Legacy.com](#). He is remembered as a dedicated mentor, a passionate sports fan, and a respected figure in Minnesota's softball community."



The proposed location is along the top of the ballfield seating. Staff would purchase and install the bench per PNR's final location determination.

Recommended Action:

Approve memorial bench donation for John "Punk" Seamans.

Budget:

Attachments:

None



Item: 8.I.

ITEM REPORT

To: City Council

From: Kevin Quinn, Parks Manager

Meeting Date: July 20, 2026

Department/Office: Public Works

Item Name: Parks and Recreation Bench Donation - Michael McNulty

Summary:

At the July 14 Parks and Recreation (PNR) Commission meeting, PNR approved a motion (5/0) to install a memorial bench in honor of Michael McNulty on the knoll behind the pavilion overlooking The Commons ballfield.

Michael's mother, Nicole McNulty provided the following details about Michael:

"We are interested in purchasing a commemorative bench in The Commons in memory of my son, Michael McNulty, who passed away on the lake.

Michael spent his childhood and adolescence in Excelsior attending school, playing baseball, boating on the lake, eating lots of Lick's ice cream, and being with his friends 😊

We saw a possible space we'd love for the bench. Attached is a photo.

If this space is available or a similar one, please let us know and we will fill out the application form, send in payment, etc.

Thank you for your consideration and for all you do to make Excelsior Commons a great park for our community."

All the best,
Nicole McNulty
Michael's Mom



The proposed location is on top of the knoll near right field. Staff would purchase and install the bench.

Recommended Action:

Approve memorial bench donation for Michael McNulty.

Budget:

Attachments:

None



Item: 9.a.

ITEM REPORT

To: City Council

From: Julia Mullin, Community Development Director

Meeting Date: July 20, 2026

Department/Office: Community Development

Item Name: Appeal of HPC Decision to Deny Site Alteration Permit for Partial Demolition of the Tonka Theater Building, 26 Water Street (7:00 PM)

Summary:

APPLICATION

Before the City Council tonight is a request by the applicant, Matt Mithun, Mithun Companies, owner 26 Water Street, to appeal the decision by the Heritage Preservation Commission (HPC) to deny the Site Alteration Permit application for the partial demolition and proposed rear wall design of the Tonka Theater building at 26 Water Street.

The HPC considered the Site Alteration Permit application at their meeting on June 29, 2026, and voted 4-2 to deny it. The record of the HPC meeting can be found at this link: [HPC meeting, June 29, 2026](#)

The applicant submitted a notice of appeal which is attached. Also are the materials from the June 29, 2026, HPC meeting including the staff memo and the Site Alteration Permit application. HPC Resolution 2026-07 denying the demolition is attached.

Draft resolutions, one to affirm the HPC's decision and one to reverse the HPC's decision are attached for Council review and approval.

Recommended Action:

Staff recommends that the City Council uphold the decision of the Heritage Preservation Commission made at their meeting on June 29, 2026, which was to deny the Site Alteration Permit for the partial demolition and rear wall design of the Tonka Theater building, and that the Council approve Resolution 2026-39 affirming the HPC decision.

Budget:

Attachments:

1. Res_2026-39_Affirm_HPC_26_Water_SAP

2. Res_2026-39_Reverse_HPC_26_Water_SAP
3. Applicant Notice to Appeal HPC Decision_070126
4. HPC Resolution 2026-07_Denying SAP
5. HPC Memo_06_29_26
6. Owner Cover Letter
7. Excelsior Modified SAP Application_MM260526
8. Mithun- Excelsior- SAP Narrative
9. Overall Site Plan
10. 2026 05-26 Dock Cinema - SAP Set_JMRFS
11. Excelsior Theater - Construction Scope Means-Methods
12. MBJ Structural Assessment Report - Dock Cinema - 10-27-2025
13. Excelsior_Demo89_Bar-Restaurant Reuse Tonka Theatre
14. Mithun Enterprises- SAP Denial Objection Letter 4917-4937-9982 v.3
15. Incomplete application letter_SAP_06_11_2026
16. Applicant Response to Incomplete letter
17. Section Divider
18. 2026 06-18 Lake & Water - Architectural Site Plan
19. 2026 06-18 Lake & Water - SAP 6
20. 2026 06-18 Lake & Water - SAP Combined Renderings
21. 2026 06-23 Lake Water - SAP SI1
22. Section Divider
23. Page 18 2025-04-01 10 Water prelim PUD
24. Page14 from 2025 04-01 10 Water St - Preliminary PUD Technical Drawings
25. Page 20_ 2025 04-01 10 Water - Prelim PUD TechDrawings-3
26. Section Divider
27. HPC Resolution 2025-04
28. HPC Resolution 2026-01

**CITY OF EXCELSIOR
CITY COUNCIL
RESOLUTION NO. 2026-39**

A Resolution Affirming the Heritage Preservation Commission’s Decision to Deny a Site Alteration Permit for the Partial Demolition and Rear Wall Design of the Tonka Theater at 26 Water Street

WHEREAS, Matt Mithun of Mithun Companies (“Applicant”), as owner of the Tonka Theater at 26 Water Street and the Theater addition at 28 Water Street, Excelsior, MN 55331 applied for a Site Alteration Permit for the partial demolition of the Tonka Theater at 26 Water Street, including the rear 51 feet 6 inches of that structure, and for alterations to the rear elevation and façade of the Tonka Theater on May 26, 2026; and

WHEREAS, the City of Excelsior (“City”) initially determined Applicant’s application to be incomplete and on June 11, 2026, the City provided notice to Applicant of the need to submit additional, identified materials; and

WHEREAS, Applicant submitted such materials and Applicant’s application was determined to be complete on June 18, 2026; and

WHEREAS, the Heritage Preservation Commission (“HPC”) considered Applicant’s application for a Site Alteration Permit, conducted a public hearing, and considered public testimony and information from Applicant at its meeting on June 29, 2026; and

WHEREAS, Section 20-3 of the City Code 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*”; and

WHEREAS, the HPC determined that the proposed site work on the Tonka Theater is appropriately classified as a partial demolition under Section 20-3 of the City Code; and

WHEREAS, the HPC reviewed the Applicant’s application for a Site Alteration Permit involving partial demolition of a contributing building in a historic district using the criteria established under Section 20-12(j) of the City Code; and

WHEREAS, the HPC was also guided by the criteria required by City Code for the review of all Site Alteration Permits established under Section 20-11(h); and

WHEREAS, the HPC denied Applicant’s Site Alteration Permit for the partial demolition and rear wall design of the Tonka Theater and approved the façade alterations, with conditions, of the Tonka Theater in its Resolution No. 2026-07 on June 29, 2026; and

WHEREAS, Applicant appealed the HPC’s denial of the Site Alteration Permit to the City Council as permitted under Section 20-14 of the City Code; and

WHEREAS, the City Council held a public hearing and considered Applicant's appeal at its regular meeting on July 20, 2026.

NOW, THEREFORE, BE IT RESOLVED, the City Council of The City of Excelsior **affirms** the decision of the Heritage Preservation Commission of June 29, 2026, to deny Applicant's Site Alteration Permit. Based on the record and the public testimony before the Council, The Council finds the following:

1. Granting Applicant's Site Alteration Permit is inappropriate under the criteria established for all Site Alteration Permits in Section 20-11(h)(3);
 - a. the alteration is not compatible with and will not 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; and
 - b. granting the site alteration permit will not be in keeping with the spirit and intent of the City's Historic Preservation code chapter and will negatively alter the essential character of the historic district.
2. The Applicant's Site Alteration Permit fails to meet the demolition and relocation criteria for partial demolition as established in Section 20-12(j) of the City Code;
 - a. the Applicant has not demonstrated that the partial demolition is required for the renovation, restoration or rehabilitation of the Tonka Theater; and
 - b. the Applicant has not demonstrated that they have mitigated, to the greatest extent possible, impacts on the historic importance of the Tonka Theater; and
 - c. the Applicant has not demonstrated that they have mitigated, to the greatest extent possible, impacts on the architectural integrity of the Tonka Theater.

Adopted by the City Council of the City of Excelsior, Minnesota, on this 20th day of July 2026.

Approved

Gary Ringate, Mayor

Kristi Luger, City Manager

Attest:

Hilary Vokovan, City Clerk

**CITY OF EXCELSIOR
CITY COUNCIL
RESOLUTION NO. 2026-39**

A Resolution Reversing the Heritage Preservation Commission’s Decision to Deny a Site Alteration Permit for the Partial Demolition and Rear Wall Design of the Tonka Theater at 26 Water Street

WHEREAS, Matt Mithun of Mithun Companies (“Applicant”), as owner of the Tonka Theater at 26 Water Street and the Theater addition at 28 Water Street, Excelsior, MN 55331 applied for a Site Alteration Permit for the partial demolition of the Tonka Theater at 26 Water Street, including the rear 51 feet 6 inches of that structure, and for alterations to the rear elevation and façade of the Tonka Theater on May 26, 2026; and

WHEREAS, the City of Excelsior (“City”) initially determined Applicant’s application to be incomplete and on June 11, 2026, the City provided notice to Applicant of the need to submit additional, identified materials; and

WHEREAS, Applicant submitted such materials and Applicant’s application was determined to be complete on June 18, 2026; and

WHEREAS, the Heritage Preservation Commission (“HPC”) considered Applicant’s application for a Site Alteration Permit, conducted a public hearing, and considered public testimony and information from Applicant at its meeting on June 29, 2026; and

WHEREAS, Section 20-3 of the City Code 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*”; and

WHEREAS, the HPC determined that the proposed site work on the Tonka Theater is appropriately classified as a partial demolition under Section 20-3 of the City Code; and

WHEREAS, the HPC reviewed the Applicant’s application for a Site Alteration Permit involving partial demolition of a contributing building in a historic district using the criteria established under Section 20-12(j) of the City Code; and

WHEREAS, the HPC was also guided by the criteria required by City Code for the review of all Site Alteration Permits established under Section 20-11(h); and

WHEREAS, the HPC denied Applicant’s Site Alteration Permit for the partial demolition and rear wall design of the Tonka Theater and approved the façade alterations, with conditions of the Tonka Theater in its Resolution No. 2026-07 on June 29, 2026; and

WHEREAS, Applicant appealed the HPC’s denial of the Site Alteration Permit to the City Council as permitted under Section 20-14 of the City Code; and

WHEREAS, the City Council held a public hearing and considered Applicant's appeal at its regular meeting on July 20, 2026.

NOW, THEREFORE, BE IT RESOLVED, the City Council of The City of Excelsior **reverses** the decision of the Heritage Preservation Commission of June 29, 2026, to deny Applicant's Site Alteration Permit. Based on the record and the public testimony before the Council, The Council finds the following:

1. Applicant's Site Alteration Permit meets the purposes of the City's Historic Preservation ordinance as it promotes the use of historic buildings for the economic prosperity, education, inspiration and general welfare of the people of the City and the reuse and recycling of existing building stock, protects and enhances the City's appeal and attraction to residents and visitors, and strengthens the local economy through the protection and promotion of the City's unique historic character.
2. Granting Applicant's Site Alteration Permit is appropriate under the criteria established for all Site Alteration Permits in Section 20-11(h)(3);
 - 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 as the alteration will remove noncontributing additions to the Tonka Theater, aiding in the restoration of the district's integrity to its period of significance, and the completed site will draw residents and visitors to the City, thereby positively impacting the significance of the district, neighboring properties, and the City as a whole; and
 - b. granting the site alteration permit will be in keeping with the spirit and intent of the City's Historic Preservation code chapter and will not negatively alter the essential character of the historic district for those reasons established under Section 1 of this Resolution.
3. The Applicant's Site Alteration Permit meets the demolition and relocation criteria for partial demolition as established in Section 20-12(j) of the City Code;
 - a. the Applicant has demonstrated through submission of a structural engineering report prepared by qualified professionals that the partial demolition is required for the renovation, restoration or rehabilitation of the Tonka Theater; and
 - b. the Applicant has demonstrated through proposed renovations to the rear elevation that they have mitigated, to the greatest extent possible, impacts on the historic importance of the Tonka Theater; and
 - c. the Applicant has demonstrated through confinement of the demolition to the rear of the building and proposed renovations to the rear elevation that they have

mitigated, to the greatest extent possible, impacts on the architectural integrity of the Tonka Theater.

Adopted by the City Council of the City of Excelsior, Minnesota, on this 20th day of July 2026.

Approved

Gary Ringate, Mayor

Kristi Luger, City Manager

Attest:

Hilary Vokovan, City Clerk



July 1, 2026

City of Excelsior
261 School Ave
Excelsior, MN 55331

**RE: Notice of Appeal of Heritage Preservation Commission Denial of 26 Water Street Site
Alteration Permit**

Mayor and Members of Council:

On behalf of Mithun Companies and the development team please accept this letter as formal Notice of Appeal of the Historic Preservation Commission's June 29, 2026, denial of the Site Alteration Permit for the Tonka Theater at 26 Water St.

Sincerely,

Tim Marco

Tim Marco
Marco McLane Development, LLC

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 \$1,250,000. 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 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; 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 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

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

Tim Caron, Chair

MEMORANDUM

26 Water Street. – Application for Site Alteration
Permit for Partial Demolition of Tonka Theater

Re: _____

June 29, 2026

Date: _____
Julia Mullin, Community Development Director, Amy
Lucas, Historic Preservation Consultant

To: Heritage Preservation Commission

From: _____

APPLICANT: Matt Mithun
PROPERTY OWNER: Same
LOCATION: 26 Water Street
CASE NO.: HPC No. 2026-08
60/120-DAY REVIEW
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.

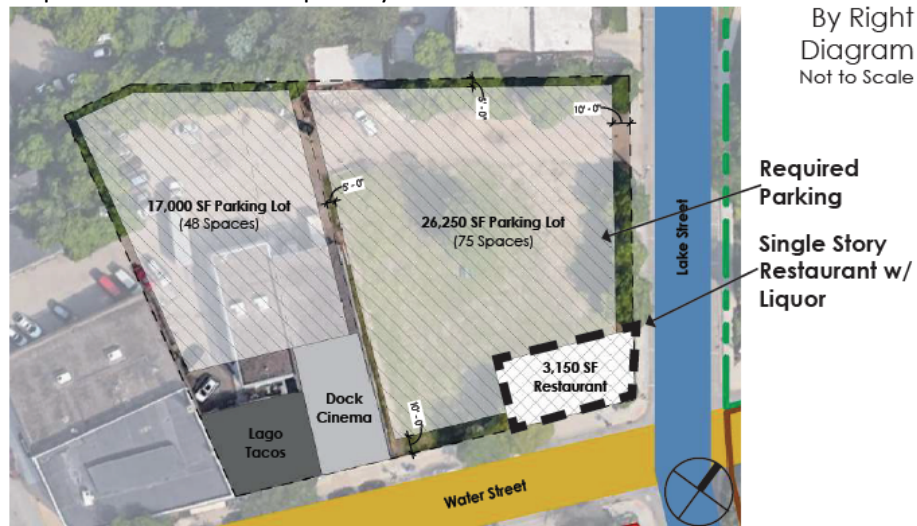


Fig. 2. April 2025 site plan reviewed by HPC

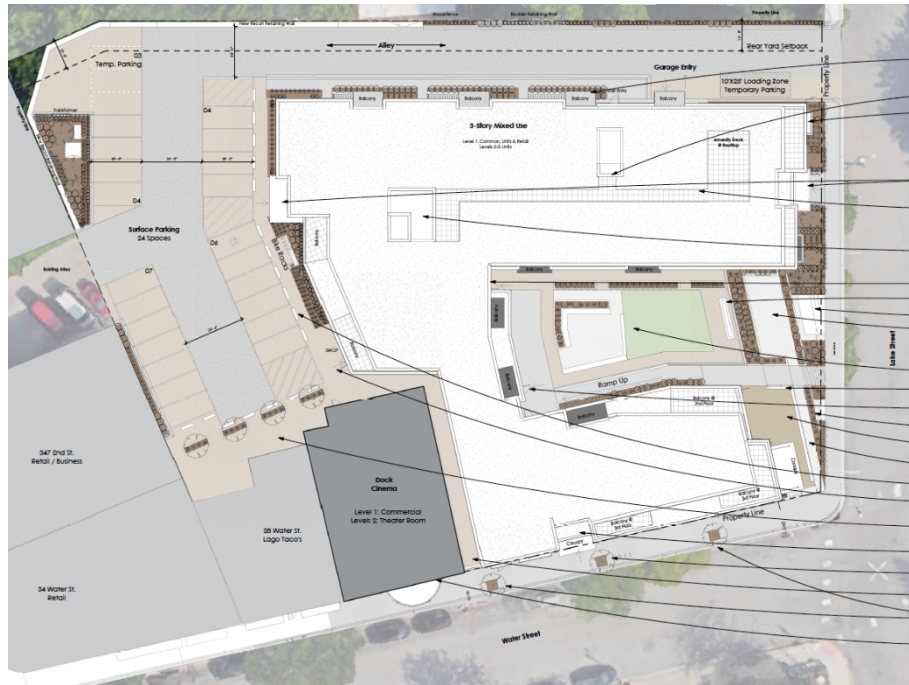


Fig. 3. April 2025 site plan reviewed by HPC

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.

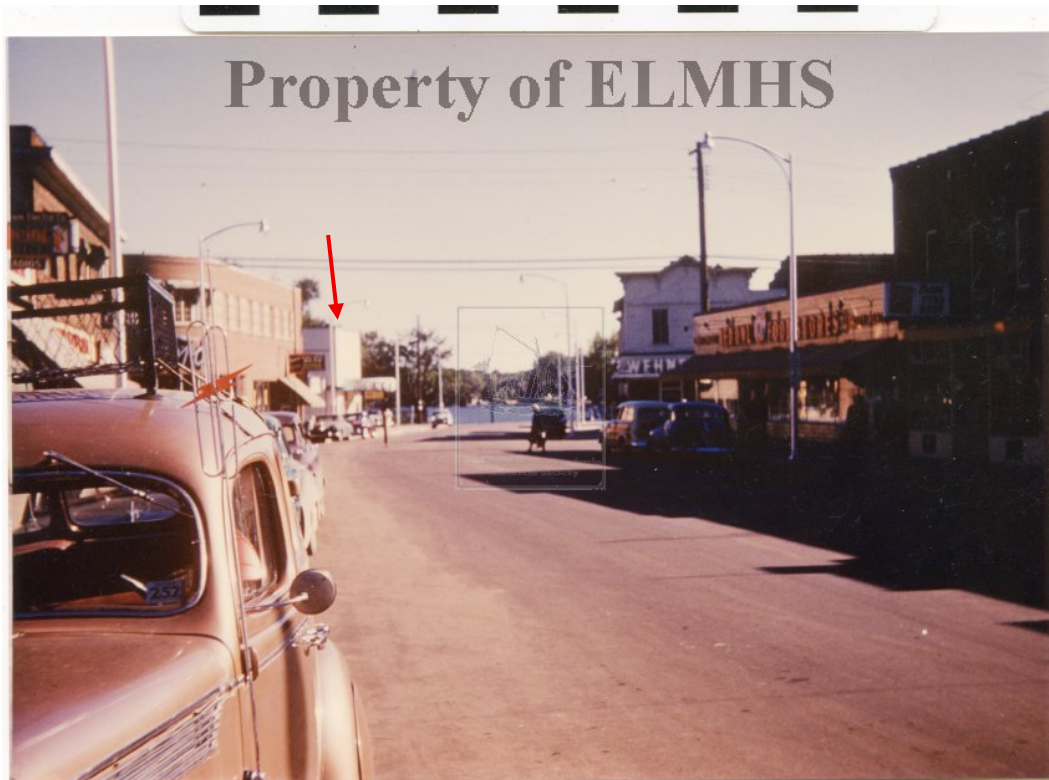


Fig. 5. Water Street in 1949



Fig. 6. Water Street in 1950



Fig. 7. Water Street in ca. 1950

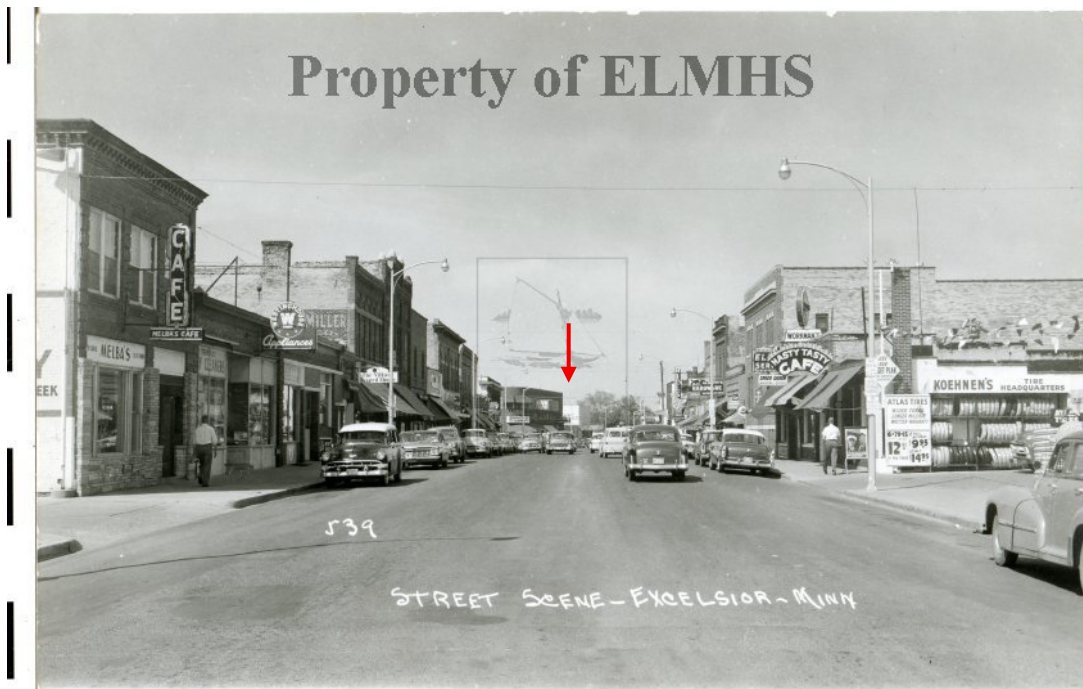


Fig. 8. Water Street in 1959



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.

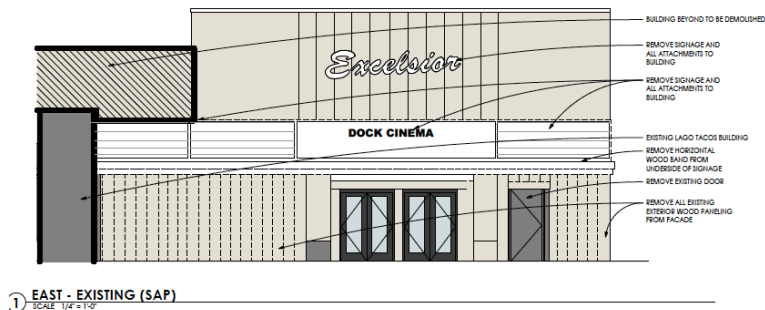


Fig. 11 Current facade

PROPOSED NEW

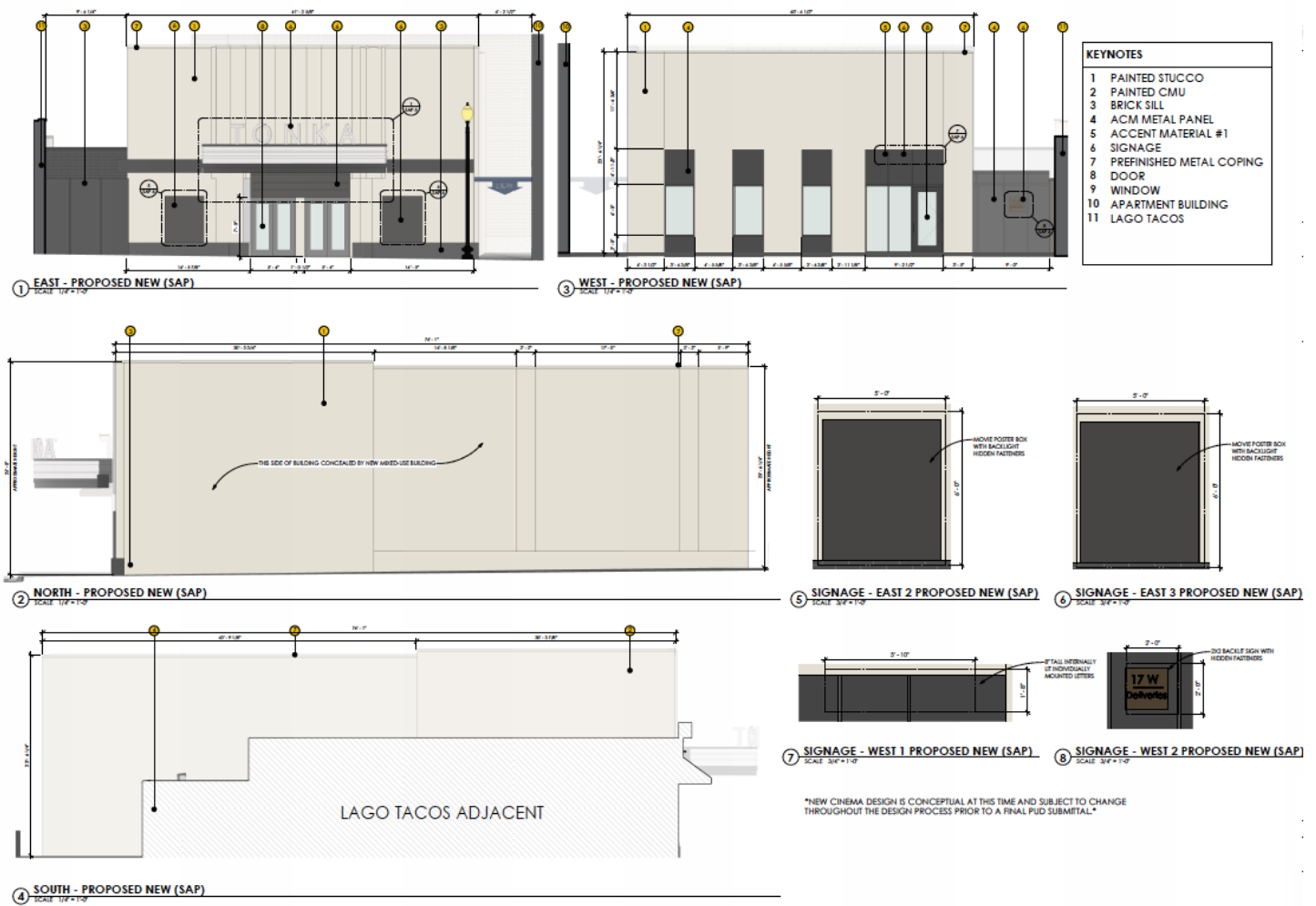
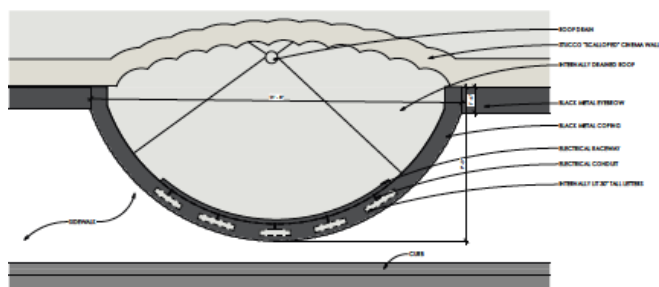
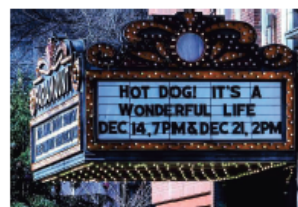
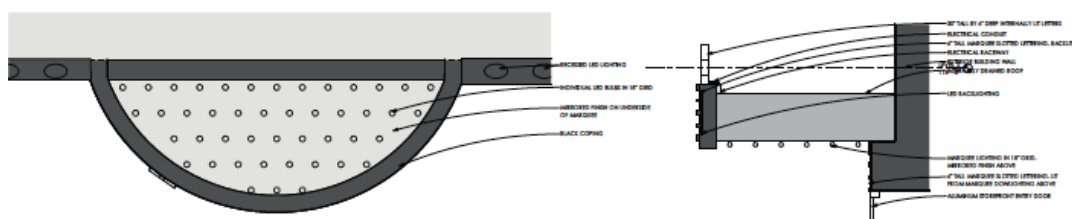


Fig. 12. Proposed elevations

Technical drawing of the TONKAL sign assembly. The drawing shows the sign face with the word "TONKAL" in large, outlined letters. Below the letters is a horizontal bar with a track for the letters. Dimensions are provided for the letters, the track, and the mounting hardware. Callouts indicate the following components and dimensions:

- 3" HIGH BY 1/2" DEEP INTERVALS OF INDIVIDUAL LETTERS
- WIDENED BEARING TRACK FOR 4" TALL LETTERS BASES
- NUMBER OF WIDENED BEARS TO BE SET BY INDIVIDUAL BASES PLACED ON AN 18" GRID
- 18" TALL BY 11 1/2" WIDE CHANNELS FOR BEARING BEARS, SET BY BEARING LOCATIONS SHOWN ABOVE

1 SIGNAGE

 Springer

 Springer

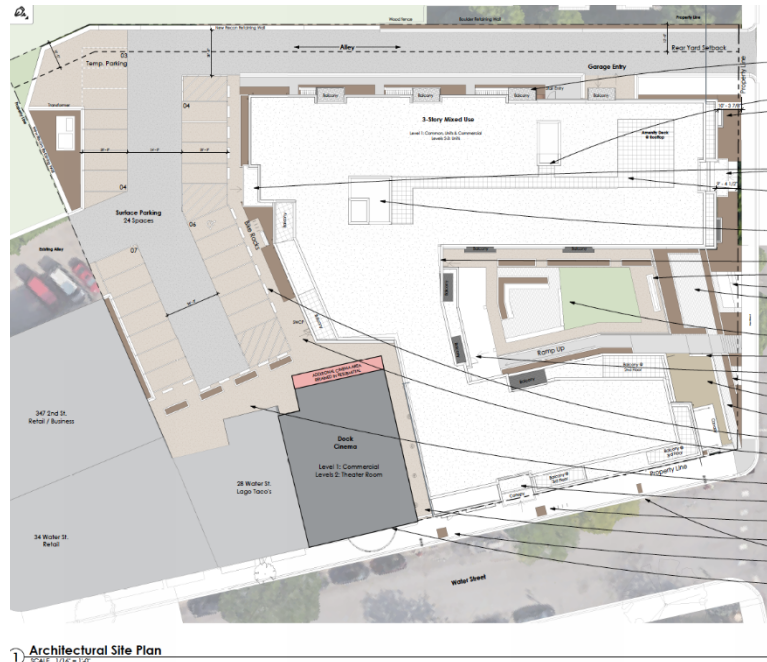


Figure 14. Proposed site plan with inaccurate building dimensions.



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 HERITAGE PRESERVATION COMMISSION 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.

ATTACHMENTS

- 1) HPC Resolution 2026-07
- 2) SAP Application
- 3) HPC Resolution 2025-04
- 4) HPC Resolution 2026-01

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.

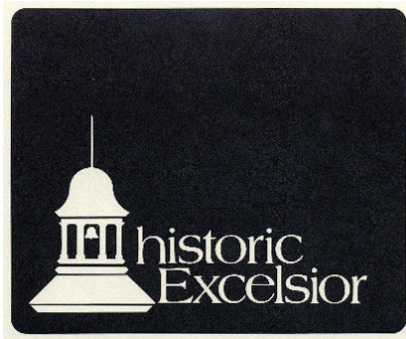
When we purchased the 10 Water St. land next door, the plan was refined giving us the best chance for restoration and reuse becoming part of an overall project. We were told the hotel concept that we presented to the City would not be approved as a 4-story project, which was necessary for financing and 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).

- ☐ A short narrative of the work to be done and how the work relates to the building’s architecture.
- ☐ Identification of all exterior building materials and colors, including materials samples and paint chips of proposed colors.

Note: An application will not be deemed complete until all of the items above have been submitted to the City.

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).

Enforcement Acknowledgement: By signing below, the applicant acknowledges that in case any building or structure subject to the regulation of this ordinance is to be erected or constructed, reconstructed, altered, repaired, maintained, moved, or subjected to demolition in violation of the city’s heritage preservation ordinance (chapter 20 of the Excelsior City Code), the zoning administrator or building official, in addition to any other remedies, may (as is outlined in Excelsior City Code § 20-17):

- (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.

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.

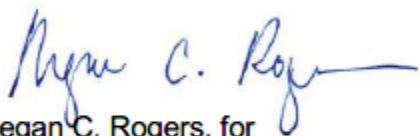
VI. Conclusion

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

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Email: mrogers@larkinhoffman.com

Prepared For



Project

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

Phase

Preliminary PUD

**NOT FOR
CONSTRUCTION**

Issuance

Preliminary PUD 04.01.2025

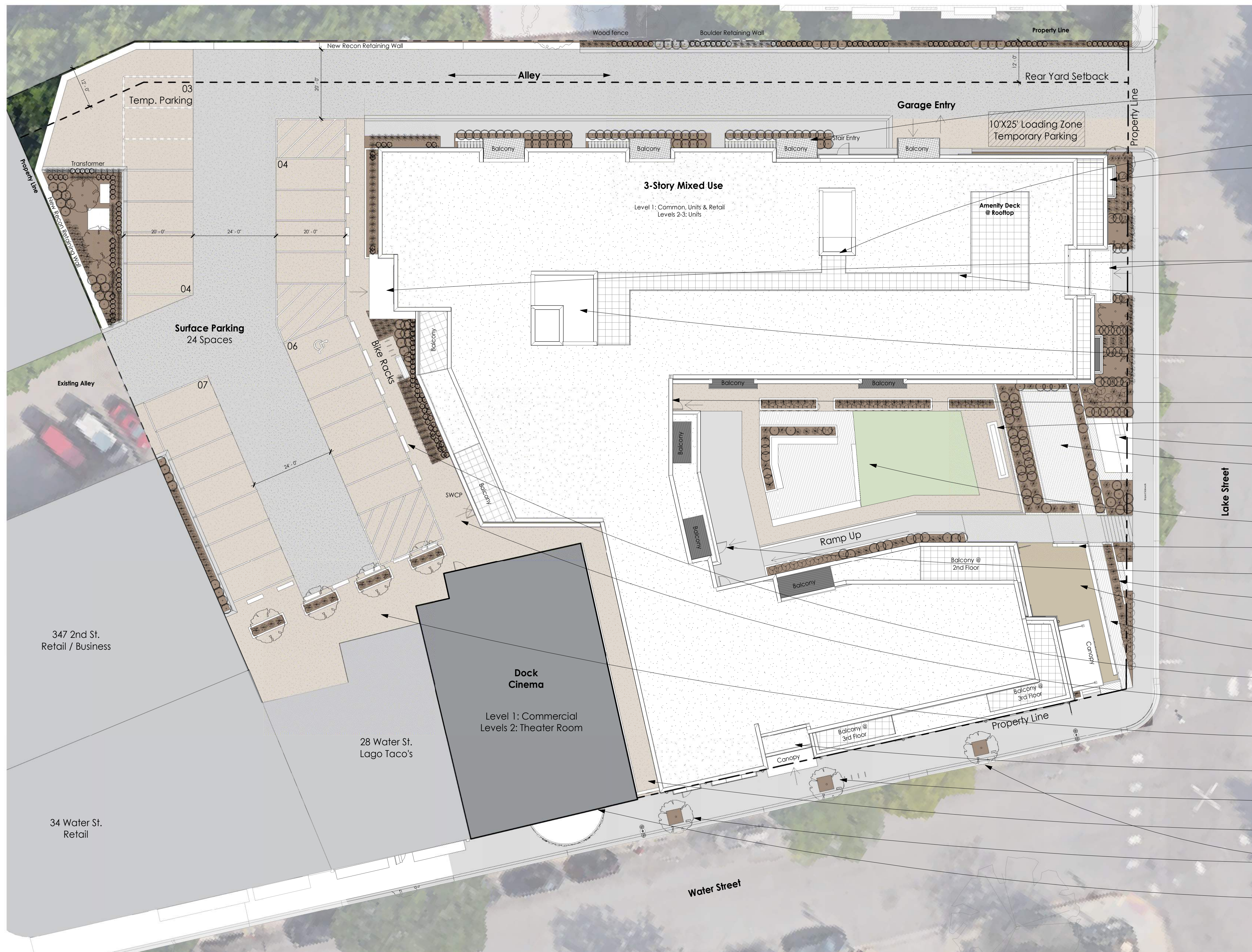
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Revisions

224158A

Architectural Site
Plan**A02****1 Architectural Site Plan**

SCALE 1/16" = 1'-0"

1st Floor: Walk up units, Typ.
2nd - 3rd Floor: Balconies, Typ.Stair Shaft & Access
2nd - 3rd Floor: Balconies, Typ.

Apartment Entry

Walkway to Amenity Deck

Elevator Shaft & Access

Apartment Entry

Fire Pit

Public Seating

Public Porch

Amenity Deck w/ fire pit area and grill station

Plaza & Plaza Steps

Apartment Entry

Public Seating

Dining Patio

ADA Ramp

Rock Curb Stops

Retail Corridor Entry

Colored Concrete

Retail Entry

Existing Tree

Pedestrian Connection/ Alley

New Tree

Dock Cinema Renovation
- Facade Restoration
- 1st Floor Commercial Space
- 2nd Floor Theater Room



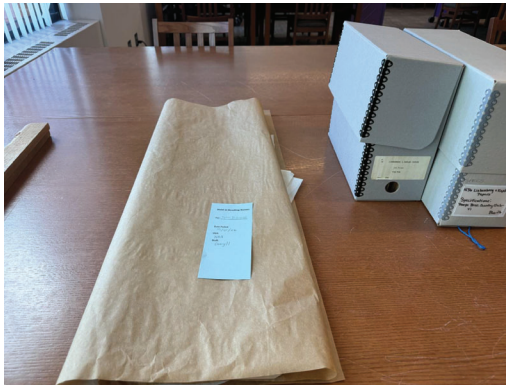
DOCK CINEMA SITE ALTERATION PERMIT SET



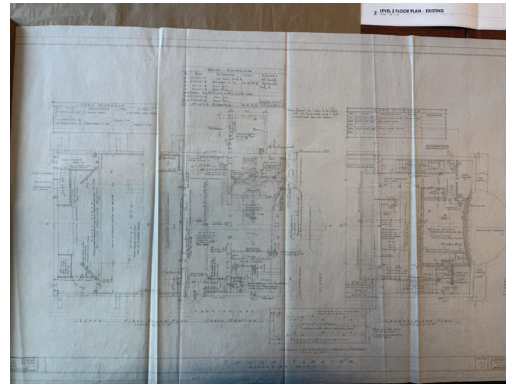
DESIGN PROCESS

STEP ONE: INFORMATION COLLECTION

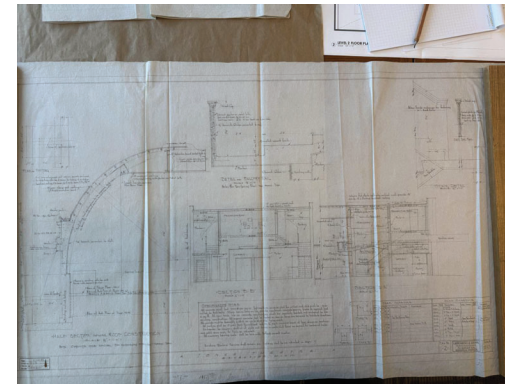
TMA WENT TO THE UNIVERSITY OF MN ARCHITECTURAL ARCHIVE LIBRARY ON MAY 1ST AND REVIEWED DRAWINGS OF THE 1945 RECONSTRUCTION OF THE TONKA THEATER.



TONKA THEATER DRAWINGS AND SPECIFICATIONS FROM 1945



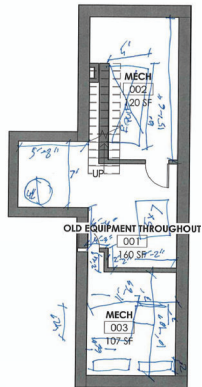
FIRST AND SECOND FLOOR PLANS



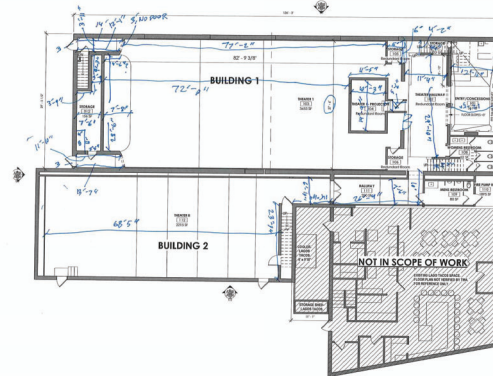
SECTIONS

STEP TWO: FIELD VERIFICATION

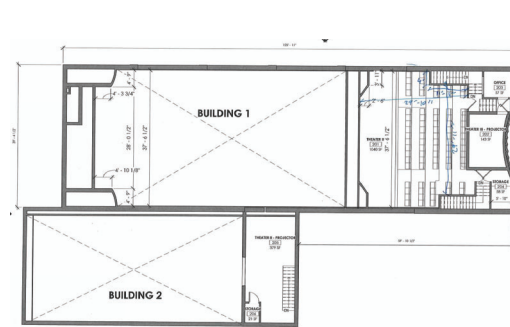
TMA FIELD VERIFIED BUILDING MEASUREMENTS AND LAYOUT ONSITE AT THE TONKA THEATER BUILDING.



BASEMENT FLOOR PLAN



FIRST FLOOR PLAN



SECOND FLOOR PLAN

STEP THREE: CREATE EXISTING BUILDING AND DEMO PLANS



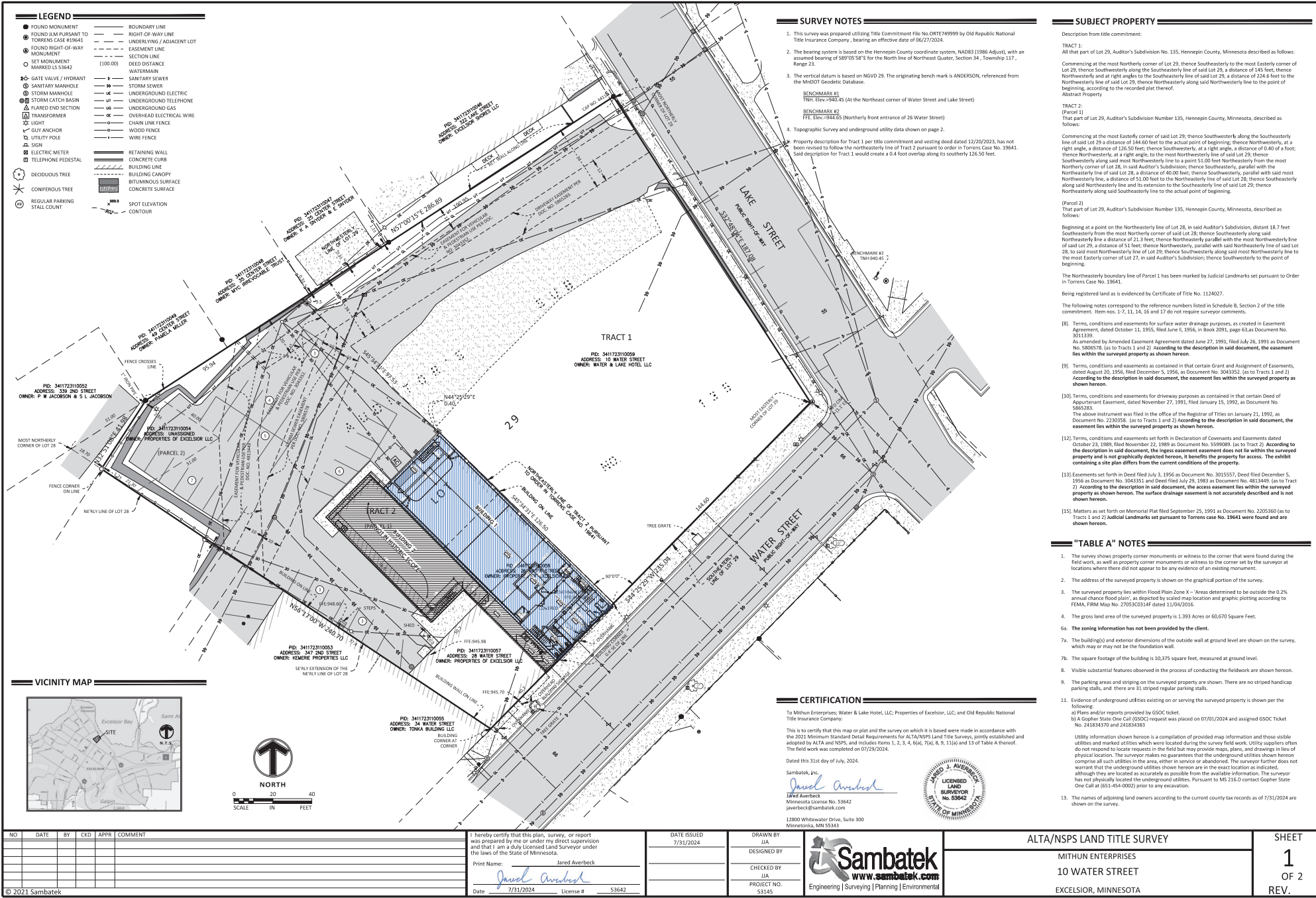
BASEMENT



LOBBY



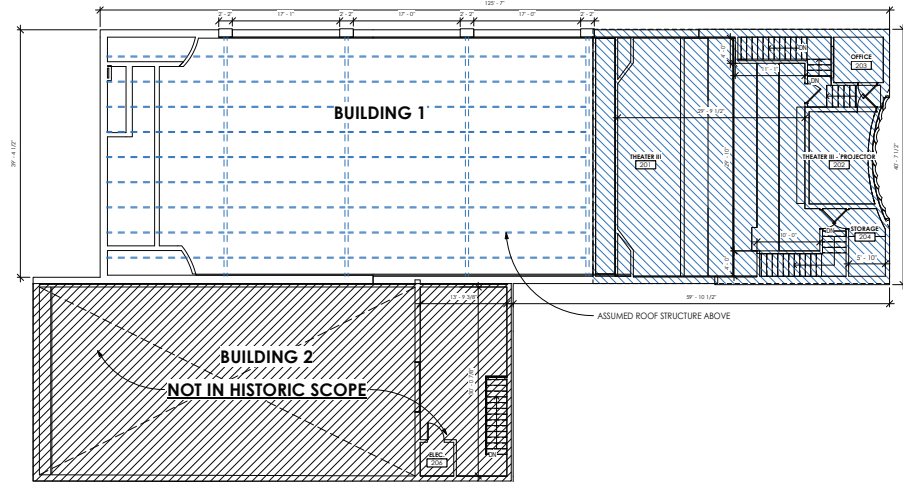
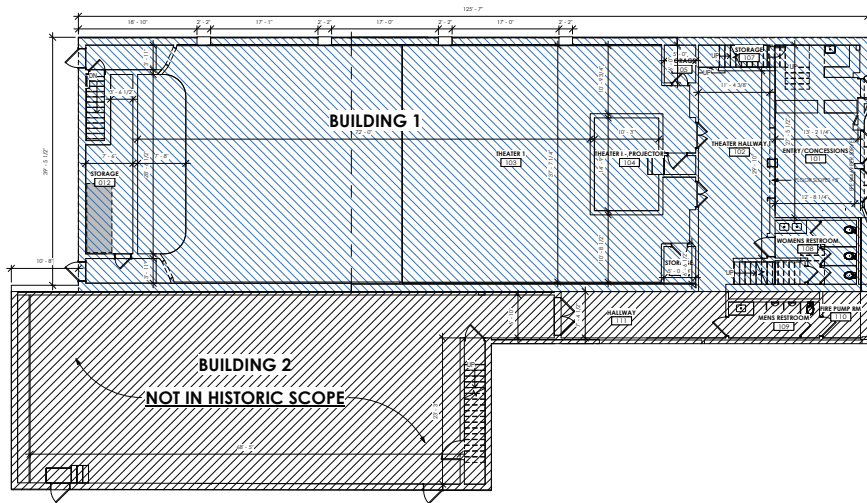
MAIN THEATER



EXISTING CONDITIONS OF BASEMENT

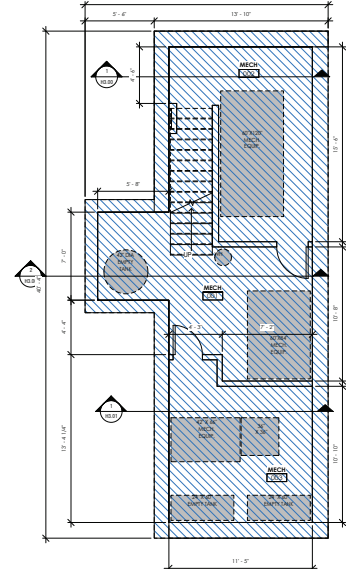


PROPOSED DEMO FLOOR PLANS



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

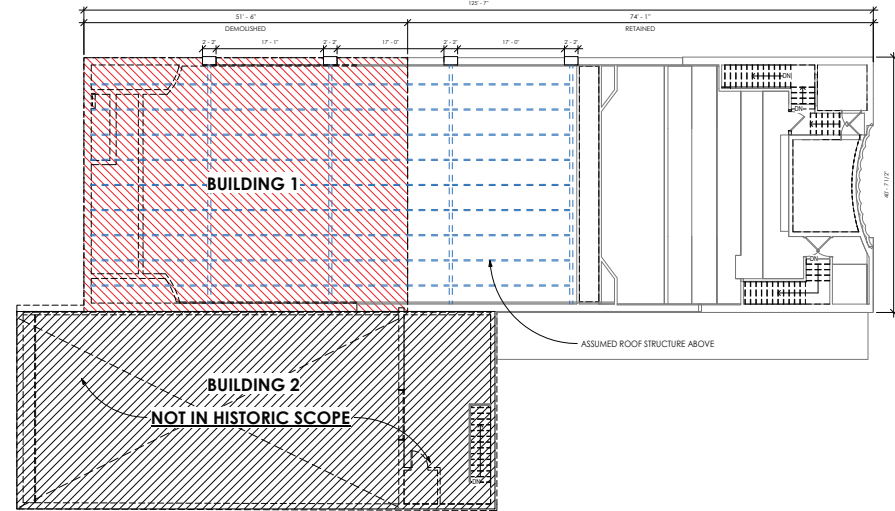
	PARTIAL DEMO SUMMARY (BASEMENT EXCLUDED)		
	EXIST. AREA	DEMO	PRESERVED AREA
BASEMENT	0 SF	0 SF (100%)	0 SF (0%)
FIRST FLOOR	5,066 SF	2,079 SF (41.04%)	2,987 SF (58.96%)
SECOND FLOOR	1,868 SF	0 SF (0%)	1,868 SF (100%)
TOTALS	6,934 SF	2,079 SF (29.98%)	4,855 SF (70.02%)

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.

TMA
Lushie Montgomery Architects
645 Lyndale Ave S Suite 100
Minneapolis, MN 55423



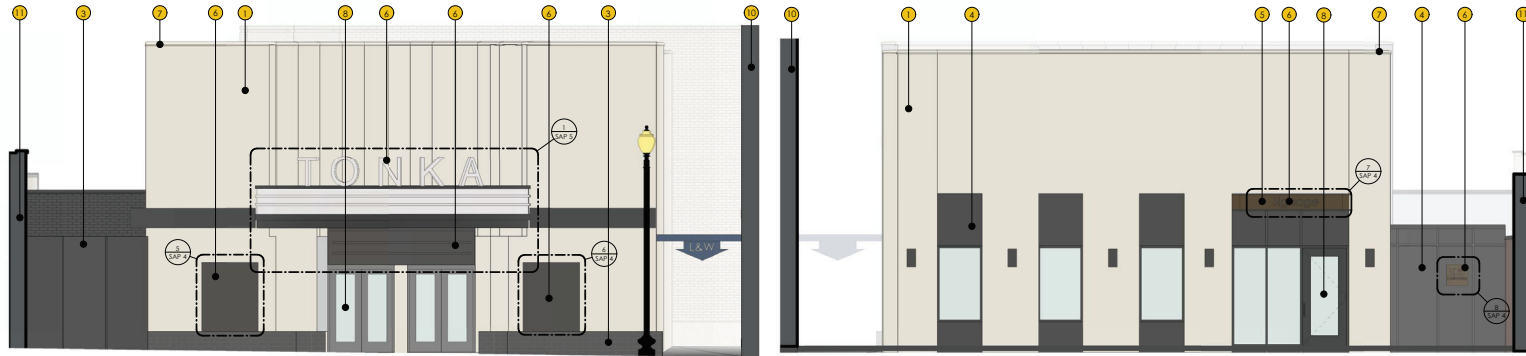
2 LEVEL 2 FLOOR PLAN - PARTIAL DEMOLITION
SCALE 1/8" = 1'-0"

- 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.
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- BLUE DASHED LINES SHOW ASSUMED ROOF STRUCTURE.

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PROPOSED NEW

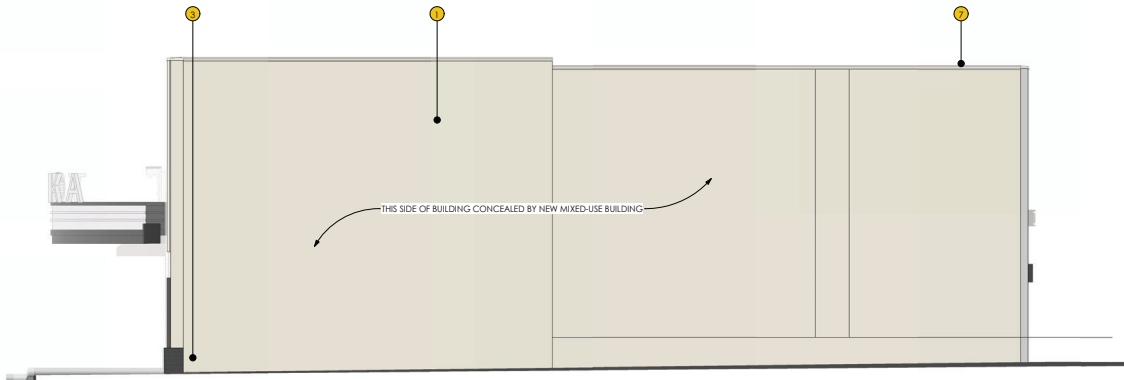


KEYNOTES

- 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"

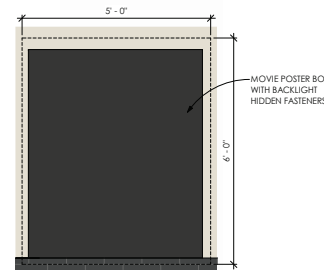
③ WEST - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"



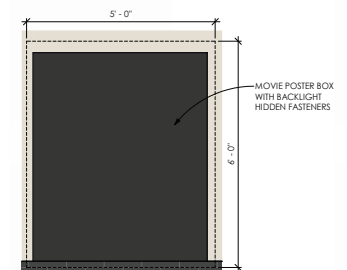
② NORTH - PROPOSED NEW (SAP)
SCALE: 1/4" = 1'-0"



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



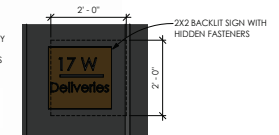
⑤ SIGNAGE - EAST 2 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"



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

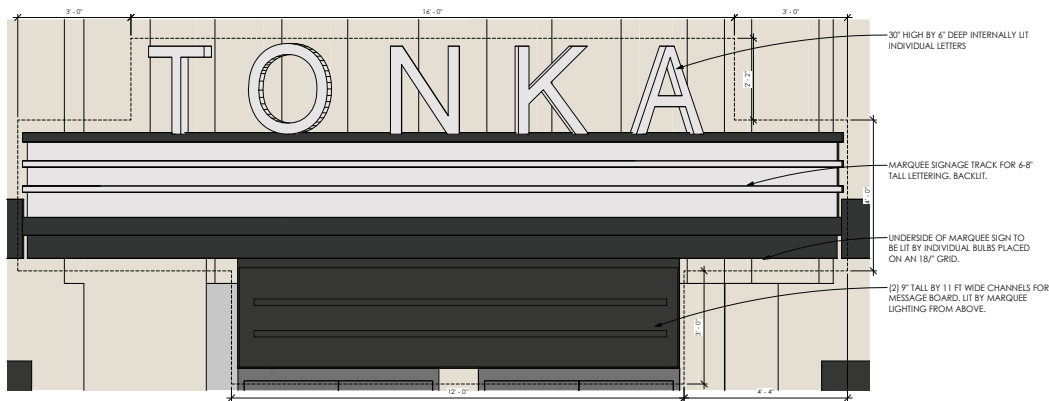


⑦ SIGNAGE - WEST 1 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"



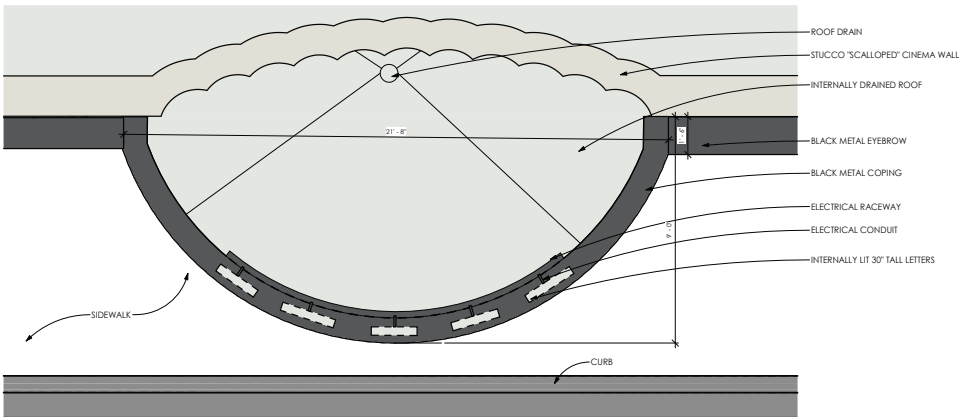
⑧ SIGNAGE - WEST 2 PROPOSED NEW (SAP)
SCALE: 3/4" = 1'-0"

PROPOSED NEW



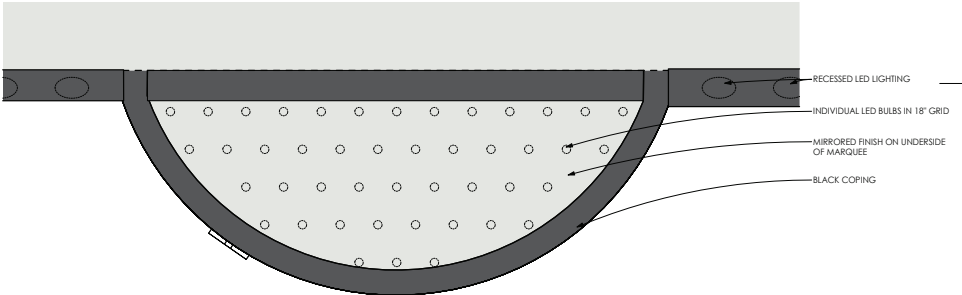
1 SIGNAGE - EAST 1 PROPOSED NEW (SAP)

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)

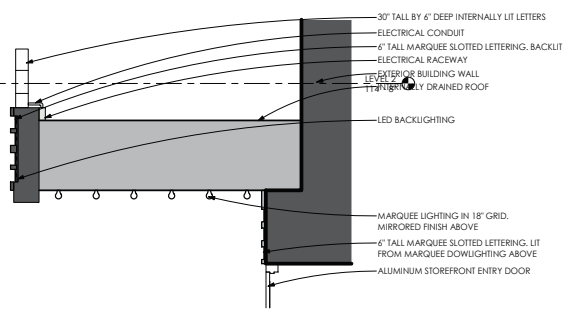
SCALE 1/2" = 1'-0"



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 EYE ELEVATION 5'-6" FROM 943.08' ONE STORY BUILDING



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 EYE ELEVATION 5'-6" FROM 943.08' 28 FT TALL BUILDING

*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

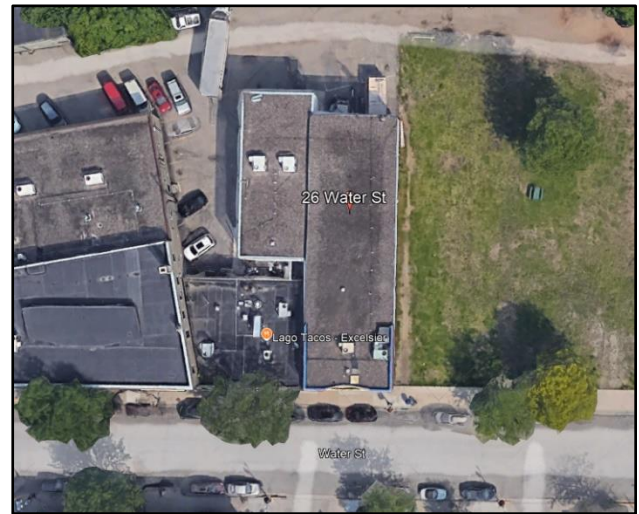
Project Address: 26 Water Street
Excelsior, MN
Date: October 27, 2025

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!	\$0
Structured Parking-Above Ground		0	\$ -	#DIV/0!	#DIV/0!	\$0
Surface Parking		24	\$ -	#DIV/0!	#DIV/0!	\$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
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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													

February 12, 2025

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

Bruce Anderson - bdahsa7@msn.com
Tim Caron - tgcaron@sprintmail.com
Anne Mark - anne.wagner.mark@gmail.com
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Mark Macpherson - mactowne@aol.com

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 preservations 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

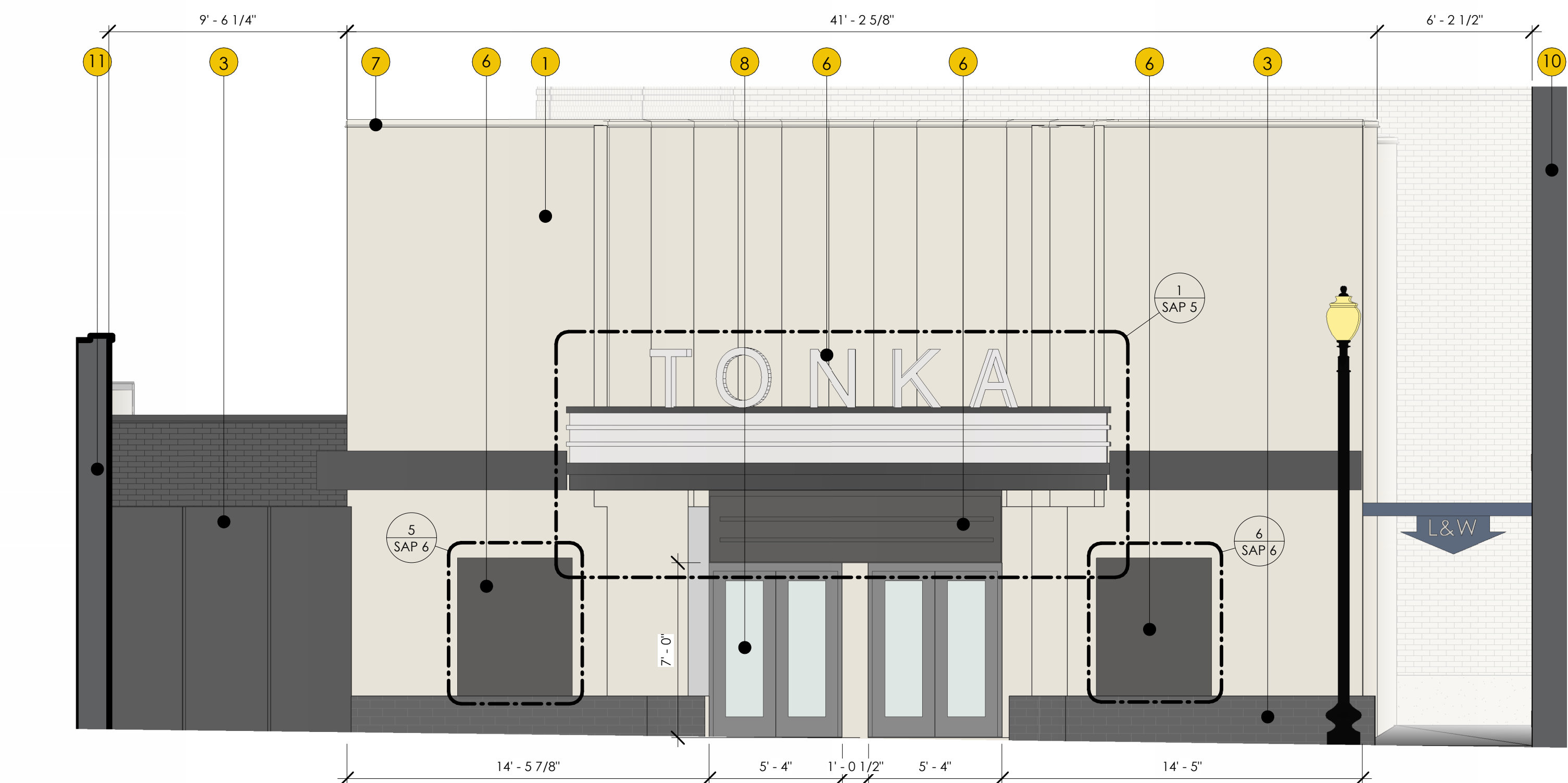
1. Revised Site Plan
2. Scaled rear elevation drawing of proposed Tonka Theater building
3. Street views of proposed Tonka Theater building with proposed mixed-use building at 10 Water Street.



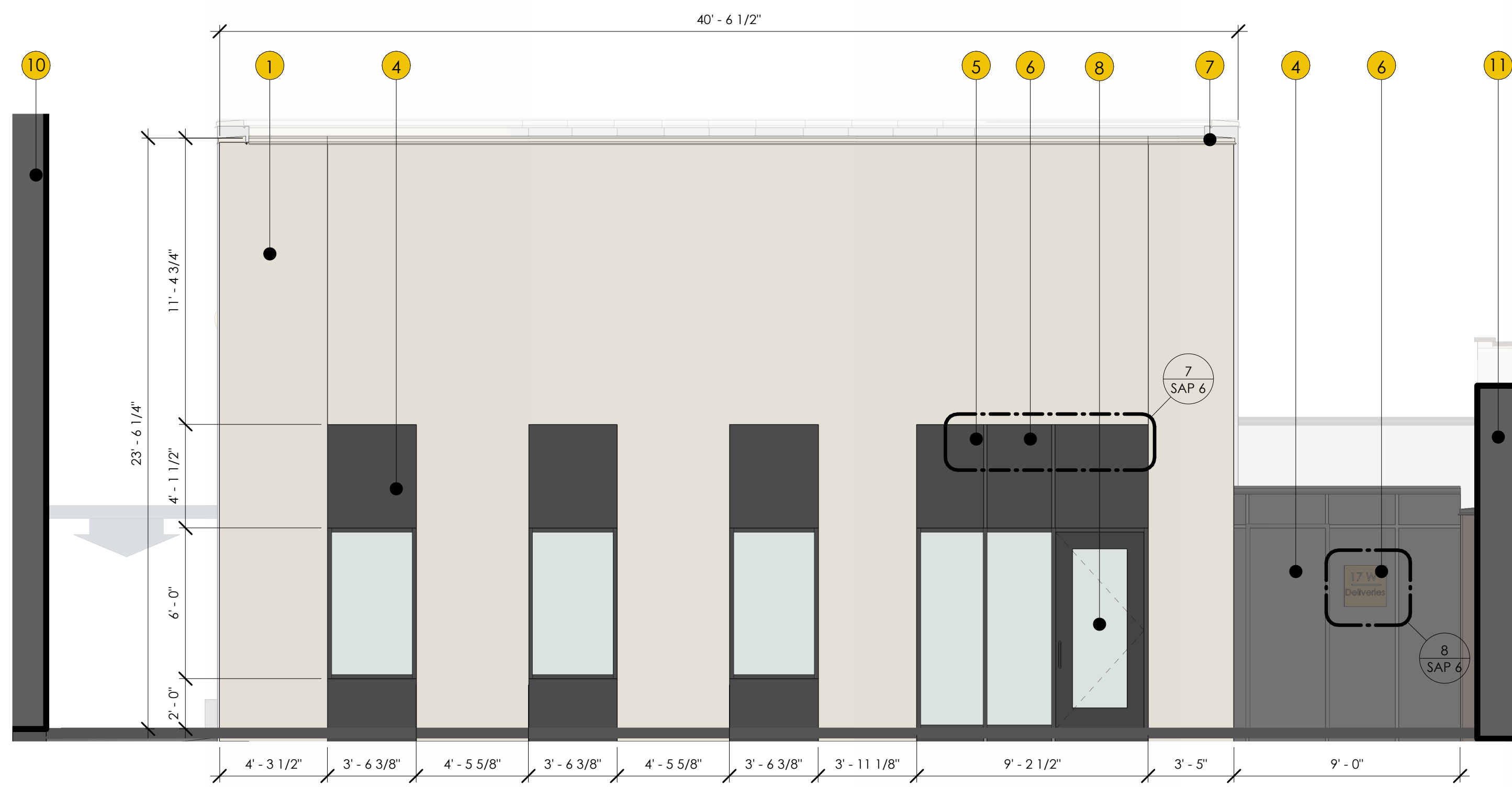
1 Architectural Site Plan

SCALE 1/16" = 1'-0"

PROPOSED NEW

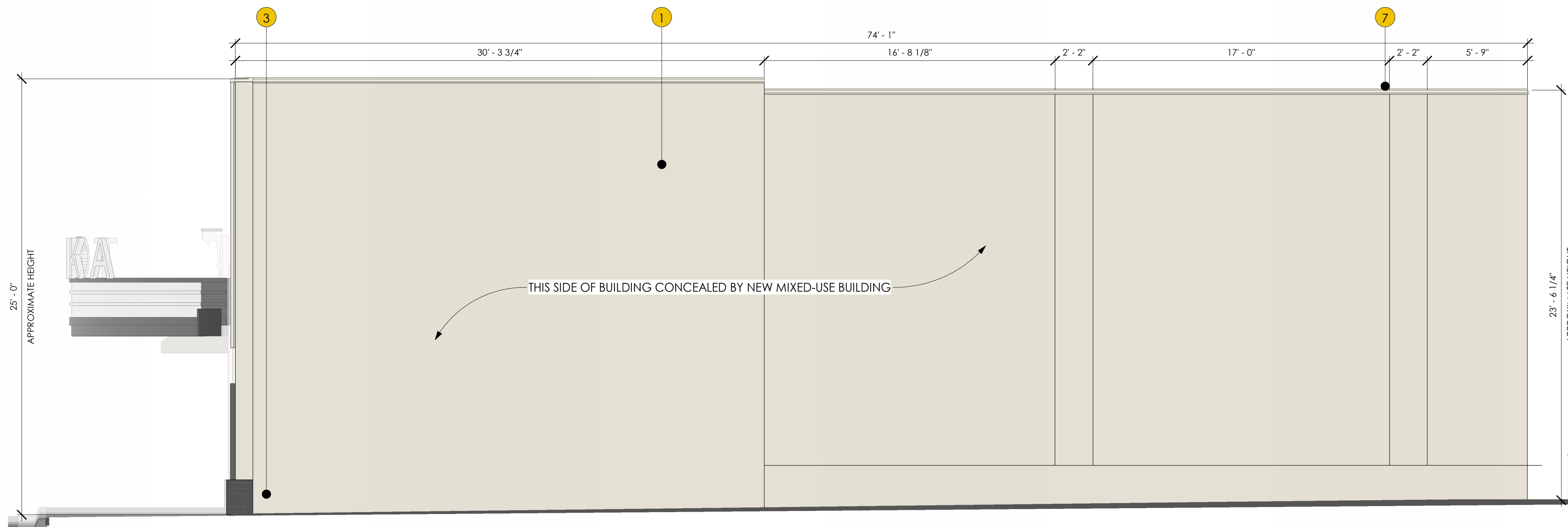


1 EAST - PROPOSED NEW (SAP)
SCALE 1/4" = 1'-0"

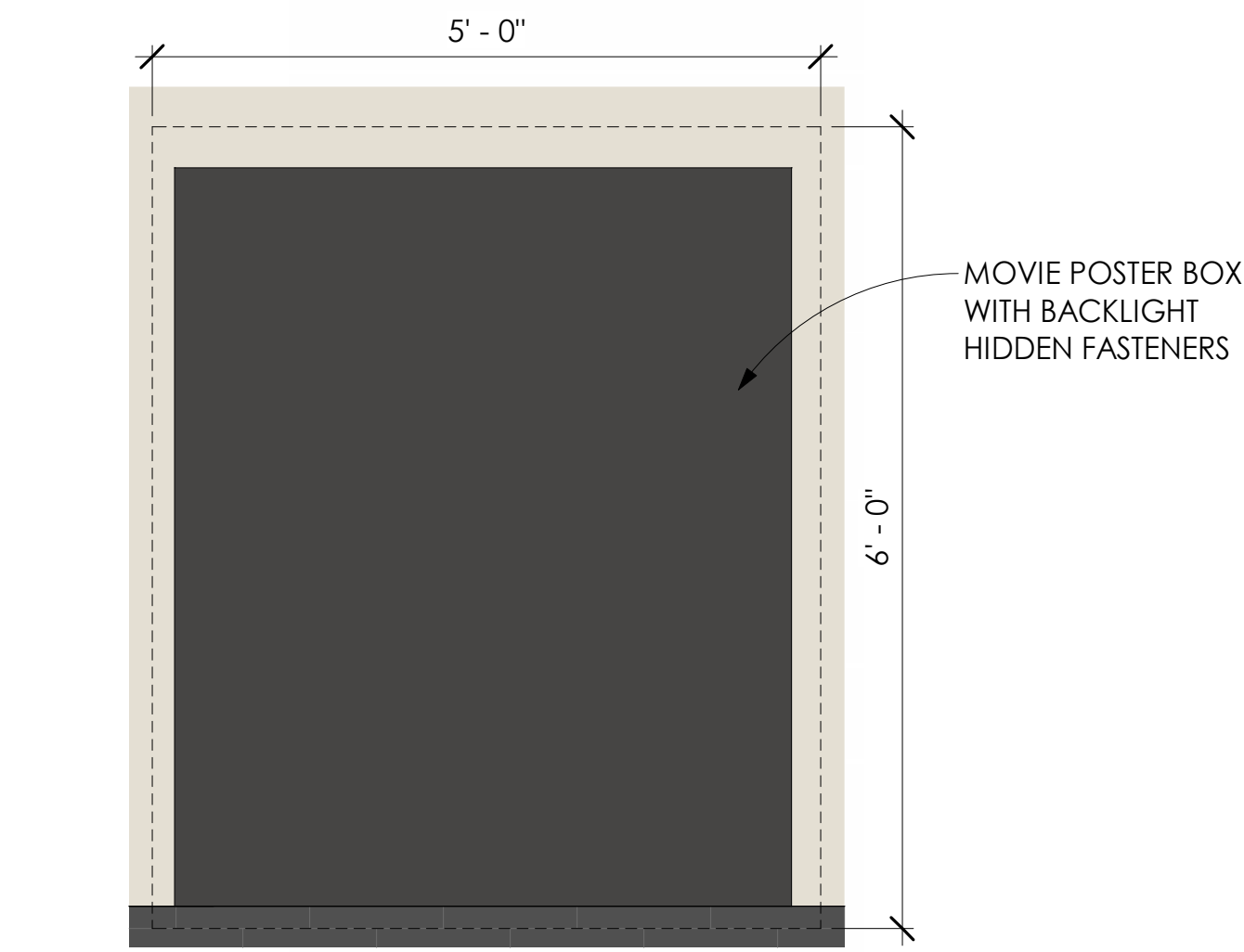


3 WEST - PROPOSED NEW (SAP)
SCALE 1/4" = 1'-0"

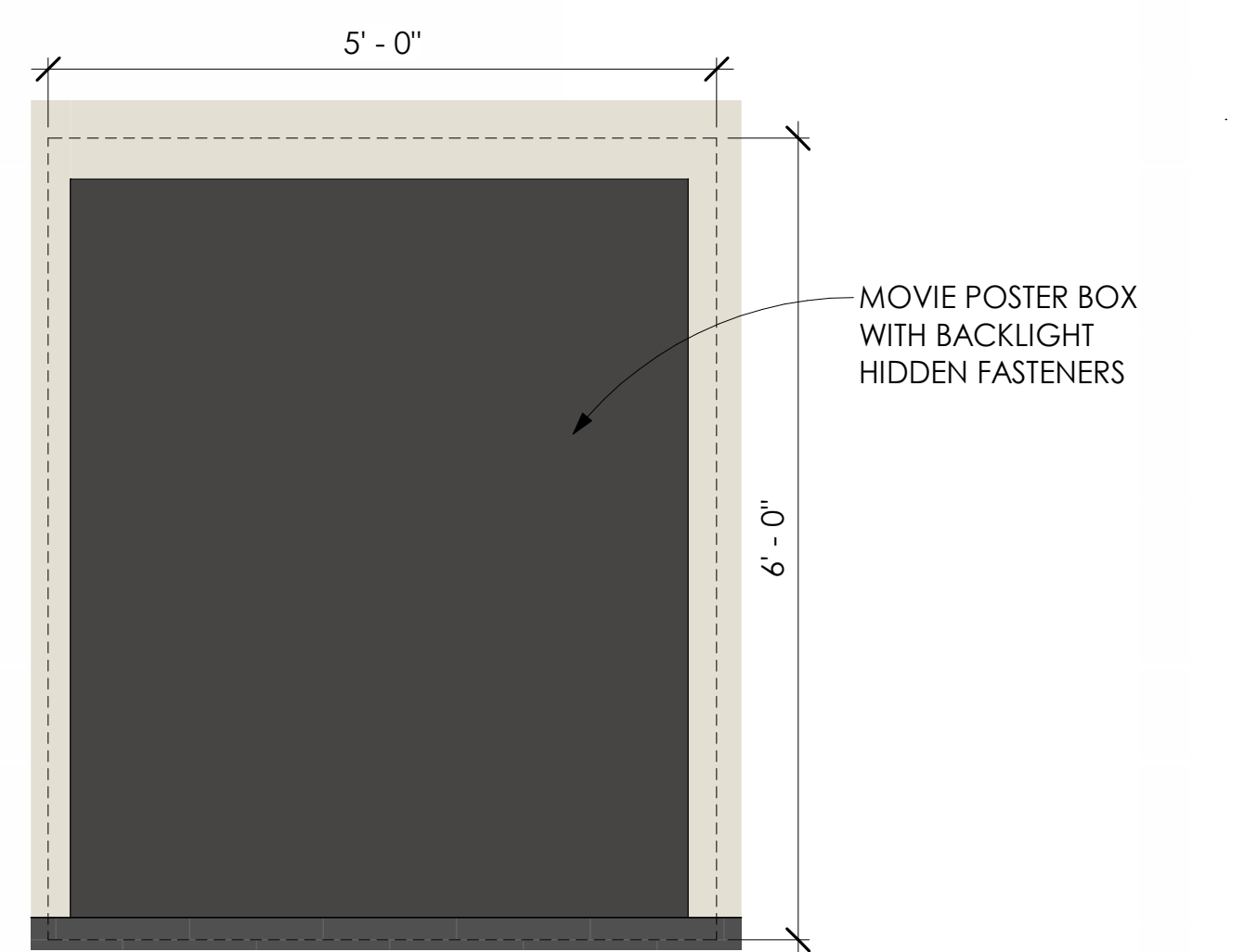
KEYNOTES	
1	PAINTED STUCCO
2	PAINTED CMU
3	BRICK SILL
4	ACM METAL PANEL
5	ACCENT MATERIAL #1
6	SIGNAGE
7	PREFINISHED METAL COPING
8	DOOR
9	WINDOW
10	APARTMENT BUILDING
11	LAGO TACOS



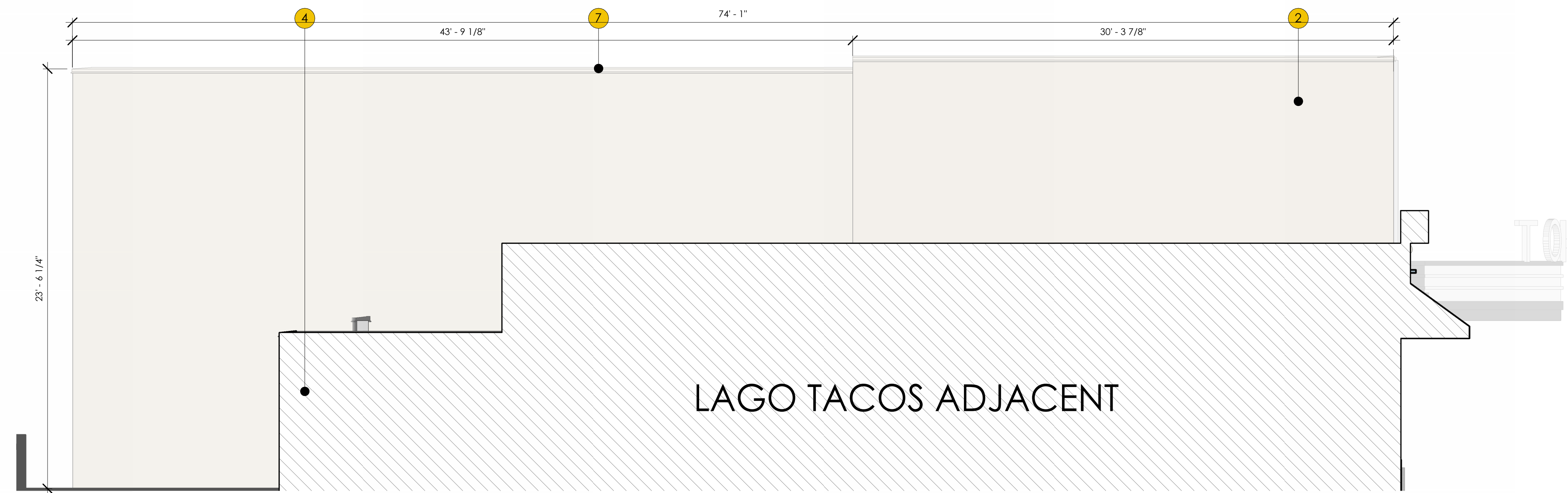
2 NORTH - PROPOSED NEW (SAP)
SCALE 1/4" = 1'-0"



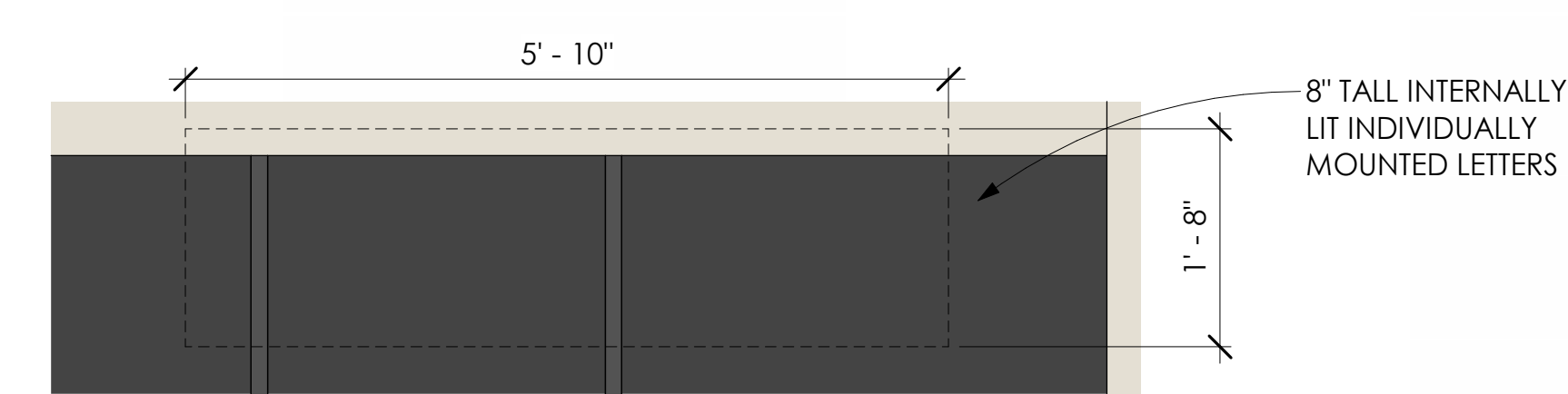
5 SIGNAGE - EAST 2 PROPOSED NEW (SAP)
SCALE 3/4" = 1'-0"



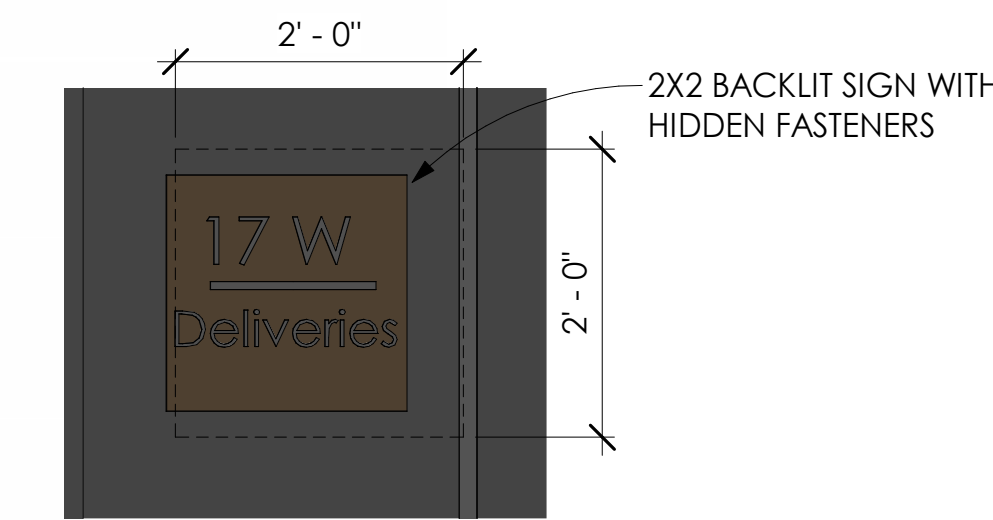
6 SIGNAGE - EAST 3 PROPOSED NEW (SAP)
SCALE 3/4" = 1'-0"



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

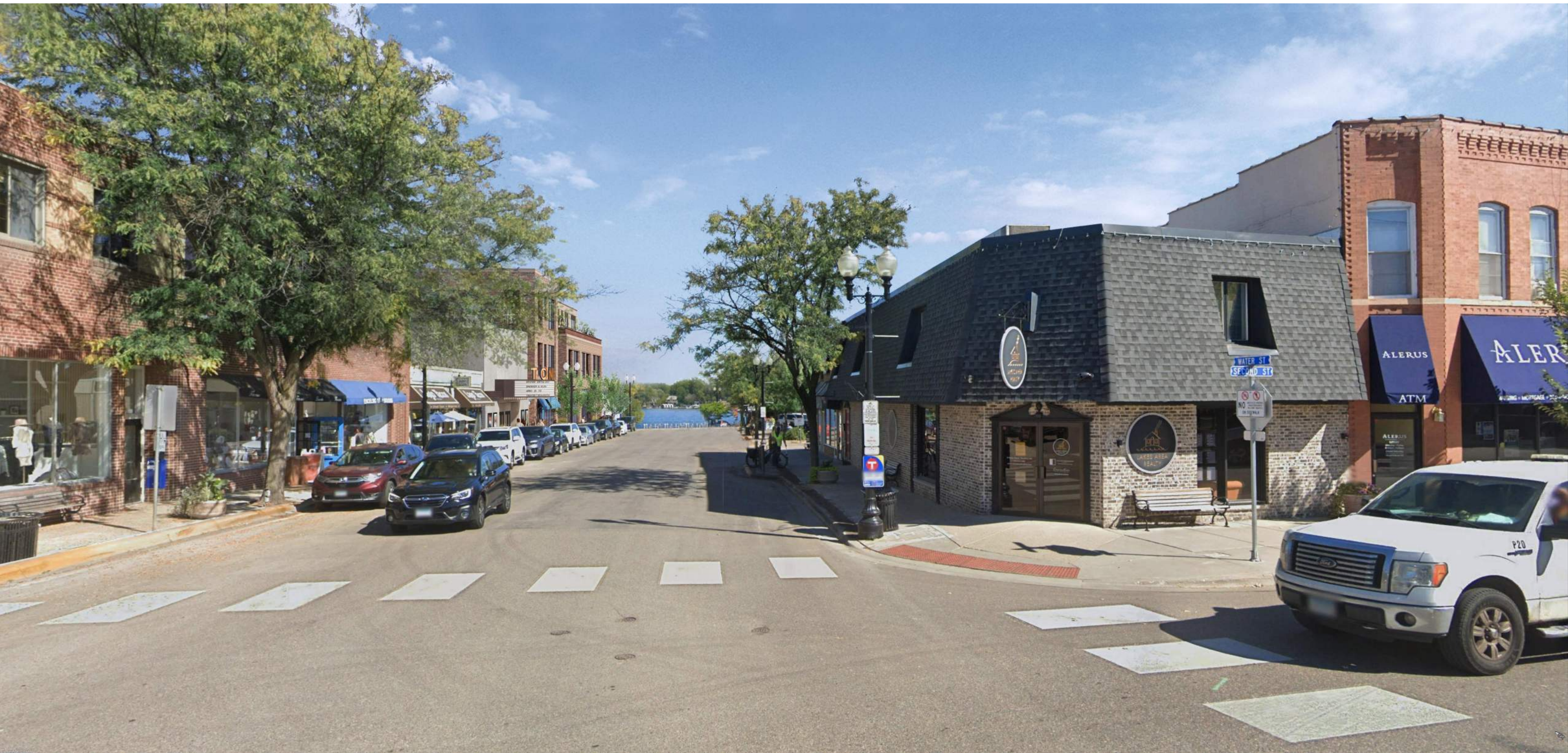
*NEW CINEMA DESIGN IS CONCEPTUAL AT THIS TIME AND SUBJECT TO CHANGE
THROUGHOUT THE DESIGN PROCESS PRIOR TO A FINAL PUD SUBMITTAL.*

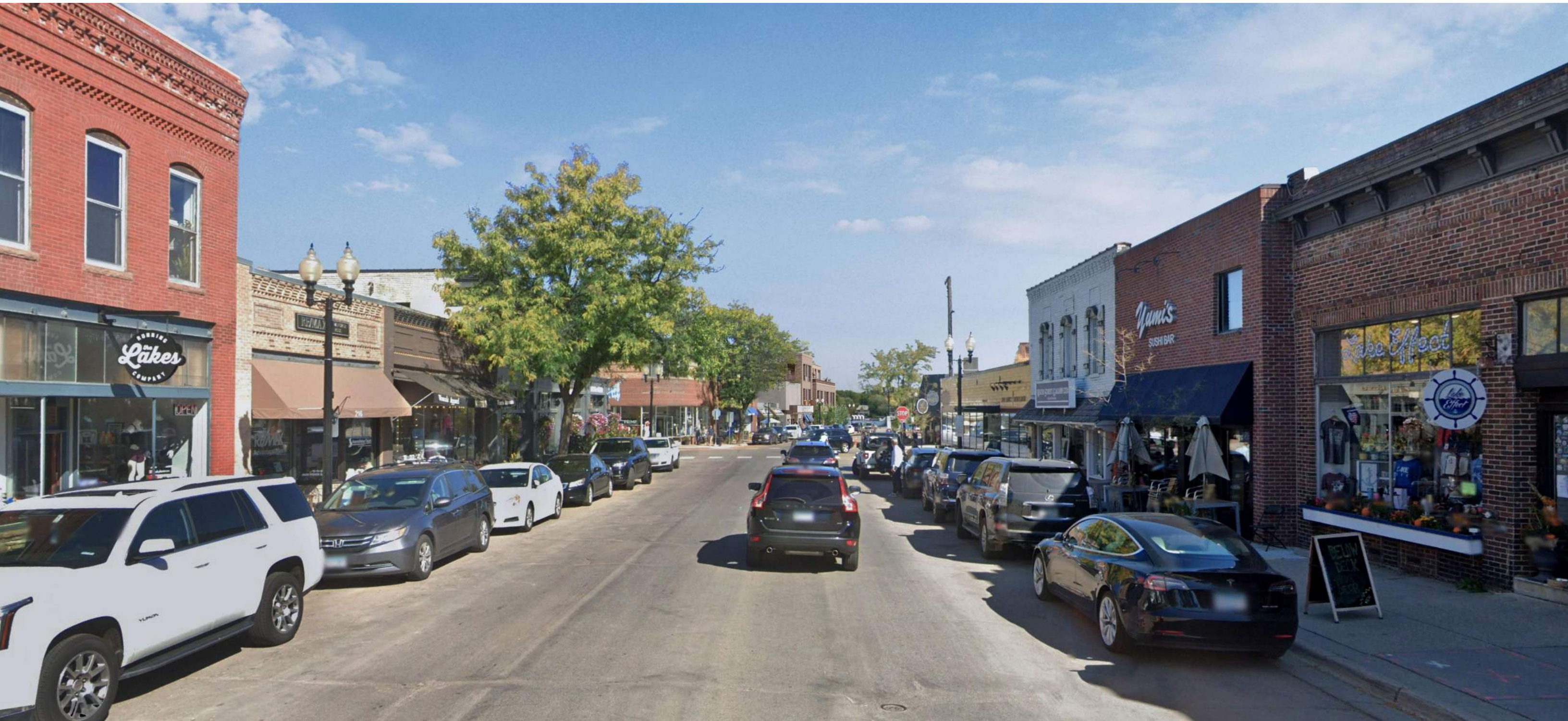










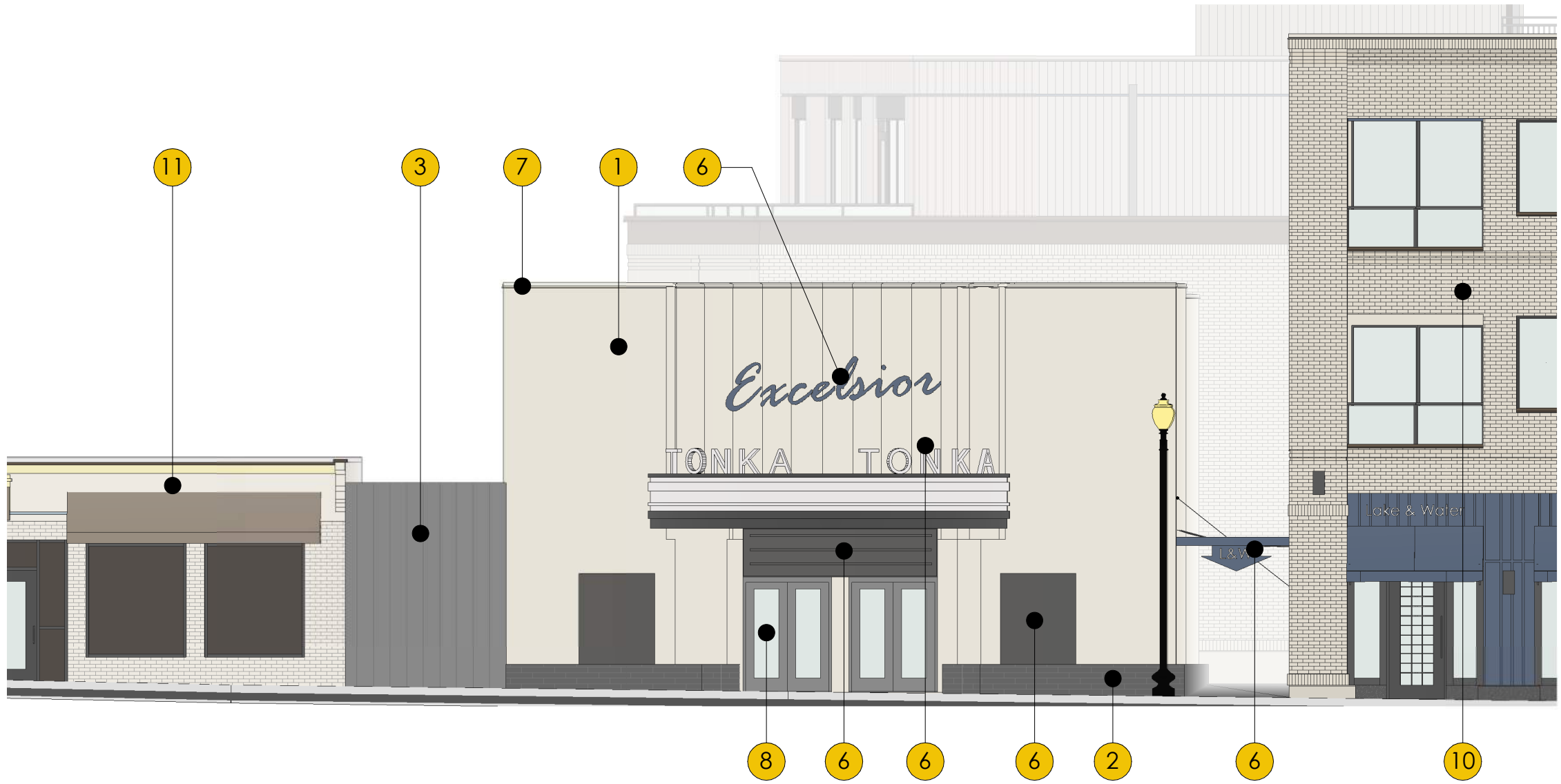




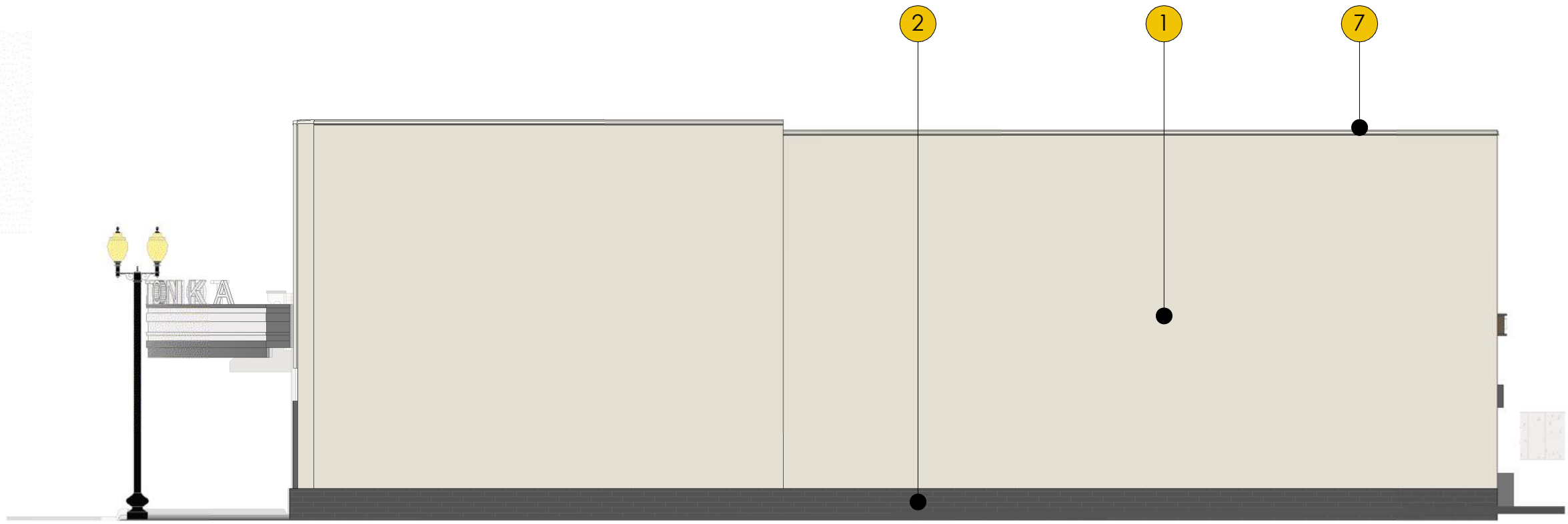
26 WATER STREET

APPLICATION MATERIALS SUBMITTED IN RESPONSE TO INCOMPLETE APPLICATION LETTER

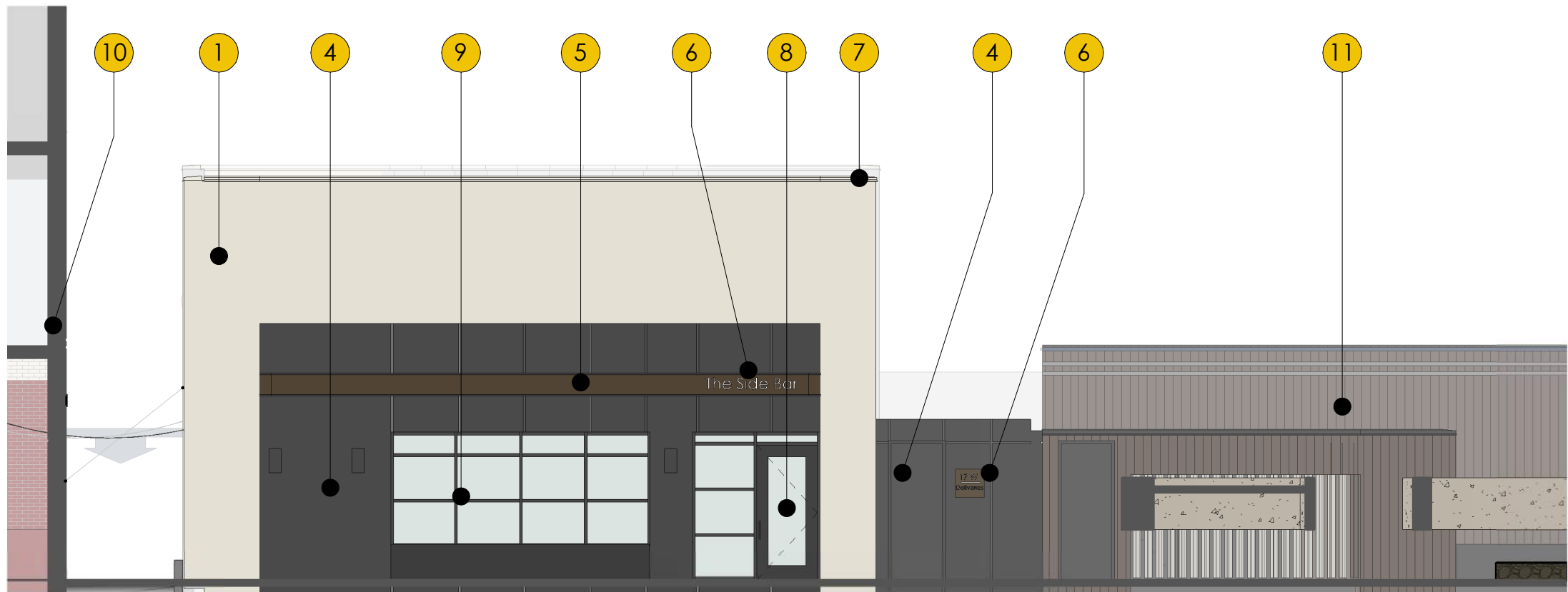
Additional site line views of Tonka Theater building (from Preliminary PUD application materials, 07/2025).



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.

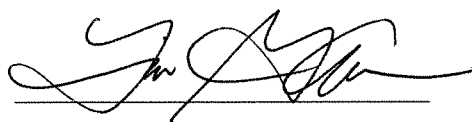
4. There are no balconies on the second level of buildings on Water Street; rather, there are masonry walls with regular patterns of vertical windows with projecting masonry sills. The proposed recessed balconies with glass railings create a non-historic elevation along Water Street. These large square 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 REPORT

To: City Council

From: Julia Mullin, Community Development Director, Jess Long, City Planner

Meeting Date: July 20, 2026

Department/Office: Community Development

Item Name: Ordinance No. 697 Amending City Ordinance, Appendix E, Chapter 15, Section 15-4 Nonconforming Structures to Clarify Definitions of "Expansion" (8:00 PM)

Summary:

BACKGROUND

Across the City of Excelsior there are numerous structures that do not meet current zoning requirements such as minimum setbacks from property lines or lot coverage requirements. This is to be expected as many of Excelsior's older homes were built prior to modern zoning standards, and more modern homes may not meet the current zoning requirements because of recent changes to the zoning code including how height is measured. These properties are considered "nonconforming," and they are allowed to continue to exist; however, the conformities may not be expanded, unless a variance is granted.

Throughout the years, different additions and rebuilds have been brought to the City with proposed expansions to nonconformities. Some owners and developers have questioned if their project is an expansion or simply making use of an existing nonconformity. Staff has explained that while an owner could rebuild a home at the same size with the same size of nonconformity, they do not have the automatic right to expand a nonconformity. The proposed definition of "expansion" provides additional clarity on what expansion is and how increasing dimension, size, area, volume, or height of a structure intensifies/expands the nonconformity.

In February 2026, the Planning Commission had a discussion with the City Attorney about nonconforming structures. The Planning Commission then considered this update to the definition of "expansion" at the April 27, 2026, and July 8, 2026, regular Planning Commission meetings. During discussion of the amendment, some commissioners felt that a more substantial revision of Article 15 was needed. Following consultation with the City Attorney, it has been determined that the City's code is as restrictive as allowed by state statute. However, an update to the definition of "expansion" could provide additional clarity for staff, commissioners, and applicants.

Proposed Ordinance Amendment

Staff is proposing that we add a definition of “expansion” to our ordinance that makes clear what “expansion” means. The City Attorney recommended a definition from the City of Minnetonka’s ordinance:

Expansion - Any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operation to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of a non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. Expansion is synonymous with "enlargement" and "intensification."

In addition to updating the definition of expansion the Planning Commission has recommended that Section 15-4 Nonconforming Structures be updated to reflect and the new definition of expansion.

Existing Ordinance

Zoning Ordinance, Article 15, Sec. 15-4 Nonconforming structures states:

- a. *Expansions*. No nonconforming structure may be expanded, enlarged, or extended in a manner that increases an existing nonconformity.

Proposed Ordinance

- a. *Expansions*. No nonconforming structure may be expanded, ~~enlarged, or extended~~ in a manner that increases an existing nonconformity.

Lastly, Staff is including a correction to a typo within Section 15-1 Purpose. The correction will improve clarity of the section and the City’s goal to eliminate nonconforming uses.

Sec. 15-1. - Purpose.

It is the purpose of this article to provide for the regulation of nonconforming uses, structures, lots and signs, and to specify those requirements, circumstances, and conditions under which nonconforming uses, structures, lots and signs will be operated and maintained. This Appendix E establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that zoning district. It is necessary and consistent with the establishment of these zoning districts that nonconforming, structures, uses and signs not be permitted to continue without restriction. Furthermore, it is the intent of this article that all ~~nonconformities~~ nonconforming uses shall be eventually brought into conformity.

Recommended Action:

It is recommended that the City Council waive the First Reading of Ordinance No. 697 and schedule the Second Reading and approval of the ordinance for the August 3, 2026 City Council meeting.

Budget:**Attachments:**

1. ARTICLE_15.___NONCONFORMING__USES__STRUCTURES__LOTS_AND_SIG
NS (1)

ORDINANCE NO. 697

AN ORDINANCE TO AMEND APPENDIX E, ARTICLE 15 NONCONFORMING USES, STRUCTURES, LOTS, AND SIGNS, SECTION 15-2 GENERAL PROVISIONS OF THE EXCELSIOR CITY CODE TO ADD DEFINITION OF "EXPANSION," SECTION 15-4 NONCONFORMING STRUCTURES TO CLARIFY LIMITS TO EXPANSIONS

The City Council of the City of Excelsior hereby ordains as follows:

Section 1. Appendix E, Article 15, Section 15-1 Purpose of the Excelsior City Code is amended as follows:

It is the purpose of this article to provide for the regulation of nonconforming uses, structures, lots and signs, and to specify those requirements, circumstances, and conditions under which nonconforming uses, structures, lots and signs will be operated and maintained. This Appendix E establishes separate zoning districts, each of which is an appropriate area for the location of uses which are permitted in that zoning district. It is necessary and consistent with the establishment of these zoning districts that nonconforming, structures, uses and signs not be permitted to continue without restriction. Furthermore, it is the intent of this article that all ~~nonconformities~~ nonconforming uses shall be eventually brought into conformity.

(Ord. No. 554, § 1, 1-17-2017)

Section 2. Appendix E, Article 15, Section 15-2 Definition of the Excelsior City Code is amended as follows:

(f) Expansion - Any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operation to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of a non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. Expansion is synonymous with "enlargement" and "intensification."

Section 3. Appendix E, Article 15, Section 15-4 Nonconforming structures of the Excelsior City Code is amended as follows:

- (a) *Expansions.* No nonconforming structure may be expanded, ~~enlarged, or extended~~ in a manner that increases an existing nonconformity.

Section 4. This Ordinance is effective in accordance with Section 3.06 of the Excelsior City Charter.

Adopted by the Council of the City of Excelsior, Minnesota, this _____ day of _____ 2026.

Gary Ringate, Mayor

ATTEST:

Hilary Vokovan, City Clerk

Kristi Luger, City Manager

First Reading of Ordinance: July 20, 2026

Second Reading and Adoption: August 3, 2026

Publication of Ordinance: August 6, 2026

Effective Date: September 6, 2026