

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **February 23, 2021** immediately following the City Council meeting which begins at **5:30 PM**

FOR THE SAFETY FOR OUR CITIZENS AND STAFF, THE CITY OF ASHLAND CONTINUES TO CONDUCT THEIR MEETINGS VIRTUALLY

Please contact the Clerk's office if you require accommodations to attend the meeting.

To join the meeting from your computer, tablet or smartphone:

<https://global.gotomeeting.com/join/809398229>

Or dial in using your phone.

United States (Toll Free): 1877-568-4106

Access Code: 809-398-229

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<https://global.gotomeeting.com/install/608341709>*

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Committee Updates
6. Discussion Items
 - A. **Discussion Regarding Local and Statutory Requirements for Procurement for City Projects (*Public Works Director*)**
 - B. **Presentation, Discussion and Possible Action Regarding Public Input Received for the Timeless Timber Residential and Commercial Development Proposals (*Planning Department*)**
 - C. **Discussion and Possible Action Regarding Amending Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors, Ashland City Ordinances, as Relates to Mobile Concession Vendors (*Council President*)**
 - D. **Continued Discussion and Possible Action Regarding Creating a System for Collection and Analysis of Data Related to the Ashland Police Department**

7. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

SUBJECT: Committee Updates

RECOMMENDATION: Discussion Only

DEPARTMENT OF ORIGIN:

CLEARANCES: Council President

EXHIBITS:

SUMMARY STATEMENT:

Harbor Commission: Pufall
Plan Commission: MacKenzie
Police & Fire: Lewis
Library Board: Jackson
Housing Authority: Franek
Housing Committee: Tochterman
Parks and Rec Committee: Haas
Public Works Committee: Moore
Sustainability Committee: Ullman
Historic Preservation Committee: Franek
Disabled Parking Committee: Whitebird
Source Water Protection Committee: Ortman

SUBJECT: Discussion Regarding Local and Statutory Requirements for Procurement for City Projects (*Public Works Director*)

RECOMMENDATION: Discussion Only

DEPARTMENT OF ORIGIN: Public Works Director, City Attorney

CLEARANCES: City Administrator, Council President

EXHIBITS:

SUMMARY STATEMENT:

The Public Works Director and City Attorney plan to provide some general education to Council regarding requirements for procurement. The discussion will cover both City requirements (local ordinance) as well as applicable Wisconsin State Statutes.

Information will be made available and presented at the meeting.

SUBJECT: Presentation, Discussion and Possible Action Regarding Public Input Received for the Timeless Timber Residential and Commercial Development Proposals (*Planning Department*)

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Planning and Development Department

CLEARANCES: Housing Committee (2/10/2021)
Planning Commission (2/16/2021)

EXHIBITS:

1. Timeless Timber Public Input Summary for Residential and Commercial Developments
2. Summary of Commercial Request for Proposals (RFP) and El Tarasco, LLC Proposal
3. Cover Letter from El Tarasco, LLC for Commercial Development of the Timeless Timber Site; October 12, 2020
4. Project Budget Estimate for Commercial Redevelopment of Timeless Timber site by El Tarasco, LLC
5. Summary of Residential Request for Proposals (RFP) and The Commonwealth Companies Proposal
6. Project Description for The Commonwealth Companies Residential Redevelopment Proposal
7. Proposed Purchase Price for The Commonwealth Companies Residential Redevelopment Proposal
8. Concept Plan for The Commonwealth Companies Residential Redevelopment Proposal
9. Financial Information for The Commonwealth Companies Residential Redevelopment Proposal

SUMMARY STATEMENT:

The Planning and Development Department sent information packets with details on the proposals received for commercial and residential redevelopment of the City-owned Timeless Timber Site to 70 surrounding property owners, with public input surveys included. The same survey and information were posted on the City's website, social media, and a story was done in the Daily Press to encourage residents to provide feedback in this way. In total, the Planning Director received eight surveys, two emails and nine phone calls, with the majority coming from surrounding property owners and residents.

The Housing Committee unanimously recommended moving forward with Development Agreement negotiations with Commonwealth Companies for residential redevelopment of the Timeless Timber site on February 10, 2021. The Planning Commission unanimously recommended moving forward with Development Agreement negotiations with El Tarasco, LLC for commercial redevelopment of the Timeless Timber site on February 16, 2021.

The public input summarized for review by the Planning Commission at their February 16, 2021 meeting and the Housing Committee at their February 10, 2021 meeting for the commercial and residential redevelopment proposals respectively, focused primarily on concerns and suggestions raised by residents. Considering public input, both proposals were unanimously recommended for Council to move forward with Development Agreement negotiations. Both the Planning Commission and Housing Committees emphasized the importance of thoughtful sidewalk and other pedestrian infrastructure within these developments in anticipation of increased residential traffic in the area.

The purpose of this Committee of the Whole discussion will be to determine direction from Council for Development Agreement negotiations including factors such as price of the land, site and building design, terms of the reversion clause, and other elements the City would like to see in the proposed developments. The Planning Department will then work with the City Attorney, developers, and any other relevant City departments as needed to work on a Development Agreement which would then be presented to Council at a future meeting.

Timeless Timber Site Public Input Summary

Commercial Proposal

Please use the space below to share any thoughts and feedback about the proposed commercial use and its compatibility with the surrounding area/neighborhood

- Dissatisfaction with another restaurant (specifically a Mexican restaurant)
 - “[Ashland] has enough restaurants, gas stations, and second-hand stores”
- Should be a Menards or Texas Roadhouse
- Desire for industry to return to this site
- Concerned with a bar being this close to traffic (concern for drunk driving implied)

Please use the space below to share any thoughts and feedback about the proposed commercial site plan and building design

- Building design is satisfactory
- Like the access from 23rd Ave E; flows better to US-2
- Don’t agree with routing traffic onto 22nd Ave E. at 3rd St E. – prefer to route onto Main St E. to provide better access to L&M, Break Water, and Tractor Supply

Please use the space below to share any additional thoughts and feedback about the proposed commercial or residential development

- Question to whether or not the sewer system can handle this new construction
- Many concerns about traffic, especially as it pertains to safety
 - 21st Ave E and 22nd Ave E have turned in to “race tracks”
 - Need sidewalks, particularly if moving forward with the residential development
 - Ideas for rerouting traffic:
 - Route Cedar out the West side
 - Route traffic from the West to Tractor Supply to avoid customers having to go around Park, down 21st or 22nd, then back West; this also brings traffic off US-2
- Move the trailer park on the East end to the proposed Timeless Timber residential site and build the proposed residential development to the trailer park site

Residential Proposal

Please use the space below to share any thoughts and feedback about the proposed residential use and its compatibility with the surrounding area/neighborhood

- General concern for affordable housing resident's criminality and drug activity
 - Concern it will bring property values down
 - Request for resident drug testing and background checks
 - Need for needle disposal
- General concern for residential housing to be near such a high traffic road
 - Signs for kids at play
- Should be specifically marketed as senior housing
- Unfair to local landlords to allow tax credit housing in the City
- .Want to see community gardening space incorporated into site design

Please use the space below to share any thoughts and feedback about the proposed residential site plan and building design

- The building design is satisfactory
 - Residential development should be closer to the schools and health care facilities
 - Like the "green buffer zone"
 - Concern with sound and noise disturbance for the residents due to traffic and the surrounding businesses (specifically Kwik Trip)
-



2020 Timeless Timber Commercial Redevelopment RFP



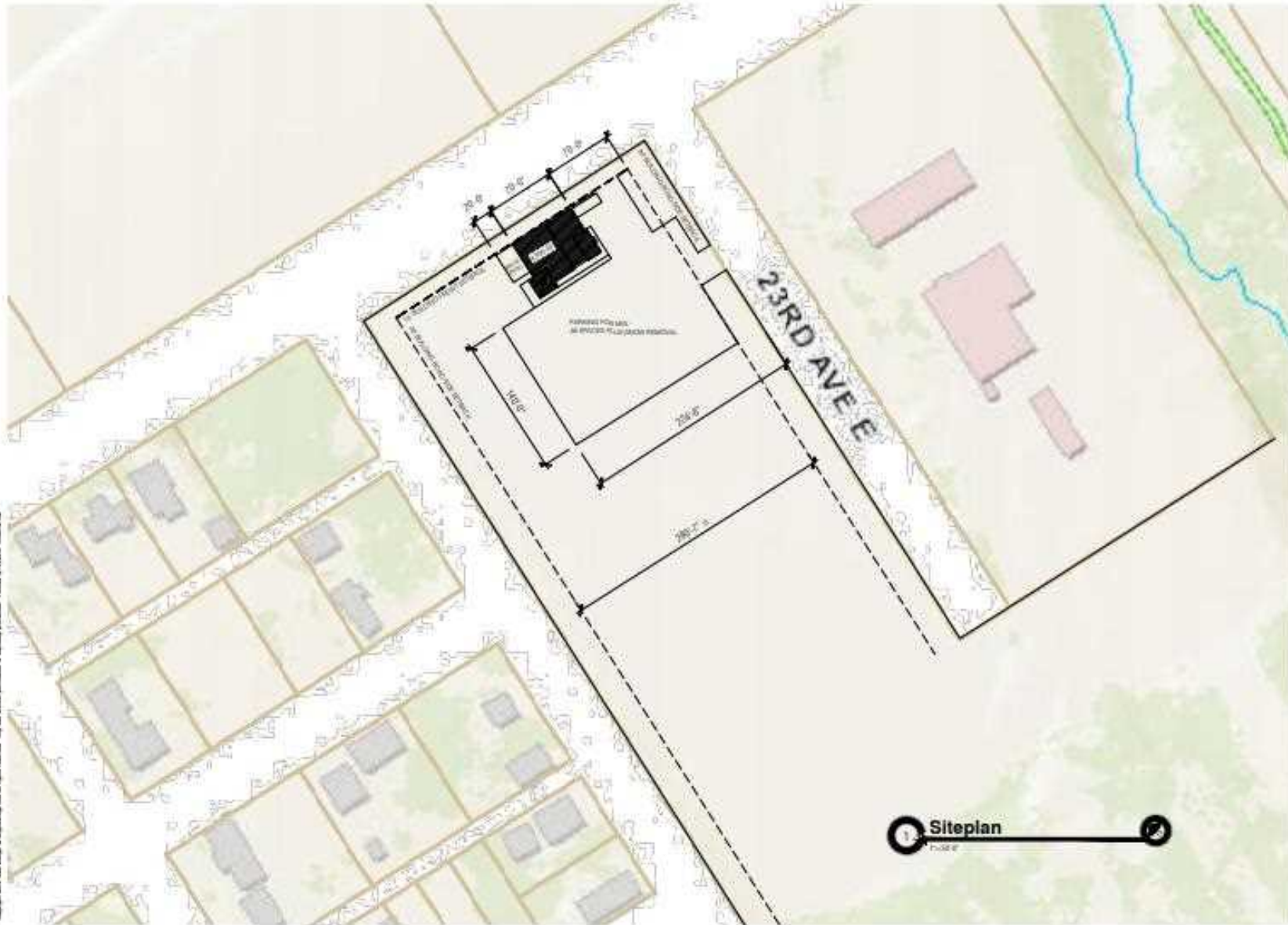
COMMERCIAL DEVELOPMENT GOALS FROM RFP

- District Integration
- Economic Development
- Quality design and density
- Connectivity
- Use (entertainment, health/fitness, restaurant, retail)
- Sustainable
- Innovation
- City Vision
- Financial Viability

2020 Commercial RFP Proposal: Restaurant; El TARASCO, LLC

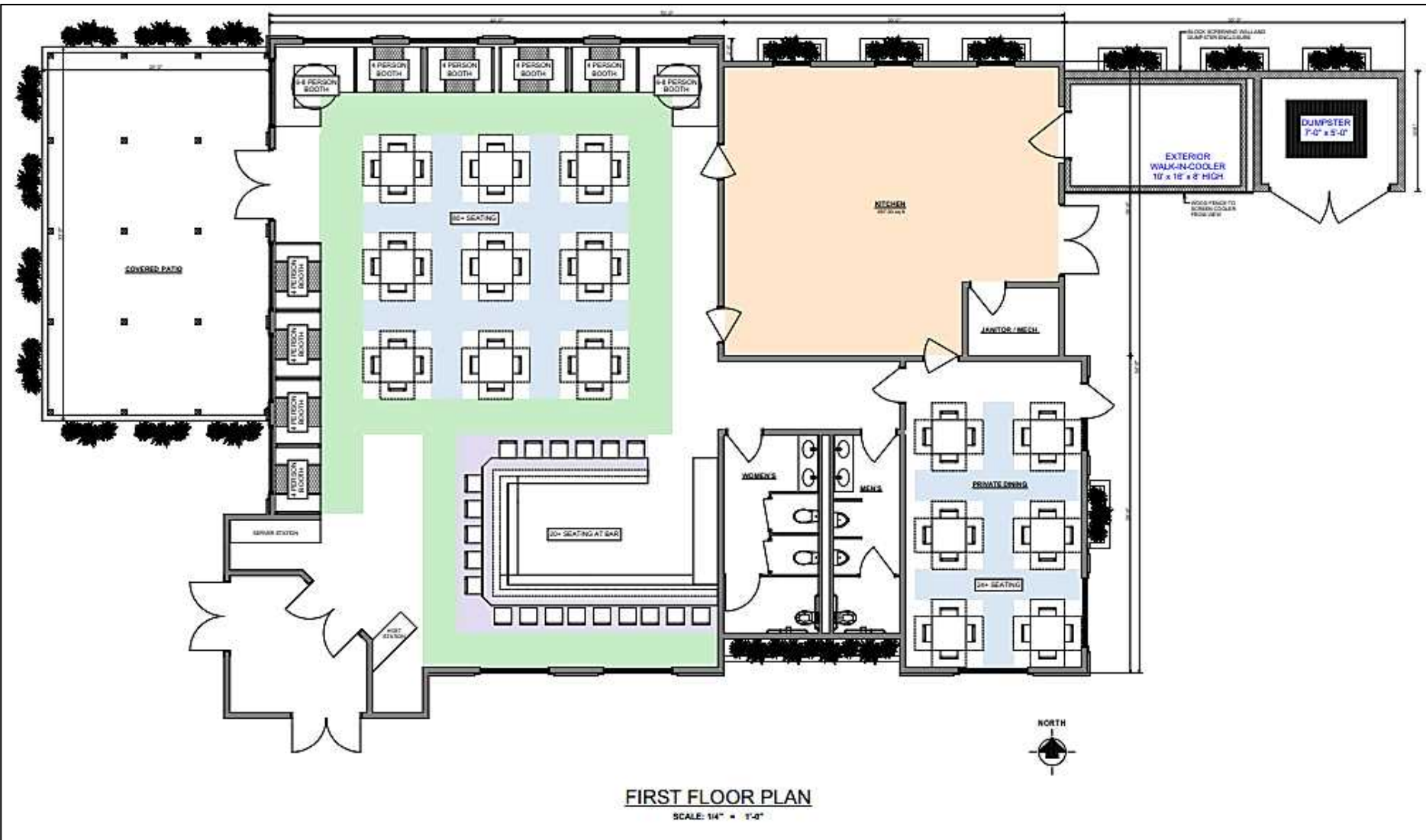


Copyright 2020 C&S Design & Engineering, Inc. All rights reserved. Any use without permission is strictly prohibited. Project: 20-3419, 02/16/2020



2200 LAKE SHORE DRIVE EAST	
CONCEPT SITE PLAN	
DESIGN & ENGINEERING	
C&S	
February 16, 2020	
20-3419	
C102	





Project Budget Estimate	Percentage	TOTAL	Avg Cost/SF	Notes/Comments
SOV BREAKDOWN				
New, single story, 4,000sf restaurant building with patio and parking on an unimproved site. Based on concept plans dated 02/18/20			4,000 SF	
Division 01 - General Requirement	6.00%	\$ 62,731.91	\$ 15.68	Temp power, rentals, final cleaning, other items not included elsewhere
Division 03 - Concrete	5.84%	\$ 69,000.00	\$ 15.00	Foundation/Footings, Footing Excavation, Slab
Division 04 - Masonry	1.17%	\$ 13,800.00	\$ 3.00	Keystones, corner stones, decorative work
Division 05 - Metals	1.27%	\$ 15,000.00	\$ -	Decorative metal work allowance
Division 06 - Wood, Plastics, and Composites	12.85%	\$ 151,800.00	\$ 33.00	Framing, cabinets, countertops
Division 07 - Thermal and Moisture Protection	10.51%	\$ 124,200.00	\$ 27.00	Cladding, roofing, insulation, waterproofing
Division 08 - Door and Windows	2.03%	\$ 24,000.00	\$ 6.00	Assumed non-operable windows, no grilles
Division 09 - Finishes	9.73%	\$ 115,000.00	\$ 25.00	
Division 10 - Specialties	0.68%	\$ 8,000.00	\$ 2.00	Hardware, restroom accessories, signage
Division 11 - Equipment	0.00%	\$ -	\$ -	Per Owner
Division 12 - Furnishings	0.00%	\$ -	\$ -	Per Owner
Division 13 - Special Construction	0.41%	\$ 4,800.00	\$ 1.20	Fire Sprinkler
Division 21 - Alarm	0.68%	\$ 8,000.00	\$ 2.00	Security alarm (no fire)
Division 22 - Mechanical and Plumbing	10.16%	\$ 120,000.00	\$ 30.00	HVAC, ductwork, plumbing, fixture allowance
Division 26 - Electrical	8.57%	\$ 101,200.00	\$ 22.00	rough and finish electrical, fixture allowance
Division 33 - Utilities and site work	19.30%	\$ 228,000.00	\$ 57.00	New laterals, grading, asphalt paving and striping, landscape allowance
Subtotal:	88.50%	\$ 1,045,531.91	\$ 238.88	
Bonding	0.00%	\$ -	\$ -	Not included unless required by funding
Overhead/Profit	8.00%	\$ 83,642.55	\$ 20.91	
Contingency	5.00%	\$ 52,276.60	\$ 13.07	
Subtotal:	11.50%	\$ 135,919.15	\$ 33.98	
TOTAL BUILDING COST ESTIMATE	100.00%	\$ 1,181,451.06	\$ 272.86	

El TARASCO LLC
819 MacArthur Avenue
Ashland, WI 54806

October 12, 2020

Megan McBride
City of Ashland
601 Main Street West
Ashland WI 54806

Dear Megan,

I am writing this letter to request consideration from the City to enter into an agreement to redevelop the former Timeless Timber site, located at 2200 Lakeshore Drive East. I am planning to redevelop the site to build a new restaurant.

I am requesting the land be given by the City as development incentive. I understand that I will be responsible for all other development costs. I have been working with C&S Design in Ashland and they have designed the building. The cost of the total project is estimated to be \$1,252,338. I have been working with Embers Credit Union in Marquette, MI and have tentative financing approval contingent on selection of this proposal by the City for redevelopment of the site.

I am currently a co-owner of the El Dorado restaurant in Ashland where we have been very successful for many years. The market supports the need for a larger restaurant that can seat more customers and provide a fine dining experience where it is relaxed and not rushed due to overcrowding. I would like to make this investment in Ashland and develop another business that will have success for many years to come.

I would intend to begin this project in the spring of 2021. Preliminary site plans and designs are included.

Thank you for consideration,

Jose J Alvarez
El TARASCO LLC

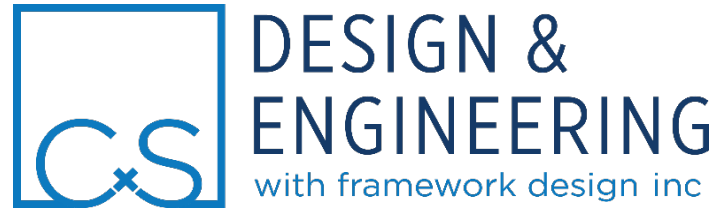
2200 Lake Shore Drive East

Ashland, WI

Date:

February 18, 2020

Prepared By:



Note: These estimates have been provided to the best of our knowledge based on historical data, similar projects, current general practice, RSMeans Cost Estimating Software. These numbers are not intended to be used beyond providing cost estimates as a guideline. Other funding and/or wage requirements may alter the below estimates. In addition, these estimates do not account for carrying costs, legal fees, environmental reviews, etc. A complete, construction bid based on buildable drawings and cost estimate would provide the most accurate and detailed information.

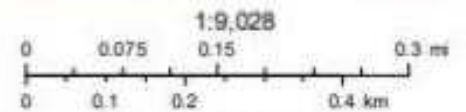
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TOTAL BUILDING COST ESTIMATE	100.00%	\$ 1,181,451.06	\$ 272.86	
Soft Costs			4,000 SF	
A&E Fees	6.00%	\$ 70,887.06	\$ 17.72	Architecture, engineering, civil, MEP, construction administration
Permit Fees		\$ 2,460.00	\$ 0.62	State review, DNR (if applicable), City of Ashland
TOTAL PROJECT COST ESTIMATE		\$ 1,252,338.13		



2020 Timeless Timber Residential Redevelopment RFP



6/5/2020, 2:41:10 PM



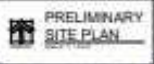
City of Ashland Public Works Department, GIS Division
PICTOMETRY INTL.

RESIDENTIAL DEVELOPMENT GOALS FROM RFP

- Appropriate density of urban infill development;
- To provide housing that meets the diverse needs of the City, offering options for a mix of ages and incomes with priority given to developments that incorporate affordable housing;
- Increases diversify Ashland's existing housing stock in terms of density, accessibility, affordability and populations served;
- Creates additional housing to support identified community needs;
- Design approach that integrates with the surrounding neighborhood area and anticipated commercial development, enhances community character, and provides connectivity;
- Provide a development that is sustainable, including environmentally sensitive, energy efficient, and with appropriate stormwater management to protect water quality of the existing floodway on site which leads to Lake Superior; and
- Generate additional tax base

2020 Residential RFP Proposal: Commonwealth Companies





An approximate unit mix and rent levels are as follows:

30%

1 Bedroom - \$344 – 3 units

2 Bedroom - \$409 – 3 units

3 Bedroom - \$469 – 6 units

50%

1 Bedroom - \$609 – 6 units

2 Bedroom - \$728 – 9 units

3 Bedroom - \$837 – 9 units

80%

1 Bedroom - \$742 – 3 units

2 Bedroom - \$887 – 8 units

3 Bedroom - \$1021 – 13 units



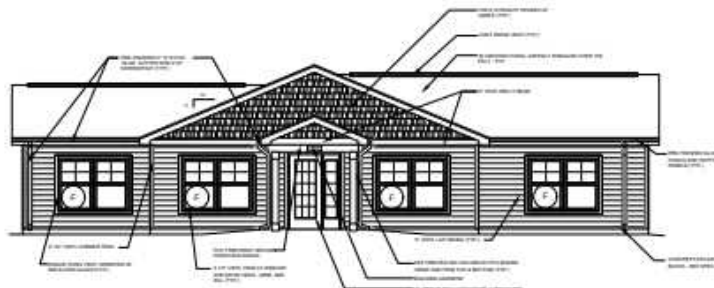
**BUILDING #1, #2, #3, #4 & #5
ELEVATIONS**
SCALE: 1/8" = 1'-0"



**BUILDING #1, #2, #3, #4 & #5
ELEVATIONS**
SCALE: 1/8" = 1'-0"



**BUILDING #1, #2, #3, #4 & #5
ELEVATIONS**
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION CLUBHOUSE
SCALE: 1/8" = 1'-0"



EAST ELEVATION CLUBHOUSE
SCALE: 1/8" = 1'-0"

Capital Stack

Permanent Financing Resources Expected to be Used for Project:

Development Uses:

- \$9,000,000 hard costs
- \$1,800,000 soft costs (fees included)
- \$900,000 Lending and Legal Costs
- \$300,000 Reserves

Total Cost (approximate): \$12,000,000

Development Sources:

- Federal LIHTC Equity - \$3,300,000
- State Tax Credit Equity - \$5,400,000
- First Mortgage - \$2,500,000
- AHP Funds - \$700,000
- HOME Funds - \$100,000

Total Sources (approximate): \$12,000,000

TAB 4:

Project Description

Project Description

We propose a single phase 50-unit Cottage style development utilizing the approximately 16 acres suitable for residential development. Due to the size of the parcel we are also proposing a community building for the on-site staff as well as a community space for the tenants. In our opinion, this will be the best way to facilitate the appropriate density in this specific location.



Commonwealth has a long tenure of new construction projects and have a unique and sophisticated way of utilizing the existing greenery as part of the development. We see the south-western corner as the most suitable for development due to the tenants then having their own secluded living environment separate from the parcels to the north and the east, while still providing connectivity to the entire surrounding environment.

Our primary demographic for this development would include families whose incomes do not exceed 60% AMI net max rents, and for at least 60% of the total units will be limited to 50% AMI and below tenants. These tenants could be fireman, city staff, local manufacturing workers, teachers, etc. This allows us to provide housing that meets the diverse needs of Ashland so that we can target a wide variety of incomes and ages. Some of the target demographics we likely will serve are young families, low-tenured workers, and even an elderly population.

Due to the size of the site, Commonwealth would also be open to a potential second phase of development, sometime in the future, provided the market could support this.

An approximate unit mix and rent levels are as follows:

30%

- 1 Bedroom - \$344 – 3 units
- 2 Bedroom - \$409 – 3 units
- 3 Bedroom - \$469 – 6 units

50%

- 1 Bedroom - \$609 – 6 units
- 2 Bedroom - \$728 – 9 units
- 3 Bedroom - \$837 – 9 units

80%

- 1 Bedroom - \$742 – 3 units
- 2 Bedroom - \$887 – 8 units
- 3 Bedroom - \$1021 – 13 units

An approximate development timeline would be as follows:

Development Timeline:

- December 11th, 2020 – Submit Application to WHEDA
- April-May 2021 – Receive Reservation of tax credits from WHEDA
- May 2021-April 2022 – Complete all necessary due diligence and city requirements for pre-construction such as utility maps, surveying, Phase I and II, etc.
- April 2022 – Start Construction
- October 2022 – Being pre-leasing units
- April 2023 – Construction completion and occupancy.

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- \$9,000,000 hard costs
- \$1,800,000 soft costs (fees included)
- \$900,000 Lending and Legal Costs
- \$300,000 Reserves

Total Cost (approximate): \$12,000,000

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TAB 5:

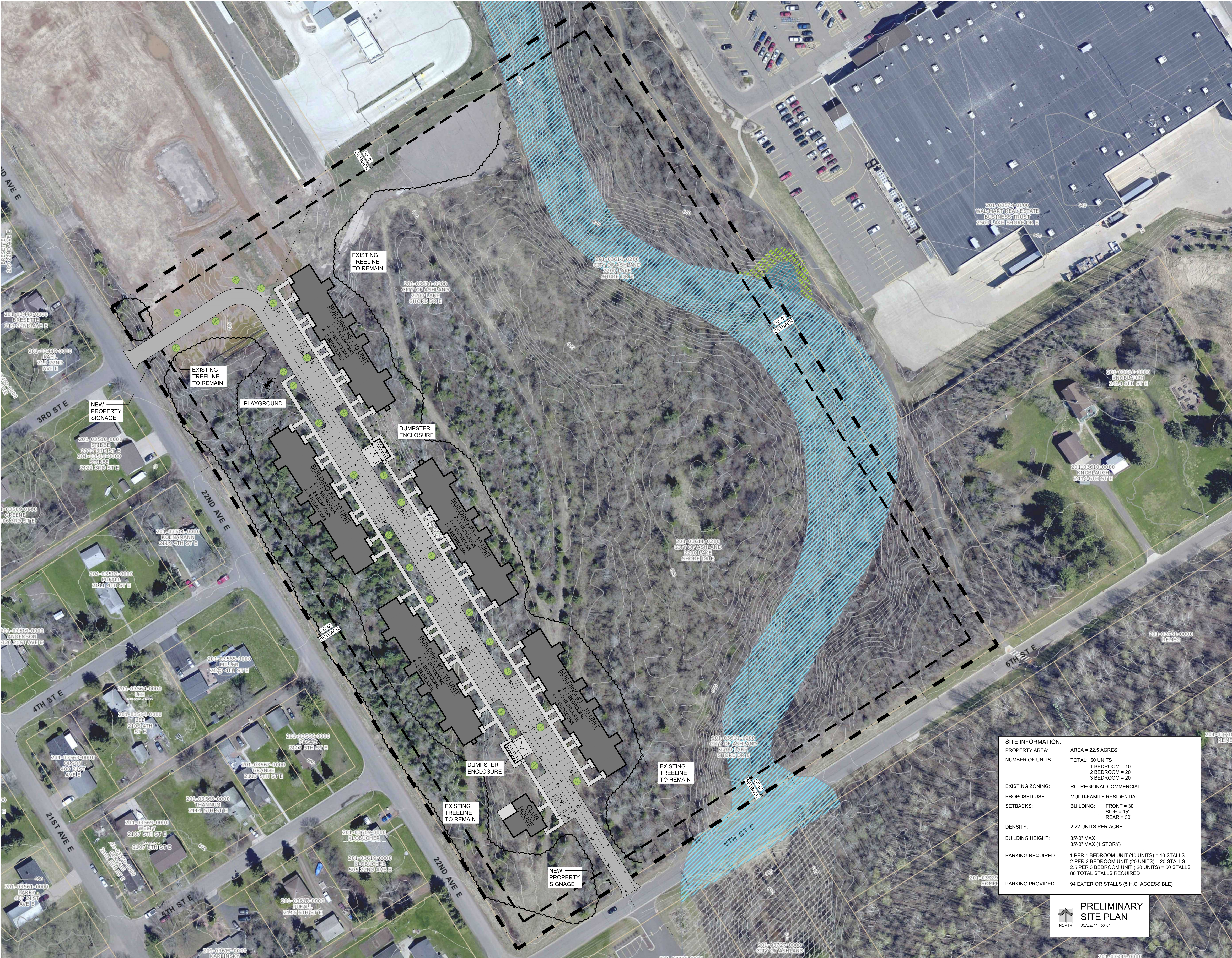
Purchase Price

Purchase Price

Commonwealth proposes that the City contribute the land to the project at zero cost. WHEDA, as the main funding source for affordable housing in our State, awards funding to various projects throughout Wisconsin via a competitive process. This land contribution will demonstrate to WHEDA a concerted effort by both the City of Ashland and Commonwealth to do what is necessary to secure affordable housing for local residents. This type of public/private collaboration will help leverage resources and contain costs, thereby increasing the overall competitiveness of this project's application for funding. Additionally, in exchange for the land contribution the City stands to generate property tax revenue long-term that is consistent with multimillion-dollar affordable housing projects.

TAB 6:

Site Plan, Elevations, Floor Plans



SITE INFORMATION:	
PROPERTY AREA:	AREA = 22.5 ACRES
NUMBER OF UNITS:	TOTAL: 50 UNITS 1 BEDROOM = 10 2 BEDROOM = 20 3 BEDROOM = 20
EXISTING ZONING:	RC: REGIONAL COMMERCIAL
PROPOSED USE:	MULTI-FAMILY RESIDENTIAL
SETBACKS:	BUILDING: FRONT = 30' SIDE = 15' REAR = 30'
DENSITY:	2.22 UNITS PER ACRE
BUILDING HEIGHT:	35'-0" MAX 35'-0" MAX (1 STORY)
PARKING REQUIRED:	1 PER 1 BEDROOM UNIT (10 UNITS) = 10 STALLS 2 PER 2 BEDROOM UNIT (20 UNITS) = 20 STALLS 2.5 PER 3 BEDROOM UNIT (20 UNITS) = 50 STALLS 80 TOTAL STALLS REQUIRED
PARKING PROVIDED:	94 EXTERIOR STALLS (5 H.C. ACCESSIBLE)

 **PRELIMINARY
SITE PLAN**
SCALE: 1" = 50'-0"

PRELIMINARY
SHEET DATES:
10-08-2020

M+A DESIGN, INC.

24 S. BROWN ST. SUITE 100
PORTLAND, ME 04106
(207) 873-1234
www.madesign.com

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COMMERCIAL

COMMERCIAL

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2020.42

SHEET

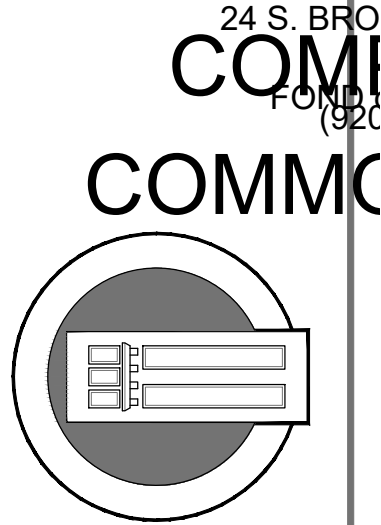
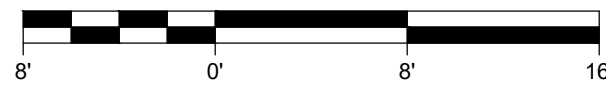
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PRELIMINARY DRAWING - NOT FOR CONSTRUCTION

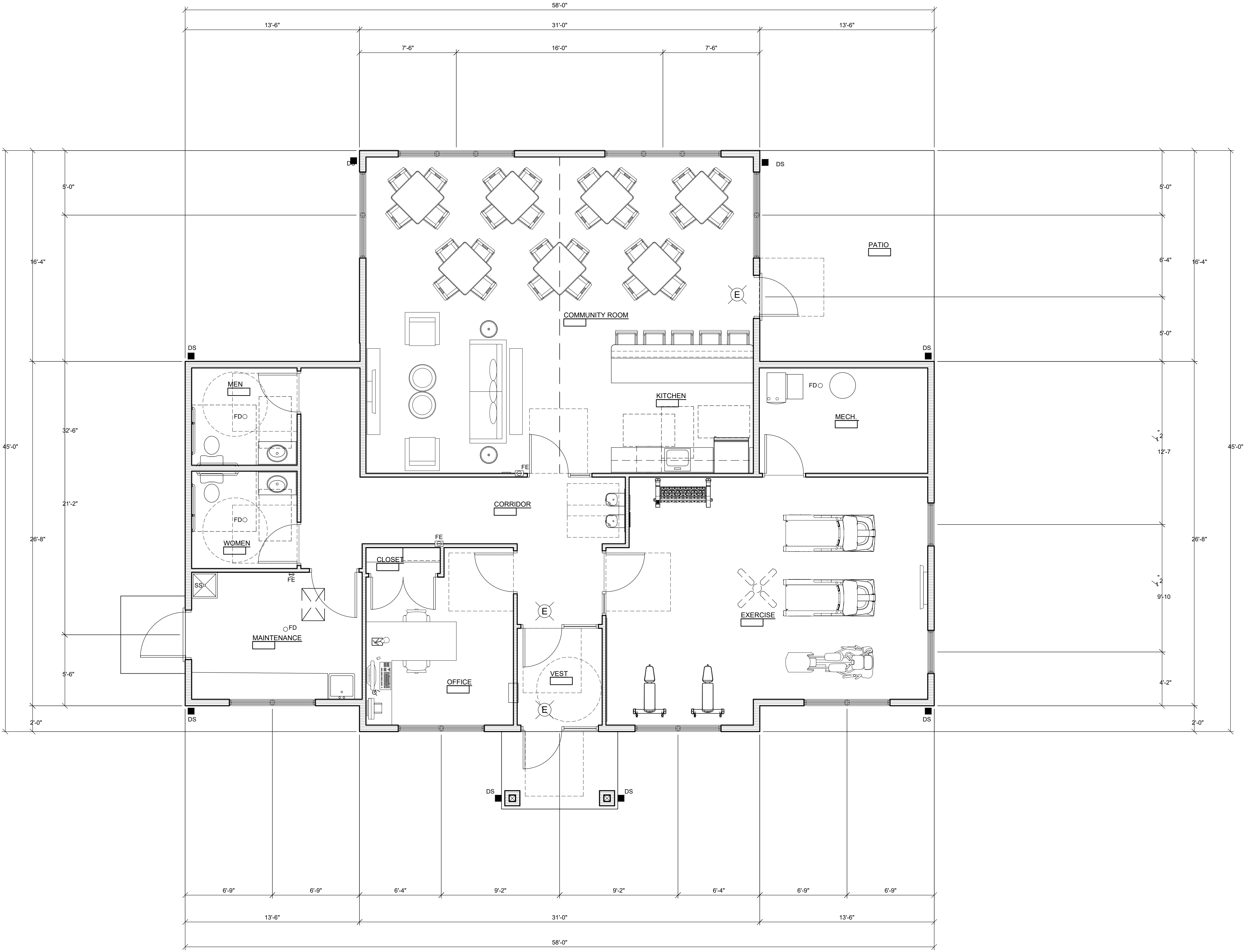
Page 33 of 49



BUILDING #1, #2, #3, #4 & #5
FLOOR PLAN
SCALE: 1/8" = 1'-0"



TIM



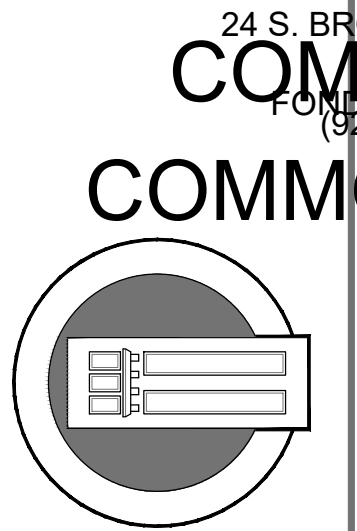
CLUBHOUSE
FLOOR PLAN
SCALE: 1/4" = 1'-0"
4' 0' 4' 8'

PRELIMINARY
SHEET DATES:

M+A
DESIGN, INC.

(92)

24 S. BROOK



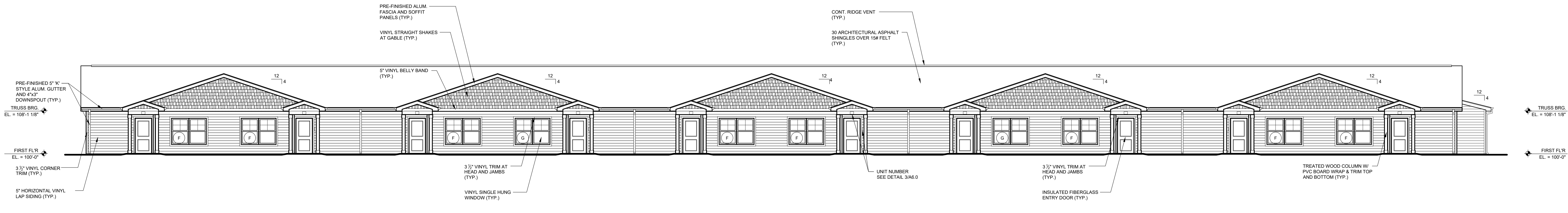
24 S. BROOK
COMMERCIAL

TIM

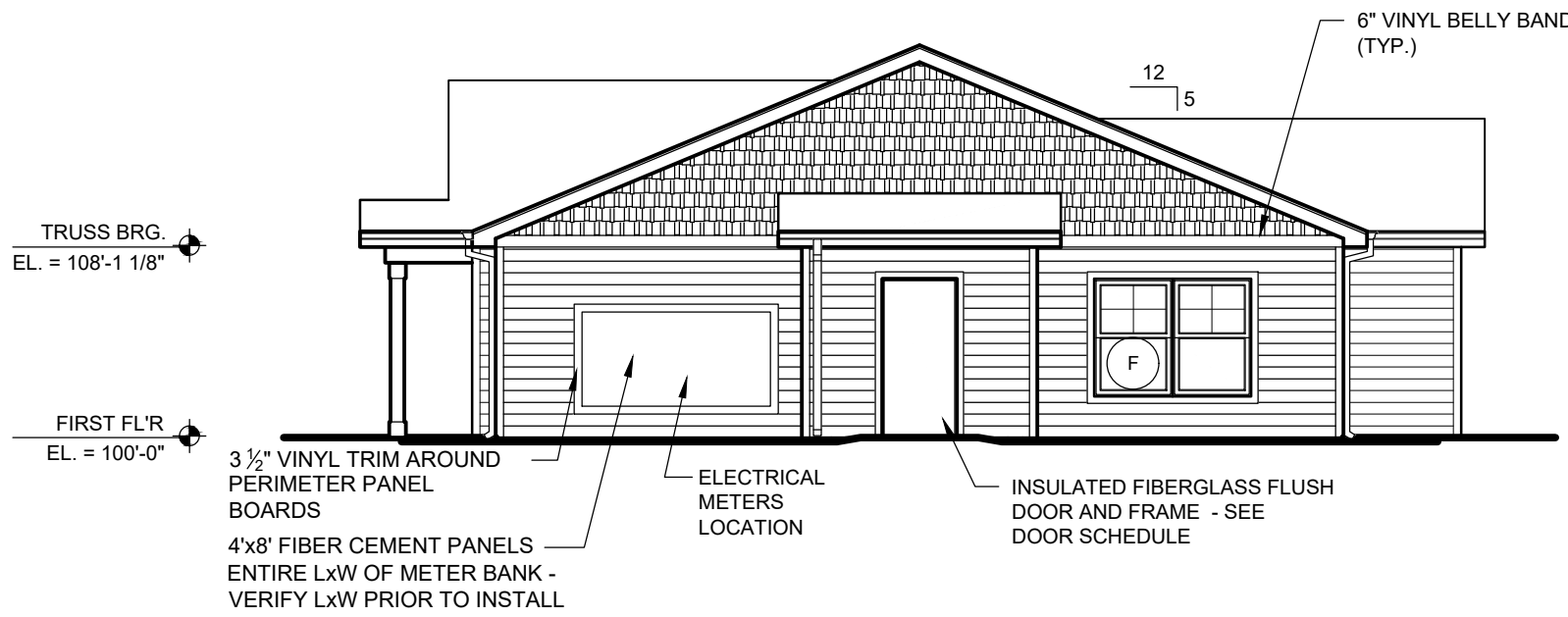
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2020.42
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OR

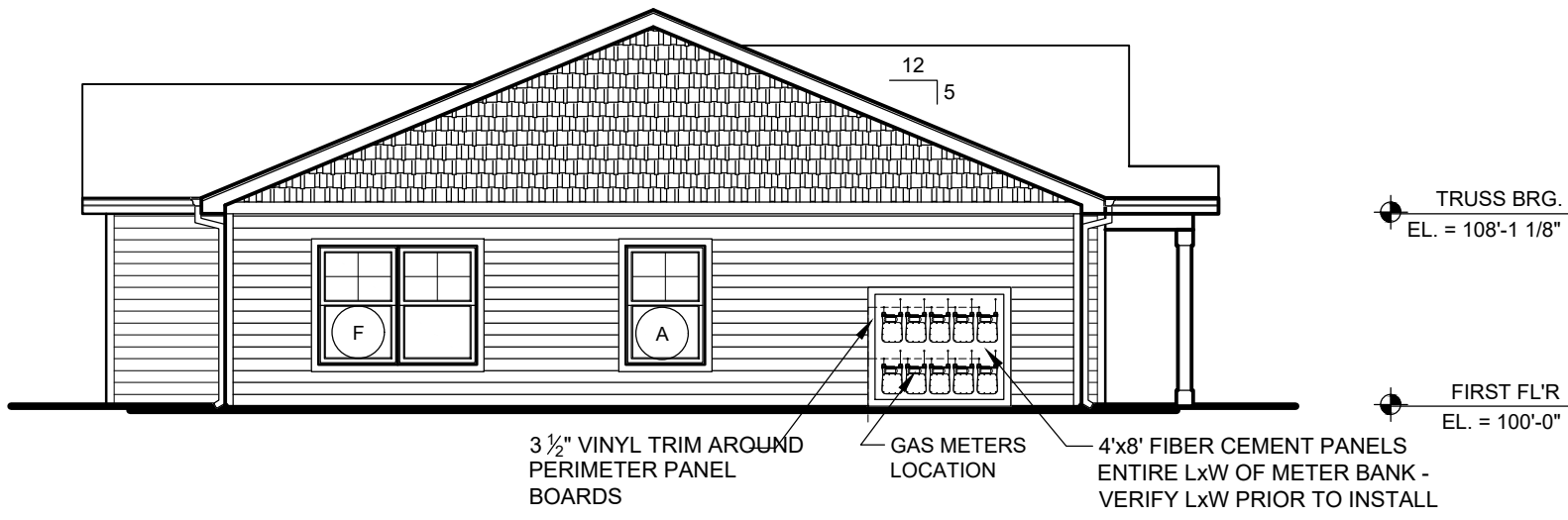
2020 M+A DESIGN, INC.



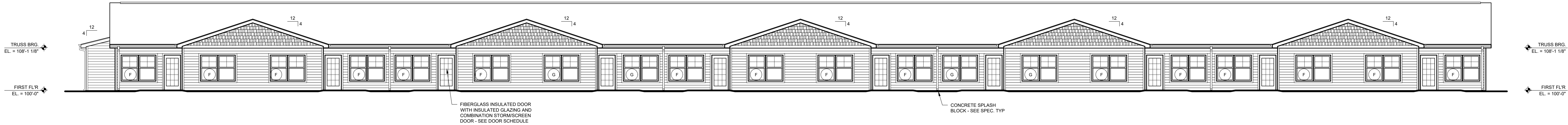
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ELEVATIONS
SCALE: 1/8" = 1'-0"

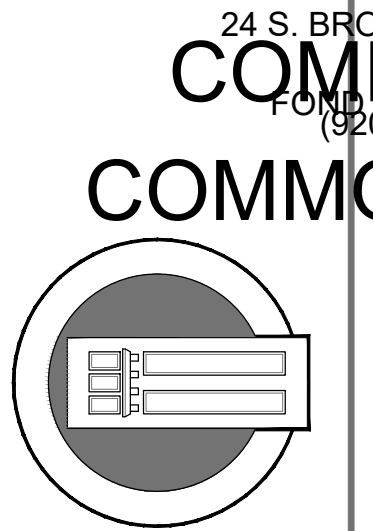


BUILDING #1, #2, #3, #4 & #5
ELEVATIONS
SCALE: 1/8" = 1'-0"

PRELIMINARY SHEET DATES:

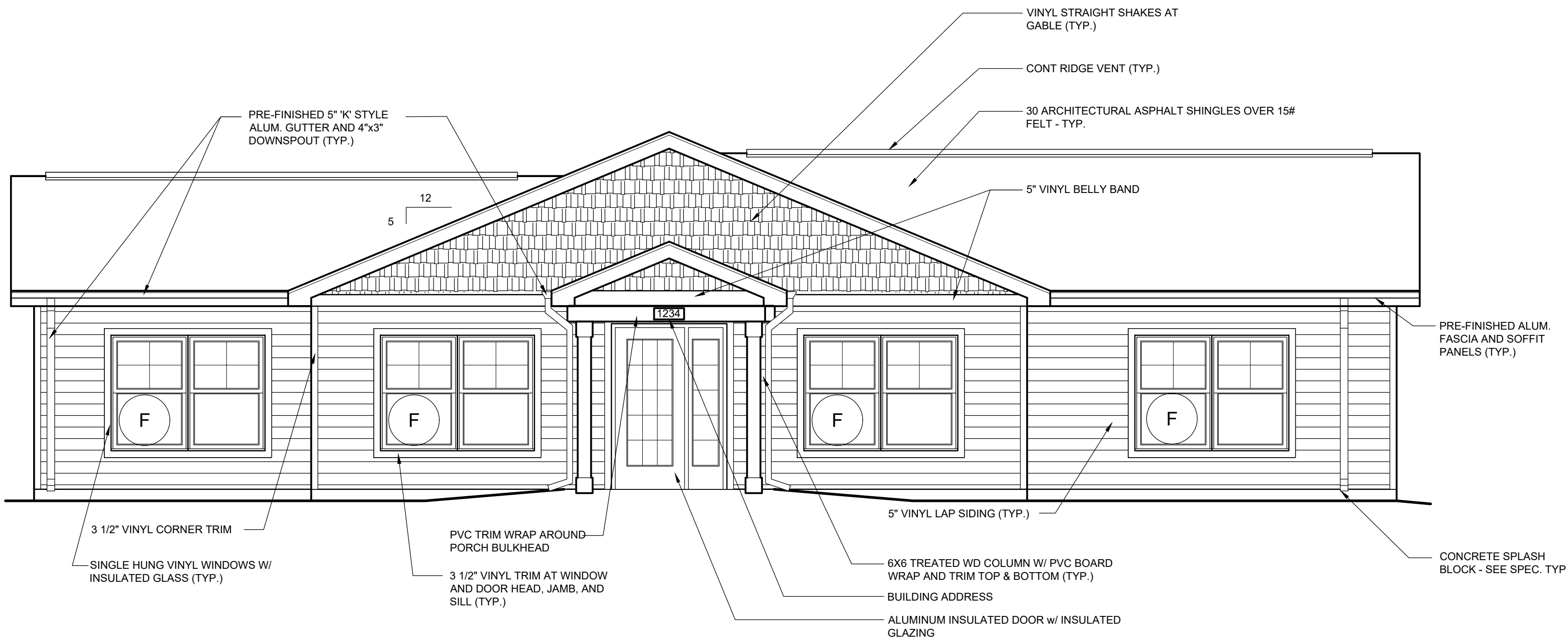
M+A DESIGN, INC.

24 S. BROWN

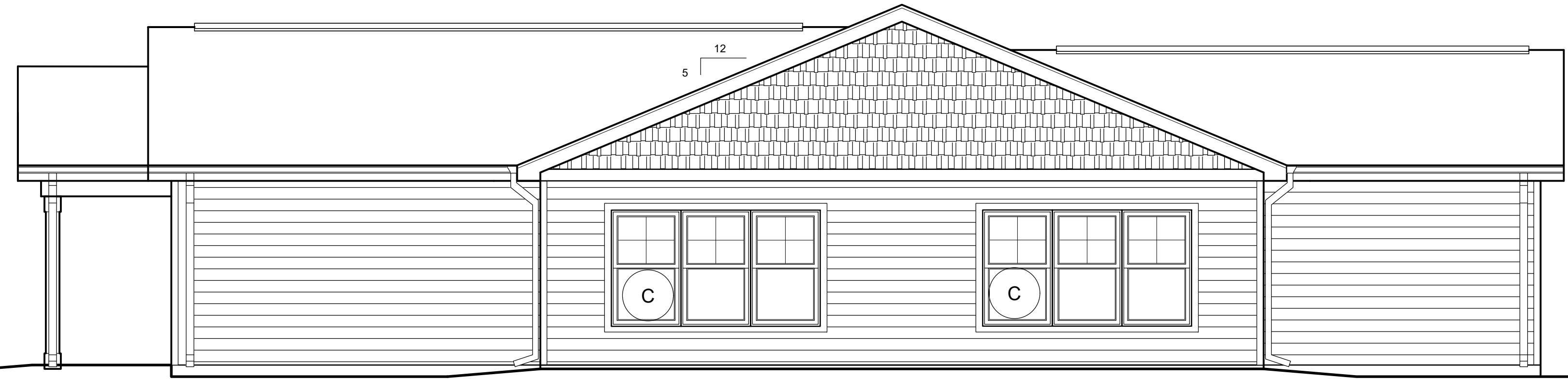


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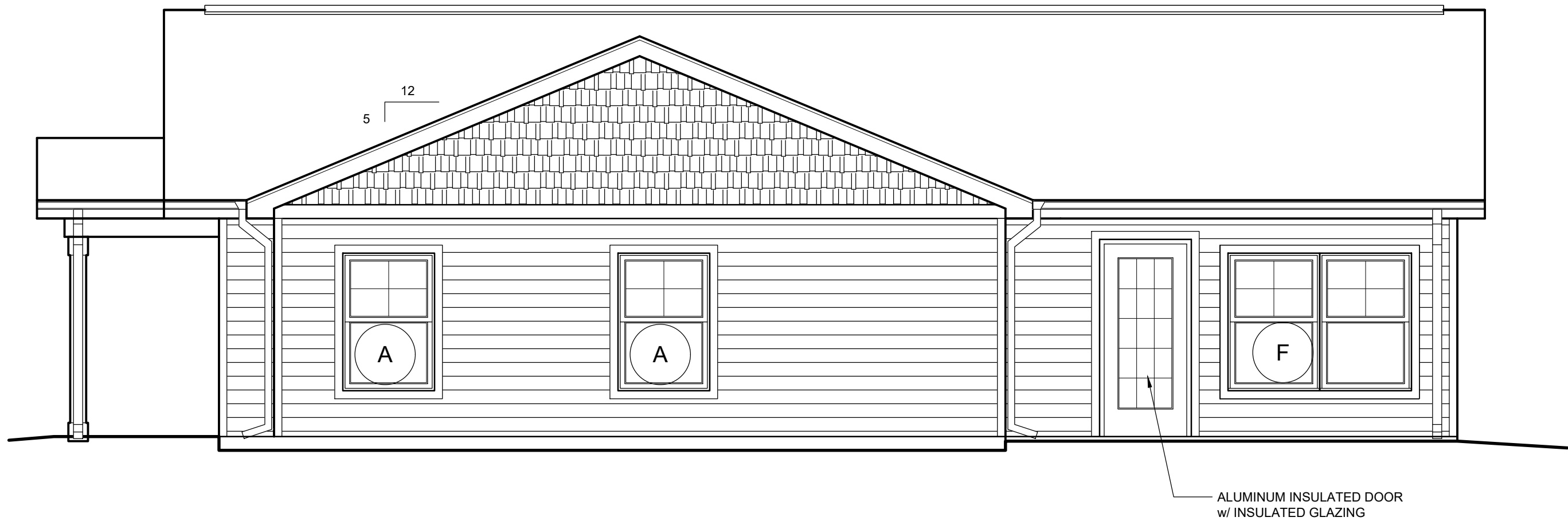
JOB NUMBER:
2020.42
SHEET
A2.0



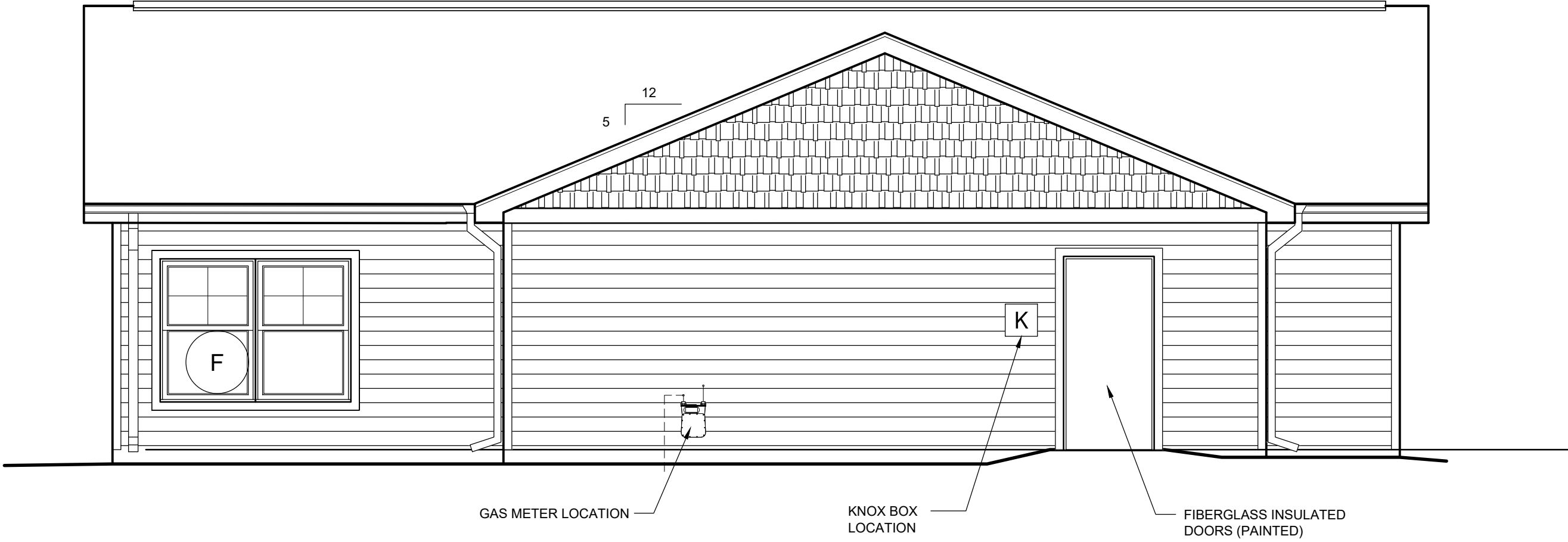
SOUTH ELEVATION CLUBHOUSE
SCALE: 1/4" = 1'-0"



NORTH ELEVATION CLUBHOUSE
SCALE: 1/4" = 1'-0"



EAST ELEVATION CLUBHOUSE
SCALE: 1/4" = 1'-0"



WEST ELEVATION CLUBHOUSE
SCALE: 1/4" = 1'-0"

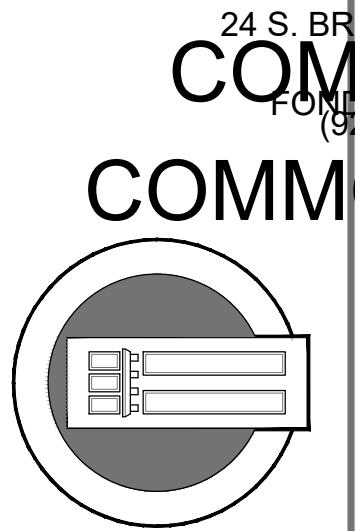
PRELIMINARY SHEET DATES:

M+**A** DESIGN, INC.

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24 SOM

PRELIMINARY DRAWING - NOT FOR CONSTRUCTION



24 S. BR
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JOB NUMBER:
2020.42
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2020 M+**A** DESIGN, INC.

TAB 7:

Financial Information

Capital Stack

Permanent Financing Resources Expected to be Used for Project:

Development Uses:

- \$9,000,000 hard costs
- \$1,800,000 soft costs (fees included)
- \$900,000 Lending and Legal Costs
- \$300,000 Reserves

Total Cost (approximate): \$12,000,000

Development Sources:

- Federal LIHTC Equity - \$3,300,000
- State Tax Credit Equity - \$5,400,000
- First Mortgage - \$2,500,000
- AHP Funds - \$700,000
- HOME Funds - \$100,000

Total Sources (approximate): \$12,000,000

Commonwealth currently has over 110 multifamily complexes either completed, or under construction, or in the pre-development stage. We are one of the largest affordable housing developers in the state of Wisconsin. Our diversified and tenured team allows us to craft creative solutions for any and all financial situations. We have the financial ability to garner the resources needed for this project and will earn the city significant tax base with a constructed project.

Confirmation of Commonwealth's financial ability is included in this tab.



August 27, 2020

To Whom It May Concern:

RE: Financial Strength of Commonwealth Development Corporation

Dear Sir/Madam

Please accept this letter as a statement of financial strength on behalf of Commonwealth Development Corporation ("Commonwealth"). We can attest to Commonwealth's financial ability to fulfill their obligations and complete the proposed housing development.

If you would like to discuss further, please contact me at 608-842-5012.

Sincerely,

SETTLERS BANK

A handwritten signature in black ink, appearing to read 'David M. Fink', written over a faint horizontal line.

David M. Fink
Founder & President

SUBJECT: Discussion and Possible Action Regarding Amending Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors, Ashland City Ordinances, as Relates to Mobile Concession Vendors (*Council President*)

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Council President

CLEARANCES:

EXHIBITS: 1. Chapter 889 Transient Merchants, Solicitation in Residential Neighborhoods, and Mobile Concession Street Vendors

SUMMARY STATEMENT:

This item is intended to begin discussion regarding Mobile Concession/Food Vendors licenses in the City of Ashland.

The Council President received an email from a local business owner who serves food and beverages. The request was directed toward food truck regulations, asking to change the distance that these vendors are required to be located/parked from a brick and mortar food establishment. The proposed change was to increase the distance from 300 feet to 1000 yards.

CHAPTER 889. TRANSIENT MERCHANTS, SOLICITATION IN RESIDENTIAL NEIGHBORHOODS, AND MOBILE CONCESSION STREET VENDORS.

889.01. Registration and License Required. It shall be unlawful for any Transient Merchant or Mobile Concession Street Vendor to engage in sales within the City of Ashland without being registered and licensed for that purpose as provided herein. It shall be unlawful for any Transient Merchant or any Permanent Merchant to solicit in residential neighborhoods without being registered and licensed for that purpose as provided herein.

889.02. Definitions.

(a) “Transient merchant” means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

(b) “Permanent Merchant” means any person who, for at least six months prior to the consideration of the application of this chapter to said merchant: (1) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale, or (2) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his/her residence.

(c) “Door-to-Door Solicitor” means any person, whether a permanent or transient merchant, who attempts to sell merchandise directly to residents by physically calling upon their dwelling place.

(d) “Merchandise” shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

(e) “Mobile Concession Street Vendor” shall include individuals and organizations that engage in the sale of concessions from motor vehicles, self-propelled vehicles, manually propelled vehicles, and trailers. Concessions are defined foods and beverages intended to be consumed at the point of purchase.

(f) “Charitable Organization” shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(g) “Clerk” means the City Clerk.

889.03. Exemptions. The following shall be exempt from all provisions of this chapter:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;

(b) Any person selling merchandise directly to other established businesses within the City of Ashland;

(c) Any person selling agricultural products which the person has grown or any fish which the person has caught;

(d) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person;

(e) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;

(f) Any person holding a sale required by statute or by order of any court; any person conducting a bona fide auction sale pursuant to law; any person conducting a garage sale, yard sale, or estate sale at a private residence;

(g) Any employee, officer or agent of a charitable organization who engages in direct sales or solicitation of donations for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under sec. 202.12, Wis. Stats., and provided such organization shall comply with the provisions below

(1) Before any direct sales or solicitation for donations can take place, each such charitable organization must file a sworn application, in writing, on a form furnished by the City Clerk, which shall provide the following information:

(A) Name of organization.

(B) Names and addresses of officers of the organization.

(C) Description and approximate dates of the solicitation event(s).

(D) Names of individuals to be involved in solicitation.

(E) Proof of charitable status.

(2) Upon being satisfied that such organization, association or corporation is a bona fide group within the parameters of this chapter, the Clerk shall issue a permit without charge to such organization to solicit in the City. The clerk shall also issue to such organization, an official card for each individual to be involved in the solicitation, upon which shall be inscribed the name of each member. The card shall also contain the name of the organization and dates and purpose of the solicitation. This permit can be applied for on an annual basis and shall expire June 30 of each year.

(h) Any individual licensed by an examining board as defined in s. 15.01(7), Wisconsin Statutes.

(i) Any persons or organizations operating a concession authorized by a non-profit association in connection with a fair, festival or celebration which is being held under the direction of that non-profit association. Persons or organizations are prohibited from operating a concession or selling products or services within the defined fair, festival or celebration area without authorization from the non-profit association sponsoring the event. The entity sponsoring the event shall submit a description of the defined festival area to the Police Chief or his designee for approval.

(j) Any person 15 years old or under who is operating a stand to sell lemonade or similar beverages at the person's home or in the public right of way adjacent to the person's home, and any person 15 years old or under assisting that person, provided that the police department may order such stand closed if there is reason to believe the stand poses a threat to health or safety, in which case the person may apply for a license under this chapter.

889.04. Transient Merchant & Door-to-Door Solicitor Applications

(a) Applicant Information. Applicants for a transient merchant or door-to-door solicitor license must complete and return to the clerk an application form furnished by the clerk which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any;

(2) Age, height, weight, color of hair and eyes;

(3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;

(4) Temporary address and telephone number from which business will be conducted, if any;

(5) Nature of business to be conducted and a brief description of the merchandise, and any services offered;

(6) Proposed methods of delivery of merchandise, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his/her business;

(8) Most recent cities, villages, towns, not to exceed three, where applicant conducted his/her business;

- (9) Place where applicant can be contacted for at least seven days after leaving this city;
- (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.

(b) Required Documents. Applicants for a transient merchant or door-to-door solicitor license shall present to the clerk for examination:

- (1) A driver's license or some other proof of identify as may be reasonably required;
- (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
- (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application license is made.

(c) Fee. At the time the transient merchant or door-to-door solicitor application is returned, a fee shall be charged in accordance with Chapter 165, the City of Ashland Comprehensive Fee Schedule, to cover the cost of processing said application. If said application is approved, the application fees will be charged as provided for in the City of Ashland Comprehensive Fee Schedule for each day that business is carried on in the City of Ashland. The Clerk shall issue an official card for each individual to be involved in the solicitation, upon which shall be inscribed the name of each solicitor. The card shall also contain the dates and purpose of the solicitation.

(d) Agent for service of process. The applicant shall sign a statement appointing the clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

889.05. Mobile Concession Street Vendors Applications. A Mobile Concession Street Vendor shall not operate within the City without first securing a license from the City. Applications shall be made to the City Clerk and acted upon by the Common Council. Licenses shall be for a term of one year and shall expire June 30. The fee for a Mobile Concession Street Vendor shall be charged in accordance with Chapter 165, the City of Ashland Comprehensive Fee Schedule. The fee shall be waived for non-profit organizations.

889.06. Investigation

(a) Referral to Police. Upon receipt of each application, the clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.

(b) Denial of license. The clerk shall refuse to license the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the most recent cities, villages and towns, not exceeding three, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of this chapter.

889.07. Appeal. Any person refused or denied a license may appeal the denial through the Common Council.

889.08. Prohibited Practices.

(a) A transient merchant or door-to-door solicitor shall be prohibited from: calling at any dwelling or other place between the hours of 8:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(b) A transient merchant or door-to-door solicitor shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

(c) No transient merchant or door-to-door solicitor shall sell or offer for sale any goods, wares, merchandise or produce of any kind from a stand or vehicle while the same is placed or parked upon any public street except to make deliveries from house to house or to places of business. No signs or goods, wares, merchandise or produce of any sort shall be set, placed or displayed within any portion of the right-of-way for any City of Ashland street.

(d) No transient merchant or door-to-door solicitor shall sell or offer to sell any goods, wares, merchandise or produce of any kind in any City of Ashland park premises, including parking lots associated therewith without the prior written approval of the City of Ashland Park Board.

(e) No licensee nor any person in his behalf, shall use any sound amplifying device for the broadcasting of words upon any of the streets, alleys, parks or other public places of the City or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

(f) No licensee shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

889.09. Disclosure Requirements

(a) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant or door-to-door solicitor shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.

(b) If any sale of merchandise is made by a transient merchant or door-to-door solicitor, or any offer for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than \$25, in accordance with the procedure as set forth in sec. 423.203, Wis. Stats.; the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of secs. 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(c) If the transient merchant or door-to-door solicitor takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address, and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

889.10. Mobile Concession Street Vendors.

(a) Mobile Concession Street Vendors shall be allowed to sell from public streets, but shall not impede the free use of streets or sidewalks by vehicles or pedestrians. All traffic and parking regulations shall be observed. If an on-duty officer of an authorized law-enforcement agency determines that a safety problem exists related to the selling activities at a specific location(s) by a Mobile Concession Street Vendor, the officer shall have the right to order the vendor to cease selling at that location(s). Mobile Concession Street Vendors shall not remain in one location, either on a city street, street right-of-way, or in a public park, for a period of longer than six (6) hours.

(b) Licensed Mobile Concession Street Vendors shall be allowed to operate only between the hours of 9:00 a.m. and 9 10:00 p.m. No sales shall be permitted within 300 feet of an established, operating concession stand operated by a non-profit or charitable organization, such as Little League, school groups, or other similar organizations, or other existing permanent food uses.

889.11. Food Vendors in Parks. The Public Works Director and/or Parks and Recreation Director may waive the six-hour limit and authorize food vendors to sell food items intended for on-site consumption in City parks for a period of five consecutive days or less during a specified event. Said food vendors will be required to complete an application and pay a fee equal to the amount charged to transient merchants.

889.12. Exhibition of License. Licensed transient or permanent merchants soliciting in residential neighborhoods must wear their identification license card in a conspicuous place on their clothing. Transient merchants selling from a fixed location must exhibit their certificate of license in a conspicuous place at the site where they are selling. Mobile Concession Street Vendors shall display their license in a window of their vehicle.

889.13. Records. The Chief of Police shall report to the clerk all convictions for violation of this ordinance and the clerk shall note any such violation on the record of the registrant convicted.

889.14. Revocation of License. Licenses issued under the provisions of this ordinance may be revoked by the Common Council after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for license;
- (b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his/her business as a solicitor, or transient merchant;
- (c) Any violation of this ordinance;
- (d) Conducting the business of solicitor, mobile concession street vendor or transient merchant, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public;
- (e) Conviction of any crime or misdemeanor.

889.15. Notice of Hearings. Notice of the hearing for revocation of a license shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least 72 hours prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a court summons.

889.16. Penalty. Any person, firm, or corporation that shall violate any of the provisions of this ordinance shall forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, plus the cost of prosecution. Each day's violation of the provisions of this ordinance shall constitute a separate offense.

ADOPTED: 889 (1536) 3/12/2002

AMENDMENTS: 889 (1779) 3-13-2012; 889 (2016-1876) 7/12/2016; 889 (2020-1929) 3/10/2020;

SUBJECT: Continued Discussion and Possible Action Regarding Creating a System for Collection and Analysis of Data Related to the Ashland Police Department

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Councilor Ullman

CLEARANCES: Council President

EXHIBITS:

SUMMARY STATEMENT:

Discussion began on January 26, 2021 at the Committee of the Whole meeting. As the three-hour time limit was nearing, Council President Haas recommended continuing discussion regarding collecting and analyzing data in regard to the Ashland Police Department. Councilor Ullman proposed to establish funding to begin this process. Councilor MacKenzie moved, seconded by Councilor Ortman, to direct Administration to find \$10,000 to begin this system. This motion carried 8-3 by voice vote.

The purpose of this discussion is to flesh out the goal of the study, and to discuss the capabilities of the current system.

Potential Goals:

- Work together with Ashland County
- What is the City's purpose for collecting data
- What do we want to do with data collected