

Member Graves introduced the following resolution and moved its adoption:

RESOLUTION NO. 2022-61

CITY OF BROOKLYN CENTER, MINNESOTA

A RESOLUTION MAKING A NEGATIVE DECLARATION OF THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT FOR THE BROOKLYN CENTER OPPORTUNITY SITE #1

WHEREAS, Alatus, LLC (“Proposer”) is proposing a mixed-use site redevelopment in the City of Brooklyn Center, Minnesota (the “City”), including the removal of existing buildings/pavement and the construction of eight commercial and residential buildings, above-ground and underground parking, private and public roads and drives, a public plaza, a park area and stormwater ponds on the SE ¼ of the NW ¼ of Section 2, Township 118N, Range 21W (the “Project”); and

WHEREAS, in accordance with Minnesota Rules, part 4410.4300, subparts 1, 14 and 19, the City was required to prepare an environmental assessment worksheet (“EAW”) as the Responsible Governmental Unit (“RGU”); and

WHEREAS, the City retained Braun Intertec (“Consultant”) to assist the City in completing the EAW process; and

WHEREAS, on April 19, 2022, the City provided public notice of the EAW and distributed it to the Minnesota Environmental Quality Board (the “EQB”) mailing list and to the Project mailing list; and

WHEREAS, the EQB published notice of availability in the EQB Monitor on April 19, 2022, and notice was also posted on the City’s website and in the Sun Post. The published notice and notice posted by the City provided information on where copies of the EAW were available, notified the public of a virtual community meeting, and invited the public to provide comments during the 30-day comment period, which ended on May 19, 2022; and

WHEREAS, the EAW was ordered and submitted for review and comment as is required by law; and

WHEREAS, during the public comment period, six distinct comments were received from the public and agencies, including Hennepin County, the Minnesota Pollution Control Agency, the U.S. Army Corps of Engineers, Metropolitan Council and the Minnesota Department of National Resources; and

WHEREAS, the Consultant prepared a report titled Findings of Fact and Record of Decision (“Record of Decision”), which includes a list of all comments and responses to the comments as Appendix A and Appendix B, and is incorporated herein by reference; and

RESOLUTION NO. 2022-61

WHEREAS, the City Council considered the EAW and the Record of Decision at its regular meeting held on June 13, 2022; and

WHEREAS, the City Council, as the RGU, hereby finds and determines as follows:

1. Notice of availability of the EAW for public review for a 30-day comment period was published on the Town's website on April 19, 2022, in the Sun Post on April 19, 2022 and in the EQB Monitor on April 19, 2022;
2. The following factual discrepancies or impact issues were identified during the EAW process, either during its development or public review:
 - a. The Project is listed in the incorrectly in the EAW as 25.7 acres. The total Project size is 19.45 acres.
 - b. The EAW did not include the number of parking spaces for the Event Center portion of the Project. A total of 87 parking spaces are planned for the Event Center;
3. None of the comments received requested an environmental impact statement ("EIS") or additional analysis of specific impacts. The comments received are addressed in detail in the Record of Decision and did not result in any change to the text of the EAW; and
4. The City has compared the impacts that may be reasonably expected to occur from the Project with four criteria by which potential impacts must be evaluated in accordance with Minnesota Rules, part 4410.1700, subparts 6 and 7. The following is that comparison:
 - a. Type, extent and reversibility of environmental effects.

The City finds that the analysis completed during the EAW process is adequate to determine whether the Project has the potential for significant environmental effects. The EAW describes the type and extent of impacts anticipated to result from the Project. In addition to the information in the EAW, the public/agency comments received during the public comment period were taken into account in considering the type, extent and reversibility of Project impacts. None of the impacts considered raised to the level of significant and none of the environmental effects are irreversible.

- b. Cumulative effects of related or anticipated future projects.

RESOLUTION NO. 2022-61

Cumulative effects of related or anticipated future projects include the development of the rest of the Brooklyn Center Opportunity Site. An alternative urban areawide review (“AUAR”) or individual EAWs would be required for future development.

- c. Extent to which the environmental effects are subject to mitigation by ongoing public regularly authority.

The Proposer will acquire any required permit and approvals that may be required by federal, state and local agencies and implement any required conditions necessary, including those that will reduce impacts and further protect the environment. Table 9-1 in the EAW lists the permits or approvals that may be required for project construction and operation. Depending on final design, it is expected that not all these permits will be required.

The Proposer will be required to obtain a building permit from the City for the construction of the Project. The City would be able to access the property during construction to determine if conditions are being met.

As discussed in the EAW, the Project will also require a Construction Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES) program and develop a Stormwater Pollution Prevention Plan (SWPPP) before starting construction. The Project will adhere to the SWPPP to prevent stormwater runoff during construction of the Project including the implementation of erosion and sediment control best management practices.

Other permits may be required once the Project design is complete. These permits and approvals necessary to construct and operate the Project will require enforceable measures and conditions that will further reduce environmental effects.

- d. Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the Project Proposer, or of environmental reviews previously prepared on similar projects.

Although not exhaustive, the City reviewed the following documents as part of the environmental analysis for the Project:

- i. Data presented in the EAW and their associated references; and
- ii. Permits and environmental review of similar projects.

RESOLUTION NO. 2022-61

The Project is not to the final design stage and Project elements would be reconsidered during further development to minimize impacts. The environmental effects of the Project have been assessed and the list of permits and approvals identified in Table 9-1 I in the EAW will require the Proposer to obtain approvals prior to construction. The Proposer would also be required to conform with regional and local plans. There are no elements of the Project that pose the potential for significant environmental effects.

NOW, THEREFORE, BE IT RESOLVED, based on the information and advice of the Consultant, the Record of Decision, and the findings contained herein, the City Council of the City of Brooklyn Center resolves as follows:

1. The City Council adopts the Record of Decision, including the responses to comments contained therein.
2. The EAW and the Record of Decision were prepared in compliance with the procedures of the Minnesota Environmental Policy Act and Minnesota Rules, parts 4410.1000 to 4410.1700.
3. The EAW and the Record of Decision have satisfactorily addressed all the issues for which existing information could have been reasonably obtained.
4. The Project does not have the potential for significant environmental effects based upon the above findings and the evaluation of the following four criteria, in accordance with Minnesota Rules, part 4410.1700, subpart 7:
 - a. Type, extent, and reversibility of environmental effects.
 - b. Cumulative effects of related or anticipated future projects.
 - c. Extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
 - d. Extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the Project Proposer, or of environmental reviews previously prepared on similar projects.
5. The City Council makes a negative declaration on the need for an EIS for the Project.
6. The City Council authorizes and directs the Consultant to distribute this Resolution and the Record of Decision as required by Minnesota Rule, part 4410.1700, subpart 5.
7. The City Council authorizes the Mayor, the City Manager, City staff and the City Attorney to take all necessary steps and actions, including the execution of necessary documents,

RESOLUTION NO. 2022-61

to otherwise complete the environmental review process and to accomplish the intent of this Resolution.

8. This Resolution is effective immediately.

June 13, 2022

Date

Mayor

ATTEST:

City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
Lawrence-Anderson
and upon vote being taken thereon, the following voted in favor thereof:
Butler, Elliott, Graves, Lawrence-Anderson
and the following voted against the same: None
whereupon said resolution was declared duly passed and adopted.