

Minnesota Planning Docket No. _____
City of Avon Resolution No. _____
Town of Avon Resolution No. _____

**JOINT RESOLUTION AS TO ORDERLY ANNEXATION
AREA BY AND BETWEEN THE CITY OF AVON AND
THE TOWN OF AVON**

WHEREAS, the City of Avon (the "City") and the Town of Avon (the "Town") desire to provide for the orderly development and extension of services to areas of the town that are or are about to become urban or suburban in character; and

WHEREAS, the City and the Town wish to encourage development and extension of services to properties in an orderly manner;

WHEREAS, the City and the Town desire to limit annexation to designated growth areas in order to provide for protection against leap frog development, unnecessary conflict between urban growth and agricultural activities, property tax impacts, and undue development pressure outside of areas planned for development;

WHEREAS, the City and the Town desire to provide for joint planning for areas designated for orderly annexation; and

WHEREAS, the City and the Town have reached an agreement, which is in the best interests of both citizens of the City and the citizens of the Town.

NOW, THEREFORE, IT IS RESOLVED, BY THE COUNCIL OF THE CITY OF AVON AND THE BOARD OF SUPERVISORS OF THE TOWN OF AVON:

JOINT RESOLUTION AS TO ORDERLY ANNEXATION AREA

1. **Area Designated for Orderly Annexation.** The property set forth on the map as **EXHIBIT A** is subject to orderly annexation under and pursuant to Minnesota Statutes §414.0325, and the City and the Town designate this area for orderly annexation as provided by statute.
2. **Office of Administrative Hearings, Municipal Boundary Adjustments Unit.** Upon approval by the parties, this Agreement shall confer jurisdiction upon the director of the Office of Administrative Hearings, Municipal Boundary Adjustments Unit (hereinafter the "Director").
3. **No Alterations of Boundaries.** The City and the Town mutually state that no alteration by the Director of the boundaries of those areas designated by this Agreement for orderly annexation is appropriate. The Director may review and comment but may not alter the boundaries.

4. **Conditions for Annexation.** The City and the Town mutually agree that this Resolution sets forth all of the conditions for annexation of the areas designated herein for orderly annexation and that no consideration by the Director is necessary. The Director may review and comment, but shall, within thirty (30) days, order annexation, subject to the provisions of this Agreement.
5. **Approval Process.** The City and the Town mutually state that properties in the area set forth on the map as **EXHIBIT A** (hereinafter "Annexation Area") or a portion thereof shall be annexed to the City by the Director upon receipt of a resolution of the Joint Planning Board pursuant to this Agreement. The Joint Planning Board shall adopt a Resolution approving an annexation of property within the Annexation Area when any of the following have been met:
 - A. **Petition of Property Owner.** (1) the Joint Planning Board receives a petition requesting annexation signed by owners of 100% of individual parcels of record for properties in the area proposed for annexation; (2) the property proposed for annexation is contiguous to the City; and (3) the annexation has the approval of the City Council.
 - B. **Residentially Developed Property ("Neighborhoods").** (1) the Joint Planning Board receives a petition requesting annexation signed by sixty percent (60%) of the individual parcels of record for the Neighborhood requesting annexation OR in the case of a petition requesting annexation of Neighborhoods which include properties that are directly adjacent to a lake, the petition need only be signed by fifty one percent (51%) of the individual parcels of record; (2) the Neighborhood proposed for annexation is contiguous to the City; and (3) the annexation has the approval of the City Council. The Joint Planning Board may alter the boundaries of the Neighborhood or add to the Neighborhood so long as such properties are contiguous residentially developed properties contained within the Annexation Area. If the City annexes a Neighborhood, the City must annex the entire Neighborhood. A neighborhood will be defined as a platted subdivision and/or those parcels identified in the attached Appendix A: AVON JOINT PLANNING BOARD NEIGHBORHOOD DEFINITION LIST. Said Appendix A shall be considered a permanent part of this document.
 - C. **Surrounded Properties.** (1) the property is located within the Annexation Area; (2) the property has been completely surrounded by land within the City for at least five years; (3) the property is two acres or less in size; and (4) the annexation has the approval of the City Council. "Surrounded" includes areas with boundaries that would surround or touch one another but for an intervening road, railroad, waterway, public trail, or parcel of publicly owned land.

- D. Public Property. (1) the property is located within the Annexation area; (2) the property is owned by the City; and (3) the annexation has the approval of the City Council.
- E. Township and City Agree. (1) the annexation is approved by the Town Board; and (2) the annexation is approved by the City Council.

6. Provision of Municipal Utility Service.

- A. Assessment Rates. Assessment or connection charges to annexed properties will be at the City's customary rates for improvements of a similar type at the time of connection to said service.
- B. Time-line for Connection. Annexed properties must connect to municipal services on the earlier of one of the following:
 - (1) The property owner petitions for service;
 - (2) The property is sold or otherwise transferred for purposes other than agricultural;
 - (3) The property's septic system is failing;
 - (4) State or Federal law requires connection; or
 - (5) Nine years have passed since the property was annexed to the City.
- C. No Assessments for Utilities Running Past Township Property. The City will not assess or charge township properties for utilities running in front or past those properties unless the properties are connected to the utilities by agreement between the Town Board and City Council. These properties may be subject to deferred assessments and/or connection charges payable at the time of the property's annexation and connection to the City.
- D. City Rights Regarding Utilities. The City shall have the following rights relating to municipal utilities:
 - (1) The City may pass an ordinance prohibiting the installation of new septic systems within City limits.
 - (2) The City may inspect individual septic systems, wells and tanks of properties requesting annexation prior to approving the annexation of property into the City.

- (3) The City may refuse to annex property if the City does not receive adequate number of property owners within the area to be annexed to commit to connect to municipal services.

E. Prohibition on New Subdivisions with Septic Systems. The City shall not allow any new residential subdivisions with septic systems.

- 7. Revenue Sharing. In respect to annexed properties, the City shall annually rebate to the Town the following portion of property taxes collected by the City:

For six (6) years following the annexation of the property (whether commercial, industrial, residential, agricultural, developed or undeveloped), the City will rebate to the Township (prior to December 31st of each year) an amount equal to the property taxes collected by the Town for the property in the year of annexation (calculated by multiplying the assessor's market value for the annexed property in the year of annexation by the capacity rate of the Town in the year of annexation). It is the intent of the parties that the payment will be calculated based upon values and the tax rate for taxes payable in the year of annexation (based upon the date the City Council passes its resolution calling for the annexation). This fixed amount will then be paid each year during the 6 year term.

- 8. Tax Rate Step-Up. For all developed properties existing in the Town on the effective date of annexation, the City will provide for a 5 year transition from the Town's tax rate to the tax rate of the City if the property does not receive City sanitary sewer and water. During this transition period annexed properties' tax rates will be increased in substantially equal proportions over a 5 year period to equal the tax rate on the property already within the City. However, if the property hooks up to either City sanitary sewer or water, then the property may be taxed at the full City rate.

9. Other Annexations.

- A. Other Annexations Limited. The City will not initiate any annexation action for property outside of the Orderly Annexation area except by agreement with the Town Board. The City may only annex property in accord with the terms of this Agreement and under the process identified in this Agreement.
- B. Property Owners Rights. Property owners continue to maintain those options available by law at the time of their action to pursue municipal boundary adjustment outside of the Orderly Annexation area. The City will not support any property owner initiated annexation petition for areas that are located outside of the Orderly Annexation area designated by the Agreement. In accordance with Minnesota Statutes Chapter 414.0325, Subd. 6, this Agreement provides the exclusive means for the City of Avon to annex property identified herein. Upon a request of a property

owner, the Joint Planning Board will consider the appropriateness of adjusting the boundaries of the Annexation Area to include additional properties. The Joint Planning Board will then make a recommendation to the City Council and the Town Board as to the appropriateness of any changes.

- C. City and Town Agreement. The City and Town may agree to annex properties outside of the Annexation Area, after receiving input from the Joint Planning Board. Such an agreement will require the affirmative vote of the City Council and the Town Board.

10. Joint Powers Board.

- A. Creation of Board. The parties agree to form a Joint Planning Board, pursuant to Minnesota Statutes Chapter 471.59, to exercise planning and land use control over the Annexation Area. The Joint Planning Board will meet at least once annually and more frequently as required to conduct business which may come before the Joint Planning Board. The annual meeting would typically be scheduled on or near the 2nd Monday in April.
- B. Make-up of Board. The Joint Planning Board will be made up of two representatives (one planning commission member and one Town Board member) from the Town appointed by the Town Board on an annual basis and two representatives of the City (one planning commission member and one City Council Member) appointed by the City Council on an annual basis. The Mayor of the City and the Chair of the Town Board shall serve as alternate members for their respective entities to serve in place of their regular appointees if the regular member is unavailable or has a conflict of interest. Appointees will serve until their replacement is appointed and seated. Each entity shall pay its appointees per diem. The Chair of the Joint Planning Board will be rotated between City and Town appointees. The first Chair will be selected between the City and Town by coin toss. Action by the Joint Planning Board shall require the affirmative vote of 3/4ths of the total membership of the Board. If the Board is unable to resolve a split decision the City and Town will hold a joint meeting to address the issue.
- C. Zoning & Subdivision Ordinances. The Joint Planning Board will adopt the zoning and subdivision regulations of Stearns County (Ordinance 209) for properties located in the Annexation Area, however, no subdivisions for residential development will be permitted unless the property is annexed and City sanitary sewer and water is provided to the area. However, this prohibition will not prohibit a one-lot plat from an existing unplatted parcel. The Joint Planning Board may adopt alternative ordinances by the unanimous vote of all Joint Planning Board Members.

The City's ordinances will apply to annexed properties. The Joint Planning Board will not adopt enforcement of the Building Code.

- D. Retention of Police Powers. The Township and County will retain general police powers over the Annexation Area prior to the annexation of the property to the City. This includes without limitation regulations over township roads, issuance of driveway permits, and the regulation of nuisances.
- E. Permit Fees. The Permit fees charged by the Joint Planning Board shall be those of the Town. The Township shall retain inspection fees for inspections completed by Township staff. The Township shall retain permit application fees provided the Township pays for publications. Where the County retains inspection authority, fees shall be established by the County and retained by the County for their services. The Joint Planning Board may agree to an alternative fee schedule and/or a different arrangement with regard to fee sharing.
- F. Staff. The Joint Planning Board staff duties shall initially be allocated as follows: City staff to clerk and notice the Joint Planning Board meetings; Township Clerk and Zoning Administrator to provide for publication of zoning requests to the extent required by law; Township Zoning Administrator to provide reports to the Joint Planning Board on applications; Township Zoning Administrator to provide for inspections (except where such duties have been delegated to the County). To the extent possible, the Joint Planning Board will use the services of Stearns County Environmental Services for shoreland, wetlands, septic inspection, feedlot and related type issues. The Joint Planning Board may agree to a different staffing arrangement.
- G. Comprehensive Plan. The Joint Planning Board will participate in an advisory capacity in the development of the City's Comprehensive Plan and subsequent reviews. After completion of the City's Comprehensive Plan, the Joint Planning Board will review whether changes to the Annexation Area should be recommended to the City and Town.
- H. Planning and Zoning in the Annexation Area. The following provisions will apply within the Annexation Area (a/k/a the Joint Planning Area) and may not be altered except by the Agreement of both the City Council and the Town Board:
 - (1) Continuation of Farming Operations. The Joint Planning Board will adopt measures to ensure that any farm land that is in existence at the time of the execution of this Agreement may continue to be farmed and developed as a farming enterprise including the construction and expansion of agricultural buildings,

the maintenance of livestock, the employment of manure storage facilities and any and all agricultural practices that are employed by the land owner or their successors or assigns subsequent to the execution of this Agreement, provided, that such activities are in accord with federal and state laws. Any feedlot which is entitled to the protection of this paragraph must be an existing and operating feedlot at the time this Agreement is signed by the City and Town.

- (2) City Setbacks from Farm Operations. The City will adopt measures to ensure that no new residential homes are constructed within 500 feet of structures used to house animals (or which are considered operating feedlots with livestock according to Minnesota Rules) and located on land employed and engaged in agricultural business endeavors. This provision is not intended to apply to new residential structures constructed on the same parcel as the agricultural structures.
- (3) Development. It is the directive to the Joint Planning Board to ensure that regulations adopted by the Joint Planning Board permit existing businesses and farms located within the orderly annexation area to expand as necessary in accord with federal, state and local laws. It is also the directive to the Joint Planning Board that, with the exception of expansions of existing facilities and expansion of agricultural operations, the Board will limit new residential, commercial and industrial development within the orderly annexation area prior to annexation of the property into the City and the provision of municipal sewer and water services. The Joint Planning Board may review permits for new septic system installations to provide an opportunity to discuss timing of future municipal sanitary sewer service extensions.
- (4) Development of Annexed Properties. The Joint Planning Board, the City, and the Town shall all adopt a policy which requires that Developers seeking to develop land within the orderly annexation area provide notice to potential builders and homeowners that their land is located in an agricultural area and as such is subject to sounds and smells associated with agricultural production. These policies will require that a notification be incorporated into the City's developer agreements and recorded with approved plats. All notifications must be approved by the Joint Planning Board.
- (5) Existing Rural Uses. The parties acknowledge that certain uses exist within the orderly annexation area that may lead to conflict as residential properties are developed adjacent to these uses. The City and the Town acknowledge that Minnesota Statutes Section 462.357 provides that a municipality must not enact, amend, or

enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception. In addition, the City and Town agree to work in good faith to address issues that may arise as anticipated property use conflicts arise.

The Joint Planning Board will handle rezoning requests within the Joint Planning Area and will utilize the township's fee schedule.

- (6) Involvement of Joint Planning Board After Annexation. The Joint Planning Board shall have authority to review and comment on the following relating to the development of property annexed to the City from the Annexation Area:
 - a. Drainage plans to ensure that drainage from the development of the property does not negatively impact Township properties.
 - b. Concept plan (general development layout and land use) as well as material changes to development layout.
 - c. Sewer and water lines and utility locations providing service to the property if those lines are located on Township property.
 - d. Traffic/roadway access to and from the subject property.
- (7) Review of Annexation Requests. The Joint Planning Board shall review all annexation requests to ensure that they are in compliance with this Agreement.
- (8) Forum for Discussion. The Joint Planning Board will serve as a forum for the discussion of any issues that arise between the City and the Town.
- (9) Further Assurances. The parties agree to adopt ordinances or take other action necessary to ensure the enforceability of the above provisions.

11. Roads.

- A. Adequate Road Access for Development of Annexed Properties. The City agrees to work with the County and the Town to ensure that adequate road access is provided to annexed properties at the time they are developed. This will be accomplished in part through the involvement of the Joint Planning Board in concept plan approval.

- B. Existing Town Roads. The Town shall maintain Town roads in existence at the time of the execution of the Agreement until lands on both sides of said Town roads are annexed to the City.
 - C. Undue Burden on Town Roads. The Joint Planning Board will establish a maintenance schedule and cost sharing formula based upon anticipated use. The maintenance schedule must consider the Town's historical schedule and maintenance schedule for other roadways in the Town. The Joint Planning Board may develop restrictions on construction vehicles using Township roadways within the Orderly Annexation area, and may require road damage deposits from developers.
 - D. Utilities in Town Roads. The Town will allow the City to locate municipal utilities in Town roadways subject only to reasonable regulation. Upon installation of utilities, the City will restore the road to its previous condition. The Joint Planning Board will recommend conditions and regulations for any proposed City utility locations in Town roadways.
- 12. **Costs Associated with OA Agreement.** Each party shall pay its own costs incurred in the negotiation, development and implementation of this Agreement.
 - 13. **Dispute Resolution.** The parties agree to mediate any disputes concerning the interpretation of this Agreement by filing a request for mediation with the Bureau of Mediation Services within 30 days after one party notifies the other party of existence of a dispute under this Agreement.
 - 14. **Venue.** The venue for all actions concerning this Agreement shall be Stearns County, Minnesota.
 - 15. **Authorization.** The appropriate officers of the City and the Town are hereby authorized to carry the terms of this Joint Resolution and Agreement into effect.
 - 16. **Severability and Repealer.** All prior resolutions and ordinances of the Town and City, or portions of resolutions and ordinances in conflict with this Resolution, are hereby repealed. If any section of this Joint Resolution and Agreement is held by a court of competent jurisdiction to be unconstitutional or void, the remaining provisions will remain in full force and effect. In the event of litigation, neither the City nor the Town will seek to have any provision of this Agreement declared null and void. If a court issues an order declaring a portion of this Agreement unconstitutional or void, the parties mutually agree to request of that court reformation of the contract and/or legislation, both actions being for the purpose of reinstating the original intent of this Agreement.

17. **Effective Date.** This Joint Resolution and Agreement is effective upon its adoption by the respective governing bodies of the Town and the City, as provided by law.
18. **Amendments.** Any amendment to this Joint Resolution and Agreement will require a public hearing by the Joint Planning Board and adoption and approval by the City Council and Town Board.
19. **Termination of OA Agreement.** The parties agree that they will, at a minimum, either meet or request the Joint Planning Board to consider potential changes and adjustments to this Agreement on an annual basis. Unless the parties have agreed to an extension, this Agreement shall terminate on December 31, 2035. At least 6 months prior to December 31, 2035, the City and Town agree to meet and decide on the terms of a ten year extension to this Agreement. In the event the Town and the City are unable to agree on the terms of the 10 year extension, the City and Town shall use good faith efforts toward a mediated extension pursuant to paragraph 13 of this Agreement. Notwithstanding the termination of this Agreement, the provisions of Sections 6, 7, and 8 of this Agreement shall remain binding after the termination of the Agreement for all properties annexed under the terms of this Agreement prior to its termination.
20. **Wellhead Protection Plan.** The City has approved a Wellhead Protection Plan ("WPP") that applies to some of the properties shown on Exhibit A. The Township shall cooperate with the City in implementing the WPP in the Annexation Area in a manner similar to that which is implemented by the City within the City limits.
21. **Annual Meeting of City Council and Town Board.** The City Council and Town Board shall meet at least annually to discuss issues of concern to the City or Town and to further cooperation between the two entities in implementing this Agreement.

TOWNSHIP OF AVON

By _____
Town Chair

ATTEST:

Town Clerk

CITY OF AVON

By _____
Mayor

ATTEST:

City Clerk/Administrator

EXHIBITA
ORDERLY ANNEXATION AREA MAP

Figure No.

1

Annexation Areas

Client/Project
City of Avon

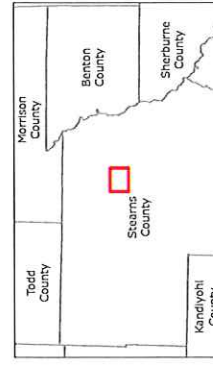
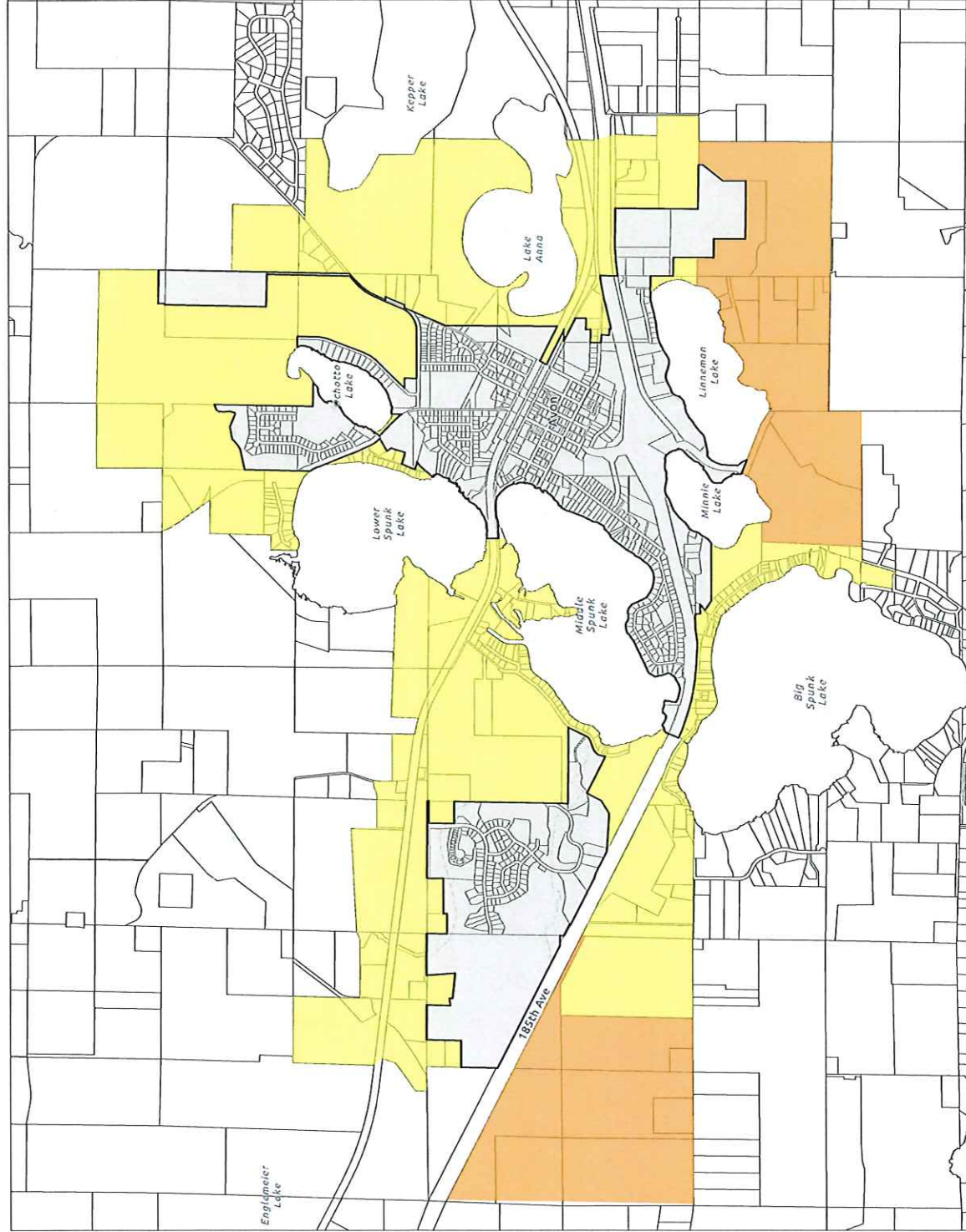
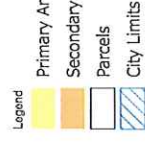
Prepared by: JAD on 2020-03-21
Reviewed by: JAD on 2020-03-21
Drawn by: JAD on 2020-03-21
Checked by: JAD on 2020-03-21

Scale



Legend

- Primary Annexation (2,100 Acres)
- Secondary Annexation (745 Acres)
- Parcels
- City Limits



Notes:
1. Coordinate System: NAD 1983 UTM Zone 15N
2. Background: CSDE Gray Base Map



APPENDIX A
AVON JOINT PLANNING BOARD
NEIGHBORHOOD DEFINITION LIST

Consider assignment of neighborhoods:

#1 Neighborhood will be the Koppy Addition plus that part of parcel number 03.00941.0000 (or it's successor parcel number) lying south of the centerline of Koppy Lane and west of the centerline of Stearns County Road 9 and parcel number 03.00940.0000 or it's successor parcel number.

#2 Neighborhood will be Shorewood Addition , Highland Terrace and parcel numbers:03.01020.0000, 03.01021.0000 and 03.01022.0000 or their successor parcel numbers.

#3 Neighborhood will be Brix Addition and parcel numbers: 03.00936.0000, 03.00937.0000, 03.00938.0000, 03.00947.0000, 03.00947.0002, and 03.00947.0004 or their successor parcel numbers.

#4 Neighborhood will be Liz Fisher Estates and the following parcel numbers: 03.01014.0000, 03.01016.0000, 03.01017.0000, 03.01019.0000, 03.01023.0000, 03.01024.0000, 03.01025.0000, 03.01026.0000 03.01027.0000, and 03.01338.0000 or their successor parcel numbers.

#6 Neighborhood will be and Posch Addition and parcel numbers: 03.00982.0000, 03.00990.0001 and 03.00990.0002 or their successor parcel numbers.

#7 Neighborhood will be Ehrlichman's Addition & Mildred's Addition