

PLANNING COMMISSION

DECEMBER 14, 2020

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – October 12, 2020
3. Public Hearing – Prairie Meadows 4th CUP for PUD amendment
4. Public Hearing – Dominos Variance rescind and reissue
5. 2020 Committee List
6. Other – Southwest Property
7. Adjourn

1 MINUTES OF PLANNING COMMISSION MEETING
2 October 12, 2020

3
4 Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at
5 City Hall on the 12th day of October, 2020 at 6:30 PM

6
7 **THE FOLLOWING WERE PRESENT:** Commissioner Ferris, Commissioner Tinsley, Commissioner
8 Thompson, Commissioner Burton, Commissioner Torkelson, Commissioner Zelinske and
9 Commissioner Fitch

10 **THE FOLLOWING WERE ABSENT:** None

11 **THE FOLLOWING WERE ALSO PRESENT:** Administrator Tim Ibisch, Clerk Linda Rappe, Brad
12 Scheib – HKgi

13 **CALL TO ORDER AT 6:30PM**

14
15 **MINUTES OF THE PREVIOUS MEETING – SEPTEMBER 14, 2020 - Motion to Approve the**
16 **Minutes as Submitted made by Commissioner Thompson, second by Commissioner Tinsley**
17 **With All Voting Aye.**

18
19 **TABLED ZONING ORDINANCE** – There was no one in attendance. Mr. Scheib stated that he
20 sent an email to about a 100 people who had signed up for email updates during the
21 comprehensive plan process. There were no responses. This has been featured on the City
22 website, in the City newsletters and on the City’s facebook page.

23
24 Mr. Scheib has tried to reach out to a couple of property owners who would be impacted the
25 most. Currently they are legally non-conforming. The proposed zoning would not even allow
26 them to apply for a conditional use permit. There are a lot of things happening with that
27 property and Mr. Scheib suggested just leaving it alone for now and let it revert it back to
28 current zoning.

29
30 The other property is Commissioner Torkelson’s and it is proposed to be designated a
31 development holding zone, it is currently R-C. Mr. Scheib would suggest that this property also
32 be left alone and stay R-C as it is currently.

33 Mr. Scheib stated that the rear yard setback will be left at 25 feet as it is in the current code.

34
35 The Commissioners were in agreement to leave the trucking company as is and let the
36 development occur naturally and to leave the Torkelson property as R-C.

37 **Motion to Recommend Approval with the Changes Discussed made by Commissioner Burton,**
38 **second by Commissioner Zelinske with All Voting Aye.**

39
40 **DODGE COUNTY SOLAR PROPOSAL** – Administrator Ibisch stated that this is informational right
41 now but the Planning Commission should be aware of this. Dodge County owns this parcel in
42 the City limits and is interested in developing a solar farm just north of the potential 16th St NW.

43 There is a large natural gas easement that runs through this property and it would be a 30 year
44 contract for the solar. Mr. Scheib stated that the proposed zoning code a solar farm would be a
45 conditional use permit in the I-3 Industrial district. Accessibility is an issue.
46 The County has not filed anything yet so this is only informational right now, the County
47 Commissioners will have a meeting tomorrow morning and Ibisch will attend.

48

49 **ACTIVITY LIST** – This is for the Commissioner’s information. The list will be filled in with 2003
50 through 2012. The list will then be condensed to only CUP’s and variances that need to be
51 monitored.

52

53 **OTHER** – Administrator Ibisch had questions regarding lot 15 in the Thompson Addition, the
54 City Engineer believes that this lot should be an outlot and it is platted as a regular lot. The
55 concern the engineer had is that there will be a dead end line at that lot. Mr. Thompson stated
56 that it would be one water service going to that lot. Administrator Ibisch stated that if there
57 are no comments it will stay a regular lot as requested by the developer. Commissioner
58 Zelinske stated he is fine with it being a lot as long as the plat shows the water and sewer lines.
59 The Commissioners agreed and recommended recording it as a developable lot.

60

61 **ADJOURN** 7:10PM

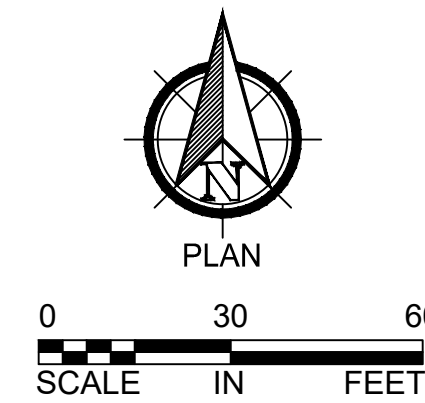
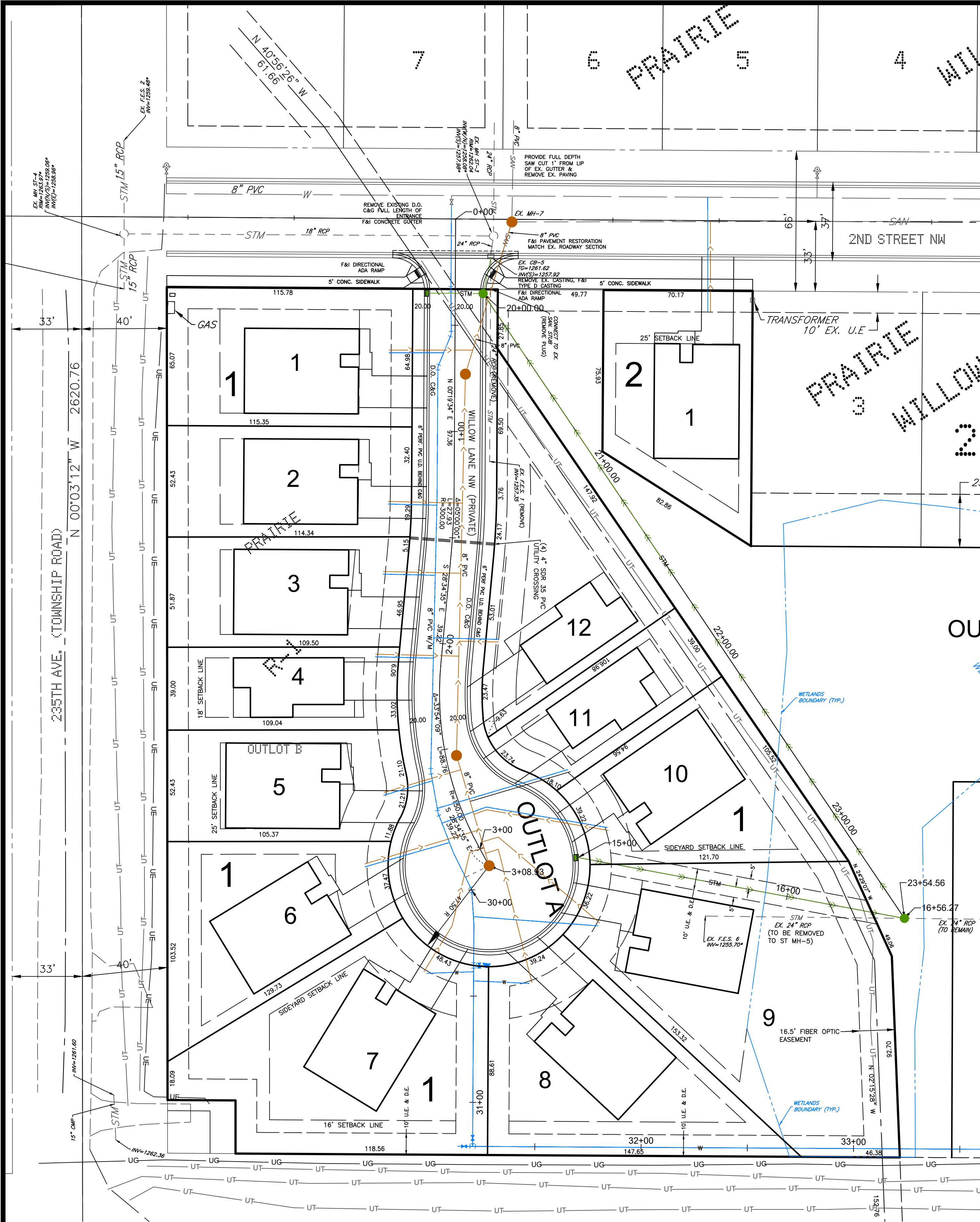
62 Respectfully Submitted,

63

64

65

66 _____
Linda Rappe, City Clerk



PLANNED UNIT DEVELOPMENT DATA (PUD)

BLOCK 1 SITE INFORMATION:		HARD COVER	PERVIOUS AREA	TOTAL AREA	PERCENT OF HARD COVER
LOT 1	2,655 SF.	4,859 SF.	7,514 SF.	35.33%	
LOT 2	2,655 SF.	3,336 SF.	5,991 SF.	44.32%	
LOT 3	2,665 SF.	3,142 SF.	5,807 SF.	45.89%	
LOT 4	2,409 SF.	1,826 SF.	4,235 SF.	56.88%	
LOT 5	2,730 SF.	3,186 SF.	5,916 SF.	46.15%	
LOT 6	2,695 SF.	4,734 SF.	7,429 SF.	36.28%	
LOT 7	2,708 SF.	8,857 SF.	11,565 SF.	23.42%	
LOT 8	2,697 SF.	6,420 SF.	9,117 SF.	29.58%	
LOT 9	2,663 SF.	12,317 SF.	14,980 SF.	17.78%	
LOT 10	2,599 SF.	4,413 SF.	7,012 SF.	37.07%	
LOT 11	1,996 SF.	2,001 SF.	3,997 SF.	49.94%	
LOT 12	2,000 SF.	4,120 SF.	6,120 SF.	32.68%	

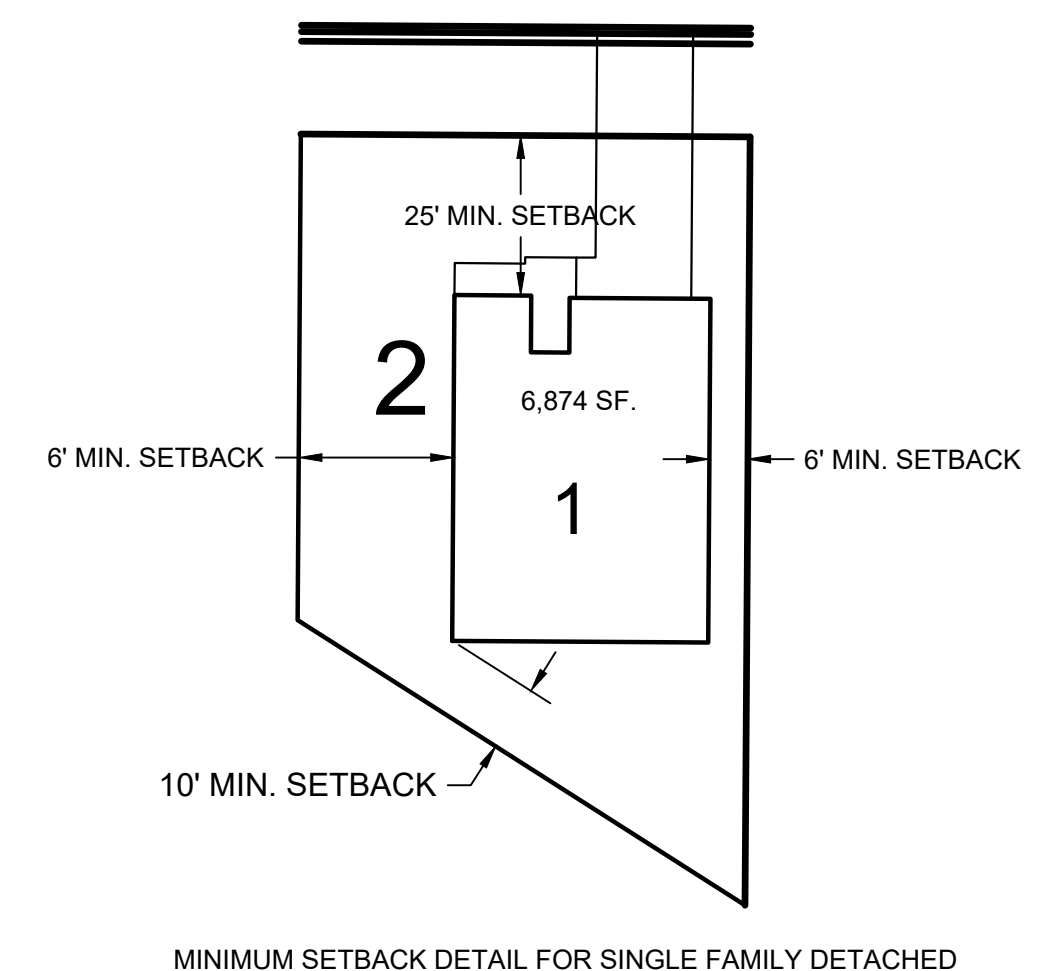
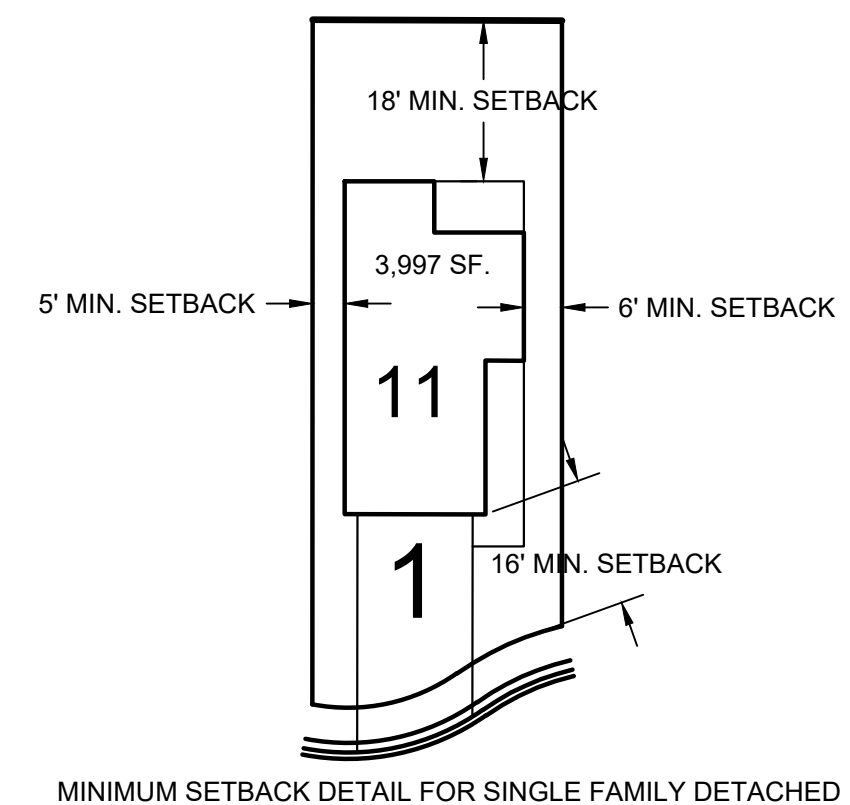
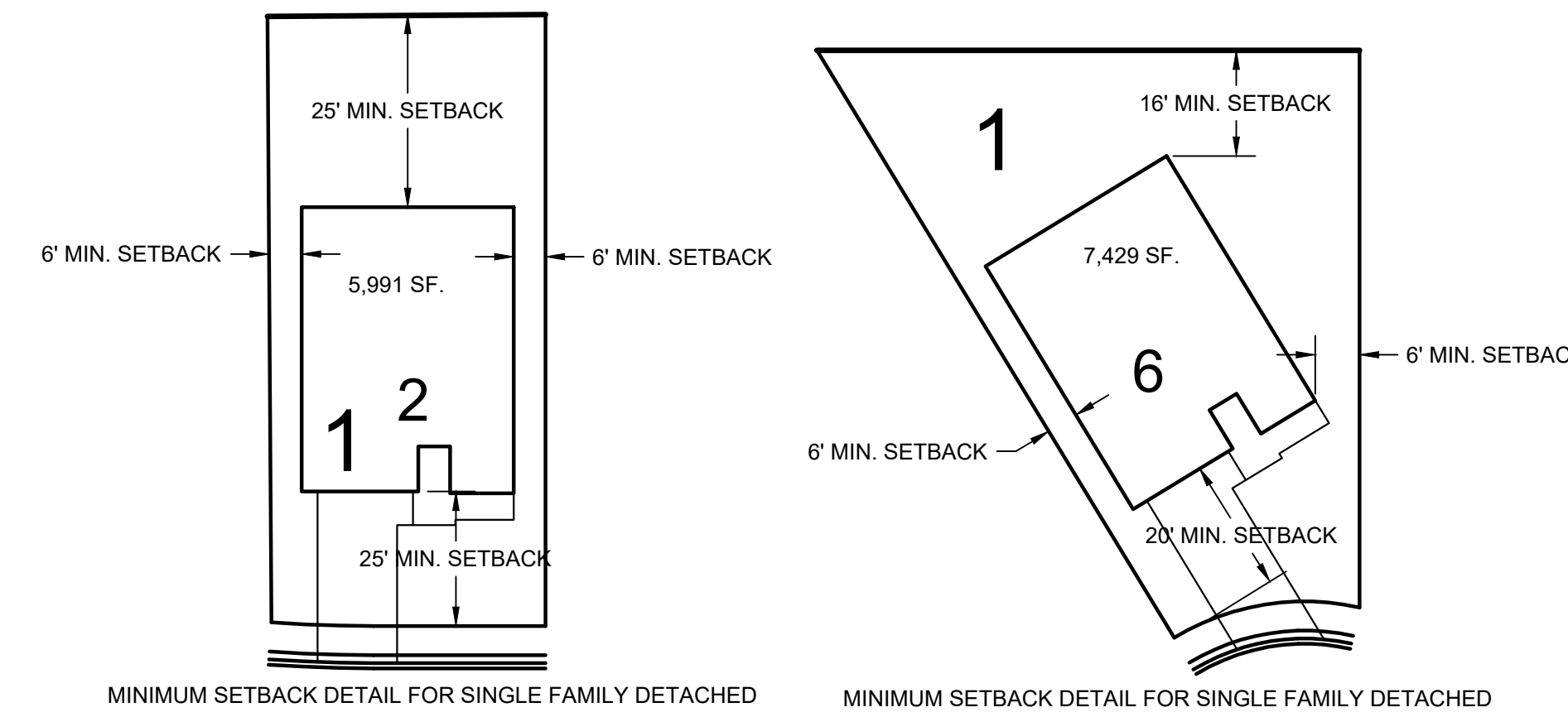
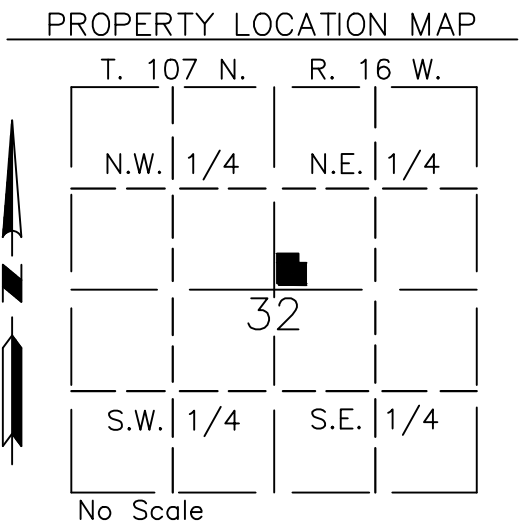
BLOCK 2 SITE INFORMATION:		HARD COVER	PERVIOUS AREA	TOTAL AREA	PERCENT OF HARD COVER
LOT 1	2,655 SF.	4,219 SF.	6,874 SF.	38.62%	

BUILDING SETBACKS:

FRONT	SIDE	REAR
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
16 FT.	6 FT.	5 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	6 FT.
20 FT.	6 FT.	6 FT.
16 FT.	6 FT.	5 FT.
16 FT.	6 FT.	5 FT.

BUILDING SETBACKS:

FRONT	SIDE	REAR
25 FT.	6 FT.	6 FT.
25 FT.	6 FT.	10 FT.



LEGEND

- STEEP SLOPE
- EXISTING CONTOURS
- TREE LINE
- WATERMAIN PIPE
- STORM SEWER PIPE
- SANITARY PIPE
- UTILITY EASEMENT
- BUILDING SETBACK
- WETLAND BOUNDARY
- UTILITY CROSSING

UTILITY EASEMENT (U.E.) Defined:
 An unobstructed easement for the construction and maintenance of all necessary underground or surface public utilities including rights to conduct drainage and trimming on said easement.

DRAINAGE EASEMENT (D.E.) Defined:
 An unobstructed easement for the operation and maintenance of all waterways, both surface and underground, running over, across, and under said easement.

ALL MONUMENTS SHOWN THUS:
 ARE FOUND IRON MONUMENTS UNLESS OTHERWISE NOTED

LEGAL DESCRIPTIONS
 Block 1, Lots 1-12 and Block 2, Lot 1
 2.64 ACRES
 Prairie Willow Estates 4th

APPLICANT/OWNER
 BIGELOW VOIGT LAND DEV LLC
 4057 28TH ST NW #100
 ROCHESTER, MN 55901
 (507) 529-1161

SITE DATA

	REQUIRED	PROPOSED
MINIMUM LOT AREA:	7,920 SQ. FT.	3,997.00 SQ. FT.
MINIMUM LOT WIDTH:	45 FEET	39.00± FEET
AT STREET	45 FEET	39.00± FEET
AT BUILDING LINE	66 FEET	39.00± FEET
FRONT YARD SETBACK:	20 FEET	16 FEET
SIDE YARD SETBACK:	20 FEET	5 FEET
REAR YARD SETBACK:	20 FEET	16 FEET
PERMITTED	35 FEET OR	35 FEET OR
MAXIMUM BUILDING HEIGHT:	2.5 STORIES	2.5 STORIES
MAXIMUM BUILDING STORIES:	40%	58%
MAXIMUM LOT COVERAGE:		
NUMBER OF EXISTING LOTS:	13	
DENSITY:	4.92 DWELLING UNITS PER ACRE	

DESCRIPTION:

REV.	DATE	DESCRIPTION

PRAIRIE WILLOW ESTATES 4th
KASSON, MINNESOTA
PLANNED URBAN DEVELOPMENT



STAFF REPORT

TO: Planning and Zoning Commission
FROM: Brad Scheib, Consulting Planner, HKGi
DATE: December 2, 2020
SUBJECT: Amendment to CUP allowing a PUD for Prairie Willow Estates 4th Addition
APPLICANT: Bigelow Voigt Land Development LLC
OWNER: Bigelow Voigt Land Development LLC
LOCATION: 100 – 113 Willow Lane, and 1502 2nd Street Northwest
MEETING DATE: December 14, 2020
COMPREHENSIVE PLAN: Medium Density Residential
ZONING: PUD-F Planned Unit Development Fixed District

BACKGROUND

The applicant, Bigelow Voigt Land Development LLC, has applied for an amendment to a Conditional Use Permit (CUP) allowing a Planned Unit Development (PUD) for Prairie Willow Estates 4th Addition. The request is to amend the PUD to have 12 single unit detached homes in place of the previously approved 12 single unit attached townhomes located on Willow Lane, a private cul-de-sac.

The applicant applied for the original CUP for a PUD in 2016, along with accompanying preliminary plat and final plat documents. At that time, the PUD was shown to have single unit attached townhome dwellings, each on their own individual parcel. Since then, one parcel on Willow Lane has been developed, but instead of a twin home, a detached unit was built, conflicting with the approved PUD. To clear up the confusion and allow future development to proceed, City Staff determined that the best approach would be to amend the existing CUP (and thus the PUD) allowing for single family detached units in lieu of attached townhomes.

Under the new provisions of the updated zoning chapter of the City code of ordinances, amendments to existing PUDs should be processed as new PUDs, requiring a rezoning and establishment of an individual PUD zoning district, unless the amendment is minor in nature and substantially conforms with the approved PUD. City staff reviewed the request and found that the proposed changes are minor and substantially conform with the original PUD:

- The number of residential units remains the same
- The proposed lot lines remain the same (no replatting is needed for the property)
- While individual unit sizes have changed from the original, the overall change in building footprint across the PUD has increased by less than 10% (roughly 8% total increase)

REVIEW PROCEDURE

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. For the purpose of Minnesota Statutes Section 15.99, “Day 1” for the CUP application was determined to be November 25, 2020. The City's deadline for action is on January 24, 2021.

Public Hearing

City Code § 154.02.23 requires a public hearing for review of a CUP be held by the Planning and Zoning Commission. The public hearing notice for the CUP was published in the Dodge County Independent and posted on the City website. The CUP public hearing notice was also mailed to all affected property owners located within 350 feet of the subject properties.

DISCUSSION

- The change from attached units to detached units on Block 1 will result in larger building size for Lots 1, 2, 3, 5, 6, 7, 8, 9, and 10; Lots 4, 11, and 12 will have smaller building sizes due to the smaller lot sizes
- Because the building footprints have changed, and the housing types are no longer attached, the setbacks proposed have also changed within the development. In particular, as there are no longer zero-foot lot lines the side yard setbacks have been adjusted accordingly and are noted in on the attached exhibit. The setbacks are acceptable for the proposed PUD.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission make recommendation to the City Council to approve the minor amendment to the conditional use permit allowing for the planned unit development of Prairie Willow Estates 4th Addition to allow for single unit detached homes on Block 1 Lots 1-12 and that the conditions established in Resolution No. 12.8-16 continue to apply to the property as appropriate.

In recommending approval of the minor amendment to the CUP, staff offer the following findings of fact:

- (1) The proposed use of small-lot single unit detached homes is in compliance with the Comprehensive Plan.
- (2) The change in uses does not have a negative impact on the health, safety and general welfare of neighboring properties
- (3) The changes proposed are minor and substantially conform to the original PUD.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning and Zoning Commission, it will be forwarded to the City Council for action at its next regularly scheduled meeting.

APPLICATION FOR VARIANCE

Fee Paid \$ 300.00

Date Filed _____

Street Address of Property 501 Mantorville Avenue South Kasson, MN 55944

Legal Description of Property Sect-33 Twp-107 Range-016 RenRoc Subdivision Lots 1 & 2

Owner's Name Caribou Enterprises LLC Phone 507-273-8596

Address 10840 Rivverbend Lane Nw Oronoco, MN 55960

Description of Request To rescind the current variance of 8.1-16 to include the revocation of the requirement of an enclosure on the north, south and west sides to a height of at least two feet above the top of the compressor.

Reason(s) for Request The reason for the request is that the current variance stipulations are unpractical due to the limited noise impact from the compressor. Multiple contractors have declined to install this enclosure due to the high potential for if blowing off the roof during high wind gusts and the probability of causing significant damage to the roof. Mr. Jason Farnsworth, the neighbor immediately adjacent to the rear of the property, states that there is no discernible noise of the compressor and feels that an enclosed barrier is not necessary.

Present Zoning Classification C-2

Existing Use of Property Domino's Pizza

Signature of Applicant _____ Date _____

FOR OFFICE USE ONLY

Recommended _____ Denied _____ by the Planning Commission on _____.

Approved _____ Denied _____ by the City Council on _____.

If approved, the following conditions were prescribed:

1. _____
2. _____
3. _____
4. _____

If denied, denial was for the following reason(s): _____

PROCEDURES.

The procedure for obtaining a variance from the regulations of the Zoning Ordinance are as follows:

1. The property owner or his agent shall meet with the Zoning Administrator to explain his situation, learn the procedures and obtain an application.
2. The applicant shall file the completed application form together with required exhibits with the Zoning Administrator and shall pay a filing fee as established by the Council.
3. The Zoning Administrator shall review the application and within ten (10) business days after receiving the application shall notify the applicant in writing if the application is not complete and what additional information is required.
4. The City shall take action to approve or deny the application within sixty (60) days of receiving a completed application. If the City cannot take action to approve or deny the application within sixty (60) days of receiving the completed application, the City may extend the timeline for taking action before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification shall state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing.
5. When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days nor more than thirty (30) days prior to the hearing.
6. The Zoning Administrator shall transmit the application to the Planning Commission for review and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
7. The Planning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of the three actions, - approval, conditional approval or denial.
8. The City Council shall act upon the application within thirty (30) days after receiving the recommendation from the Planning Commission.
9. No application for a variance shall be considered by the City within a one year period following a denial of such request, except that the Zoning Administrator may permit a new application if new evidence or a change in circumstances warrant it.

CRITERIA FOR GRANTING A VARIANCE.

- (1) The City Council, consistent with the authority granted by law, may grant a property owner a variance from compliance with the literal provisions of the zoning code in an instance where strict enforcement would cause practical difficulties to the individual property owner, and when it can be demonstrated that such action will be in keeping with the spirit and intent of the code.
- (2) The term **PRACTICAL DIFFICULTIES** means that the:
 - (a) Property owner proposes to use the property in a reasonable manner that is not otherwise not permitted; and
 - (b) The plight of the property owner is due to circumstances unique to the property, not created by the property owner; and
 - (c) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute **PRACTICAL DIFFICULTIES**. For the purposes of this section, **PRACTICAL DIFFICULTIES** also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

- (3) Notwithstanding a finding that practical difficulties exist, the City Council may not permit as a variance any use that is not permitted under the provisions of the code for property in the zone where the land for which the variance is sought is located.
- (4) In its consideration of a variance request, the Planning Commission shall consider the following questions:
 - (a) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that results in practical difficulties for the owner?
 - (b) Whether or not the variance requested will alter the essential character of the locality?
 - (c) Whether or not granting the variance requested will:
 - (1) Impair an adequate supply of light and air to adjacent property?
 - (2) Substantially increase congestion in adjacent public streets?
 - (3) Endanger the public safety?
 - (4) Substantially diminish or impair property values within the vicinity?
 - (d) Whether the variance requested is the minimum variance that would alleviate the practical difficulties?
 - (e) Whether or not the variance requested is consistent with the intent of this chapter and the city's comprehensive plan?
 - (f) Whether or not the variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?

(5) In granting the variance, the City Council may impose additional conditions to ensure compliance with its decision and to protect adjacent properties. Such conditions must be directly related to and bear a rough proportionality to the impact created by the variance.

REQUIRED EXHIBITS FOR VARIANCES

The following exhibits shall be required:

Y _____ N _____
 Y _____ N _____
 Y _____ N _____
 Y _____ N _____

1. A completed application form.
2. An accurate boundary description of the property.
3. Evidence of ownership or enforceable option on the property.
4. An accurate drawing, at scale, showing property lines, locations of existing buildings and proposed project.

NOTE: SUBMITTAL OF THE REQUIRED INFORMATION DOES NOT GUARANTEE THE ISSUANCE OF A VARIANCE. ADDITIONAL INFORMATION MAY BE NEEDED OR CONDITIONS MAY EXIST THAT WOULD PREVENT THE ACTUAL GRANTING OF A VARIANCE.

To whom it may concern,

I am the owner of the house at 18 5th St SW Kasson, MN 55944, which is located immediately west and adjacent to the Domino's Pizza Shop.

In regards to the Kasson City variance 8.1-16 of having a cooler and a compressor installed on the Domino's property I have no issues on the request to void the requirement for a barrier around the compressor on the roof of the Domino's building. Over the past four years, the noise from the compressor is insignificant compared to the traffic on Mantorville Avenue, or the continuous customer movement in the Casey's store directly across the street. My bedroom is approximately 75' from the compressor and I have no concerns of leaving the barrier requirement out of this variance. It is a non-issue.

As a contractor with multiple years of experience in this area and having personally assessed this requirement, I believe it would be irresponsible to put such a structure on top of a roof around the compressor. During any high wind gusts, it would likely end up coming off of the roof and causing significant damage.

Sincerely,

Jason Farnsworth
507-272-6829

Linda Rappe

From: Brad Scheib <Brad@hkgi.com>
Sent: Thursday, December 10, 2020 4:02 PM
To: 'cityclerk@cityofkasson.com'
Subject: FW: P&Z 14 DEC 2020 - one more thing

Linda
Please include this response with that then.
Thanks.

From: Brad Scheib
Sent: Thursday, December 10, 2020 4:01 PM
To: 'Timothy Ibisch' <cityadministrator@cityofkasson.com>
Cc: 'Weber, Leth & Woessner, PLC' <mleth@kmtel.com>
Subject: RE: P&Z 14 DEC 2020 - one more thing

Tim
I consulted with the City Attorney on this to be sure. Because this request is coming from the applicant/property owner, they have the right to relinquish the vested property owner if they choose too. The City however cannot initiate the action.
So because the applicant wanted to revise the conditions, and the property owner adjacent supports that, the best approach for them is to request to rescind and then reapply. That is the land use application that is being considered. Please let me know if you have any further questions but you can feel free to forward this on to Mr. Talcott.
Thanks

Brad

From: Timothy Ibisch <cityadministrator@cityofkasson.com>
Sent: Wednesday, December 09, 2020 11:33 AM
To: Brad Scheib <Brad@hkgi.com>
Subject: FW: P&Z 14 DEC 2020 - one more thing

Most recent email from him

From: John Talcott <talcottjohn@gmail.com>
Sent: Tuesday, December 8, 2020 8:00 PM
To: Timothy Ibisch <cityadministrator@cityofkasson.com>
Subject: Re: P&Z 14 DEC 2020 - one more thing

Thank you for the staff report and the additional information that it provides. I appreciate the detail it supplied, unfortunately I had requested a reference to the city code that authorizes my city to rescind a variance. Should I assume there is none at this time? I've attached the minutes of a recent council meeting that dealt with a request to rescind a variance. I've highlighted the discussion and the action the council

decided to pursue. Before the public hearing next week I'd like to be informed on what the council determined in pursuit of *the legal terminology* as was recorded in those minutes. To my knowledge I don't believe that variance was ever rescinded. Do you anticipate you will have any more information before the public hearing next week?

On Tue, Dec 8, 2020 at 2:59 PM Timothy Ibisch <cityadministrator@cityofkasson.com> wrote:

Mr. Talcott,

The property owner in this case has requested the rescinding of their variance. I have attached the staff report that has been prepared and if more information is available I will forward it to you.

Respectfully,

Timothy P. Ibisch

City Administrator

City of Kasson



From: John Talcott <talcottjohn@gmail.com>
Sent: Monday, December 7, 2020 10:22 AM
To: Tim Ibisch <cityadministrator@cityofkasson.com>
Subject: P&Z 14 DEC 2020

Dear Mr. Ibisch

I am contacting you in regards to a Planning Commission public hearing scheduled for December 14, 2020. Public Hearing #1 proposes to rescind a variance that was granted to the property at 501 South Mantorville Avenue. It's been my understanding that the City of Kasson grants a variance to a property and it is then recorded with the county. A property right, in compliance to the conditions of the variance, is then granted to whoever owns the property if the use remains the same. Therefore, I question what is the justification of the City of Kasson's proposed action to rescind this variance? I feel that the City of Kasson should be authorized to revoke a variance under some circumstances. For instance, if the property owner fails to comply with the criteria set forth in the application submitted to obtain the variance. Or the proposed use fails to occur in a set timeframe. However, I question under what current authority does the City of Kasson have to rescind this variance in an extrajudicial manner? I've searched the current code of ordinances and I can't seem to find any process to revoke or rescind a variance once it has been granted. Could you please direct me to that process and therefore the authority that the City of Kasson possesses that would allow this proposed action? Again, I feel that a city should have some powers to revoke a variance under some conditions but those powers must be codified. Please direct me to that part of the city code that grants my city the power to rescind a property right.

Thank you,

John Talcott

APPLICATION FOR VARIANCE

Fee Paid \$ _____

Date Filed _____

Street Address of Property 501 S Mantorville Ave R24.551.0020

Legal Description of Property Sect-33 Twp-107 Range-016 RENROC SUBDIVISION LOTS 1 & 2 BLK 1

Owner's Name Gerald Dahlman—Caribou Enterprises Phone 507-273-1616

Address 1600 Greenview Dr SW Rochester, MN 55902-1034

Applicant (if other than Owner):
Name TGM Pizza, Inc Paul M Gritz, Owner Phone 641-583-2441

Address 958 15th st NE Mason City, IA 50401

Description of Request 10x16 Walk-in Cooler on West side (Back) of building

Reason(s) for Request Sales are up almost double over the last 6 years. We need more space and want to stay in Kasson, and love our current location and landlord. Making our add-on to the West makes it almost invisible to the rest of the neighborhood.

Present Zoning Classification Domino's Pizza Restaurant

Existing Use of Property _____

Signature of Applicant  Date 7-6-16

FOR OFFICE USE ONLY

Date accepted _____
Recommended _____ Denied _____ by the Planning Commission on _____, 19____

Approved _____ Denied _____ by the City Council on _____, 19____

- If approved, the following conditions were prescribed:
1. _____
 2. _____
 3. _____
 4. _____

If denied, denial was for the following reason(s): _____

**CITY OF KASSON
RESOLUTION 8.1-16**

**RESOLUTION APPROVING A VARIANCE AT
501 SOUTH MANTORVILLE AVE.**

WHEREAS, an application has been received from Caribou Enterprises requesting that a variance be granted on a parcel of land at 501 South Mantorville Ave. to allow the installation of a walk-in cooler inside the required rear yard setback; and

WHEREAS, a Public Hearing was held concerning this application on August 1, 2016 following due publication thereof; and

WHEREAS, such applications are reviewed by the Planning and Zoning Commission and the Zoning Administrator prior to recommending Council action; and

WHEREAS, the Commission could see no reason why such a change would negatively impact the orderly development of the City of Kasson; and

WHEREAS, the Commission believes that the application meets the standards required for granting a variance;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Kasson that the following Findings of Fact are hereby adopted and that the Kasson City Council hereby grants the requested Variance.

BE IT FURTHER RESOLVED THAT Staff is hereby directed to amend the existing Building Permit to require that the compressor for the cooler be installed outside the rear yard setback and be enclosed on the north, south and west sides to a height of at least two feet above the top of the compressor.

1. Strict enforcement of the Ordinance would cause practical difficulties to the individual property owner and it can be demonstrated that the granting the Variance will be in keeping with the spirit and intent of the Code. Economic conditions alone shall not be considered a practical difficulty.
Strict enforcement of the Code would eliminate any practical use of the west side of the building. The original building already intrudes on the setback required for the situation. Granting this Variance would increase the intrusion, but not create a new situation.

The practical difficulty in this case is that the original building was built before the adoption of the Zoning Code and its location does not allow for the required rear setback.

2. The proposed Variance will allow the property owner to use the property in a manner that is not otherwise not permitted.

Pizza sales is a permitted use in the C-2 District

3. The reason for the Variance is due to circumstances unique to the property and not created by the property owner.

The reason for the Variance is created by the location of the original building which appears to pre-date the Zoning Code. Since it is impractical to place a cooler in front of the restaurant, it must be located in the rear. Since the applicant did not construct the original building, he did not create the need for the Variance.

4. The Variance, if granted, will not alter the essential character of the locality.

The Domino's operation has been there for at least ten years and has adjoined the residential district for that long or longer. Even though a part of the structure will be closer to the lot line than before, the character of the neighborhood will not be substantially changed.

5. Notwithstanding a finding that practical difficulties exist, the City Council may not permit, through a variance, any use that is not permitted under the provisions of the Code for property in the Zone where the land for which the Variance is sought is located.

The Variance requested is for relief from a setback requirement not related to use.

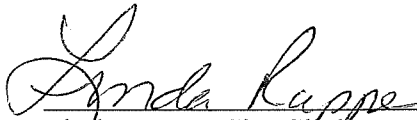
6. In considering the Variance request, the Planning Commission shall consider the following questions:

- a. Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographical which results in practical difficulties for the applicant; **the extraordinary circumstance relates to the shape of the property whereby the original building was built prior to the adoption of the Zoning Code and was placed where the rear setback cannot be met.**
- b. Whether or not the Variance requested will alter the essential character of the locality; **the use of the property will not change and the square footage of the building will be increased roughly 10%, so no change to the character of the neighborhood is anticipated.**
- c. Whether or not granting the Variance will:
 - i. Impair and adequate supply of light and air to adjacent properties; **Accessory structures on the residential property are higher and larger than the proposed addition, so the impact on air and light available to the residence will be minimal.**
 - ii. Substantially increase congestion in adjacent public streets; **The addition is intended to enhance the efficiency of the restaurant, not the seating or service capacity. No increase in traffic is anticipated.**
 - iii. Endanger public safety; **No impact on public safety is anticipated.**
 - iv. Substantially diminish or impair property values within the vicinity? **The use of the property will remain unchanged and the structure will not be substantially increased in size, so no impacts on property values are anticipated.**
- d. Whether the requested Variance is the minimum variance that would alleviate the practical difficulties; **Efficient use of the property and equipment require a certain freezer capacity. The proposed structure appears to be the minimum efficient structure.**
- e. Whether or not the Variance requested is consistent with the intent of this chapter and the City's Comprehensive Plan; **The purpose of the C-2 Zoning District is to "provide for high-density commercial and service activities". This Variance request appears to meet the "high-density" purpose and the Comprehensive Plan mentions commercial development along Mantorville Ave. in several places.**


- f. Whether or not the Variance requested provides for a reasonable and practical solution that eliminates the practical difficulties. **If the practical difficulty is that the location of the building does not allow for the full rear setback, and shrinking the setback does not appear to create significant negative impacts, it is found that the requested Variance is a reasonable and practical solution that eliminates the practical difficulties.**

ADOPTED this 10th day of August, 2016

ATTEST:



Linda Rappe, City Clerk



Steve Johnson, Mayor

The motion for the adoption of the foregoing resolution was made by Council Member Coleman and duly seconded by Council Member Buck. Upon a vote being taken, the following members voted in favor thereof: Buck, Coleman, Egger and Johnson.
Those against same: None

A 218235

Certified filed and or recorded on
10/14/16 1:30 PM
Office of the County Recorder
Dodge County, Minnesota
Ryan B DeCook, County Recorder

Return to: City of Kasson

Receipt #:

Ryan B DeCook,
Dodge County Recorder
by LJ, Deputy



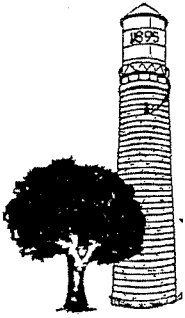
218235



10/14/2016

DO NOT REMOVE

This cover sheet is now a permanent part of the
recorded document.



TREE
CITY
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CITY OF KASSON

401 FIFTH STREET SE
KASSON, MINNESOTA 55944-2204
PHONE: (507) 634-7071
FAX: (507) 634-4737

STATE OF MINNESOTA

COUNTY OF DODGE

CITY OF KASSON

I, the undersigned, being the duly qualified and acting City Clerk of the City of Kasson, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing Resolution with the original thereof on file in my office, and that the same is a full, true and complete transcript of the Resolution of the City Council duly called and held on the date therein indicated, insofar as such Resolution relates to Approving a Variance at 501 South Mantorville Avenue, Kasson, Minnesota. Legal Description: Lots 1 and 2 of Block 1 Renroc Subdivision, PIN: 24.551.0020.

WITNESS my hand on September 29, 2016.

Linda Rappe, City Clerk

Steve Johnson, Mayor



STAFF REPORT

TO: Planning and Zoning Commission
FROM: Brad Scheib, Consulting Planner, HKGi
DATE: December 2, 2020
SUBJECT: Rescind variance approved through Res. No. 8.1-16 and reissue variance with different conditions for subject property
APPLICANT: Gerald Dalhman
OWNER: Caribou Enterprises, LLC
LOCATION: 501 Mantorville Avenue South ; PID No. 245510020
MEETING DATE: December 14, 2020
COMPREHENSIVE PLAN: Downtown
ZONING: C-2 General Commercial District

BACKGROUND

The applicant, Gerald Dalhman, on behalf of Caribou Enterprises LLC, has applied for the existing variance on the property at 501 Mantorville Avenue South to be rescinded and reissued with different conditions of approval. The request does not alter the original variance granted from the rear yard setback, but rather an amendment to the conditions of approval as it relates to requirements for a noise barrier.

The applicant applied for the original variance in 2016. At that time, the variance request was to allow an expansion of the building into the rear yard to accommodate a walk-in cooler. The building at that time was already encroaching in the required rear yard, and the variance request asked to further that encroachment for a setback of five feet. In consideration of the request, the City Council stipulated a condition of approval for the expansion:

Staff is hereby directed to amend the existing Building Permit to require that the compressor for the cooler be installed outside of the rear yard setback and be enclosed on the north, south, and west sides to a height of at least two feet above the top of the compressor.

A copy of the original application, with site drawing, the minutes for the P&Z and City Council, as well as approving Resolution No. 8.1-16 have been attached to this report for your review.

REVIEW PROCEDURE

Variance

City Code § 154.02.24 states that a variance may be granted to provide relief to a property owner where strict enforcement of the zoning code would cause a practical difficulty and where it can be demonstrated that such a variance will be in keeping with the spirit and intent of the code.

In its consideration for a variance request, the Planning and Zoning Commission shall consider the following questions when making their recommendation to the City Council:

- (1) Whether or not exceptional, unique or extraordinary circumstances apply to the physical surrounding, shape or topographic conditions of the parcel of land that result in practical difficulties for the owner?
- (2) Whether or not the Variance requested will alter the essential character of the locality?
- (3) Whether or not granting the Variance requested will:
 - (a) Impair an adequate supply of light and air to adjacent property?
 - (b) Substantially increase congestion in adjacent public streets?
 - (c) Endanger the public safety?
 - (d) Substantially diminish or impair property values within the vicinity?
- (4) Whether the Variance requested is the minimum variance that would alleviate the practical difficulties?
- (5) Whether or not the Variance requested is consistent with the intent of this Chapter and the City's Comprehensive Plan?
- (6) Whether or not the Variance requested provides for a reasonable and practical solution that eliminates the practical difficulties?

In its consideration of a variance request, the City Council shall make the following findings:

- (1) The proposed use is not prohibited in the zoning district in which the subject property is located.
- (2) The Variance must be in harmony with the general purposes and intent of this ordinance.
- (3) The terms of the Variance must be consistent with the Comprehensive Plan.
- (4) The landowner must show that the Variance is necessary to alleviate the practical difficulties in complying with the official control.

“Practical Difficulty” as used in connection with the granting of a Variance shall include all the following:

- (1) The property owner proposes to use the property in a reasonable manner that is not otherwise not permitted by an official control;
- (2) The plight of the property owner is due to circumstances unique to the property, not created by the property owner;

- (3) The Variance, if granted, will not alter the essential character of the locality;
- (4) The need for the Variance involves more than economic considerations.
- (5) “Practical Difficulties” also means and includes, but is not limited to, inadequate access to direct sunlight for solar energy systems

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. For the purpose of Minnesota Statutes Section 15.99, “Day 1” for the variance application was determined to be November 25, 2020. The City’s deadline for action is on January 24, 2021.

Public Hearing

City Code § 154.02.24 requires a public hearing for review of the variance be held by the Planning and Zoning Commission. The public hearing notice for the variance was published in the Dodge County Independent and posted on the City website. The variance public hearing notice was mailed to all affected property owners located within 350 feet of the subject properties.

DISCUSSION

The existing site has two commercial tenants, with parking between the building and Mantorville Avenue South. The rear yard of the property abuts the rear yard of 18 5th Street Southwest, which is a residential use owned by Jason and Nicole Farnsworth. The Planning and Zoning Commission recommended a condition of approval to protect this adjacent residential use from the noise of the compressor by building a sound barrier two feet in height around the compressor.

Since that time, the applicant has installed the cooler and its associated compressor, but could not find a way to safely install a sound barrier. The applicant has since requested to rescind and reissue the variance without the sound barrier language. Jason and Nicole Farnsworth have submitted a letter to the City indicating that they support the removal of that condition requiring a sound barrier be installed. This letter is attached for your information.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission make recommendation to the City Council to approve the application to rescind the variance established through Res. No. 8.1-16 and reissue the same variance as a new resolution removing the condition of approval related to the sound barrier for the compressor.

In recommending approval of the variance, staff offer the following findings of fact:

- (1) The proposed use, a restaurant, is an allowed use in the C-2 zoning district in which the subject property is located.
- (2) The improvements to the restaurant use of this property are in harmony with the general purposes and intent of this ordinance.

- (3) The terms of the variance as requested are consistent with the Comprehensive Plan.
- (4) It is reasonable for a restaurant use to expand facilities to accommodate growth of the business; prior to the cooler installation, the building was already located within the required rear yard setback.
- (5) The original intent of the condition of approval established within Res. No. 8.1-16 was to protect adjacent residential properties from noise created by the cooler expansion's compressor. The noise generated by the compressor has negligible effect on the adjacent property relative to the surrounding context.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning and Zoning Commission, it will be forwarded to the City Council for action at an upcoming meeting.

ATTACHMENTS

- A. Application to rescind and reissue variance for 501 Mantorville Avenue South, dated December 1, 2020
- B. Letter from adjacent property (18 5th Street Southwest) owners, Jason and Nicole Farnsworth, dated November 29, 2020
- C. Materials related to previous approval (2016)

2020 COMMITTEES

COUNCIL MEMBER	HOME	OFFICE	ADDRESS	E-MAIL	EXPIRES
Meets 2 nd and 4 th Wednesday at 6:00 P.M. (Mayor-2 year term; Council-4 year term)					
Tim Ibisch - City Admin	399-3100	634-6320		cityadministrator@cityofkasson.com	
Mayor Chris McKern	634-4029	634-4307	405 5th St NW	mavormckern@cityofkasson.com	1-3-21
Melisa Ferris	2069323		204 4 th Ave NW	councilpersonferris@cityofkasson.com	1-1-23
Duane Burton	634-7027		2001 11 th Ave NE	councilpersonburton@cityofkasson.com	1-1-23
Lonnie Zelinske	634.4410		1005 2 nd Place NW	councilpersonzelinske@cityofkasson.com	1-3-21
Dan Egglar	951-7741		1503 16 th Ave NE	councilpersoneggler@cityofkasson.com	1-3-21

PLANNING COMMISSION

Meets 2nd Monday of each month at 6:30 P.M. (3 year term)

Tim Ibisch - City Admin	399-3100	634-6320	401 5 th St SE	financedept@cityofkasson.com	
Linda Rappe – City Clerk/ PC sec’y		634-6324		cityclerk@cityofkasson.com	
Duane Burton					x
Lonnie Zelinske					x
Tom Ferris - Chair	634-6692	775-7878	204 4th Ave NW	ralphf@globaldairysolutions.com	12-31-21
Joe Fitch	517-4113		1301 Main St W	joefitch24@gmail.com	12-31-20
Aaron Thompson	9512273	2867869	504 16 th St NE	aaron@thedesignconnection.net	12-31-22
Collin Tinsley	535-6596		105 1 st St NW	collin@armonarch.com	12-31-21
Sheldon Torkelson	634-7976	696-5546	1200 Main St W	stoneystone@kmtel.com	12-31-22
*City Code of Ordinances Article 3 - Chapter 2					

LIBRARY BOARD

Meets 2nd Tuesday of each month at 6:00 P.M. (3 year term)

Art Tiff-Director		634-7615	607 1 st St NW	atiff@selco.info	
Melisa Ferris					x
Lisa Carlsen	635-5453		61205 251 st Ave; Mantorville 55955	carlsen@kmtel.com	12-31-21
Jon Wright	261-3170		106 7 th Ave SW		12-31-22
Tarik Kamel - Chair	634-6460		108 2nd Ave NE	tkkamel@hotmail.com	12-31-21
Laurie Schultz	634-6894		1505 15 th Ave NE	Schultz@pobox.com	12-31-22
*State Statute 134-Ordinance 706					

ECONOMIC DEVELOPMENT AUTHORITY (EDA)

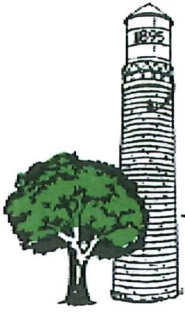
Meets 1st Tuesday of each month at 12:00 noon (6 year term)

Tim Ibisch - City Admin	399-3100	634-6320		financedept@cityofkasson.com	
Nicholas Ouellette - CEDA/ EDA sec’y		202-2629		nicholas.ouellette@cedausa.com	
Chris McKern					x
Dan Egglar - Chair					x
Janice Borgstrom-Durst	273-0890		401 3 rd Ave NW	taxxx@kmtel.com	12-31-24
Michael Peterson	951-1373		903 6 th St NW	peteronappraisal@charter.net	12-31-23
Liza Larsen – Chamber Apptee	202-3511	288-7665	24198 670 th St	liza@lstop-realty.com	12-31-20
Tom Monson	507-413-2500	Same	101 3 rd St NW	tomonson@gmail.com	12-31-21
Star City Commission Ordinance 665 - Resolution #1123 - State Statute 469.091					

PARK BOARD

Meets 3rd Tuesday of each month at 6:00 PM (3 year term)

Ron Unger-Park & Rec Supr		634-4165	1401 16 th St NE	parknrec@cityofkasson.com	
Jan Naig-Deputy Clerk/Park Board Sec’y		634-6301	401 5 th St SE	acctspay@cityofkasson.com	
Dan Egglar					x
Jason Farnsworth	696-1588		18 5 th St SW	farnsworths@charter.net	12-31-20
Greg Kuball	634-3104	634-2771	604 Main St W	kassnhdw@kmtel.com	12-31-21
Liza Larsen - Chair	202-3511	288-7665	24198 670th St	liza@lstop-realty.com	12-31-22
Chuck Coleman	634-4602		1109 1 st Ave NE	cscolemn@kmtel.com	12-31-20
Janet Sinning	634-4668		606 5 th Ave NE	jsinning@charter.net	12-31-22
Roger Franke	634-4544		605 7 th St NE	Franke.Roger@mayo.edu	12-31-21
*City Code of Ordinances. Chapter 15.1					



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CITY OF KASSON

401 FIFTH STREET SE
KASSON, MINNESOTA 55944-2204
PHONE: (507) 634-7071
FAX: (507) 634-4737

MEMO

To: Economic Development Authority Board

From: Nicholas Ouellette, EDA Staff

Date: November 30, 2020

Re: Southwest Land Discussion

Attached is a revised concept plan from WHKS which reflects the most recent discussions on prospective development by the EDA Board. Brandon Theobald also provided some rough costs for infrastructure development:

8th Street and 240th Avenue

- \$1,200,000 - \$1,500,000 for roadway improvements and utilities to site
- This project is on the City's draft long term capital improvement plan, timed for 5 or more years into the future

Residential and Commercial Development (West Side)

- \$1,200,000 - \$1,500,000 for roadways and utilities

Industrial Development (East Side)

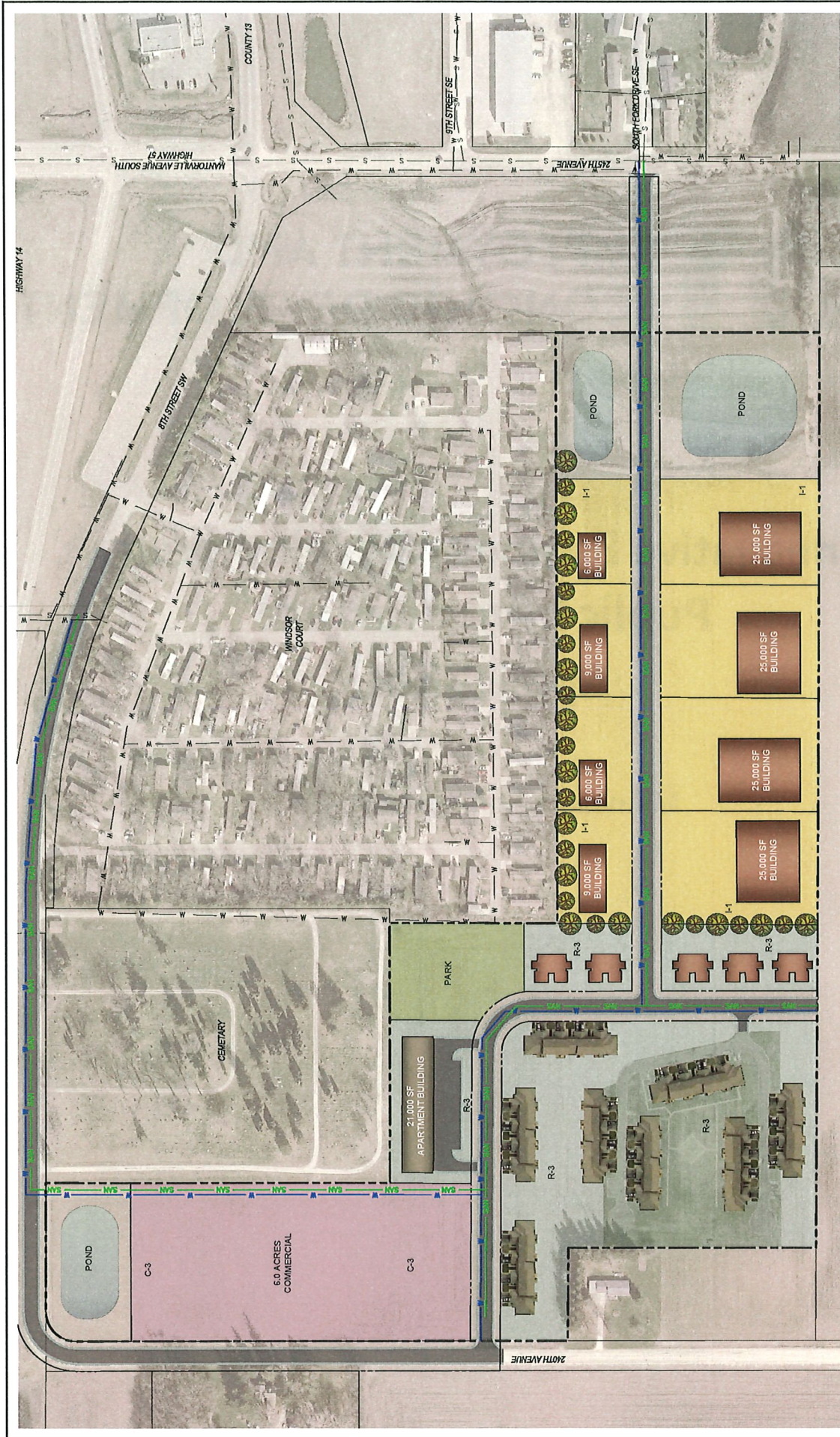
- \$1,100,000 to \$1,400,000

Total Project Rough Estimate:

- \$3,500,000 - \$4,400,000

I met with Tracy Lauritzen, who manages CEDA's Market Intelligence Dashboard Tool, to request a market potential study be completed for Kasson. An aspect of this study will investigate the market potential for businesses in Kasson for industries related to the Innovative Business Development Public Infrastructure (BDPI) program. The study will be useful to substantiate market potential for businesses related to the BDPI program, and possibly identifying a business with a desire to relocate or expand to Kasson as part of a BDPI program application. If a Board member is unfamiliar with the premise behind the BDPI Program I have attached part of the BDPI Concept and Applications document from DEED.

Also attached is public input for the southwest land development discussion, submitted Jerry Berg, regarding the capacity of Maple Grove Cemetery.



CEMETERY PROPERTY CONCEPT PLAN



NOVEMBER 2020

