

PLANNING COMMISSION

MARCH 9, 2020

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – January 13, 2020 and February 10, 2020
3. Public Hearing for Kwik Trip Conditional Use Permit
4. Discussion on Thompson Addition Revision
5. Wilker Conditional Use Permit
6. Other
7. Adjourn

MINUTES OF PLANNING COMMISSION MEETING

January 13, 2020

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 13th day of January, 2020 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Commissioner Ferris, Commissioner Thompson, Commissioner Zelinske, Commissioner Torkelson, Commissioner Tinsley and Commissioner Burton.

THE FOLLOWING WERE ABSENT: Commissioner Fitch

THE FOLLOWING WERE ALSO PRESENT: City Administrator Tim Ibisch, City Clerk Rappe, Finance Director Nancy Zaworski, City Attorney Leth, City Engineer Theobald, Consultant Laura Chamberlain HKGi, Les Conway, Tony Bigelow, Coy Borgstrom, Jason Wilker, Julie Nagorski, Brian Keehn, Ben Boynton, Kyle Decker, Rose McKain, Dean and Terri Schuette, Brandon Stedman, Chris Hallstrom, Kaleb Melcher, Charlie Hallstrom, Doug Buck, Bonnie Ryan, Neeley Ryan, Bruce Whitacker, Sae Denny, Christie and John Bausman, Steven Arett, Troy Andrist, Steve Erickson

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETINGS – December 9, 2019 – Motion to Approve the Minutes as presented by Commissioner Thompson, second by Commissioner Burton with All Voting Aye.

PUBLIC HEARING BIGELOW-VOIGT 8th GENERAL DEVELOPMENT PLAN – Laura Chamberlain, HKGi Planning Consultant, gave the background of this proposal of 11.81 acres of 14 single family detached lots and 28 single family attached homes. In this case the single family attached units are incorporated in the planned unit development so only one CUP is required. Ms. Chamberlain has consulted the City's Comprehensive Plan regarding greenspace, trails, roadways and floodplain/ponds/wetlands. Ms. Chamberlain referred to her staff report regarding the specific considerations for the CUP for PUD and Preliminary Plat. Ms. Chamberlain also referred to the staff comments as well as the City Engineer comments.

Tony Bigelow – 1210 16th St NE Kasson. Mr. Bigelow stated that they are willing and can work on all contingencies except the one connecting 12th St NW because that drainage channel drains a large area.

Les Conway – WSE Massey. Mr. Conway stated that they reviewed Ms. Chamberlain's and staff comments, the pond on the west handles the drainage for Bigelow 7th and the new pond on the east that could handle Bigelow 8th and other areas that drain this direction. They propose that Outlot A would be City property. Mr. Conway stated that by not putting 12th St through improves the sustainability and habitat of this design.

Public Hearing Open – no comments

Public Hearing Closed

Discussion

Planning Commission Meeting January 13, 2020

Commissioner Zelinske – He agrees that 12th does not need to go through and that would hamper water flow. He doesn't like the idea of private streets because of narrowness for fire trucks and issues of parking and snow removal.

Commissioner Thompson - agrees that 12th does not need to go through and that the private roads could be wider.

Mr. Conway stated that those responsibilities are the homeowners association. And the ends of the streets are less than 150' to the intersection and there would not be any parking on those streets. All of the townhomes would be in the association.

Commissioner Burton - all comments brought up by staff regarding the PUD are appropriate and he is in agreement the 12th St NW would not need to go through but we need to find a way to eventually to cross that waterway. Not in favor of running an easement across the Wilker property and somehow we need to go to the north to get to County 21.

Commissioner Torkelson proposed that there be no parking along private streets.

Commissioner Tinsley – nothing to add, feels the same way about the streets and how is parking enforced.

Motion to Approve the General Development Plan with staff comments made by Commissioner Thompson, second by Commissioner Zelinske with all voting Aye.

PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT

REQUESTED BY BIGELOW-VOIGT 8TH – Mr. Conway stated that they have no problem meeting the requirements of staff and WHKS design comments.

Ms. Chamberlain stated that staff would like some time to look over the plans that were just handed out and if the Planning Commission approves this staff would make sure that it is complete before it goes to City Council.

Public Hearing Opened – no comments

Public Hearing Closed

Discussion

Commissioner Tinsley had questions for Mr. Conway regarding grading for wetlands. Mr. Conway stated that in the new plan the pond is stretched out a bit and the slope is not as steep.

Motion to Approve the CUP for a PUD Contingent on the Developer Meeting The Conditions Outlined by Staff before Approval, made by Commissioner Burton, second by Commissioner Thompson with All Voting Aye.

PUBLIC HEARING FOR BIGELOW VOIGT 8TH PRELIMINARY PLAT

Public Hearing Opened – no comments

Public Hearing Closed

Motion to Approve the Preliminary Plat With the Conditions Either Already Met or Still Needed to Meeting made by Commissioner Thompson, second by Commission Torkelson with All Voting Aye.

PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A LANDSCAPING AND NURSERY REQUESTED BY JASON WILKER - Ms. Chamberlain gave a brief background on the property. Ms. Chamberlain has provided findings and additional considerations, in the Comprehensive Plan it is designated as medium density residential. The application as presented did not provide enough information to grant this CUP. Ms. Chamberlain reminded the Commissioners that a CUP is applied to the property and not to the owner.

Julie Nagorski , Jason Wilker's Attorney, - This plan that he has submitted is what he has used before. Wilker has a nursery stock dealer certificate, he has a plan that works under the parameters of the city ordinance. She does not believe that requirements that are not in the ordinance should not be imposed. Ms. Nagorski and Mr. Wilker are against the suggestions made by the City Attorney.

Jason Wilker – Property Owner of 1103 8th Ave NW, Kasson, resides at 630 Meadowlark Ct, Byron, MN – he feels he has met and tried to meet what the city has asked of him. He has not heard from anyone who wanted to come out to his property.

Public Hearing Opened

Ben Boynton – 209 4th St SW – he is concerned that this has become a bigger topic in town than the infrastructure. He feels that Mr. Wilker is complying with the City. Mr. Boynton supports the CUP.

Troy Andrist – 64739 270th Ave, Kasson - he knows what Jason is going through and has had the same experience. He would like to get something worked out.

Ben Boynton – he lives near two giant culverts and debris blocks culverts and if it would cause drainage issues.

Steve Arett – 25145 750th Hayfield - he is here to support Wilker.

Doug Buck – 300 15th Ave NW – he is here in support of Wilker, and attested to his character.

Coy Borgstrom – 20 E Veterans Memorial Hwy – he believes we need to go back to the book on this. This has been twisted. The CUP is answered by the neighbors, and there have been no complaints in 10 years. The only complaint was from a person 6-8 blocks away. **Mr. Borgstrom stated that Domino's is violating their CUP for the sound barrier on their roof and no one is doing anything about that.** He doesn't want anyone to take staff's recommendation and that they don't make the decisions. There are a lot of things in this community that are against the ordinance but no one is doing anything about them.

Jason Wilker – he notices that rules are bent for some people. He has had no complaints in 11 years. He believes his business benefits the city.

Public Hearing Closed

Laura Chamberlain – point of clarification, the application for a CUP does not ~~requirement~~ **require** a General Development Plan but a ~~cup~~ **CUP** does require a Development Plan.

Planning Commission Meeting January 13, 2020

Commissioner Thompson asked where the City is regarding litigation. City Attorney Leth stated that there has been no assurances that if this is granted that the lawsuit will go away. There has been no communication from Wilker or his Attorney in that regard. Attorney Leth stated that just because someone hasn't set foot on Mr. Wilker's property doesn't mean that there isn't sufficient evidence to take this action. The allowed CUP is for a nursery and he is not operating as a nursery he is operating as a landscaping business. In the 2010 ~~cup~~ CUP he was required to plant 60% of property to trees.

Commissioner Thompson – the City does not currently have a review of CUP's process. He asked Attorney Leth to explain her recommendations. As far as the building structures this was part of the 2010 original CUP.

Chairman Ferris – this has always been a piece of property that has had a commercial use and when it was annexed it was annexed as R-1. He believes that conditions put on in 2010 were to balance the commercial activities on that land.

Commissioner Zelinske – all we want him to do is follow his conditions.

Commissioner Burton – we want to make this work for the City and Mr. Wilker. He had 14 months from when he was told that he was in violation to when the ~~cup~~ CUP was revoked. We were accurate in the fact that we were not putting a street through his property and we did not even have a request for this street until Bigelow Voigt 8th Subdivision. He is willing to work with Wilker as to new trees or trees that have been planted.

Commissioner Tinsley – looked at the conditions suggested by Wilker. He is **generally in agreement agreeable** with the conditions set forth from Wilker **pending future clarifications**.

Commissioner Thompson – believes we are headed in right direction, but need more clarification.

Commissioner Burton – would like the recommendation for the 12th St easement struck from recommendation ~~clarification of no new buildings be built~~ **along with further clarification related to building structures**.

Motion to table and allow City Staff and Wilker to come to a set of conditions that will work for the site, made by Commissioner Thompson, second by Commissioner Torkelson with All Voting Aye.

10 min break 8:34.

8:43PM

BLAINES 14TH GDP – TABLED FROM DECEMBER MEETING – Laura Chamberlain gave background for the Blaine's 14th. The total GDP involves two parcels with a total of 131 single family detached lots and two outlots for stormwater. She went through requirements of the Comprehensive Plan for density, land use, green space, transportation and parks and trails. There is floodplain on the site. Dodge County is preparing a map revision and have released their best estimated for flood zone in this area. There is no approving action for a GDP it is just a concept. The Planning Commission role is to review it and let the developer know if this meets the Comprehensive Plan, Zoning Ordinance and Subdivision

Ordinance. Phasing of the development is not indicated on the GDP. There is a section of land that is not accounted for. The road extensions should be shown as future roadways. The outlot should be dedicated to the city as a single piece to protect that natural resource. Preliminary Plat is missing a lot of detail.

Commissioner Burton ~~Duane~~ asked to hear from the City Attorney regarding the Attorney opinion submitted by Mr. Blaine. Her opinion is that case is not applicable here.

City Engineer Theobald – regarding the outlot, this is a request to plat all of the space around Masten Creek as an outlot and have it be dedicated to the City. Maintenance of this property is difficult if it is private. There is a sewer trunk line that runs along the creek. We would want the other outlot for the bridge. Commissioner Burton asked about the proposed parkway and if we have identified the street alignment. Engineer Theobald stated that has been a factor and in the platting process this will be considered.

Les Conway, WSE Massey represented the developer, the remnant does need to be addressed on the Preliminary Plat. Mr. Conway stated there is no phase 2 right now. As to the recommendation that the creek be an outlot, the land has value and could be a parkland dedication or a negotiated item. They tried to address all other technical issues. The end of 13th Ave would be a crown and everything would drain to the pond. They feel as far as the parkway it should not be a condition of approval. Engineer Theobald stated that he doesn't see the difference between them dedicating the stormwater pond to the City as an outlot and from dedicating the creek property to the City as an outlot. Mr. Conway stated because the City's Ordinance regarding stormwater management dictates the first.

The Commissioners were in agreement to work on negotiating for the outlot that would involve the creek.

Motion to Direct Staff to Inform the Applicant in writing that the GDP with Suggested Revisions Will Meet the Objectives of the Subdivision and Zoning Ordinances made by Commissioner Tinsley, second by Commissioner Thompson with All Voting Aye.

Motion to Recommend Approval with Conditions and Findings of Fact as Presented by Staff Along with the Outlot B Be From the Sewer Line Easement to the South Side of the Creek made by Commissioner Tinsley, second by Commissioner Zelinske with All Voting Aye.

COMMISSIONER TERMS EXPIRING – Both Commissioners Thompson and Torkelson are both interested in renewing their terms.

Chairman Ferris asked that voting on a Chairman on the next agenda.

OTHER -

ADJOURN 9:40PM

Respectfully Submitted,

Linda Rappe, City Clerk

1 MINUTES OF PLANNING COMMISSION MEETING

2 February 10, 2020

3
4 Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at
5 City Hall on the 10th day of February, 2020 at 6:30 PM

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

10
11 **THE FOLLOWING WERE ABSENT:** None

12
13 **THE FOLLOWING WERE ALSO PRESENT:** City Administrator Tim Ibisch, City Clerk Rappe, Jerry
14 Berg and Tim O'Morro

15
16 **CALL TO ORDER AT 6:30PM**

17
18 **MINUTES OF THE PREVIOUS MEETING JANUARY 13, 2020** – Chairman Ferris would like Mr.
19 Borgstrom's comment regarding Domino's not being in compliance with their CUP be in the
20 minutes. Commissioner Tinsley referred to page 4 and would like the sentence to state
21 "generally" in agreement in his comments. Commissioner Burton had several changes and
22 made a Motion to Table the Approval of the Minutes to the Next Meeting, second by
23 Commissioner Thompson with All Voting Aye.

24
25 **ELECTION OF CHAIRMAN** – Chairman Ferris stated that he is willing to continue as Chair.
26 Commissioner Thompson nominated Ferris to continue as Chair, second by Commissioner
27 Torkelson with All Voting Aye.

28
29 **DISCUSSION ON KWIK TRIP CONDITIONAL USE PERMIT** – Administrator Ibisch stated that this
30 is informational and asked that there will be a public hearing at the March meeting, it was
31 order by the Commission. Mr. Ibisch stated that he will be bringing requests like this to
32 Planning Commission for comments and for their reviewal. The City Engineer's comments were
33 included with the packet. A positive is they are reducing the impervious surface by approx. a
34 half an acre. This will require a conditional use permit since it is not contiguous with the
35 primary use. They will remove existing water and capping sanitary sewer service. We would
36 also look to see the installation of a crosswalk.

37 Commissioner Zelinske – Is there a holding tank at the car wash? Chairman Ferris – do we need
38 to make sure it is screened? Commissioner Thompson stated that there are trucks parking
39 there already around the vacant store.

40 Commissioner Burton would like clarification on what impervious surface is going away and if
41 there will be new blacktop. He also suggested getting the County Engineer to weigh in on
42 crosswalk and signage and if there are changes to the entrance and exits.

43 The Commissioners agreed that the East drive would be the preferred one for the crosswalk.
44

DISCUSSION ON POSSIBLE MEADOW LODGE APTS REZONE – Clerk Rappe explained that this came to light when the apartment building asked for an expansion for their parking lot. The two apartment buildings are in different zoning districts and cannot find where it has ever been rezoned. This is a cleanup for the map staff would like to know how the Planning Commissioners would like to handle this. The Planning Commission was in agreement to fix this administratively by redrawing the lines if that is possible.

DISCUSSION ON THOMPSON ADDITION REVISION – Removed from Agenda

OTHER – Administrator Ibisch would like to get the new zoning code completed this year, the question is when should we start using the new standards vs the old standards. The Commissioners feel that January 1, 2021 is a good date to start fresh. Administrator Ibisch updated the commission on the Blaines and Bigelow Voigt subdivisions and where they are.

Adjourn 7:00PM

Respectfully Submitted,

Linda Rappe, City Clerk

APPLICATION FOR CONDITIONAL USE PERMIT

Fee Paid \$ _____

Date Filed _____

Street Address of Property 101 8th ST SE, Kasson Mn

Legal Description of Property Section 04; Twp: 106; Rng 016; Block: 001; Lot 001:

Owner's Name Kwik Trip Inc / Nick Newman Phone 608-793-6199

Address 1626 Oak St, Ia Crosse Wi 54602

Applicant (if other than Owner):
Name _____ Phone _____

Address _____

Description of Request We would like to demo the existing store and car wash. Then we would like to develop the site into additional truck parking to support the new Kwik Trip across the road.

Reason(s) for Request We would like to help with the flow of truck traffic to free up exhistng lot and make the lot safer for our customers

Present Zoning Classification N/A

Existing Use of Property Current buildings on site are not used, at time some public parking

Signature of Applicant _____ Date _____

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): _____

SECTION 24-18 CONDITIONAL USE PERMITS

PURPOSE. The purpose of a conditional use permit is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon finding that (1) certain conditions as detailed in the Zoning Ordinance exist, and (2) the use or development conforms to the Comprehensive Plan, and (3) is compatible with the existing area.

STANDARDS FOR GRANTING A CONDITIONAL USE PERMIT. In making the determination whether or not the conditional use is to be allowed, the city shall consider (1) the effects of the proposed use on the Comprehensive Plan, (2) and the effects of the proposed use upon the health, safety and general welfare of occupants of surrounding lands. Among other thing, the City shall make the following findings where applicable:

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the City, is reasonably related to the overall needs of the City and to the existing land use.
5. The use is consistent with the purpose of this ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the Comprehensive Plan of the City.
7. The use will not cause traffic hazards or congestion.
8. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the City in order to handle the additional traffic generated by the use.
9. Adequate measures have been taken or are proposed to prevent or control offensive order, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
10. Adequate utilities, parking, drainage and other necessary facilities will be provided.
11. The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
12. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property.
13. The use will not disrupt the character of the neighborhood.

REQUIRED EXHIBITS FOR CONDITIONAL USE PERMITS

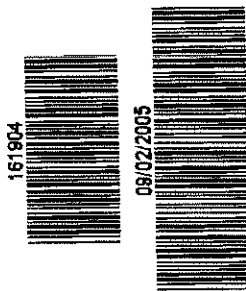
The following items shall be required:

Y _____ N _____
Y _____ N _____
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. A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs.
5. Landscaping and screening plans.
6. Any additional information deemed necessary by the City to determine the suitability of the particular site for the proposed use.

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

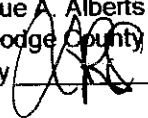


A 161904
COUNTY RECORDER
DODGE COUNTY, MN

Scanned ☒

Certified, filed and/or recorded
on 09/02/2005 at 10:45 AM

Return to: ATYPICAL TITLE, INC.
Receipt #: 27406

Sue A. Alberts
Dodge County Recorder
by  Deputy

DRIVEWAY EASEMENT

This Agreement is dated the 24th day of July 2005, and entered into between Bec-Ki, LLC, a Minnesota Limited Liability Company, and Charles D. Hansen and Erin M. Hansen, husband and wife.

WHEREAS, Bec-Ki LLC is currently the owner of the properties described as Tract A and Parcel C on the attached legal descriptions; and

WHEREAS, Charles D. Hansen and Erin M. Hansen, are the owners of the property described as Tract B on the attached legal description; and

WHEREAS, there is a driveway or access across the following described portion of the property owned by Bec-Ki LLC: That part of Lot 1, Block 1, M-S First Subdivision, Kasson, Dodge County, Minnesota, described as follows: Beginning at the southwest corner of the above described parcel of land thence South 80 degrees 31'27" West, assumed bearing, along the south line of said Lot 1, a distance of 80.00 feet; thence North 07 degrees 15'24" West, 40.00 feet; thence North 80 degrees 31'27" East, 40.00 feet; thence North 07 degrees 15'24" West, 146.84 feet to the north line of said Lot 1; thence North 77 degrees 21'43" East, along said north line, 40.15 feet to the northwest corner of the above described parcel; thence South 07 degrees 15'24" East, along the west line of the above described parcel, 189.05 feet to the point of beginning; and

WHEREAS, both parties wish to preserve their right to use said ingress and egress site and determine maintenance of said easement.

IT IS HEREBY AGREED:

1. That both parties shall have the right to use the access property described on the attached exhibit for purposes of ingress and egress.

2. That both parties shall be equally responsible for the repair and maintenance of this ingress and egress.

3. This agreement shall run with the land and be binding upon the successors, heirs, and assigns of each of the above named parties.

Bec-Ki LLC

By: Scott L. Larsen
Scott L. Larsen, Chief Manager

Charles D. Hansen
Charles D. Hansen
Erin M. Hansen
Erin M. Hansen

STATE OF MINNESOTA)
) ss.
COUNTY OF DODGE)

The foregoing instrument was acknowledged before me this 13th day of July, 2005, by Scott L. Larsen, Chief Manager of Bec-Ki LLC, a Minnesota Limited Liability Company, on behalf of said Limited Liability Company.

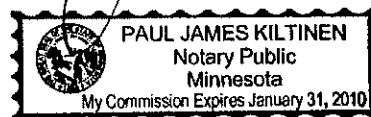


Sandra Gochbauer
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF DODGE)

The foregoing instrument was acknowledged before me this 24th day of Aug., 2005, by Charles D. Hansen and Erin M. Hansen, husband and wife.

Paul James Kiltinen
Notary Public



This document was drafted by:
Atypical Title, Inc.
16 N. Mantorville Avenue
Kasson, MN 55944



VINCE FANGMAN
Licensed Land Surveyor
11724 County Road No. 113 NW
Pine Island, Minnesota 55963
Phone (507) 356-8694

Property Description For: May 11, 2005
Scott Larsen

Tract "A"

That part of Lot 1, Block 1, M-S First Subdivision, Kasson, Minnesota, County of Dodge, described as follows:

Commencing at the southeast corner of said Lot 1; thence S89°32'22"W, assumed bearing, along the south line of said Lot 1, a distance of 305.72 feet; thence southwesterly 348.70 feet, along said south line, along a curve, concave to the southeast, central angle of 09°00'55", radius of 2939.79 feet, and chord of said curve bears S85°01'55"W, 462.09 feet; thence S80°31'27"W, along said south line, 180.03 for a point of beginning; thence N07°15'24"W, 189.05 feet to the north line of said Lot 1; thence S77°21'43"W, along said north line, 402.51 feet to the northwest corner of said Lot 1; thence S00°38'18"E, along the west line of said Lot 1, a distance of 157.48 feet to the southwest corner of said Lot 1; thence northeasterly 173.67 feet along the south line of said Lot 1, along a curve, concave to the northwest, central angle of 07°19'50", radius of 1357.39 feet, and chord of said curve bears N84°11'25"E, 173.55 feet; thence N80°31'27"E, along said southeasterly line, 245.57 feet to the point of beginning. Being subject to a private driveway easement for ingress and egress described as follows:

Beginning at the southeast corner of the above described parcel of land thence S80°31'27"W, assumed bearing, along the south line of said Lot 1, a distance of 80.00 feet; thence N07°15'24"W, 40.00 feet; thence N80°31'27"E, 40.00 feet; thence N07°15'24"W, 146.84 feet to the north line of said Lot 1; thence N77°21'43"E, along said north line, 40.15 feet to the northeast corner of the above described parcel; thence S07°15'24"E, along the east line of the above described parcel, 189.05 feet to the point of beginning.

Being subject also to a sign easement in the norwest corner thereof, described as follows: Commencing at the southwest corner of said Lot 1; thence North 00 degrees 38 minutes 18 seconds West a distance of 133.00 feet to the POINT OF BEGINNING; thence North 89 degrees 21 minutes 42 seconds West a distance of 28.73 feet to the northerly line of said Lot 1 thence South 77 degrees 21 minutes 43 seconds West along said northerly line a distance of 20.45 feet to the northwest corner of said Lot 1; thence South 00 degrees 38 minutes 18 seconds East a distance of 24.48 feet to the POINT OF BEGINNING.

Containing 72281 Square Feet, more or less.



VINCE FANGMAN

Licensed Land Surveyor
11724 County Road No. 113 NW
Pine Island, Minnesota 55963
Phone (507) 356-8694

May 11, 2005

Property Description For:

Scott Larsen

*ARMISEN
NOW. 105 8th St*

Tract "B"

That part of Lot 1, Block 1, M-S First Subdivision, Kasson, Minnesota, County of Dodge, described as follows:

Commencing at the southeast corner of said Lot 1; thence S89°32'22"W, assumed bearing, along the south line of said Lot 1, a distance of 305.72 feet; thence southwesterly 348.70 feet, along said south line, along a curve, concave to the southeast, central angle of 09°00'55", radius of 2939.79 feet, and chord of said curve bears S85°01'55"W, 462.09 feet; thence S80°31'27"W, along said south line, 16.13 feet for a point of beginning; thence N07°15'24"W, 198.14 feet to the north line of said Lot 1; thence S77°21'43"W, along said north line, 164.50 feet; thence S07°15'24"E, 189.05 feet to the south line of said Lot 1; thence N80°31'27"E along said south line, 163.90 feet to the point of beginning. Together with a private driveway easement for ingress and egress running over and across the following described parcel of land:

Beginning at the southwest corner of the above described parcel of land thence S80°31'27"W, assumed bearing, along the south line of said Lot 1, a distance of 80.00 feet; thence N07°15'24"W, 40.00 feet; thence N80°31'27"E, 40.00 feet; thence N07°15'24"W, 146.84 feet to the north line of said Lot 1; thence N77°21'43"E, along said north line, 40.15 feet to the northwest corner of the above described parcel; thence S07°15'24"E, along the west line of the aabove described parcel, 189.05 feet to the point of beginning.

Containing 31706 Square Feet, more or less.



VINCE FANGMAN
Licensed Land Surveyor
11724 County Road No. 113 NW
Pine Island, Minnesota 55963
Phone (507) 356-8694

May 11, 2005

Parcel "C"

(As described in Document No. 132980, Dodge County Recorder's Office)

That part of Lot 1, Block 1, M-S First Subdivision, City of Kasson, Minnesota, County of Dodge, described as follows:

Commencing at the southeast corner of said Lot 1; thence South 89 degrees 32 minutes 22 seconds West (Bearing system same as platted) along the northerly right-of-way line of County Road No. 13 and the southerly line of said Lot 1 a distance of 305.72; thence continue westerly 348.70 feet along said southerly line on a tangential curve, concave southerly, radius of 2939.79 feet, central angle of 06 degrees 47 minutes 46 seconds, to the POINT OF BEGINNING; thence continue westerly 113.87 feet along said southerly line on a tangential curve, concave southerly, radius of 2939.79 feet, central angle of 02 degrees 13 minutes 09 seconds; thence continue westerly along said southerly line South 80 degrees 31 minutes 27 seconds West a distance of 16.13 feet; thence North 07 degrees 15 minutes 24 seconds West a distance of 198.14 feet to the southerly right-of-way line of Trunk Highway No. 57 as platted on State Highway Right of Way Plat No. 20-4 and the northerly line of said lot 1; thence North 77 degrees 21 minutes 43 seconds East along said northerly line a distance of 130.53; thence South 07 degrees 15 minutes 24 seconds East a distance of 207.55 feet to the POINT OF BEGINNING. Being subject to easements, restrictions, and covenants of record.

Said tract contains 26,300 square feet, more or less.

2905 South Broadway
Rochester, MN 55904-5515
Phone: 507.288.3923
Fax: 507.288.2675
Email: rochester@whks.com
Website: www.whks.com



February 3, 2020

Mr. Tim Ibisch
City Administrator
City of Kasson
401 5th St. SE
Kasson, MN 55944

RE: Kasson, MN
Kwik Trip Convenience Store 619 Truck Parking
Lot 1, Block 1 Travelers Way
Review of Construction Plan Set

Dear Tim:

We have reviewed the construction plan set as submitted for the referenced project, as requested. We offer the following comments on the submitted plans.

General Comments

1. Zoning Review and Fee related items are not included in our review.
2. The applicant is proposing to demolish the existing Kwik Trip Facility and construct an off-site truck parking facility consisting of 14 parking spaces. The proposed improvements will reduce pre-development impervious coverage by 0.50 acres.
3. The subject property to be redeveloped was previously platted as Lot 1, Block 1 Travelers Way and is Zoned C-3.
4. A conditional use permit for the off-site truck parking will be required as per Section 154.080(E)(4) of the City of Kasson Zoning Ordinance, since the proposed truck parking is not located on the same lot as the principal use.
5. The applicant must secure all necessary permits before construction begins including the NPDES construction storm water, Dodge County right-of-way, MnDOT Drainage/Work in Right-of-way. The Owner, or their representative, will be responsible for permit compliance.
6. The site contractor should be required to have a pre-construction meeting and coordinate utility disturbances with City maintenance staff (Charlie Bradford 507.421.2279).

7. Existing water services shall be removed from the main. Small diameter services (corporations) shall be removed from the main and repaired with a repair sleeve. Larger services (fittings) shall be capped at the fitting. Existing sanitary sewer services shall be capped at the property line.
8. A lighting isofootcandle plan complying with Section 154.064 Glare of the City of Kasson Zoning Ordinance shall be provided for review.
9. Verify there is not a conflict between the storm sewer and the light pole footing along the west side of the parking lot.
10. Pedestrian facilities and a county road pedestrian crossing should be considered between the parking lot and main store. A pedestrian crossing at 4th Ave should be considered.
11. A shared access exists with the adjacent property to the east. An access easement should be provided.

We recommend approval of the plans conditional upon the above items being addressed and resubmitted.

Please contact us if you have any questions.

Sincerely,

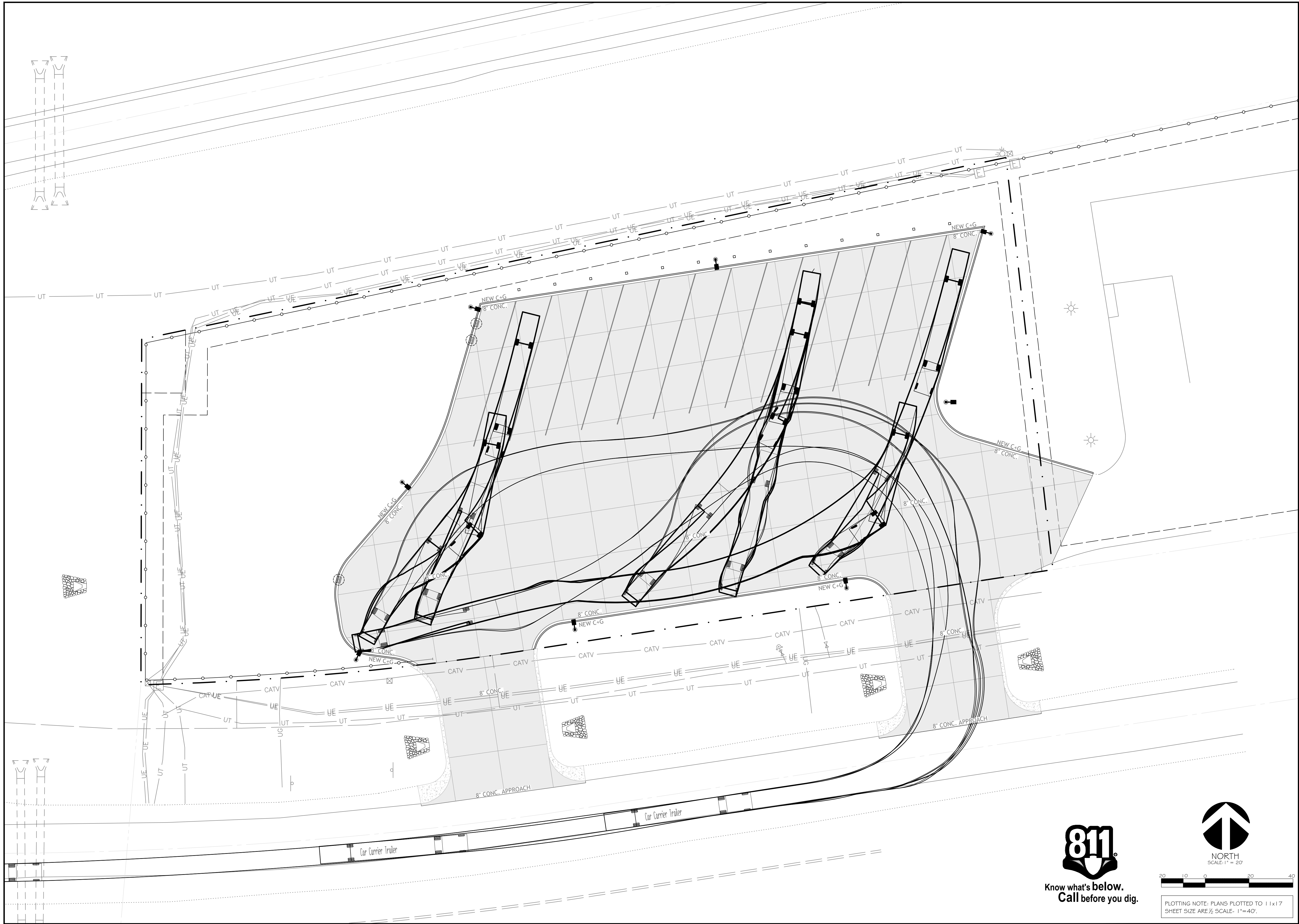
WHKS & CO.



Brandon W. Theobald, P.E.

BWT/bwt

Cc: Charlie Bradford, Public Works Director
Linda Rappe, City Clerk
Melanie Leth, City Attorney
Laura Chamberlain, HKG inc., Consulting Planner
Nick Newman, Kwik Trip Inc.



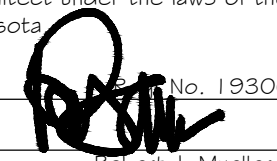
Kwik Trip

Kwik Star

KWIK TRIP, Inc.
P.O. BOX 2107
1626 OAK STREET
LACROSSE, WI 54602-2107
PH. (608) 781-8988
FAX (608) 781-8960

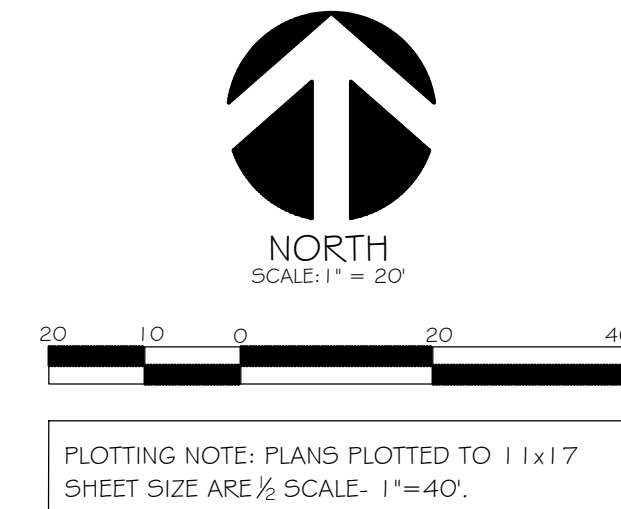
INSITES
SITE PLANNING LANDSCAPE ARCHITECTURE
3030 Harbor Lane North, STE 131
Plymouth Minnesota 55447
763.383.8400
fax 763.383.8400

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

Date 09AUG19
Signed  No. 19306
Robert J. Mueller

TURNING PLAN	
CONVENIENCE STORE 619 TRUCK PARKING	
KASSON, MN	
NO.	DATE
DESCRIPTION	
DRAWN BY	
SCALE	GRAPHIC
PROJ. NO.	19619
DATE	09AUG19
SHEET	SPT


811
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INSITES 19-020 PLY MN



INSITES
SITE PLANNING LANDSCAPE ARCHITECTURE
3030 Harbor Lane North, STE 131
Plymouth Minnesota 55447
763.383.8400
fax 763.383.8440

Date 09AUG19  No. 19306
Signed _____
Robert J. Mueller

**CONVENIENCE STORE 619
TRUCK PARKING**

KASSON, MN

NO.	DATE	DESCRIPTION
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SCALE _____ GRAPH _____

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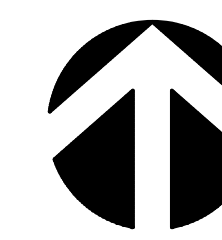
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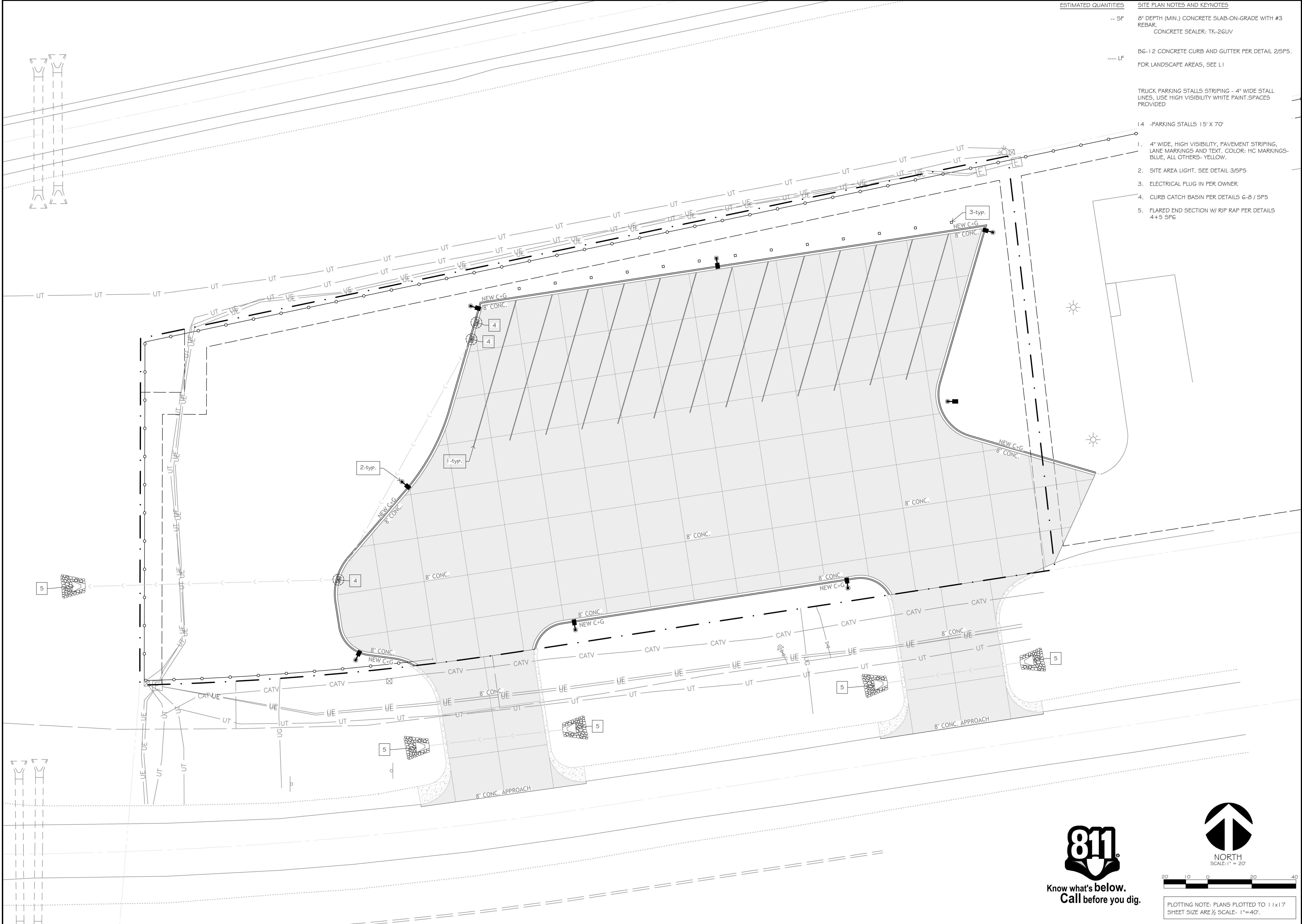
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NORTH
SCALE: 1" = 2'



PLOTTING NOTE: PLANS PLOTTED TO 11x17 SHEET SIZE ARE 1/2" SCALE- 1"=40'.



ESTIMATED QUANTITIES	
-- SF	8" DEPTH (MIN.) CONCRETE SLAB-ON-GRADE WITH #3 REBAR. CONCRETE SEALER: TK-26UV
---- LF	B6-12 CONCRETE CURB AND GUTTER PER DETAIL 2/SP5. FOR LANDSCAPE AREAS, SEE L1

TRUCK PARKING STALLS STRIPING - 4" WIDE STALL LINES, USE HIGH VISIBILITY WHITE PAINT.SPACES PROVIDED

- 14 -PARKING STALLS 15' X 70'
- 4" WIDE, HIGH VISIBILITY, PAVEMENT STRIPING, LANE MARKINGS AND TEXT, COLOR: HC MARKINGS- BLUE, ALL OTHERS- YELLOW.
 - SITE AREA LIGHT. SEE DETAIL 3/SP5
 - ELECTRICAL PLUG IN PER OWNER
 - CURB CATCH BASIN PER DETAILS 6-8 / SP5
 - FLARED END SECTION W/ RIP RAP PER DETAILS 4+5 SP6

Kwik Trip

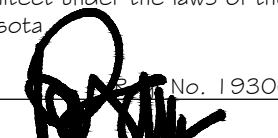
Kwik Star

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INSITES

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3030 Harbor Lane North, STE 131
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Date 09AUG19
Signed  No. 19306
Robert J. Mueller

SITE KEYNOTE PLAN

CONVENIENCE STORE 619 TRUCK PARKING

--- KASSON, MN

NO.	DATE	DESCRIPTION

DRAWN BY

SCALE

PROJ. NO.

DATE

SHEET

GRAPHIC

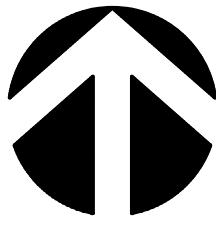
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09AUG19

SP1.1



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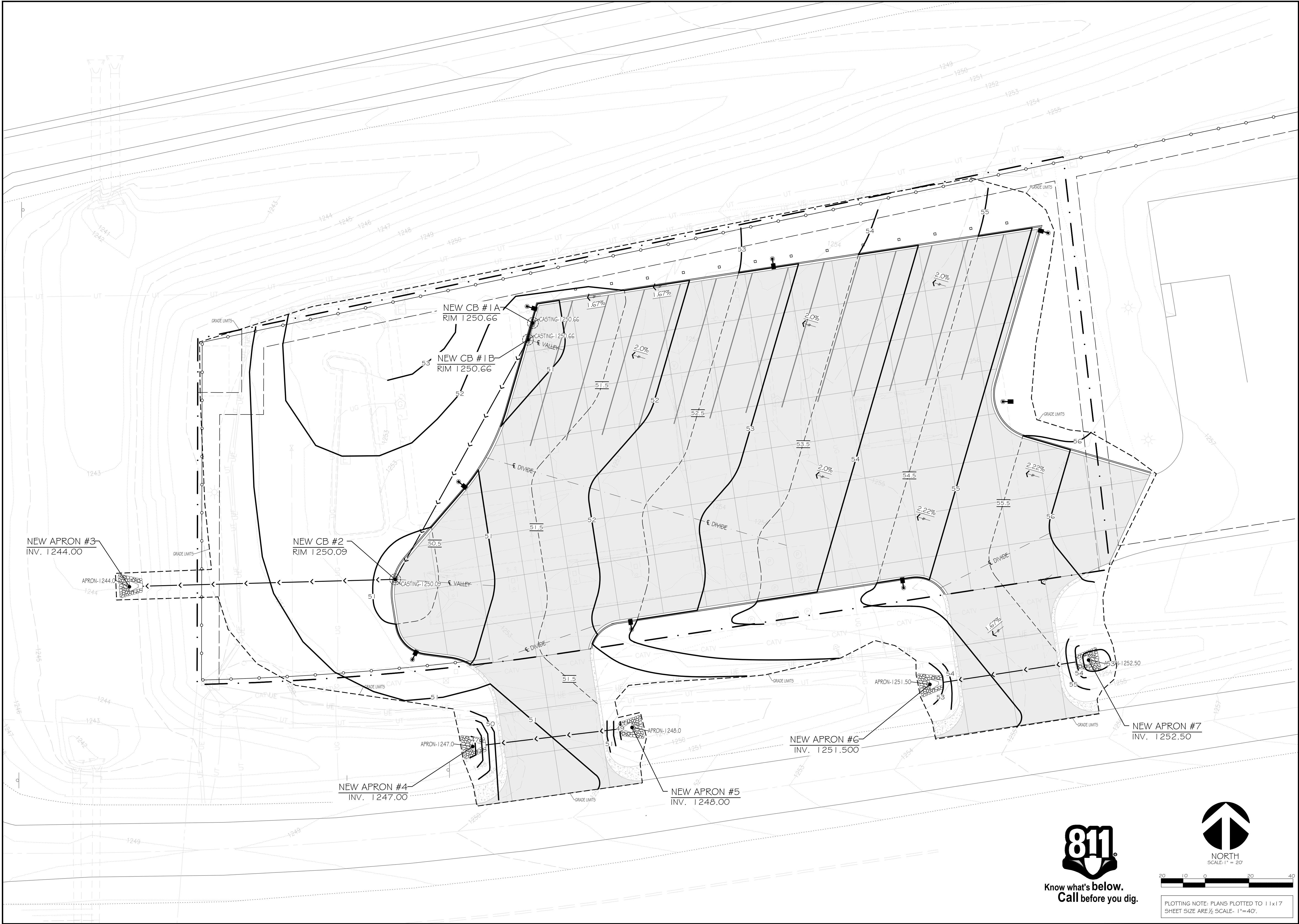


NORTH
SCALE: 1" = 20'



PLOTTING NOTE: PLANS PLOTTED TO 11x17 SHEET SIZE ARE 1/2" SCALE. 1"=40'.

INSITES 19-020 PLY.MN



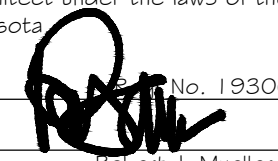
Kwik Trip

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Date 09AUG19
Signed  Robert J. Mueller

GRADE PLAN

CONVENIENCE STORE 619 TRUCK PARKING

KASSON, MN

NO.	DATE	DESCRIPTION

DRAWN BY

SCALE

PROJ. NO.

DATE

SHEET

GRAPHIC

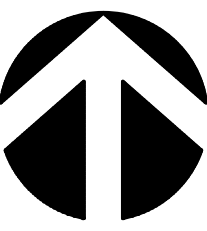
19619

09AUG19

SP2



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NORTH
SCALE: 1" = 20'



PLOTTING NOTE: PLANS PLOTTED TO 11x17
SHEET SIZE ARE 1/2" SCALE. 1"=40'.

**Kwik
STAR**



Sunde
Engineering, PLLC.

SUNDE ENGINEERING, PLLC.
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BLOOMINGTON, MINNESOTA 55437
(952) 881-3344 TELEPHONE
(952) 881-1913 FAX
www.sundeecivil.com

I HEREBY CERTIFY THAT THIS PLAN,
SPECIFICATION OR REPORT WAS
PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND THAT I AM
A DULY LICENSED PROFESSIONAL
ENGINEER UNDER THE LAWS OF THE
STATE OF MINNESOTA.

Brian H. Mundstoeck

Brian H. Mundstoeck

DATE: 8/9/19 REG. NO.: 23468

**CONVENIENCE STORE 619
TRUCK PARKING**

KASSON, MN

NO.	DATE	DESCRIPTION
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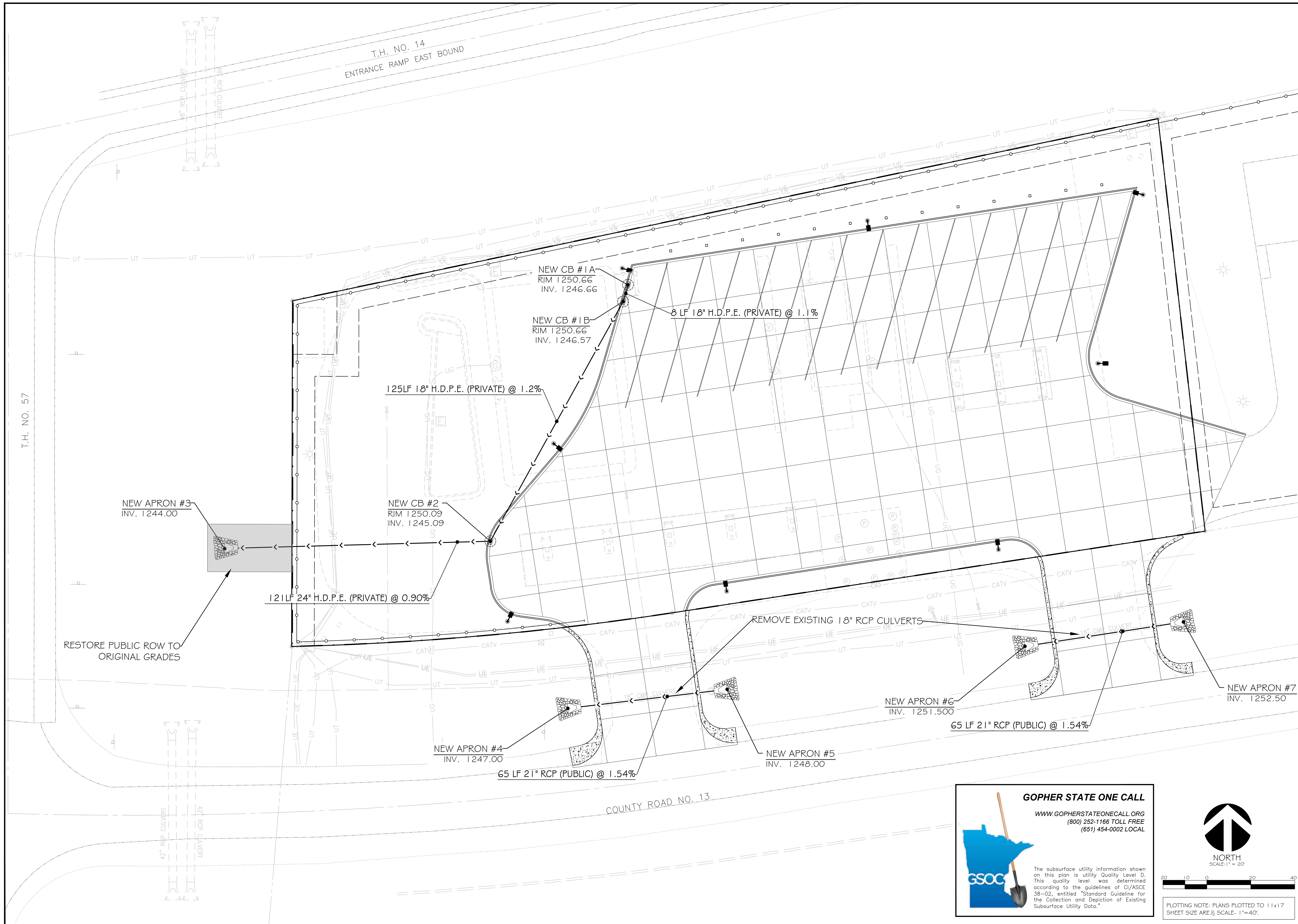
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SCALE _____ GRAPHIC _____

PROJ. NO. _____ 19619

DATE _____ 09AUG19

SHEET _____ **SP3**



GENERAL :

- Existing boundary, location, topographic, and utility information shown on this plan is from a field survey by Yaggy Colby Associates dated 10/5/07. The Engineer is not responsible for inaccuracies related to the survey information.
- Perform all construction work in accordance with State and Local requirements.
- Perform all construction activity in accordance with the Minnesota Pollution Control Agency GENERAL STORMWATER PERMIT FOR CONSTRUCTION ACTIVITY issued August 1, 2013 and all subsequent amendments thereto.
- Comply with all applicable local, state, and federal safety regulations. Comply with the work safety practices specified by the Occupational Safety and Health Administration (OSHA). OSHA prohibits entry into "confined spaces," such as manholes and inlets (see 29 CFR Section 1910.146), without undertaking certain specific practices and procedures. Perform excavations in accordance with the requirements of O.S.H.A. 29 CFR, Part 1926, Subpart P, Excavations. Sloping or benching for excavations greater than 20 feet deep must be approved by a registered professional engineer (www.osha.gov).
- Safety is solely the responsibility of the Contractor, who is also solely responsible for the construction means, methods, techniques, sequences or procedures, and for safety precautions and programs in connection with the Work.
- The Engineer shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. The Engineer's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures.
- Examine all local conditions at the site, and assume responsibility as to the grades, contours, and the character of the earth, existing conditions, and other items that may be encountered during excavation work above or below the existing grades. Review the drawings, specifications, and geotechnical report covering this work and become familiar with the anticipated site conditions.
- Refer to the architectural plans for building and stoop dimensions, site layout and dimensions, pavement sections and details, striping, and other site features.
- A licensed surveyor shall perform construction staking. The Contractor shall provide and be responsible for the staking. Verify all plan and detail dimensions prior to construction staking. Stake the limits of walkways and curbing prior to valvebox, maintenance hole, and catchbasin installation. Adjust valvebox and maintenance hole locations in order to avoid conflicts with curb and gutter. Adjust catchbasin locations in order to align properly with curb and gutter.
- Provide temporary fences, barricades, coverings, and other protections in order to preserve existing items to remain, and to prevent injury or damage to person or property.
- Provide all traffic control required in order to construct the proposed improvements. Traffic control design and associated government approvals are the responsibility of the Contractor. Comply with local authorities and the latest version of the Minnesota Manual on Uniform Traffic Control Devices (MMUTCD), including the Field Manual for Temporary Traffic Control Zone Layouts. If the temporary traffic control zone affects the movement of pedestrians, provide adequate temporary pedestrian access and walkways. If the temporary traffic control zone affects an accessible and detectable pedestrian facility, maintain accessibility and detectability along the alternate pedestrian route in accordance with the provisions for pedestrian and worker safety contained in Part 6 of the MMUTCD.
- All existing existing sewer and watermain pipes that are to be abandoned shall either be removed, or completely filled with sand or lean mix grout.
- Separation of Water and Sewer:** Construct sewer and water services in accordance with Minnesota Rules, part 4714.0721 and Uniform Plumbing Code (UPC) parts 720.0 and 721.0. Provide a minimum horizontal separation of 10 feet between all water and sewer lines, including manholes, catch basins, storm sewer, sanitary sewer, draintile, or other potential sources for contamination. Measure the separation distance from the outer edge of the pipe to the outer edge of the contamination source (outer edge of structures, piping, etc.). At water and sewer crossings, the bottom of the water pipe located within ten feet of the point of crossing must be at least 12-inches above the top of the sewer. When this is not feasible, the sewer pipe material must be approved for use inside of or within a building in accordance with the requirements of Minnesota Rules part 4714.0701 and UPC part 701.0. No joints or connections are allowed on the water line within 10-feet of the crossing.
- The subsurface utility information shown on this plan is utility Quality Level D. This quality level was determined according to the guidelines of CI/ASCE 38-02, entitled "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data."
- The locations of existing utilities shown on this plan are from record information. The Engineer does not guarantee that all existing utilities are shown or, if shown, exist in the locations indicated on the plan. It is the Contractor's responsibility to ascertain the final vertical and horizontal location of all existing utilities (including water and sewer lines and appurtenances). Notify the Engineer of any discrepancies.
- The Contractor is solely responsible for all utility locates. Contact utility companies for locations of all public and private utilities within the work area prior to beginning construction. Contact GOPHER STATE ONE CALL at (651) 454-0002 in the Minneapolis/St. Paul metro area, or 1-800-252-1166 elsewhere in Minnesota for exact locations of existing utilities at least 48 working hours (not including weekends and holidays) before beginning any construction in accordance with Minnesota Statute 216D. Obtain ticket number and meet with representatives of the various utilities at the site. Provide the Owner with the ticket number information. Gopher State One Call is a free service that locates municipal and utility company lines, but does not locate private utility lines. Use an independent locator service or other means in order to obtain locations of private utility lines including, but not limited to, underground electric cables, telephone, TV, and lawn sprinkler lines.
- Pothole to verify the positions of existing underground facilities at a sufficient number of locations in order to assure that no conflict with the proposed work exists and that sufficient clearance is available.
- Where existing gas, electric, cable, or telephone utilities conflict with the Work, coordinate the abandonment, relocation, offset, or support of the existing utilities with the appropriate local utility companies. Coordinate new gas meter and gas line installation, electric meter and electric service installation, cable service, and telephone service installation with the local utility companies.
- Arrange for and secure suitable disposal areas off-site. Dispose of all excess soil, waste material, debris, and all materials not designated for salvage. Waste material and debris includes trees, stumps, pipe, concrete, asphaltic concrete, cans, or other waste material from the construction operations. Obtain the rights to any waste area for disposal of unsuitable or surplus material either shown or not shown on the plans. All work in disposing of such material shall be considered incidental to the work. All disposal must conform to applicable solid waste disposal permit regulations. Obtain all necessary permits at no cost to the OWNER.
- Straight line saw-cut existing bituminous or concrete surfacing at the perimeter of pavement removal areas. Use saws that provide water to the blade. Do not allow the slurry produced by this process to be tracked outside of the immediate work area or discharged into the sewer system. Tack and match all connections to existing bituminous pavement.
- Relocate overhead power, telephone, and cable lines as required. Seal and report any existing unused on-site wells and septic systems in accordance with Minnesota Department of Health (MDH) requirements. Provide the MDH with a Well and Boring Sealing Record, or certify in writing that there are no unused wells on the property.
- All materials required for this work shall be new material conforming to the requirements for class, kind, grade, size, quality, and other details specified herein or as shown on the Plans. Do not use recycled or salvaged aggregate, asphaltic pavement, crushed concrete, or scrap shingles. Unless otherwise indicated, the Contractor shall furnish all required materials.
- Reconstruct driveways and patch street to match existing pavement section and grade. Sod right-of-way. The work area shown is general and may need to be adjusted in the field.
- Restore the public right-of-way at temporary construction entrance locations. Replace any concrete curb and gutter, bituminous pavement, sidewalk, or vegetative cover damaged by the construction activity. Restore damaged turf with sod within the public right-of-way. The work area shown is general and may need to be adjusted in the field.
- Provide and maintain temporary drainage throughout construction until the permanent drainage system and structures are in place and operational. Install temporary ditches, piping, pumps, or other means as necessary in order to insure proper drainage at all times. Provide low points at building pads or roadways with positive outfalls.
- Protect sub grades from damage by surface water runoff.
- Full design strength is not available in bituminous pavement areas until the final lift of asphalt is compacted into place. Protect pavement areas from overloading by delivery trucks, construction equipment, and other vehicles.
- When sawing or drilling concrete or masonry, use saws that provide water to the blade. Do not allow the slurry produced by this process to be tracked outside of the immediate work area or discharged into the sewer system.
- Adjust all curb stops, valve boxes, maintenance hole castings, catchbasin castings, cleanout covers, and similar items to finished grade.
- Install all pipe with the ASTM identification numbers on the top for inspection. Commence pipe laying at the lowest point in the proposed sewer line. Lay the pipe with the bell end or receiving groove end of the pipe pointing upgrade. When connecting to an existing pipe, uncover the existing pipe in order to allow any adjustments in the proposed line and grade before laying any pipe. Do not lay pipes in water or when the trench conditions are unsuitable for such work.
- Obtain and pay for all permits, tests, inspections, etc. required by agencies that have jurisdiction over the project including the NPDES permit from the State. The Contractor is responsible for all bonds, letters of credit, or cash sureties related to the work. Execute and inspect work in accordance with all local and state codes, rules, ordinances, or regulations pertaining to the particular type of work involved.
- Obtain permits from the City for work in the public right-of-way.
- Refer to the geotechnical report by the Soils Engineer for dewatering requirements.
- Construct sanitary sewer, watermain, and storm sewer utilities in accordance with the City Engineer's Association of Minnesota Standard Specifications sections 2600, 2611, and 2621 dated 2013, or the latest revised edition.
- Install detectable underground marking tape directly above all pvc, polyethylene, and other nonconductive underground utilities at a depth of 457 mm (18 inches) below finished grade, unless otherwise indicated. Bring the tape to the surface at various locations in order to provide connection points for locating underground utilities. Install Rhino TrView Flex Test Stations, or approved equal, at each surface location.
- Secure and deliver to the Owner as-built information showing locations, top, and invert elevations of maintenance holes, catchbasins, cleanouts, inlet and outlet pipes, valves, hydrants, and related structures. Location ties shall be to permanent landmarks or buildings.
- Place #3 rebar at 3' on center in all 6" thick concrete pavement locations. Place #4 rebar at 3' on center in all 8" thick concrete pavement locations.
- Place #4 x 2'-0" tie bar at 3' on center in all concrete curb and gutter.

STORM DRAINAGE :

- Unless otherwise indicated, use reinforced, precast, concrete maintenance holes and catchbasins conforming to ASTM C478, furnished with water stop rubber gaskets and precast bases. Joints for all precast maintenance hole sections shall have confined, rubber "O"-ring gaskets in accordance with ASTM C443. These joints are normally used in sewers to hold infiltration and exfiltration to a practical minimum and are adequate for hydrostatic heads up to 30'. The inside barrel diameter shall not be less than 48 inches.
- Install catchbasin castings with specified top elevation at the front rim.
- All joints and connections in the storm sewer system shall be gastight or watertight. Use flexible compression joints to make watertight connections to manholes in accordance with Minnesota Rules part 4714.0719.6. Where permitted by the administrative authority, approved resilient rubber seals or waterstop gaskets may be used in order to make watertight connections to manholes, catchbasins, and other structures. Use Fernco "Concrete Manhole Adaptors" or "Large Diameter Waterstops", Press-Seal "Waterstop Grouting Rings", or approved equal. Cement mortar joints alone are not allowed unless making repairs or connections to existing lines having such joints.
- The building sewer starts 2 feet outside of the building. See Uniform Plumbing Code (UPC) part 715.1. Material installed within 2 feet of the building must be of materials approved for use inside of or within the building.
- The exterior storm water piping must comply with the following requirements: (A) Double wyes may not be used for drainage fittings in the horizontal position (see Minnesota Rules, Chapter 4714, Section 310.5). Proper pipe slope cannot be maintained on both of the offset branches. (B) Changes in direction in drainage piping must be made by appropriate use of wyes and bends (see Minnesota Rules, Chapter 4714, Section 706.0). Tees are not allowed where the direction of flow changes from either vertical to horizontal or horizontal to horizontal.
- RCP: Reinforced concrete pipe (RCP) and fittings shall conform to ASTM C76, Design C, with circular reinforcing for the class of pipe specified. Use Class IV RCP for pipes 21" and larger. Use Class V RCP for pipes 18" and smaller. Joints shall be made up of concrete surfaces with a groove on the spigot for an O-ring rubber gasket (also referred to as a confined O-ring type joint) in accordance with ASTM C361. These joints are normally used in gravity sewers where exceptional tightness is required. This type of joint provides excellent inherent water tightness in both the straight and deflected position and meets all the joint requirements of ASTM C443.
- RC Aprons: Install a reinforced concrete apron on the free end of all daylighted RCP storm sewer pipes. Tie the last three sections (including apron) of all daylighted RCP storm sewer with a minimum of two tie bolt fasteners per joint. This requirement applies to both upstream and downstream pipe inlets and outlets. For concrete culverts, tie all joints. Ties to be used only to hold the pipe sections together, not for pulling the sections tight. Nuts and washers are not required on inside of 675 mm (27 inch) or less diameter pipes.
- Grates on horizontal pipes: Install safety-trash grates on all horizontal inlets/outlets greater than 6 inches in diameter. The grates shall be placed so that the rods or bars are not more than 3 inches downstream of the inlet/outlet. Rods or bars shall be spaced so that the openings do not permit the passage of a 6-inch sphere.
- Testing: Test all portions of storm sewer that are within 10 feet of buildings, within 10 feet of buried water, lines, within 50 feet of water wells, or that pass through soil or water identified as being contaminated in accordance with the Minnesota Rules part 4714.1109 and UPC part 1109.0. Test all flexible storm sewer lines for deflection after the sewer line has been installed and backfill has been in place for at least 30 days. No pipe shall exceed a deflection of 5%. If the test fails, make necessary repairs and retest.
- Draintile: In accordance with Minnesota Rules part 4714.1102.5, use perforated polyvinyl chloride PVC (ASTM D2729) or corrugated polyethylene PE (ASTM F405) on all draintile 3-inches to 6-inches in diameter. Install draintile with high permittivity circular knit polymeric filament filter sock per ASTM D6707-01. MnDot 3733 Type I sewn seam non-woven fabric shall not be used. Draintile pipe directly connected to the storm sewer is classified as storm sewer. Draintile inlet elevations to the catch basins must be above the storm sewer outlet elevations.
- Use Neenah R-3067-DR/DL casting with curb box, or approved equal, on CB #1A, CB #1B, and CB #2. Casting should include the "NO DUMPING. DRAINS TO RIVER." environmental notice.
- Install detectable underground marking tape directly above all pvc, polyethylene, and other nonconductive underground utilities at a depth of 457 mm (18 inches) below finished grade, unless otherwise indicated. Bring the tape to the surface at various locations in order to provide connection points for locating underground utilities. Install green Rhino TrView Flex Test Stations, or approved equal, with black caps at each surface location.
- Install all pipe with the ASTM identification numbers on the top for inspection. Commence pipe laying at the lowest point in the proposed sewer line. Lay the pipe with the bell end or receiving groove end of the pipe pointing upgrade. When connecting to an existing pipe, uncover the existing pipe in order to allow any adjustments in the proposed line and grade before laying any pipe. Do not lay pipes in water or when the trench conditions are unsuitable for such work.
- Clean sediment and debris from sewers, sumps and stormwater basins prior to final owner acceptance.

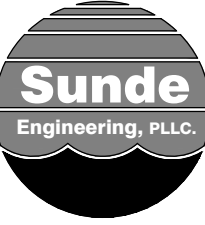
HDPE REQUIREMENTS :

- Install dual-wall, smooth interior, corrugated high-density polyethylene (HDPE) pipe at locations indicated on the plan. High-density polyethylene (HDPE) storm sewers must meet ASTM F714 (see Minnesota Rules, Chapter 4714 and Installation Standard 1).
- Dual-wall, smooth interior, corrugated high-density polyethylene (HDPE) pipe shall conform to the requirements of AASHTO M252 for pipe sizes 4-inch to 10-inch diameter. Dual-wall, smooth interior, corrugated high-density polyethylene (HDPE) pipe shall conform to the requirements of ASTM F2306 for pipe sizes 12-inch to 60-inch diameter.
- All fittings must comply with ASTM Standard D3212.
- Water-tight joints must be used at all connections including structures in conformance with ASTM F2510.
- HDPE pipe connections into all concrete structures must be made with water tight materials utilizing Nyoplast "Manhole Adaptors" along with Press-Seal or Kor-N-Seal "Watertight Connector", Cast-A-Seal "Precast Watertight Connector", or approved equals. Where the alignment precludes the use of the above approved watertight methods, Conseal 231 WaterStop sealant, or approved equal will only be allowed as approved by the Administrative Authority.
- Lay all HDPE pipe on a continuous granular bed. Installation must comply with ASTM D3231. All sections of the corrugated HDPE pipe shall be coupled in order to provide water tight joints.
- Perform deflection tests on all HDPE pipe after the sewer lines have been installed and backfill has been in place for at least 30 days. No pipe shall exceed a deflection of 5%. If the test fails, make necessary repairs and perform the test again until acceptable. Supply the mandrel for deflection testing. If the deflection test is to be run using a rigid ball or mandrel, it shall have a diameter equal to 95% of the inside diameter of the pipe. The ball or mandrel shall be clearly stamped with the diameter. Perform the tests without mechanical pulling devices.
- After installation, the underground stormwater storage system must pass a manometer test with one inch of water column for five minutes in accordance with Minnesota Rules, part 4715.1115.

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(952) 881-1913 FAX
www.sundecol.com

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Brian L. Mundstock
Brian L. Mundstock
DATE: 8/9/19 REG. NO.: 23468

STORM SEWER NOTES

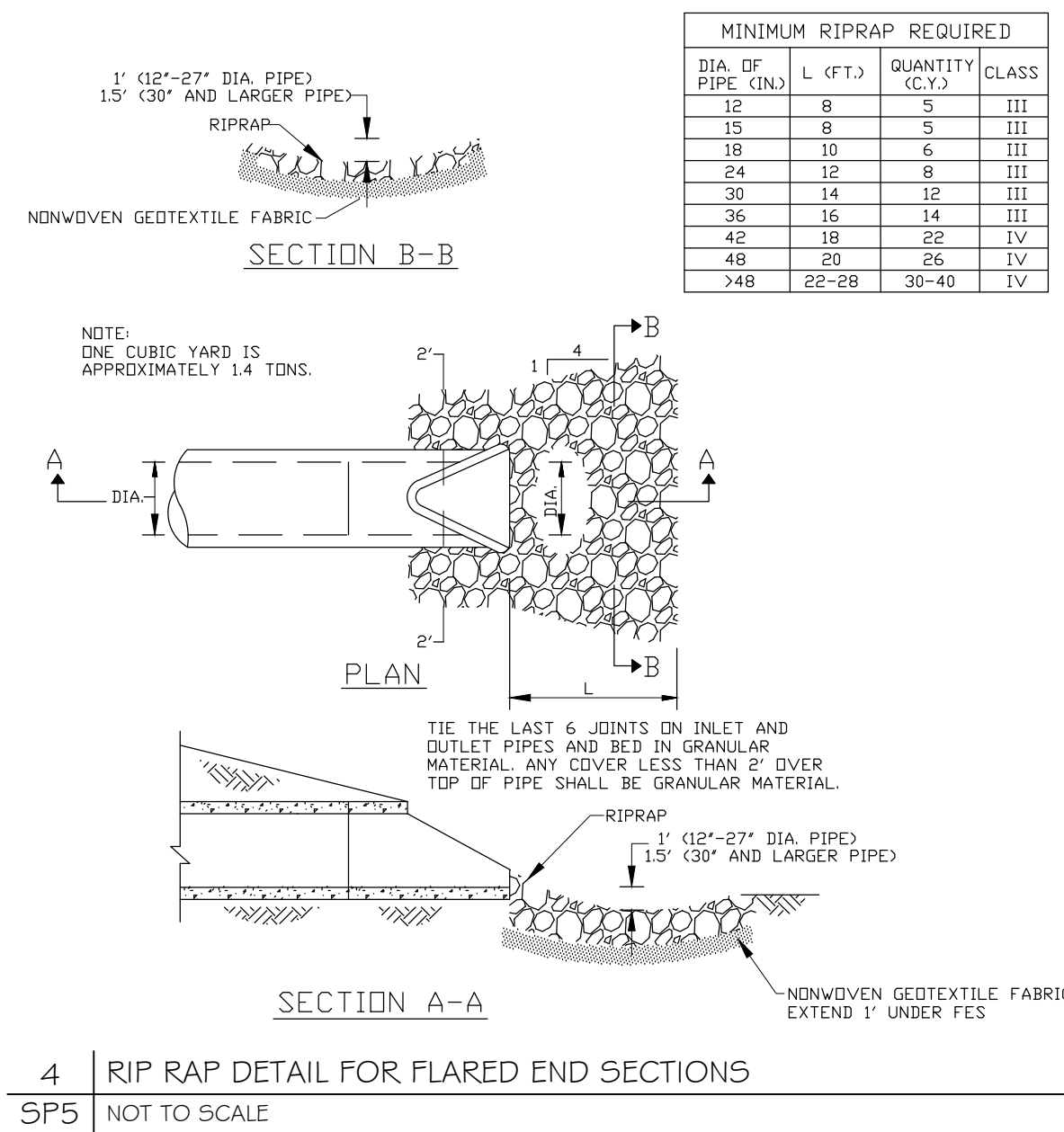
CONVENIENCE STORE 619
TRUCK PARKING

KASSON, MN

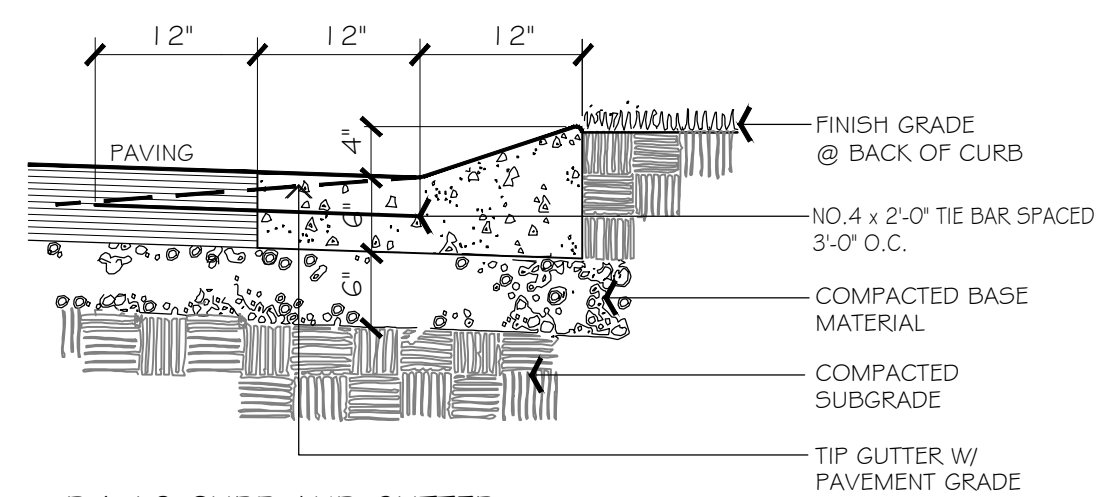
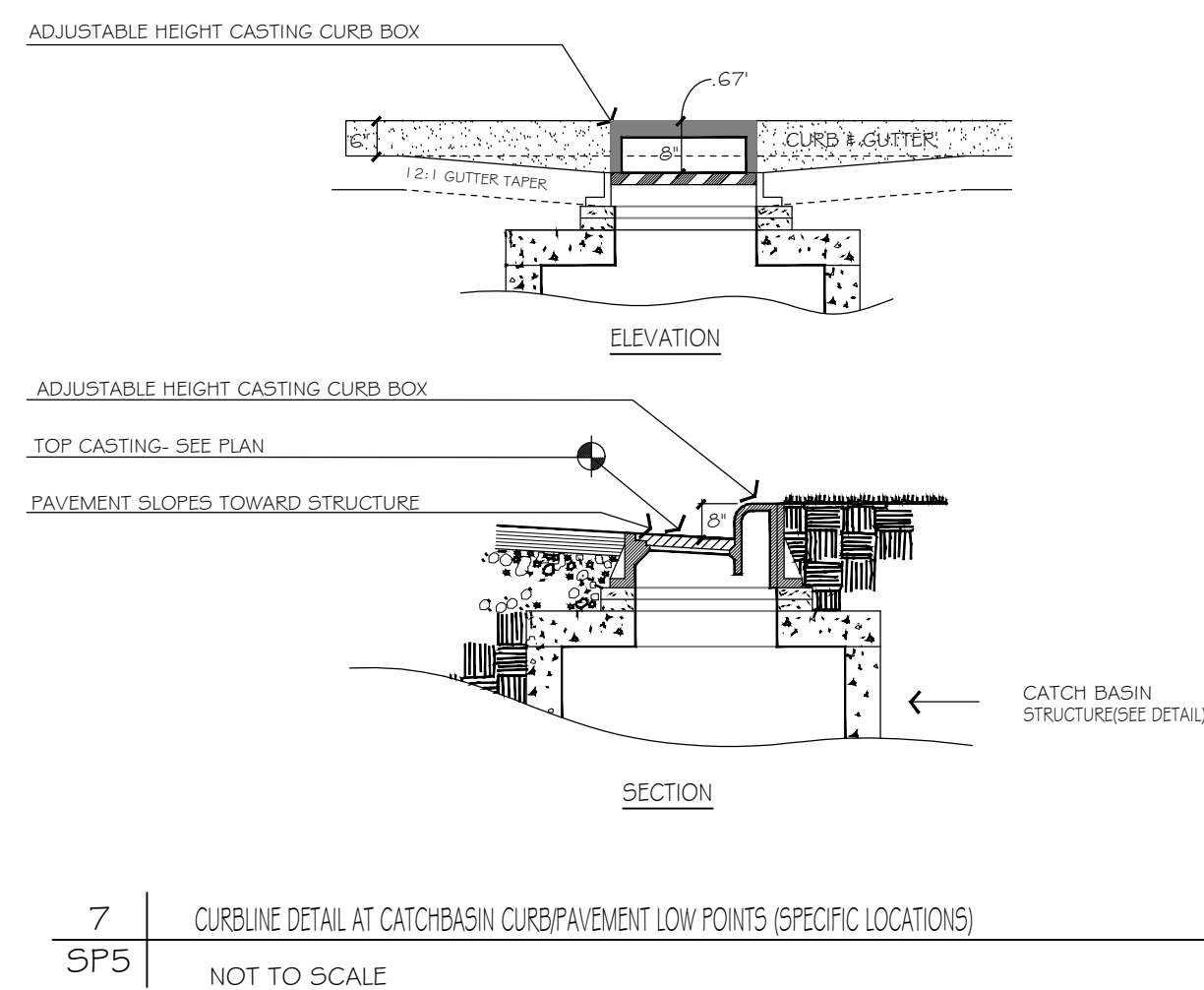
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SCALE _____ GRAPHIC
PROJ. NO. 19G19
DATE 09AUG19
SHEET **SP3.1**

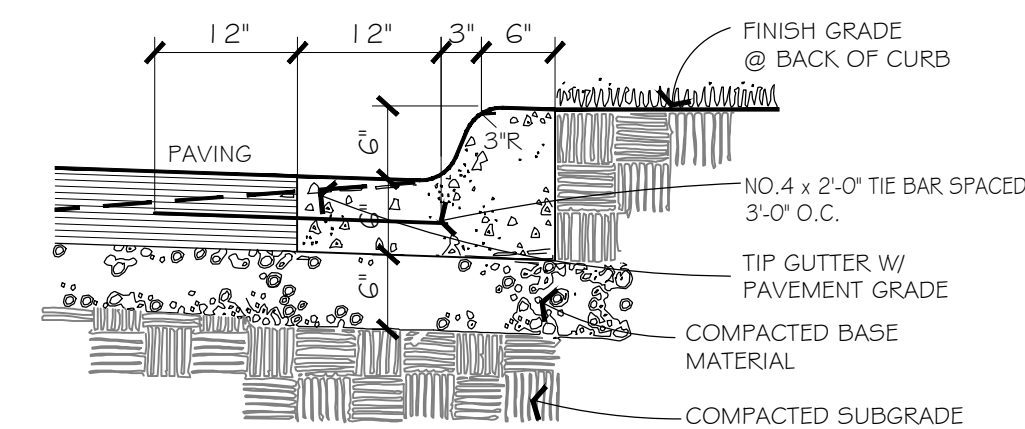
1
SP5



NOTE: THIS CURB CONSTRUCTION DETAIL IS TO BE USED AT LOW POINTS WHEN INDICATED ON PLAN. SEE GRADE PLAN FOR SPECIFIC CURB ELEVATIONS THAT REFLECT 8" DIFFERENCE FROM TOP OF CURB TO CASTING (SEE ACTUAL CB DETAILS FOR STRUCTURE INFO.)

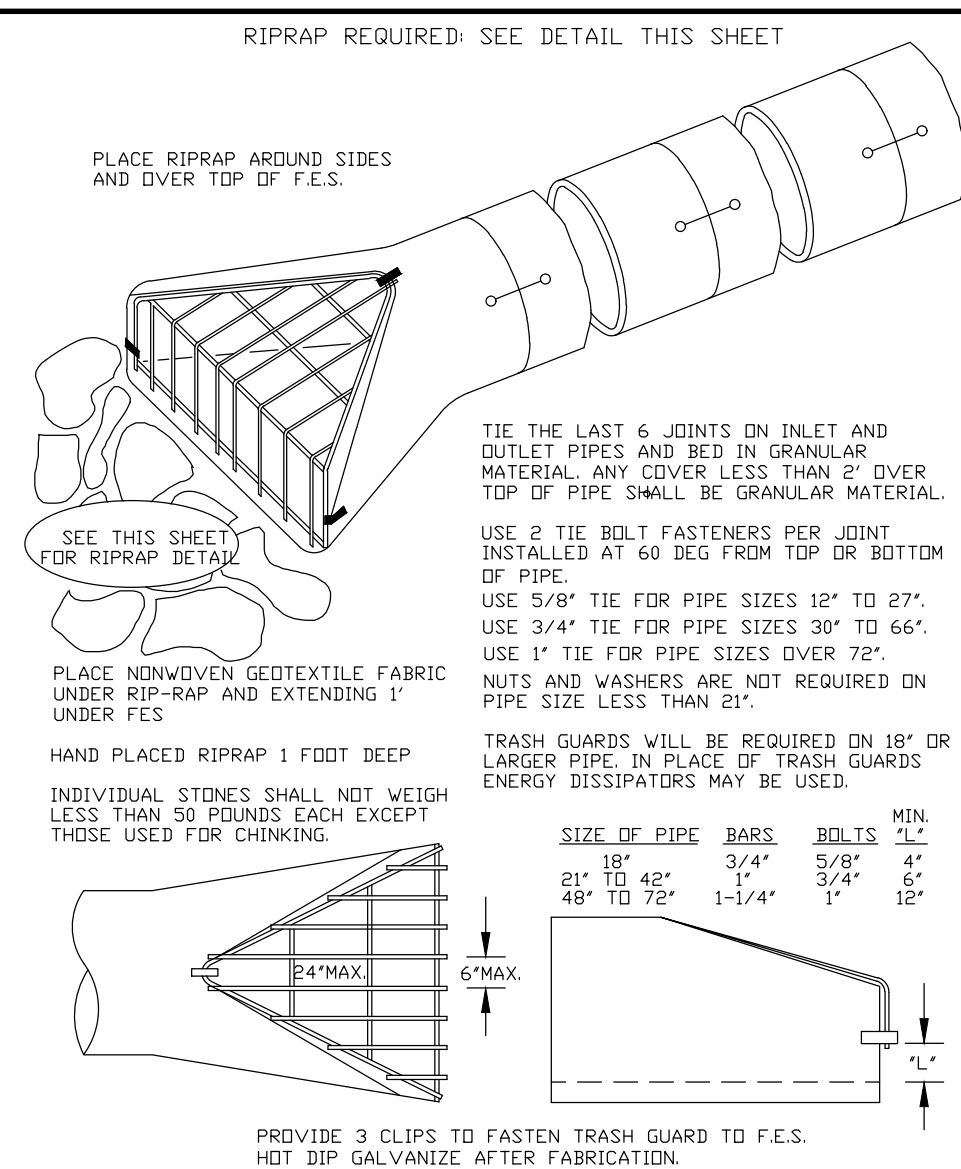


D4-12 CURB AND GUTTER



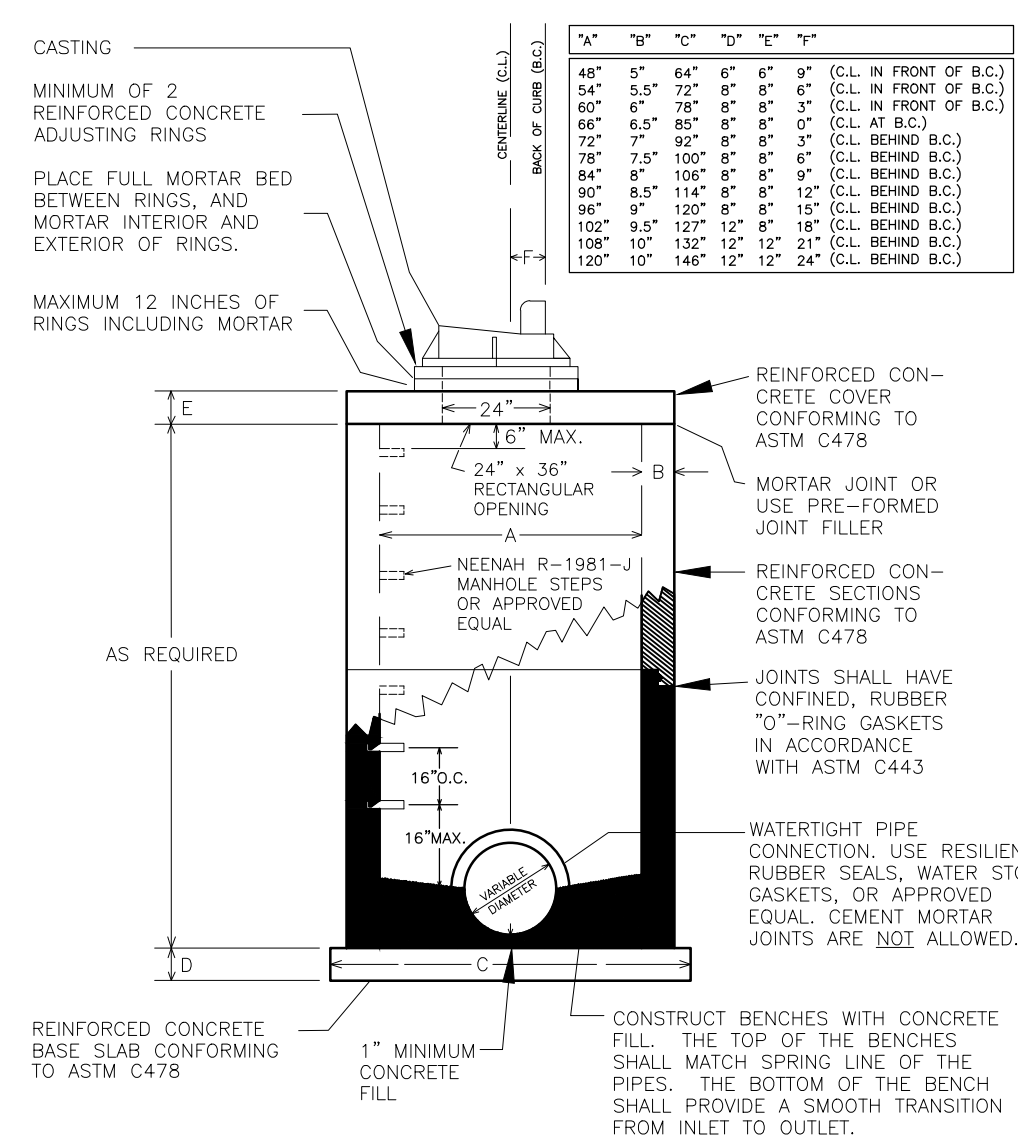
B6-12 CURB AND GUTTER

2	CONCRETE CURB DETAIL
SP5	SCALE - 3/4" = 1'-0"



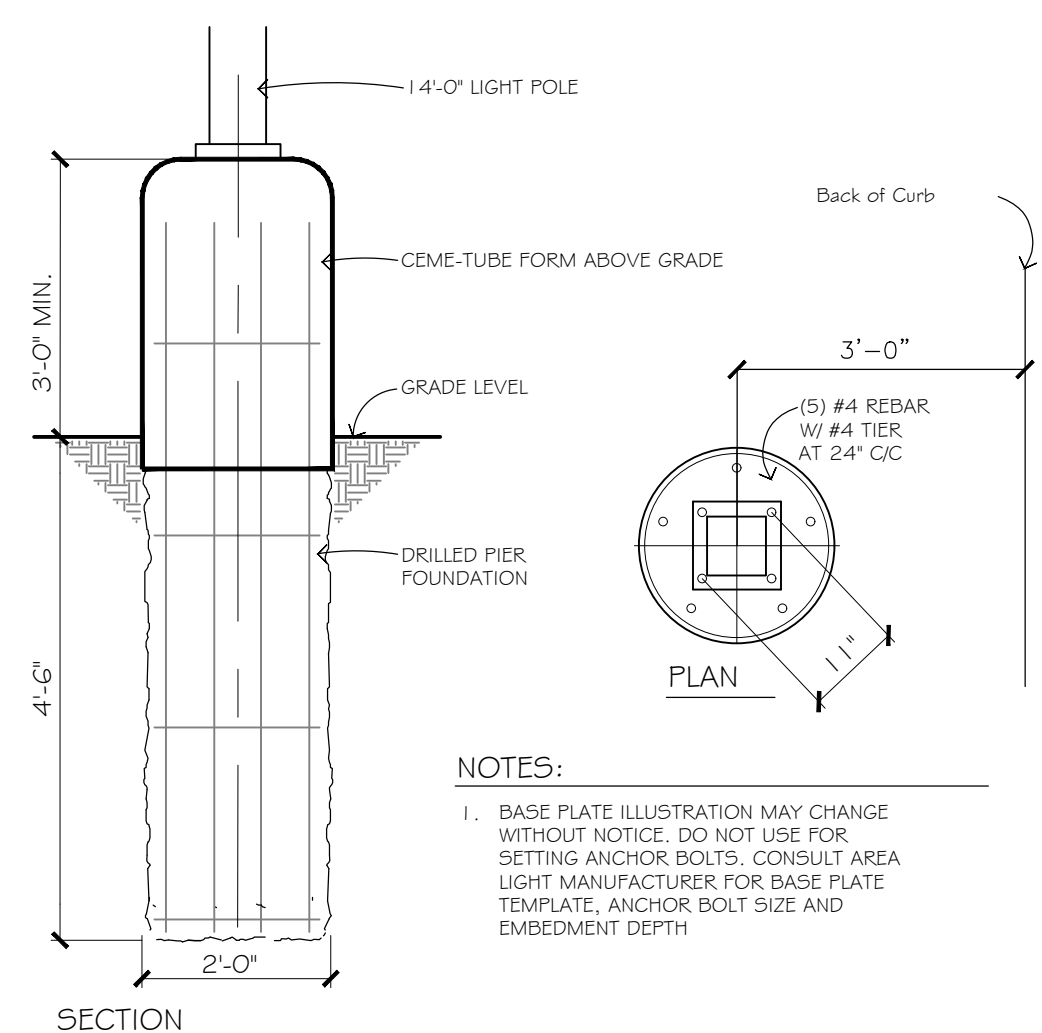
SECTION WITH TRASH GUARD

SP5	NOT TO SCALE
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8 | STANDARD STORM SEWER CATCH BASIN

SP5	NOT TO SCALE
-----	--------------

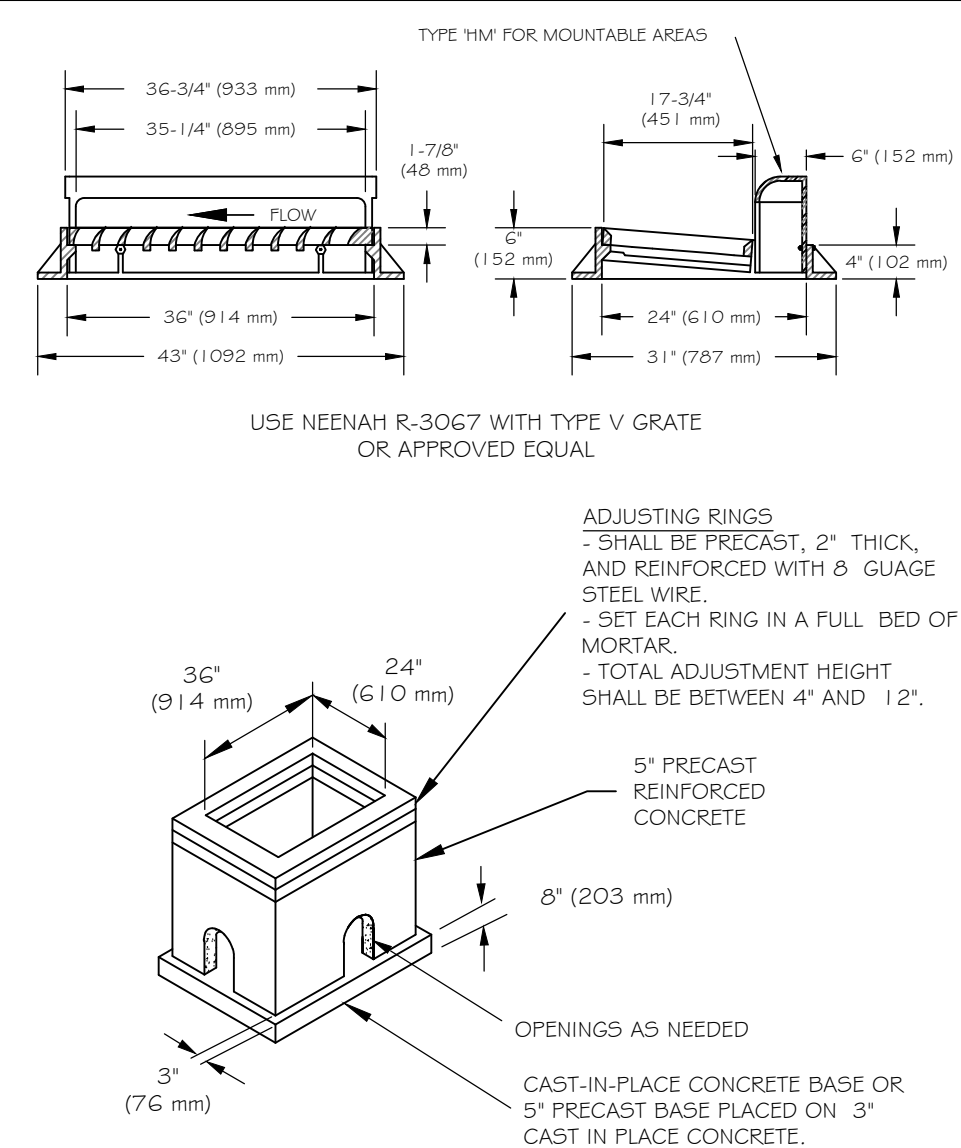


NOTES:

1. BASE PLATE ILLUSTRATION MAY CHANGE WITHOUT NOTICE. DO NOT USE FOR SETTING ANCHOR BOLTS. CONSULT AREA LIGHT MANUFACTURER FOR BASE PLATE TEMPLATE, ANCHOR BOLT SIZE AND EMBEDMENT DEPTH

3 | ROUND AREALIGHT FOUNDATION

SP5	SCALE - 1/2" = 1'-0"
-----	----------------------



ADJUSTING RINGS
- SHALL BE PRECAST, 2" THICK,
AND REINFORCED WITH 8 GAUGE
STEEL WIRE.
- SET EACH RING IN A FULL BED OF
MORTAR.
- TOTAL ADJUSTMENT HEIGHT
SHALL BE BETWEEN 4" AND 12".

5" PRECAST
REINFORCED
CONCRETE
(203 mm)

INGS AS NEEDED

T-IN-PLACE CONCRETE BASE OR
RECAST BASE PLACED ON 3"
T IN PLACE CONCRETE.

6 | 24"x 36" CURB INLET AND CASTING DETAIL

SP5	NOT TO SCALE
-----	--------------

KWIK TRIP

**Kwik
STAR**

KWIK TRIP, Inc.
P.O. BOX 2107
1626 OAK STREET
LACROSSE, WI 54602-2107
PH. (608) 781-8988
FAX (608) 781-8960

INSITES
SITE PLANNING LANDSCAPE ARCHITECTURE

3030 Harbor Lane North, STE 131
Plymouth Minnesota 55447
763.383.8400
fax 763.383.8440

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision, and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

Date 09AUG19  No. 19306
Signed _____
Robert J. Mueller

SITE PLAN DETAILS

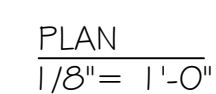
CONVENIENCE STORE 619
TRUCK PARKING

KASSON, MN

[illegible]

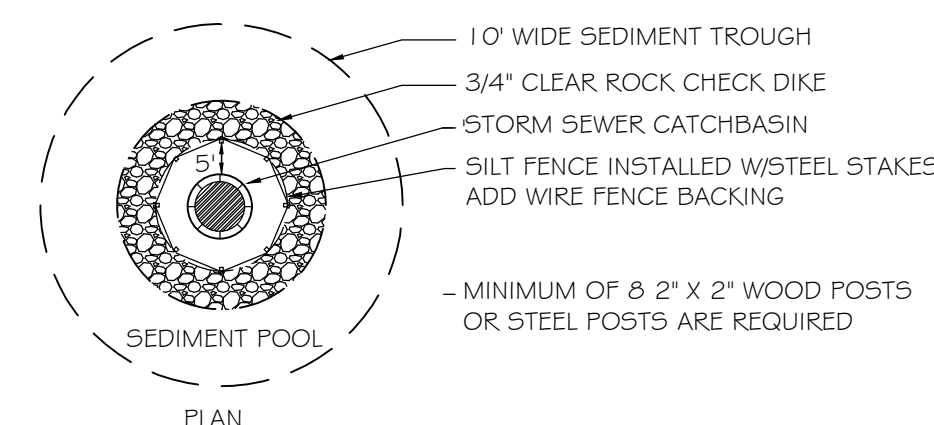
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SCALE	GRAPHIC
PROJ. NO.	19615
DATE	09AUG15
SHEET	SP5

NSITES 19-020 PM N.N.

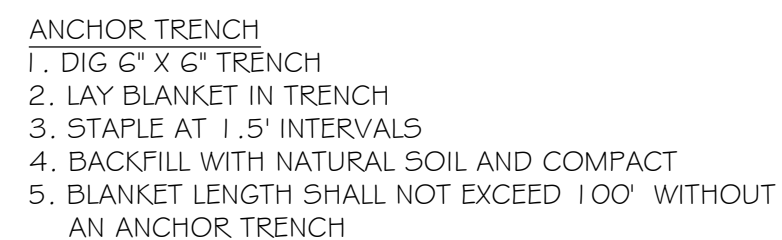


- CONCRETE WASHOUT AREA MAINTENANCE NOTES

- 5 | ON-SITE CONCRETE WASHOUT AREA



- B. EROSION CONTROL AT FLARED END SECTION
TOP OF SILT FENCE TO BE LOWER THAN
LOWEST ADJACENT OVERFLOW



NSITES 19-020 PM N.N.



**Kwik
STAR**

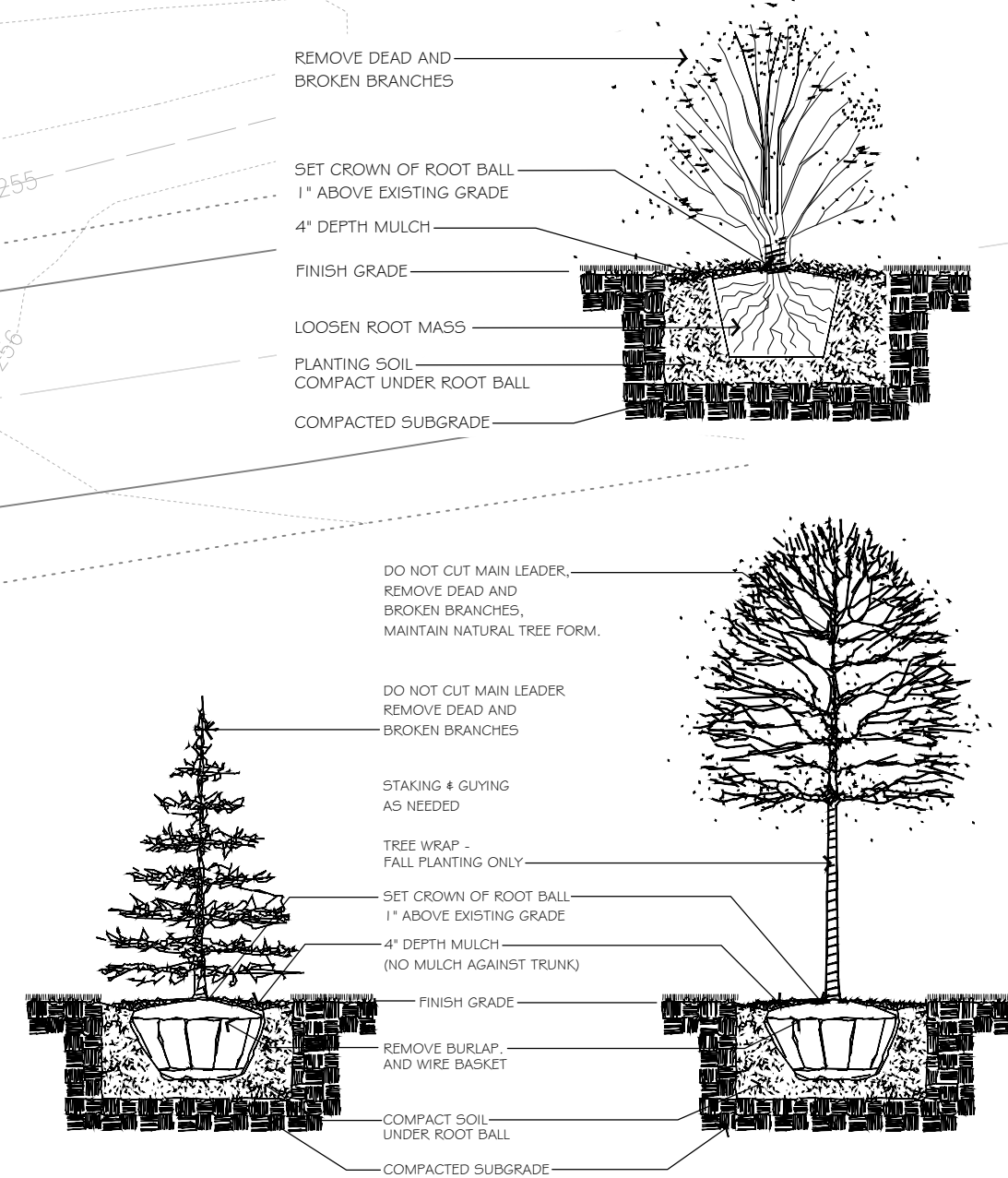
INSITES
SITE PLANNING LANDSCAPE ARCHITECTURE
3030 Harbor Lane North, STE 131
Plymouth Minnesota 55447
763.383.8400
fax 763.383.8440

EROSION CONTROL DETAILS

**CONVENIENCE STORE 619
TRUCK PARKING**

SEE SHEET 08-000

KASSON, MN



NOTES:

- CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS FOR PLANTING IN ALL R.O.W.
- LANDSCAPE CONTRACTOR SHALL VERIFY ALL UTILITIES WHICH MAY AFFECT HIS WORK.
- LANDSCAPE CONTRACTOR SHALL COORDINATE HIS WORK WITH OTHERS AT SITE AND COMPLETE HIS WORK PER OWNERS CONSTRUCTION SCHEDULE.
- ALL PLANT MATERIALS SHALL BE GUARANTEED ONE (1) FULL YEAR UPON TOTAL COMPLETION AND ACCEPTANCE BY OWNER, WITH ONE TIME REPLACEMENT AT APPROPRIATE TIME OR UPON REQUEST OF OWNER.
- REPLACEMENT TOPSOIL SHALL BE CLEAN, FREE OF STONES, WEEDS, AND OTHER UNDESIRABLE DEBRIS.
- PLANTING SOIL MIX (INCIDENTAL COST ITEM)
 - 1. MIX 1 LB. 5-20-20 COMMERCIAL FERTILIZER PER CU. YD. TOPSOIL
 - 2. THOROUGHLY MIX 1-PART SAND AND 1-PART PEAT MOSS WITH 5-PARTS FERTILIZER AND TOP SOIL.
- USE PLANTING SOIL AT ALL LOCATIONS PER DETAILS THIS SHEET.
- LANDSCAPE CONTRACTOR SHALL VERIFY TOPSOIL DEPTH AND NOTIFY OWNER OF ANY DEFICIENCY.
- SOD SHALL BE CULTURED WITH PREDOMINANTLY KENTUCKY BLUEGRASS SEED OF RECENT DISEASE RESISTANT INTRODUCTIONS. NO GUARANTEE ON SOD EXCEPT ANY SOD NOT SATISFACTORY AT TIME OF COMPLETION INSPECTION SHALL BE PROMPTLY REPLACED PRIOR TO COMPLETION OF JOB. STAKE SOD ON SLOPES 3:1 AND GREATER.
- WHERE EXISTING CONCRETE OR ASPHALT ARE TO BE REPLACED WITH LANDSCAPING, PROVISIONS SHOULD BE TAKEN TO COORDINATE EXCAVATION OF SUBSOIL TO A DEPTH OF 2' WITH GRADING. WATER COURSE REFLECT WITH COMPACTED TOPSOIL. ALL AREAS TO BE LANDSCAPED AND SODDED SHALL BE GRADED SMOOTH AND EVEN.
- LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR SODDING ALL AREAS WHICH ARE DISTURBED BY CONSTRUCTION INCLUDING ALL R.O.W. AND ADJACENT PROPERTIES.
- LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR PROVIDING BLANKET ON ALL SEEDED AREAS THAT ARE SLOPED. MULCH APPLICATION FOR ALL OTHER SEEDED AREAS SHALL BE EITHER HYDROMULCH OR DISKED STRAW DEPENDING ON SOIL TYPE, APPLICATION, AND OWNER REQUEST.
- LANDSCAPE CONTRACTOR TO INSTALL "VALLEY VIEW," "BLACK DIAMOND" EDGING AROUND ALL PLANTING BEDS AS SHOWN ON THIS PLAN.
- ALL MULCH TO BE FINELY SHREDDED HARDWOOD ORGANIC BARK MULCH. NO DYED MULCHES. INSTALL 4" DEPTH. NO FILTER FABRIC BENEATH ORGANIC MULCHES. NO EDGING AROUND ALL TREES OUTSIDE SHRUB BEDS.
- IF SPECIFIED, ALL GRAVEL MULCH SHALL BE 1/4" DIA. WASHED "RIVER ROCK" NO. 12X 4" DEPTH WITH APPROVED WEED FABRIC BARRIER IF INDICATED PLAN.
- LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR IRRIGATION SYSTEM INSTALLATION PER SHEET II. DESIGN SHALL BE APPROVED BY OWNER PRIOR TO INSTALLATION. IRRIGATION DESIGN SHOULD ENCOMPASS ALL LANDSCAPE AREAS WITH SOD AND/ OR PLANTINGS, FROM CURB TO CURB. R.O.W. SHOULD BE IRRIGATED FROM SPRINKLER HEADS LOCATED WITHIN PROPERTY BOUNDARY. CARE SHOULD BE TAKEN IN VICINITY OF ALL WALKS AND DRIVES TO MINIMIZE OVER SPRAY. COORDINATE INSTALLATION OF ALL PVC SLEEVE UNDER DRIVE AREAS WITH GENERAL CONTRACTOR.
- LANDSCAPE CONTRACTOR SHALL CLEAN ALL PAVEMENT AREAS AFTER ALL LANDSCAPE INSTALLATION IS COMPLETE AND ACCEPTED BY OWNER AND DAILY AS DEEMED NECESSARY BY THE CITY.
- GENERAL CONTRACTOR TO SWEEP PAVEMENT AREAS PRIOR TO TURN OVER TO OWNER.

KASSON, MN

NO.	DATE	DESCRIPTION
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
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DRAWN BY _____		
SCALE _____		GRAPHIC _____
PROJ. NO. _____		19619
DATE _____		09AUG19
SHEET _____		11

VISITES 19-020 PM N.N.

**RESOLUTION #12.4-18
CITY OF KASSON**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW FOR A PLANNED UNIT DEVELOPMENT AT
HACKS ADDITION & HACKS SECOND ADDITION, KASSON, MN**

WHEREAS, Aaron and Sonja Thompson, owners of the property in question has submitted a request for a Conditional Use Permit to allow for a Planned Unit Development (PUD) at Hacks Addition and Hacks Second Addition, Kasson, MN, and;

WHEREAS, at a public hearing duly held on the 10th day of December, 2018, the Planning Commission heard testimony of all persons wishing to comment on the proposed Conditional Use Permit to allow for a Planned Unit Development; and

WHEREAS, the appropriate City Staff and consultants have performed a technical review of the application, including attachments, for a Conditional Use Permit to allow for a Planned Unit Development; and

WHEREAS, following the public testimony and report of the technical review, the Planning Commission reviewed all relevant information regarding the proposed Conditional Use Permit to allow for a Planned Unit Development and recommends approval;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KASSON, MINNESOTA that the following Findings are hereby adopted regarding the application for a Conditional Use Permit to allow for a PUD at Hacks Addition and Hacks Second Addition, Kasson, MN:

SECTION 154.338

(A)

1. A PUD is consistent with the Comprehensive Plan Goal 5.4 to develop a diverse and high quality housing stock that meets the needs of current and future resident at all stages of life and at various income levels.
2. A PUD is an effective treatment of the property; providing for preservation of the current amenities.
3. A PUD will harmonize with proposed housing development in areas surrounding the elementary school.
4. The proposed development is a Conditional Use under Section 154.147(c) of the Code.
5. The Development Agreement will require a Letter of Credit sufficient to assure completion of the PUD.

(B) The primary use is a Conditional Use allowed in the R-1 Zoning District.

(C) The PUD will preserve the current terrain characteristics of the site.

(D) The architectural style of buildings has been reviewed by the Planning and Zoning Commission.

SECTION 154.339 (A)

The PUD shall be a residential development, consists of 1.575 acres more or less and maintains a minimum of 30% green space.

SECTION 154.340

The application, procedures and requirements to establish a Planned Unit Development shall apply.

SECTION 154.029 (B)(2)

- (a) The City recently acquired the expanded Lion's Park, Kasson-Mantorville Public Schools have completed two expansion projects, the City Streets have already been constructed, the Wastewater Treatment Plant expansion is underway and discussion of a new water tower has been initiated.
- (b) The development of Hacks Addition and Hacks Second Addition, Kasson, MN will not deter development of vacant land.
- (c) The proposed design will blend with the surrounding residential neighborhood.
- (d) (k) (l) (m) The proposed development completes the neighborhood.
- (e) The proposed Planned Unit Development is compatible with the existing area.
- (f) A Planned Unit Development is consistent with the Comprehensive Plan Goal 5.4 to develop a diverse and high quality housing stock that meets the needs of current and future resident at all stages of life and at various income levels.
- (g) (h) (i) The proposed development of twelve (12) townhomes to be served by a private street accessed from 16th Street NE.
- (h) The proposed development includes access to utilities, parking and storm water management.

BE IT FURTHER RESOLVED that the Conditional Use Permit to allow for Planned Unit Development at Hacks and Hacks 2nd Addition, Kasson, MN, is hereby approved subject to the following conditions of approval:

1. Approval of the Final Construction Plans by the City Engineer (to include by not limited to turnaround to meet State Building Code, hydrant location and sub-drain access),
2. Approval of the Preliminary Plat and Final Plat (to include, but not limited to, utility access easements, utility easements, drainage Easements and trail easements);
3. Executed Development Agreement
4. Restore Pavement to Current Condition and Chip Seal (after hook-up and sewer connection to 16th Street manhole);
5. Association Documents at Final Plat (include private drive, private water and sewer);
6. Documentation of Sealed Well .

Adopted this 12th day of December, 2018.

Chris McKern, Mayor

ATTEST:

Linda Rappe, City Clerk

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

THOMPSON ADDITION

16TH STREET NE

50'

50'

40'

CITY OF KASSON RIGHT OF WAY PLAT NO. 1

NINE HILL AVENUE NE

40'

INSTRUMENT OF DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS: That 504 Development, LLC, a Minnesota limited liability company, owner of the following described property situated in the County of Dodge, State of Minnesota, to wit:

Lots 1,2,3 and 4, Block 1, HACKS 2ND ADDITION, according to the plat thereof, on file in the office of the County Recorder, Dodge County, Minnesota.

AND

The North 152.00 feet of the East 108.00 feet of Lot 2, Block 1, HACKS ADDITION, according to the plat thereof, on file in the office of the County Recorder, Dodge County, Minnesota.

Has caused the same to be surveyed and plotted as THOMPSON ADDITION and do hereby dedicate to the public for public use the drainage and utility easement as created by this plat.

In witness whereof said 504 Development, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this ____ day of _____, 20____.

Signed: 504 Development, LLC

_____, its _____

STATE OF MINNESOTA
COUNTY OF _____

This instrument was acknowledged before me this ____ day of _____ of 20____ by _____ of _____ Development, LLC a Minnesota limited liability company, on behalf of the limited liability company.

Notary Public, _____ County, Minnesota
My commission expires _____

CITY OF KASSON PLANNING AND ZONING COMMISSION

This plat of THOMPSON ADDITION has been approved by the Planning and Zoning Commission of the City of Kasson, Minnesota this ____ day of _____, 20____.

Chair _____

Secretary _____

CITY OF KASSON CITY COUNCIL

This plat of THOMPSON ADDITION has been approved by the City Council of the City of Kasson on this ____ day of _____, 20____.

Mayor _____

City Clerk _____

DODGE COUNTY SURVEYOR

I certify that pursuant to Chapter 389.09, laws of Minnesota, this plat has been approved this ____ day of _____, 20____.

Lisa M. Hanni
Dodge County Surveyor

DODGE COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 20____ on the land hereinafter described have been paid. Also, taxes and transfer entered this ____ day of _____, 20____.

Dodge County Auditor/Treasurer _____

DODGE COUNTY RECORDER

I hereby certify that this plat of THOMPSON ADDITION was filed in the office of the County Recorder for public record on this ____ day of _____ at ____ o'clock ____ M. and was duly recorded as Document Number _____ File Number _____

Dodge County Recorder _____

SURVEYORS CERTIFICATE

I, Mark A. Schoenfelder, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on the plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as applicable, have been shown and labeled on the plat; and all public ways are shown and labeled on the plat.

Dated this, _____ day of _____, 20____.

Mark A. Schoenfelder, Land Surveyor
Minnesota License No. 42302

STATE OF MINNESOTA
COUNTY OF _____

This instrument was acknowledged before me this ____ day of _____, 20____ by Mark A. Schoenfelder, Land Surveyor

Notary Public, _____ County, Minnesota
My commission expires _____

0 10 20 40
SCALE IN FEET

LEGEND

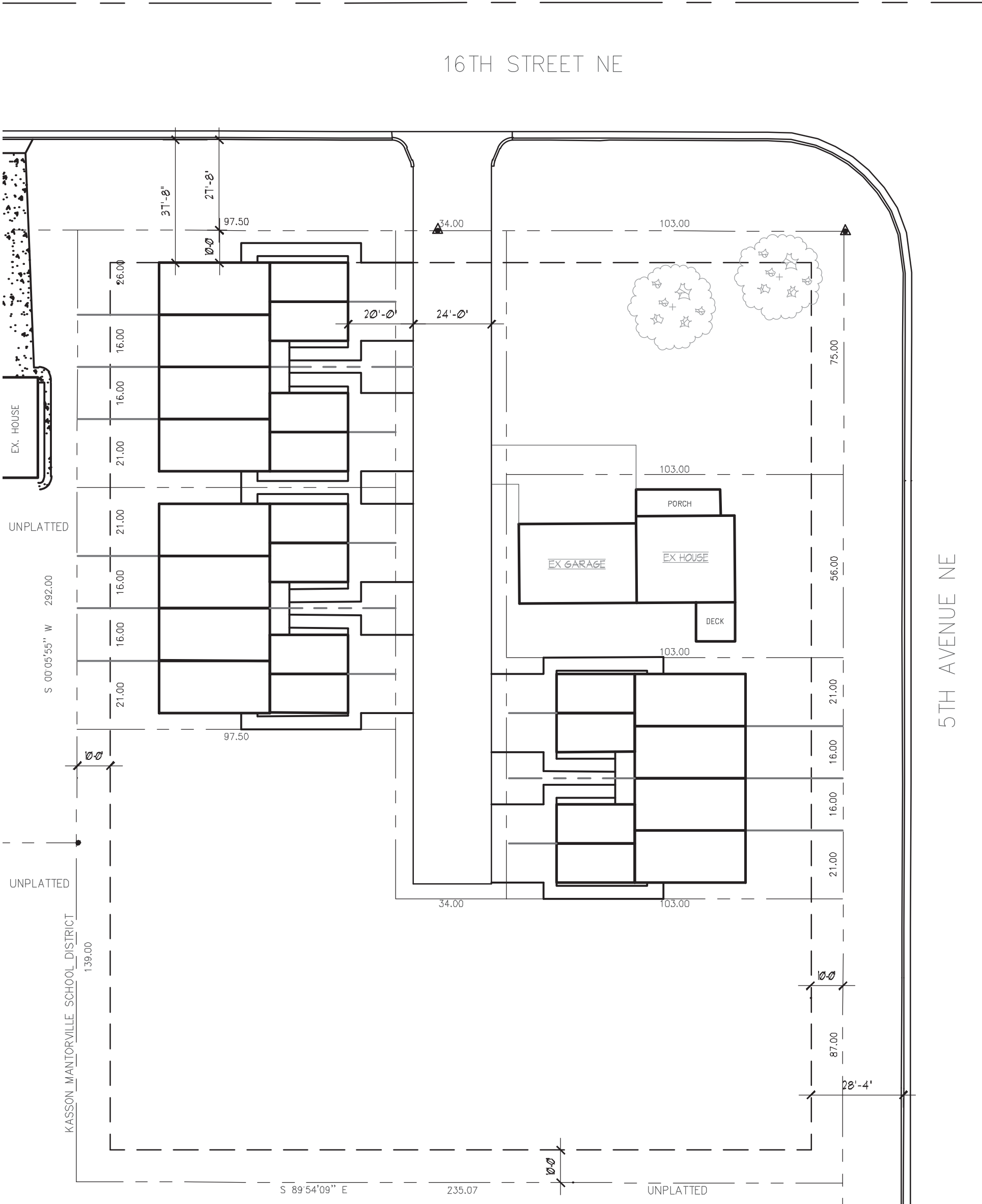
- Denotes a 1/2 inch x 15 inch Iron Pipe set with a Plastic Cap Stamped 42302
- Denotes a Found Iron Monument

BEARINGS

Bearings are referenced to the north line of HACKS ADDITION, which is assumed to bear South 89°54'05" East.

RIDGELINE

ENGINEERS & PLANNERS & SURVEYORS
RIDGE LINE, MINN. 55068
(651) 754-4221



SITE PLAN
SCALE: 1"=30'-0"



THOMPSON FIRST SUBDIVISION
4TH AVE LANE
KASSON, MINNESOTA

PROJECT #: 17087
DRAWN BY: AJT
CHECKED BY: AJT
REVIEW DATE: FEB 22, 2019
REVISION: .
PRINTED: Feb 22, 2020

SITE
PLAN

C1.0

Staff Planning Review

Thompson Addition

Preliminary Plat

Prepared by The Design Connection

Zoning Administrator

Maintain 30% green space; show calculation on site plan

Plat Lot 13 as 108 x 143; re-plat at later date

Association Documents at Final Plat

To include Private Drive, Private Water and Private Sewer

Zoning Clerk

Provide Sidewalk along North Frontage (SRTS and TAP)

Zoned R-1

Finance

Execute Development Agreement

(to include letter of credit sufficient to assure completion of the PUD)

Electric Supervisor

Record necessary utility easements, utility access easements

Install crossing in private drive

Park and Recreation Supervisor

Parkland Fees at Final Plat

Water/Wastewater

Provide documentation of sealed well

WAC/ SAC Fees at Final Plat

Streets

Restore Pavement to Current Condition and Chip Seal

(after hook-up and sewer connection to 16th Street Manhole)

City Engineer

City Engineer to review and approve Site Plan prior to Final Plat Approval

(to include, but not limited to,

hydrant location and sub-drain access)

Fire

Private Drive and turnaround to be approved by Fire Chief



To: City Council

Date: 03/11/20

Re: Thompson/504 platting revisions

When a new subdivision proposal is presented to a city by a developer, city officials consider how that development will connect with the rest of the community through new city streets, or how the added capacity will impact existing city streets. Many cities plan street work years in advance, and new development creates additional demand. Based on feedback I received from the City Council it seemed most appropriate to review this project at more length. They are concerned that the final plat needs to conform substantially to the preliminary plat as approved.

Additionally, questions have been broached regarding the timeline: "The final plat shall be recorded within twelve (12) months from the date of approval by the City Council. Failure to record within twelve months from date of approval necessitates resubmitting the subdivision for approval by both the Planning Commission and the City Council."

Action: Please give direction on the plat that is proposed and provide feedback that staff can bring to the developer.

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGi
DATE: March 5, 2020
SUBJECT: Conditional Use Permit for a Nursery in the R-1 Zoning District
APPLICANT: Jason Wilker
OWNER: Jason Wilker
LOCATION: 1103 8th Avenue NW ; PID No. 240290800
MEETING DATE: March 9, 2020
COMPREHENSIVE PLAN: MDR – Medium Density Residential
ZONING: R-1 Single Family Residential District

OVERVIEW

The applicant, Jason Wilker, has applied for approval of a Conditional Use Permit (CUP) for a nursery in the R-1 Zoning District. The CUP will allow for the continuance of an existing non-conforming use on a parcel located on the northwest border of Kasson (see Figure 1).



BACKGROUND

- This item was tabled at the Planning and Zoning Commission meeting on January 13, 2020. The Staff report for that meeting has been attached for reference

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. The City sent the applicant written notification of an extension on January 16, 2020. For the purpose of Minnesota Statutes Section 15.99, “Day 1” for the Conditional Use Permit was determined to be November 27, 2019. The City's deadline for action is on March 26, 2020.

Public Hearing

City Code Section 154.029 requires a public hearing for review of the Conditional Use Permit be held by the Planning and Zoning Commission. The public hearing notice for the Conditional Use Permit was published in the Dodge County Independent on January 2, 2020 and posted on the City website on January 2, 2020. The public hearing notice was mailed to all affected property owners located within 350 feet of the subject properties on January 2, 2020.

The Planning and Zoning Commission held the public hearing on January 13, 2020. Five members of the public and the applicant spoke during the public hearing. All speakers were in favor of the applicant's proposal. A full description of public comments may be found in the minutes attached.

After closing the public hearing and discussing the application, the Planning and Zoning Commission made a motion to table the item to give an opportunity for the applicant to work with City Staff on submitting needed materials to demonstrate the conditional use.

UPDATED MATERIALS

After the Planning and Zoning Commission meeting on January 13, 2020, the planning consultant contacted the applicant on behalf of the City to walk through the materials still needed for the Commission to make an informed decision on the Conditional Use Permit. These materials included:

- A development plan that is to-scale (drawn over the survey or an overhead aerial with lot lines shown and a scale) with:
 - Existing Conditions (location and size) of:
 - Buildings
 - Driveways and other impervious surfaces
 - Outdoor storage areas
 - Parking spaces
 - Signs
 - Fences, berms or walls used for screening
 - Proposed Conditions – location and size of any of the above if different from existing conditions

- A landscaping and screening plan showing:
 - Existing location of trees/plants used for buffers or screening and description of plant type
 - Proposed location of additional trees/plants to be used for buffers or screening and description of plant type
 - Total count of existing and proposed plantings, by type, to be used for buffers or screening
 - Location and description (height, material, etc.) of any existing or proposed fences, hedges, walls or berms intended to be used for screening
- A lighting plan
- A sign plan

Correspondence with the applicant included a description of these items as well as a deadline for submittal.

The applicant submitted a development plan on February 4th. The planning consultant found the submittal to be missing requested items, so followed up with clarification on additional materials needed with a new deadline to be considered at the March Commission meeting. The applicant's representative responded with additions of building dimensions to the development plan, but no other changes, and requested that the application be considered by the Commission as is, as they felt it met the requirements of the code. Full copies of this correspondence are attached to the packet.

CONDITIONAL USE PERMIT REVIEW

A Conditional Use Permit (CUP) allowing the site to be used for a nursery in the R-1 zoning district is being requested. The site is guided Medium Density Residential by the Comprehensive Plan and is zoned R-1 Single Family Residential District. The site is surrounded by residential properties to the south and east, and the areas to the west and north are vacant and guided for residential development.

Considerations for CUP

CUPs may be allowed with appropriate restrictions in accordance with the findings listed in Sec. 154.029(A):

1. Certain conditions as detailed in this chapter exist;
2. The use or development conforms to the comprehensive plan; and,
3. Is compatible with the existing area

Additional considerations from Sec. 154.029(B)(2) include:

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the city, is reasonably related to the overall needs of the city and to the existing land use.
5. The use is consistent with the purpose of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the comprehensive plan of the city.
7. The use will not cause traffic hazards or congestion.
8. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.
9. Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
10. Adequate utilities, parking, drainage and other necessary facilities will be provided.
11. The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
12. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.
13. The use will not disrupt the character of the neighborhood.

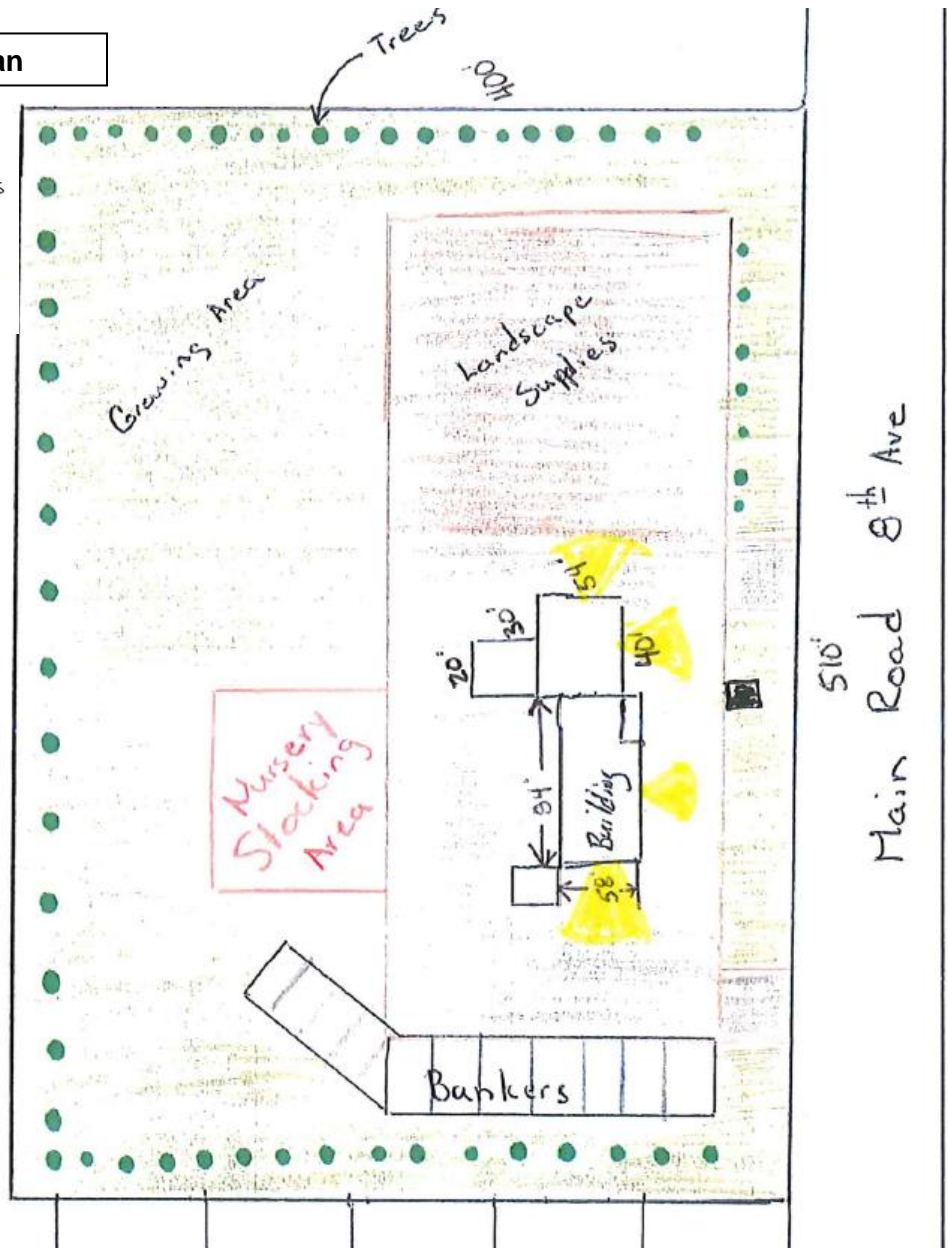
The City Code does not provide specific conditions for nurseries in addition to considerations taken for all CUPs. Sec. 154.029(C) enables the City to impose “additional conditions which the city considers necessary to protect the best interest of the surrounding area or the community as a whole. In preparation for mediation in the pending litigation, the City Council has discussed some specific conditions for nurseries within residential zones. These conditions are included on page 12 of this report. Any conditions for approval should set standards so that the use meets those considerations listed above.

SITE REVIEW

The applicant has provided a development plan, including some dimensions of the existing and proposed buildings (see Figure 2). In addition to the buildings, the development plan shows a landscape supplies/landscape stock area at the northeast corner of the site, a nursery stock[ing] area west of the main buildings, rock and mulch bunkers at the southeastern edge of the property, a growing area all along the west side of the property, exterior lighting locations off of the building, and perimeter trees along the north, west, and south property lines, as well as between the landscape supplies/landscape stock area and 8th Avenue.

Figure 2: Development Plan

- Permit. Trees
- Rock + Mulch Bunkers
- Red Nursery Stock Area
- Brown Landscape Stock Area
- Green Growing area
- Sign
- ▲ Lighting



Provided by Applicant 02.26.2020 – elements within are not drawn to scale

When comparing the development plan provided by the applicant with an aerial (2019) from the Dodge County parcel viewing website (see Figure 3), it became clear that that the development plan shows only general locations for elements, and is not to-scale (for instance, staff do not believe it is the intension of the applicant to move the south bunkers 30' north and 20' west). For purposes of needed calculations (setbacks, hardcover, etc.) within the Site Plan Review, staff used estimated measurements based off of the Dodge County aerial, as they are the most accurate available to staff at this time.



Proposal

The property is approximately 360' wide and 507' long, resulting in an area of 182,520 sf or 4.2 acres. There is an existing main building with additions proposed, as well as an accessory hoop-roof building. There is one major area of outdoor storage of landscaping materials, as well as four smaller areas of outdoor storage. Additionally, there are two sets of bunkers at the south end of the property that store more materials. There is also a nursery stock storage area, west of the main building. The applicant

has shown the western portion of the site intended as a nursery growing area. Based on the aerial, it is clear that there are trees along the perimeter of the property, but exact count and type remain unknown



The approximate square footage of these areas, are listed below:

	Location	Approximate Area	Cover Type
A	Existing Main Building(s)	5,658 sf	Impervious
B	Proposed Addition	2,760 sf	Impervious
C	Accessory Building	609 sf	Impervious
D.1	Outdoor Storage 1	30,843 sf	Impervious
D.2	Outdoor Storage 2	3,460 sf	Impervious
D.3	Outdoor Storage 3	698 sf	Impervious
D.4	Outdoor Storage 4	416 sf	Impervious
D.5	Outdoor Storage 5	660 sf	Impervious
D.6	Outdoor Storage 6	1,544 sf	Impervious
E	Bunkers	5,610 sf	Impervious
F	Nursery Stock Area	7,245 sf	Pervious
G	Nursery Growing Area	61,949 sf	Pervious
H	Bufferyards/Open Space	31,322 sf	Pervious
I	Drive/Parking	29,746 sf	Impervious
	Total	182,520 sf	

R-1 Standards

	R-1 Standard	Proposed (measurements approximate)	Meets Standard?
Min Lot Size	16,000 sf	182,520 sf	Yes
Min Lot Width at Street Line	100 ft	507 ft	Yes
Min Lot Width at Building Line	100 ft	507 ft	Yes
Front Yard	25 ft	From building: 60'	Yes
Side Yard (North)	12 ft	From building: 281'	Yes
Side Yard (South)	12 ft	From building: 143'	Yes
Rear Yard	45 ft	From building: 240'	Yes
Max Lot Coverage	40% (73,008 sf)	44.93% (82,004 sf)	No – a reduction in hardcover of ~8,996 sf is required
Max Building Height	35 ft or 2.5 stories	1 to 1.5 stories	Yes

Accessory Buildings

There is one accessory building on site. It is unclear via the applicant's submittal if this accessory building meets the requirements of Sec. 154.058. The structure appears to meet accessory structure setbacks and size requirements. As the accessory structure appears to be approximately 609 sf in area, it must meet the following:

- Obtain a zoning certificate from the City
- Building must be placed on a slab
- Building may not be pole/post type construction
- Maximum building height is 16 ft or 1 story, whichever is less

If the building does not meet all of the above, the applicant must either bring the building into compliance or remove the building.

Screening, Bufferyards and Landscaping

Screening

Within residential districts, outdoor storage areas must be fully screened from adjoining properties and public streets (Sec. 154.062). This screening may be accomplished through a combination of landscaping, fences, walls and berms. The edges of outdoor storage that require full screening from adjacent properties are highlighted below:



The applicant has indicated the location of “permit trees” within some of these areas on the Development Plan; the submittal did not contain information on type of plants, exact count, height, opacity, or whether or not such plants already existed or are proposed to be planted. A landscaping and screening plan with these details of the required screening should be submitted to the City. As a

number of the screened areas are within the front yard, the applicant should work with the City to ensure that visual triangles and other considerations are met.

Bufferyards

Bufferyards are needed on site to buffer the more intensive uses of the property from surrounding residential properties. Bufferyards require plantings of coniferous trees or other evergreens at least three feet in height and at least one every eight feet (Sec. 154.060). Alternative plantings may be submitted to the City for consideration. Bufferyard plantings may not be made up of nursery plantings or plantings intended for sale as part of the use on the site.

Required bufferyards are shown in red below:



These areas have the general lengths listed in the table below:

	Approximate Length	Minimum	Proposed (as	Meets Standard?
--	--------------------	---------	--------------	-----------------

	(linear feet)	Required Plantings	shown in Applicant's Development Plan)	
North Buffer Yard	167'	21	10	No
West Buffer Yard	507'	64	16	No
South Buffer Yard	196'	25	10	No

A more accurate landscaping and screening plan showing the location of existing plantings to be used for bufferyards, with planting type described, and location of additional plantings, with planting type described, to be used for bufferyards is needed.

Landscaping

No additional landscaping is required for the site beyond the screening and bufferyards described above.

Parking & Loading

Sec. 154.080 (F) does not specifically note the amount of parking required for “gardens and nurseries,” however, the last row on the parking standards table allows for “uses not specifically noted” that the City use “requirements for similar uses as determined by the city.” As landscaping contractors are a use allowed in the M-1 district, staff suggest using the “Industrial and manufacturing establishments” standard of “one space for each employee on maximum shift or one space for each 2,000 square feet of gross floor area, whichever is more.”

The applicant’s narrative from their November 27th submittal indicates a total of 17 employees on the site, however it is not clear if these are all on the same shift. The area of the main building(s) plus additions is approximately 8,418 sf, which would require at least five spaces. The applicant has not indicated specific areas on the development plan for parking; further information from the applicant is needed to determine the required amount of parking and where those parking locations will be on site. If retail sales of nursery stock are proposed on site, then spaces reserved for customer parking should also be indicated on the development plan. The development plan should also indicate loading space location(s) and those areas cannot count towards the parking requirement.

The current driveway/parking areas currently meet the required eight-foot setback from adjoining residential uses.

Other General Regulations

Glare

All lights on the site are required to be arranged so as to deflect light away from any adjoining residential district and/or from the public streets (Sec. 154.064). The applicant’s Site Plan provides the general location of four exterior lights. As these are setback significantly from adjoining properties and the public street, further information, such as a photometric plan (footcandles) is not required at this time.

Refuse

All waste material, debris, refuse or garbage must be stored indoors or within a closed container made for such a purpose. The applicant has not provided the location of waste storage on site, so it is assumed to be indoors.

Signs

The applicant has indicated the location of a sign on the property within the front yard. The standards of Sec. 154.082 apply to the existing sign and are processed through a sign permit, separate from this process.

CONDITIONS OF APPROVAL

If the Planning and Zoning Commission is considering recommendation of approval of the Conditional Use Permit, staff would suggest the following conditions in order for the CUP to be compliant with the Comprehensive Plan and Zoning Ordinance:

1. The applicant shall submit to the City an updated Development Plan, which is to-scale, showing the following:
 - a. Existing location and dimensions of:
 - i. Buildings
 - ii. Driveways and other impervious surfaces
 - iii. Outdoor storage areas
 - iv. Parking spaces
 - v. Signs
 - vi. Fences, berms or walls used for screening
 - b. Proposed location and dimensions of:
 - i. Buildings
 - ii. Driveways and other impervious surfaces
 - iii. Outdoor storage areas
 - iv. Parking spaces
 - v. Signs
 - vi. Fences, berms or walls used for screening
 - vii. Hardcover calculations
2. The applicant shall submit to the City an updated Landscaping and Screening Plan showing the following:
 - a. Existing location of trees/plants used for buffers or screening and description of plant type
 - b. Proposed location of additional trees/plants to be used for buffers or screening and description of plant type
 - c. Total count of existing and proposed plantings, by type, to be used for buffers or screening
 - d. Location and description (height, material, etc.) of any existing or proposed fences, hedges, walls or berms intended to be used for screening
3. The applicant shall at all times maintain a valid nursery stock dealer certificate from the State of Minnesota.

4. The applicant shall plant and maintain a nursery stock of not less than three hundred (300) new trees (not counting existing trees, bufferyard plantings, or seasonal nursery stock) on the property at all times, subject to the following:
 - a. The 300 new trees shall be of a diameter of at least 1”.
 - b. The 300 new trees shall be certified nursery stock obtained from a certified nursery stock grower or dealer. The applicant shall maintain documentation from the grower or dealer from whom the new trees were acquired, and shall provide such documentation to the City within seven (7) days of a written request for same by the City.
 - c. The 300 new trees may be planted in phases of 100 new trees per year. The first 100 new trees shall be planted by July 1, 2020; the second 100 new trees shall be planted by July 1, 2021, and the final 100 new trees shall be planted by July 1, 2022.
 - d. The applicant shall, within thirty (30) days, replace any of the 300 new trees that die, that are destroyed, or that are sold.
 - e. Commencing July 2, 2020, the City may schedule nursery stock reviews to ensure that the applicant has planted on the property the required number of new trees to comply with these requirements.
 - f. The City shall schedule such nursery stock reviews giving the applicant at least seven (7) days written and emailed notice. The applicant shall allow the City’s staff and agents upon his property for duly scheduled nursery stock reviews and shall fully cooperate with all such reviews.
5. Within the updated Development Plan described in Condition 1, above, the applicant shall provide hardcover calculations for the proposed use; the hardcover on site is not permitted to exceed 40%; if the existing hardcover on the property exceeds 40%, the amount of hardcover onsite must be reduced to be at or below 40% before the conditional use is allowed to commence
6. The applicant shall provide information to the City showing the existing accessory building on the property complies with the provisions of Sec. 154.058 of the City Code of Ordinances; if the existing accessory building is found to not be in compliance, the applicant shall bring the building into compliance or remove the building
7. All outdoor storage areas, including storage bunkers, shall be fully screened from view of adjacent properties and the public street; details of the screening (materials, height, installation, etc.) shall be included within the Landscape and Screening Plan mentioned within Condition 2, above.
8. All portions of the north, west, and south yards that are not already fully screened as described in Condition 7, above, shall have buffer plantings of coniferous trees or other evergreens at least three feet in height and at least one every eight feet;
 - a. Alternative plantings, as described in Sec. 154.060, may also be proposed;
 - b. Details of the buffer plantings shall be included within the Landscape and Screening Plan described within Condition 2, above
9. The site shall include 17 parking spaces and one loading space; the location of these spaces shall be included on the updated Development Plan as described within Condition 1, above
10. Exterior lighting on the property shall comply with the provisions established in Sec. 154.064 of the City Code of Ordinances

11. Refuse shall be contained fully within buildings or within containers specifically intended for such use
12. Signs on the property shall comply with Sec. 154. 082 of the City Code of Ordinances and shall be processed through the City Sign permitting process
13. Any deviation on-site from what is submitted within the Development Plan described in Condition 1, above, resulting in the change or expansion to the location or footprint of the following shall require an amendment to the Conditional Use Permit:
 - a. Buildings (principal or accessory)
 - b. Outdoor Storage Areas
 - c. Hardcover
 - d. Parking Areas
 - e. Screening/Bufferyards
14. Hours of operation shall be between 7:00 a.m. and 9:00 p.m., except snow plowing operations which may occur outside these hours of operation

PLANNING AND ZONING COMMISSION ACTIONS

After the discussion, the Planning and Zoning Commission could take one of the following actions:

Conditional Use Permit

1. Recommend approval with conditions, as noted above
2. Recommend denial – findings of fact for denial should be discussed, and reflect the considerations for CUP listed on page 3.
3. Table the request to the next Planning and Zoning Commission meeting and provide direction to Staff and the applicant as to the additional information needed (would require applicant to agree to extension of 60-day deadline).

ATTACHMENTS

- A. Applicant Original Submittal, November 27, 2020
- B. Staff Report – Planning & Zoning Commission Meeting, January 13, 2020
- C. Public Hearing minutes, January 13, 2020
- D. Correspondence between planning consultant and applicant
 1. Email from planning consultant to applicant, January 16, 2020, with attachment
 2. Email from planning consultant to applicant, January 27, 2020
 3. Email from applicant attorney to planning consultant, January 29, 2020
 4. Email from applicant attorney to City Attorney, February 3, 2020, with attachment (forwarded to Zoning Administrator and planning consultant February 4, 2020)
 5. Email from planning consultant to applicant, February 4, 2020
 6. Email from planning consultant to applicant, February 17, 2020
 7. Email from applicant's attorney to City Attorney, February 26, 2020, with attachments [in E, below] (forwarded to Zoning Administrator and planning consultant February 27, 2020)
- E. Applicant Supplemental Submittal, February 26, 2020

APPLICATION FOR CONDITIONAL USE PERMIT

Fee Paid \$ 300.00

Date Filed 11/27/19

Street Address of Property 1103 Eighth Avenue Northwest, Kasson, Minnesota

Owner's Name Jason Wilker Phone 507-208-1819

Address 630 Meadowlark Court Northwest, Byron, MN 55920

Applicant (if other than Owner):

Name _____ Phone _____

Address _____

Description of Request Conditional Use Permit to Operate a Landscaping and Nursery Business on Property Zoned for Single-Family Residential and Conditionally Permitted for a Nursery and Landscaping Business for Nine Years

Reason(s) for Request See attached narrative and its incorporated exhibits

Present Zoning Classification CUP for Operation of Nursery and Landscaping Business on Property in R-1 Single Family Residential District

Existing Use of Property Landscaping and Nursery Business

Signature of Applicant [Signature] Date 11-27-19

FOR OFFICE USE ONLY

Date accepted _____

Recommended _____ Denied _____ by the Planning Commission on _____, 20____

Approved _____ Denied _____ by the City Council on _____, 20____

If approved, the following conditions were prescribed:

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

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

WILKER RETAINING WALLS & PAVERS LLC
1103 8th Avenue Northwest
Kasson, MN 55944

November 27, 2019

City of Kasson Planning Commission and City Council
Attn: City Administrator
City Hall
401 5th Street SE
Kasson, MN 55944

RE: Property Located at 1103 Eighth Avenue Northwest, Kasson, Minnesota

Dear Members of the City Council and Planning Commission:

I am supplying this information in connection with the CUP application I am submitting today for my property located at 1103 Eighth Avenue Northwest, Kasson, Minnesota. Its legal description is set forth on **Exhibit 1**.

FACTS

A. My Property

My property is located to the west of Eighth Avenue in the City of Kasson, with 10th Street Northwest to the south and 12th Street Northwest to the north on the east side of Eighth Avenue. See **Exhibit 2** (Google satellite aerial photograph); **Exhibit 3** (Google street map). My property is at the northern limit of the City. To its north is agricultural land outside of the City limits.¹ To its west is land that is zoned for single family residential development but that is and has always been used for agricultural production. To its immediate east is Eighth Street and to the east of Eighth Street is land that is zoned for single family residential but has been used for agricultural production and is only recently seeing some residential development. Only to the south of my property does any development exist. There, five homes border the southern side of my property and my business exists and has operated for years in harmony with the owners of those homes. Some of the owners of the homes there bought their properties long after I started my business; they moved into the neighborhood knowing about my business. They have not lodged any complaints about my property or the way that I run my business.

My property is and at all relevant times has been zoned in the City's R-1 residential zoning district. See **Exhibit 4** (City's zoning map). The City's comprehensive guide plan adopted in June 2018 guides it for medium-density residential. See **Exhibit 5** (City's 2018 Comp Plan map).

¹ That parcel to the north of my property has been listed for sale for quite some time, with no buyers, in part due to fear of annexation of the parcel into the City and the costs that would be imposed on that parcel as a result.

B. The 2010 CUP and My Business

Leading up to March 2010, what is now my property at 1103 Eighth Avenue Northwest had a large commercial structure located on it. It was owned by Bigelow-Voigt Land Development, a real estate development company that did not engage in landscaping and was in 2010 struggling. I had been operating a landscaping business out of Byron and then Rochester since 1999 and many of my customers were located in Kasson and throughout Dodge County.

To better serve my customers, I leased the property from Bigelow in 2009 and operated my landscaping business there as a tenant. I was interested in buying the property only if I could operate my landscaping business there. In 2009 and 2010, my business was primarily hardscapes (retaining walls and pavers), but I do grow, collect, and distribute some trees and shrubs there.

I am not a retailer. While customers do come to my property, it is usually to see me, look at some of my supplies, or formulate landscaping plans. The building at the property includes office space, but I do not employ anyone to work full-time in the office and I do not employ anyone to staff the yard for retail nursery sales.

The amount of trees and shrubs that I grow, collect, and distribute on and from the property varies from year to year, and it is now generally more than it had been in the 2009-2010 time frame. Photographs showing some of the trees that I purchased and located on my property for nursery purposes are attached as Exhibit 6. Again, my business is not a retail nursery. My business is a nursery and landscaping business. The vast majority of the trees and other supplies for my business are installed by me and my employees; generally, individuals do not come to me to buy a single tree or shrub that they wish to plant on their own in their yard. Because I am not a retailer, because my business is in Kasson, and because I am a small business, I do not keep an overload of inventory available. I cannot afford to do so. Rather, I buy trees and shrubs, as well as my other supplies, when the time and the price is right. These are decisions that I make as the owner of my business based on budgetary constraints and forecasted project needs.

To facilitate the sale of the property to me, Bigelow-Voigt Land Development submitted an application to the City in early 2010 for a CUP which would allow my landscaping business to operate on the property. When Bigelow-Voigt Land Development submitted that application, I had already been operating my landscaping business there for some time. The nature of my business as focusing in hardscapes was plainly visible.

On March 8, 2010, the City held a public hearing regarding the CUP application. During the public hearing, I disclosed that I planned to eventually enclose the lean-to on the west side of the building to keep the equipment associated with and necessary for my business stored indoors. See **Exhibit 7** (March 8, 2010 minutes of public hearing).

The Kasson City Council granted the CUP on March 24, 2010 to Bigelow-Voigt Land Development for property described generally as 4.81 acres within the southeast 1/4 of Section 29 Township 107 Range 16, Dodge County. A copy of the CUP is attached hereto as **Exhibit 8**. The City granted the CUP “to allow the operation of a nursery and landscaping business on the property and in the existing structure.” *Id.* (emphasis added).

The property has long been improved with a commercial structure, as the CUP expressly acknowledges.

Only after the City granted the CUP for the nursery and landscaping business did I purchase the property from Bigelow-Voigt Development LLC. I paid substantial valuable consideration and I am still paying on the purchase money mortgage. Bigelow-Voigt Development LLC provided me with a warranty deed executed on June 3, 2010 and recorded with the Dodge County Recorder on June 15, 2010. *See Exhibit 9* (deed).

As stated above, I have operated my business on the property since before I purchased the property.² My business – until recently – uses the existing structure, which is approximately 3,305.25 square feet (50.6 feet by 84 feet, plus an eight foot extension on 56.5 feet of its length), to store equipment associated with and necessary for my business.

Since I have owned the property, I have continuously improved it. *See Exhibit 14* (2018 drone photographs). I regularly plant trees, shrubs, and other plants. In 2010 and 2011, I planted trees along the southern border which are now over 20 feet tall. I also planted trees on the western side of the property, but a farmer mowed them over. Throughout the years, I have also planted trees on the property's frontage on Eighth Avenue and in other areas on the property. The trees I planted were not saplings; they were large when I planted them, and they are still growing. Further, in about 2011, I invested in building the bunkers on the south side of the property. They place the materials below the eye line of the neighbors to the south and therefore provide a buffer.

Throughout the time that I have operated my business at the property, the City Forester has never notified me of any certified density of vegetation on the property and has never notified me that the density of vegetation on the property is deficient in any manner.

Most recently, in 2018, after building a lengthy earthen berm along the western edge of the property to better buffer it as opposed to the fence that had been there in the 2009-2010 time period, I planted 320 trees on top of that berm and in various locations on the property.

I sell trees and shrubs off of the property. Because I use the property to grow and sell trees, I invested in installing irrigation in the growing area located to the west of the building.

The Minnesota Department of Agriculture issued me a nursery stock dealer certificate in both 2018 and 2019. *See Exhibit 15* (Nursery Stock Dealer Certificate).

² A recent survey shows that the property contains about 4.76 acres. *See Exhibit 10* (Certificate of Survey). The property had contained what constituted two separate parcels for taxation purposes until December 2017. *See Exhibit 11* (aerial image depicting two taxation parcels); *Exhibit 12* (property tax statements). As of December 13, 2017, however, the Dodge County Assessor's Office combined the two taxation parcels into one. *See Exhibit 13* (Assessor's letter).

My business has been successful leading up to November 2017. I am in my 19th year of business, ten of which have been in the City. My neighbors appreciate my ownership and use of the property. There have been no complaints about my property, the one exception being a baseless complaint in 2017 by Jerry Berg, who does not live near my property and who routinely complains about non-issues throughout the City.

I employ 17 people. My customer base continues to be within Kasson city limits – including the City itself which regularly purchased trees from me, and the surrounding area – and throughout Dodge County, as well as within Olmsted and other nearby counties.

My customers come through referrals from existing satisfied customers and from area residents that drive by the property and thereby learn of my business and its services and products. The location of the business is ideal as it reduces mileage from the property to most of my various job sites and thus limits the amount of gas that we use, the sum that we expend on gas, and the mileage and wear and tear on the business vehicles.

To continue to operate and grow, I need the property. There is no equivalent property in Kasson or the immediate vicinity with both the acreage and the large commercial structure my business requires. Further, the cost of acquiring a new alternative large-acreage property and building the commercial structure necessary for the business and improving the property with bunkers, irrigation, and buffers is exorbitant.³ Even if an alternative property was available for sale, I cannot afford the costs to move my business and continue to operate it. Moreover, renting an alternative location for storage of equipment is impossible. No alternative commercial structures in the area are available for rent. Even if one was available for rent, I could not afford the monthly rent payment and continue to operate my business.⁴

Some of my equipment is stored outdoors, exposed to both vandals and the elements. My insurer has informed me that storing equipment indoors will lead to reduced insurance premiums. The existing commercial structure on the property, however, is filled. To store equipment indoors, I must construct an addition to the existing commercial structure on the property.

MY APPLICATION

I respectfully request a conditional use permit so that I can continue to use the property to operate my business. I want to continue the economically-beneficial use of the property to which I have put it for almost a decade.

The property is zoned R-1 Single Family Residential. Conditional uses in the R-1 district include gardens and nurseries. *See* City Code, § 154.147. The City defines a “nursery” as “land or green houses used to raise flowers, shrubs and plants for sale.” *Id.* § 154.007 (definition of

³ I learned that a pole barn that is a fraction of the size of my commercial building that was recently built in the area cost over \$200,000 to construct. I believe that it would cost over \$500,000 to construct the equivalent of my building in 2020.

⁴ I learned that a large building in the area that is used agriculturally rents for nearly \$5,000 monthly.

“nursery”). Because I use the Property to raise shrubs and trees for sale, it is a nursery under City law and I therefore meet the conditions necessary for the issuance of a CUP to continue to operate my business at my property.

A. PROPOSED CONDITIONS

For the CUP for a nursery and landscaping business for my property, I propose the following conditions:

1. **Structures.** No additional commercial structures will be allowed on the property. This requirement does not prohibit greenhouses, hoop buildings, which are temporary in nature, or additions to or enlargements of the commercial structure on the property, so long as a building permit, if required by the Minnesota State Building Code, is issued.
2. **Open spaces.** At a minimum, sixty percent of the entire property shall be planted and maintained in trees, shrubs, grasses, or other plants. Annually, trees and shrubs removed from or destroyed on the property shall be replaced. For the next five years, an additional twenty trees or shrubs shall be planted and maintained on the property, not for the nursery or for sales, but to increase the number of trees on the property.
3. **Screening.**
 - a. *North Side.* The existing vegetative screen on the north side of the property shall be maintained.
 - b. *East Side.* The existing vegetative screen on the east side of the property shall be maintained.
 - c. *South Side.* The existing earthen and vegetative buffers along the south side of the property shall be maintained.
 - d. *West Side.* The existing earthen and vegetative buffers along the west side of the property shall be maintained.
 - e. *Bunkers.* The bunkers located along the south side of the Property shall be maintained or moved to a location on the Property that facilitates the use of the Property and the bunkers, without expansion of their square footage.
4. **Signage and Outdoor Lighting.** The owner may light one sign no greater than 4’x8’ on the property. Outdoor lighting in areas impacted by additions to the existing structure shall be permitted to reasonably alleviate safety concerns.
5. **Outdoor Storage of Equipment.** All equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets.
6. **Hours of Operation.** Operation of equipment on the property shall be limited to the hours of 7:00 a.m. to 9:00 p.m., with reasonable exceptions during the snowplowing season.

7. **Outdoor Storage of Materials.** Outside storage and/or display of landscaping materials shall be allowed on the south side of the property in the existing bunkers, along County Road 21 in the areas where it presently exists, and otherwise on the property so long as it is reasonably screened from the view of persons on the south, west, and north sides of the property.
8. **Licensing.** The operator shall comply with the law of the State of Minnesota concerning nursery licensing as appropriate to the operation of the business on the property and as determined and enforced by the State of Minnesota. If the State of Minnesota undertakes enforcement action against the operator, the operator must notify the City of the same.

B. REQUIRED EXHIBITS FOR CONDITIONAL USE PERMITS

I am submitting the following items as required exhibits:

- (1) A completed application form;
- (2) An accurate boundary description of the property (*see* Exhibits 1 and 9);
- (3) Evidence of ownership (*see* Exhibit 8);
- (4) A development plan of the property showing the existing buildings, streets, driveways, parking spaces, and signs (*see* Exhibit 16);
- (5) Landscaping and screening plans (*see* Exhibit 17);
- (6) Additional information establishing the suitability of the particular site for the proposed use in the form of numerous of the exhibits hereto; and
- (7) Payment of my application fee in the amount of \$300.00.

C. PROPOSED FINDINGS IN SUPPORT OF MY APPLICATION

My CUP application proposes a use of the property that conforms with the City's comprehensive plan and is compatible with the existing area.

1. **The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.**

The use will not create demands on parks or schools as it is not a residential use. Given that the property has for nearly ten years been used pursuant to a 2010 CUP as a business, the use to be permitted by this CUP will not add to the traffic in the area or along Eighth Avenue Northeast.

2. **The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.**

The use is sufficiently compatible with adjacent residentially-zoned and -used land, as is evidenced by its long-standing operation in cooperation with the residential neighbors to the south of the property. The existing structure is at least 100 feet from

any residential property. It is screened. Screening will continue. There will be no deterrence to development of vacant land as a result of the CUP given the existence of the 2010 CUP for nine years and the operation of my business that has occurred pursuant to it.

- 3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.**

As is shown by the betterments of the property while I have operated my business pursuant to the 2010 CUP, the structure and site have an appearance that does not adversely affect adjacent residential properties.

- 4. The use is reasonably related to the overall needs of the City and to the existing land use.**

Compatible commercial development and retaining existing businesses and growing local businesses and jobs, particularly in light of the high turnover of local business, are needs of the City. *See* 2018 Comp Plan, Chapter 5. This use helps to satisfy those needs. Additionally, the use reasonably relates to the existing land use given that the property has long operated as a business employing and otherwise serving residents of the City pursuant to the 2010 CUP.

- 5. The use is consistent with the purpose of the ordinance and the purposes of the zoning district in which the applicant intends to locate the use.**

The use contemplates a low-intensity use of the majority of the property and substantial amounts of green space throughout it. It is compatible with the R-1 district where nurseries and parks, playgrounds, and hiking and biking trails are permitted and it is consistent with the purpose of the zoning ordinance.

- 6. The use is not in conflict with the Comprehensive Plan of the City.**

The City's Comprehensive Plan seeks to retain and grow local businesses, particularly those that service Kasson's residents. *See* 2018 Comp Plan, Chapter 5. The 2010 CUP facilitated a conversion of the property into an economically-feasible use that coexists with its neighbors. The use of the property by my small and local business is in accordance with the Comprehensive Plan.

- 7. The use will not cause traffic hazards or congestion.**

Given that the property has long been used pursuant to the 2010 CUP for my business, the use to be permitted by this CUP will not add to the traffic in the area or along Eighth Avenue Northeast.

- 8. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access**

to the site will not need to be upgraded or improved by the City in order to handle the additional traffic generated by the use.

Since (a) this is not a particularly traffic-intensive use, (b) Eighth Avenue is an existing thoroughfare carrying commercial and other traffic, and (c) the property is already used pursuant to the 2010 CUP, this use will not require the upgrading or improvement of the existing public roads.

- 9. Adequate measures have been taken or are proposed to prevent or control offensive order, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.**

Any offensive odors, fumes, dust, noise, vibration or lighting, if any, are confined to the property itself and all measures required by the City Code are in place. To the extent that any offensive odors, fumes, dust, noise, vibration or lighting exceed the property boundaries, the conditions on the permit minimize any impact.

- 10. Adequate utilities, parking, drainage and other necessary facilities will be provided.**

Adequate utilities to serve the property and its use are already in place. The plans provide adequate parking. Drainage control of the property was enhanced by its use pursuant to the 2010 CUP and is likely to be enhanced by the conditions of the permit.

- 11. The proposed use will not impede the normal and orderly development or improvements of the surrounding property.**

The use will be contained entirely on the property and is expected to allow the orderly development of the surrounding property to proceed.

- 12. The proposed use will not be injurious to the use and enjoyment of the other property in the neighborhood and will not significantly diminish or impair the values of such property.**

The proposed use is separated by space and screening from surrounding properties so that interference with the enjoyment of surrounding properties has not occurred and is not expected nor is any impairment of property values.

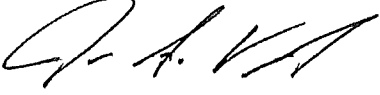
- 13. The use will not disrupt the character of the neighborhood.**

The use is of a nature that is an improvement over the former use of the property as a dump neglected by its owner so no disruption of the neighborhood is anticipated.

CONCLUSION

If you have any questions or concerns about my application, I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. A. Wilker', written in a cursive style.

Jason Wilker

Exhibits to My CUP Application

1. Legal Description of Property
2. Google Satellite Aerial Photograph
3. Google Street Map
4. Kasson Zoning Map
5. Kasson Comp Plan Map
6. Photographs of nursery trees
7. Kasson March 8, 2010 Planning Commission Minutes
8. 2010 Conditional Use Permit
9. Warranty Deed
10. Certificate of Survey
11. Aerial Photograph Showing two Property IDs for Taxation
12. Property Tax Statements
13. Dodge County December 13, 2017 Letter
14. Photographs Taken on September 10, 2018 with Drone
15. Nursery Stock Dealer Certificates
16. Development Plan – Existing
17. Landscaping and Screening Plans

Exhibit 1
Legal Description Wilker Property

The SE 1/4 of Section 29, Township 107, Range 16, Dodge County, Minnesota described as follows: Commencing at the southeast corner of said SE 1/4, thence on an assumed bearing of North along the East line of said SE 1/4 a distance of 810.00 feet for a point of beginning of the tract to be described; thence West at right angles to said East line 410.00 feet; thence North parallel with said East line 510.00 feet, more or less, to the north line of the SE 1/4 SE 1/4; thence East along said North line 410.00 feet to the East line of said SE 1/4; thence South along said East line 510.00 feet to the point of beginning.



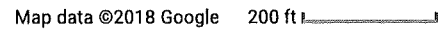
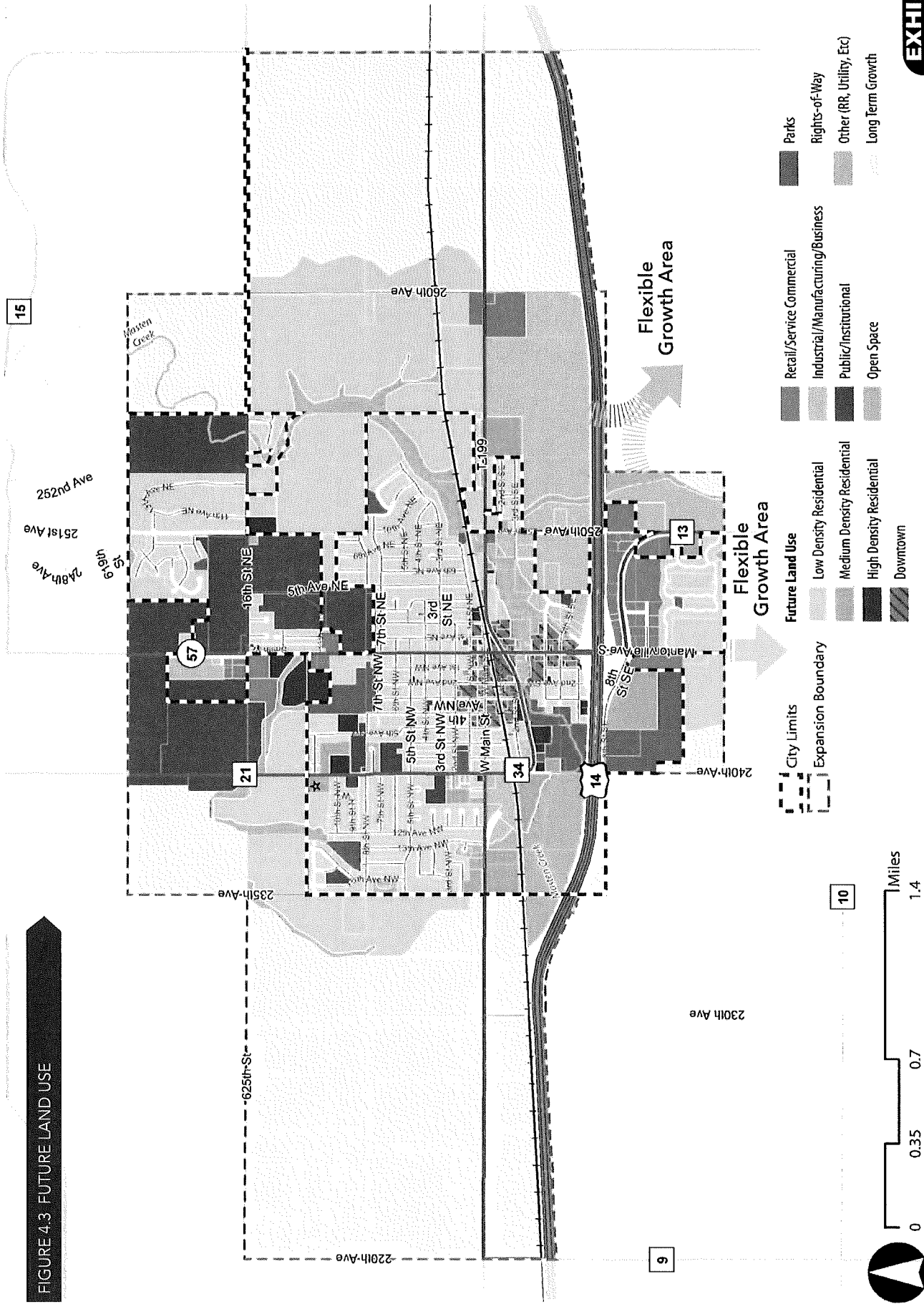


FIGURE 4.3 FUTURE LAND USE





EXHIBIT

6









MINUTES OF PLANNING COMMISSION MEETING
March 8, 2010

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 8th day of March, 2010 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Nelson, Sannes, Dean, Coleman, Jorgenson and Ferris
Borgstrom arrived at 6:45

THE FOLLOWING WERE ABSENT: None

THE FOLLOWING WERE ALSO PRESENT: Community Development Director Mike Martin, Deputy Clerk Linda Rappe, Lorraine and Al Hopkins, Ken Etchason, John Buckingham, John Talcott and Jim and Dorothy Larsen, Tony Bigelow, Jason Wilker, Don Marti, Eric and Jessica Ask, Bill and Sue Theobald, Chad Boelter, Ben Finley, John VanCamp, Carol Malecha, Deanna Tompkins, Vern and Tracie Kerns, Chuck Emanuell, Jason Marwardt

CALL TO ORDER: Chairman Nelson called the meeting to order at 6:30 PM.

MINUTES FROM PLANNING COMMISSION: Motion made by Coleman, second by Jorgenson to approve the minutes from the February 8, 2010 meeting with the date corrected. All Ayes.

PUBLIC HEARING OPENED FOR CONDITIONAL USE PERMIT: A Conditional Use Permit has been applied for by Rick and Melissa Scott to operate an antique reupholstering and sales shop on the property of 301 5th St SE. Zoning Administrator Martin stated that the Scott's are out of the country and will not be in attendance for this meeting. Martin stated that the refurbishing business is a permitted use but the retail sales portion of the business requires a conditional use permit. All activity will be contained within the existing building. They are putting up a banner type sign 3 feet by 16 feet. There were no comments by the public in attendance and there are no comments that have been submitted.

PUBLIC HEARING CLOSED.

DISCUSSION: Commission Dean questioned the parking spaces, Martin stated that there is sufficient parking for this type of business. Chairman Nelson questioned if there would be any hazardous waste issues, Martin stated that all of that would be taken care of at permitting. There was no other discussion.

MOTION: Motion to recommend approval of the Conditional Use Permit, made by Jorgenson, seconded by Sannes. All Ayes.

PUBLIC HEARING OPENED FOR CONDITIONAL USE PERMIT: Bigelow-Voigt Land Development has requested a conditional use permit to allow Jason Wilker to operate a nursery and landscaping business on the former Bob More Property located at 62847 240th Ave NW. The building is a permitted non-conforming use. Martin stated that he has listed in his sample resolution the conditions he suggests to put on the conditional use permit. Jason Wilker was in attendance for this meeting as well as land owner Tony Bigelow. Mr. Bigelow stated that it is finally nice to be able to get use out of this building that has been sitting empty. Justin Zea – 807 10th St NW – concerned about loading and unloading of materials and is concerned about herbicides and pesticides, diesel smells, etc. He has talked to department of

EXHIBIT

7

agriculture and was told that Mr. Wilker would need a license and does not have one at this time. Mr. Zea concerned about this business since Mr. Wilker does not have a license at the present time what his education is in this area. Mr. Zea concerned about the appearance of the property. Don Marti – 63797 250th Ave – Mr. Marti owns property to the east of this property and thinks that this is a good use.

Jon Van Camp – 804 10th St NW – excited about a nursery and greenhouse and something that would beautify the area. Mr. VanCamp wants to know Mr. Wilker's business plan and if the licenses are applied for and what licenses would be in place and how much of the property will be set aside for garden center. Mr. VanCamp wants to know from the Mr. Wilker exactly what he is putting in his backyard to see what conditions really should be put on the property and on this business.

Jason Wilker – he has not currently applied for the licenses until he knew the conditional use permit was approved. Does plan on planting a few hundred trees the first year and a few hundred each year following. Primarily he does do landscaping. He would primarily put in pine trees to sell as a cut your own Christmas tree area. Also plans on planting some deciduous trees. He does get shrubs in from time to time. Primarily now his business is landscaping but he would like to branch off in the nursery business also. Questions from Commissioner Coleman as to whether his equipment will fit into the building. Mr. Wilker stated that he plans on eventually enclose the lean-to on the west side to keep the equipment stored indoors. Mr. Wilker stated that he is not planning on using any pesticides or chemicals.

Bill Theobald – 802 10th St NW – worried about gravel dust.

Eric Ask – 805 10th St NW – his property is backed up to this property and is thrilled if this property is getting cleaned up.

PUBLIC HEARING CLOSED.

DISCUSSION: Commissioner Borgstrom – permanent buffer, hours of operation.

Commissioner Sannes – sounds like a good opportunity for improving an eyesore.

Commissioner Jorgenson – it would improve the look of the area, dust control should be addressed.

Commissioner Coleman – Good use

Commissioner Ferris – has worked with Mr. Wilker before and has no concerns with this.

Commissioner Dean – lives in that neighborhood and feels this is a good use. Asked about how many crews work for Mr. Wilker. Mr. Wilker stated that he has two crews and there would be some coming and going.

Chairman Nelson – likes the use of the property and would encourage residents and Mr. Wilker to work together.

MOTION TO RECOMMEND APPROVAL: Motion to recommend approval of the conditional use permit with the eight conditions stated made by Coleman, second by Jorgenson. All Ayes.

AMENDMENT RECOMMENDATION: Martin stated that the Commissioners should use the last revision of the amendment in their packets which incorporates recommendations made by Commissioner Coleman. The changes were in action item #1 consider zoning adjustments on all streets carrying over 5000 trips per day and only on lots large enough to support commercial development. If you are looking at North Mantorville avenue the only lots this would apply to are lots north of 7th St. The other change is in #4 “should encourage annexations requests on north mantorville ave north of the Carriage House to be C-3”. Martin also stated that the EDA has not met since the last Planning Commission meeting but he has heard from three members of the EDA that were in favor of the positive resolution.

DISCUSSION: Commissioner Coleman – This incorporates all of his suggested changes. Commissioner Borgstrom – is going back to “why” we are doing this. Chairman Nelson stated that we have been requested by two property owners to revisit and revise the comprehensive plan. We have it in place to have a comprehensive plan and the comprehensive plan is only for bringing in new undeveloped land. Commissioner Borgstrom wants to know if anyone has read the comp plan. He doesn’t see anywhere along Mantorville avenue to put this in place. Commissioner Borgstrom wants discussion. Chairman Nelson stated that the property north of the Carriage House is still in the comp plan as being R-C so the comp plan would still need this amendment to allow commercial development in that area. Martin stated that the comp plan encompasses the entire City. Borgstrom doesn’t believe that that it is the City’s responsibility to change the comp plan to allow for commercial development. Chairman Nelson stated that if we change the comp plan we would invite commercial development. Commissioner Sannes – doesn’t want the hopscotch effect, and all action items state that “Kasson should consider” these are considerations it does not say that this will happen. Is in favor of sending this to the City Council to be part of the entire City plan. Commissioner Jorgenson – wants it clarified that since the Casey scenario brought this to a head that if this amendment is put into place and Casey’s came back do we have the ability to deny the request. Martin stated absolutely the Planning Commission could deny the application. Jorgenson does not want to see the “hopscotch” effect. And the business district should be a continuous segment. Commissioner Dean – did not like the 5000 trip per day clause in the former proposal because that opens all of Mantorville Avenue up for commercial, but with the clarification of only on lots that support a commercial development. We have to look at the whole picture and we do the appropriate steps with can avoid a contentious discussion. Dean believes this is the way to go about it. Likes the way it is worded as “encourage retail development on all streets meeting criteria, including, but not solely limited to, carrying more than 5000 car trips a day” Lot size clearly a very basic measurement for consideration. Concerned with someone buying more than one lot somewhere else on Mantorville Avenue would they be able to be considered? Martin stated that the lots would have to go through a minor subdivision to be able to be considered as one lot so that would not be an issue and they would have to go through a rezone, which is a very rigid process. Commissioner Ferris – nothing more to add. Commissioner Borgstrom – cannot see doing anything south of the Carriage House, and does not foresee any commercial development ever going into those lots. Martin stated that the comprehensive plan does give the Planning Commission considerable leeway but you have to start with measurable and objective criteria and not an arbitrary and capricious point. The measurable and objective criteria is the street must carry 5000 car trips per day and the lots must be of sufficient size and have the frontage for the C-3 district. Borgstrom does not want to change any zoning south of the Carriage House. Martin stated that we are NOT changing any zoning with this amendment it would only allow the Planning Commission to consider it on its merits based upon measurable criteria. John Talcott interrupted as a public speaker and this is not a public hearing. Chairman Nelson stated that this is not substantially different than the amendment that the public hearing was held on.

MOTION RECOMMEND APPROVAL OF THE AMENDMENT: Motion made by Sannes, second by Dean to recommend approval of the amendment, Ayes: Nelson, Coleman, Jorgenson, Sannes and Dean. Nays: Borgstrom, Ferris

SEMDC COMPREHENSIVE PLAN PROPOSAL: A proposal has been submitted by the Southeast Minnesota Development Corporation to guide us through and do the legwork to update our Comprehensive Plan. Martin stated that the funds have been budgeted. Shord Elliott

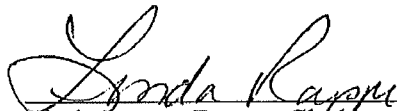
submitted a quote of \$75K and WSN submitted a quote of \$30, SEMDC submitted a quote not to exceed \$14,500. Borgstrom would like to keep the process in house. Chairman Nelson stated that Martin, Nelson the Mayor and the City Administrator have discussed this and they believe that having outside input at this point in time would be the best. Borgstrom stated that everyone should read the entire comp plan and that we should not spend money to get these people up to speed. Chairman Nelson stated that all the companies have seen the comprehensive plan and are up to speed and we will have a hand in this all the way through the project. Commissioner Coleman stated that with the plan that is laid out by SEMDC there are more goals. Commissioner Ferris wouldn't mind having someone from the outside pushing us a little and has a focus beyond Kasson.

MOTION TO RECOMMEND: Motion to recommend hiring SEMDC to help the Planning Commission update the Comprehensive Plan made by Coleman, second by Sannes. All Ayes.

OTHER BUSINESS: Commissioner Borgstrom has been asked to find out about vendors setting up in Veterans Memorial Park. Staff stated that this person should talk to the Park Board.

ADJOURN: Since the agenda had been met the meeting was adjourned at 7:55

Respectfully submitted,


Linda Rappe, Deputy Clerk

WILKER CONDITIONAL USE PERMIT

Bigelow Homes, on behalf of Jason Wilker, has applied for a Conditional Use Permit to operate a nursery and landscaping business on the former Bob More property in 8th Ave. NW.

The Planning Commission has held a Public Hearing at which a number of comments were received, both positive and slightly negative. After review, the Commission decided that the proposed Conditions were sufficient to answer the concerns of the neighborhood.

The Commission also specifically determined that the operation of a landscaping business is an "incidental use" commonly associated with the operation of a nursery. Therefore, the landscaping business is permitted as a part of the nursery facility.

The Commission voted unanimously to recommend approval of the CUP. The Council is asked to concur with the Commission.

CITY OF KASSON

Meeting: P2 Date: 3-8-10

ALL ATTENDEES PLEASE SIGN IN

- | | |
|-------------------------|---------------------|
| 1. L E Hopkins | 20. Jason Markwardt |
| 2. John Buehl | 21. Dorothy lauer |
| 3. Ma Hopkins | 22. Tim Larsen |
| 4. Tony Bjelke | 23. |
| 5. J & V H | 24. |
| 6. [Signature] | 25. |
| 7. [Signature] | 26. |
| 8. Eric Ask | 27. |
| 9. Jessica Ask | 28. |
| 10. Bill & Sue Sheabald | 29. |
| 11. Chad Boelter | 30. |
| 12. Ben Finlay | 31. |
| 13. John Camp | 32. |
| 14. John T. [Signature] | 33. |
| 15. Carol Malcha | 34. |
| 16. Deanna Tompkins | 35. |
| 17. Vern Kerns | 36. |
| 18. Tracie Kerns | 37. |
| 19. Chuck Emannell | 38. |

**CITY OF KASSON,
CONDITIONAL USE PERMIT**

Conditional Use Permit Number: 2010-2

Date of Hearing: March 8, 2010

Date Approved: March 24, 2010

Owner: Bigelow-Volgt Land Development

Address: 62847 240th Ave NW
Kasson, MN 55944

Property Description: 4.81 acres of the SE ¼ of Section 29 Township 107 Range 16
Dodge County

After conducting a hearing in the matter of granting a Conditional Use Permit under the provisions of the Zoning Ordinance of the City of Kasson;

THE CITY COUNCIL HEREBY GRANTS said Conditional Use Permit to Bigelow-Volgt Land Development to allow the operation of a nursery and landscaping business on the property and in the existing structure;

- 3) That no additional commercial structures will be allowed on the property.
- 4) That, at a minimum, 60 % of the entire lot be planted and maintained in trees, shrubs, or other plants in a density certified as appropriate by the City Forester.
- 3) That the applicant shall install and maintain a buffer along the south and west sides of the property prior to commencing operations.
- 4) That the applicant acknowledges that any additional lighting installed on the property will require a separate conditional use permit.
- 5) That no overnight, outside storage of equipment will be permitted on the property.
- 6) That hours of operation shall be limited to 7:00 am to 9:00 pm.
- 7) That outside storage and/or display of landscaping materials shall be allowed only north of the existing structure.
- 8) That the operator must have a valid nursery license prior to beginning operations.

Special Conditions on Granting Conditional Use Permit:

- 1) That no additional commercial structures will be allowed on the property.
- 2) That, at a minimum, 60 % of the entire lot be planted and maintained in trees, shrubs, or other plants in a density certified as appropriate by the City Forester.
- 3) That the applicant shall install and maintain a buffer along the south and west sides of the property prior to commencing operations.
- 4) That the applicant acknowledges that any additional lighting installed on the property will require a separate conditional use permit.
- 5) That no overnight, outside storage of equipment will be permitted on the property.
- 6) That hours of operation shall be limited to 7:00 am to 9:00 pm.
- 7) That outside storage and/or display of landscaping materials shall be allowed only north of the existing structure.
- 8) that the operator must have a valid nursery license prior to beginning operation.

Findings of Fact for Approval or Denial

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
The use will not create demands on parks or schools as it is not a residential use. The use may add slightly to the traffic in the area, but, as the existing traffic on 8th Ave. NW is 1,110 ADT, it is unlikely that the increase will be significant or noticeable.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
As "Nurseries" are specifically included as a permitted Conditional Use in the R-1 District, it has been found that the use is sufficiently compatible as to be allowed adjacent to residential properties. The existing structure is at least 100 feet from any residential property and will be screened as a Condition of this permit. As the plantings are, by definition, removable, it is unlikely that development of vacant land will be deterred by this Permit.

3. The structure and site shall have an appearance that will not have an adverse affect upon adjacent residential properties.

As a commercial enterprise in the business of improving the appearance of property, it can be assumed that, if anything, the structure and site will have an improved appearance with the addition of trees and shrubs to the site.

4. The use, in the opinion of the City, is reasonably related to the overall needs of the City and to the existing land use.

Compatible commercial development has been identified as an overall need of the City. And, as the operation of a Nursery is listed as a permitted Conditional Use on the District, it must be considered as being reasonably related to the existing land use.

5. The use is consistent with the purpose of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

Since Nurseries are specifically listed as Conditional Uses in this Zoning District, it must be considered compatible with the Ordinance.

6. The use is not in conflict with the Comprehensive Plan of the City.

Additional commercial development is identified as a goal of the Comprehensive Plan, and, since no other use is proposed for this area, the use is in accordance with the Comprehensive Plan.

7. The use will not cause traffic hazards or congestion.

As with all uses, a certain amount of traffic increase can be expected. However, in this case, the increase will not be significant. In addition, the majority of the traffic past this site is already commercial in nature.

8. The traffic generated by the proposed use can be safely accommodated on the existing or planned street systems and the existing public roads providing access to the site will not need to be upgraded or improved by the City in order to handle the additional traffic generated by the use.

Since this is not a particularly traffic-intense use and 8th Street is an existing thoroughfare carrying commercial and other traffic, congestion is not anticipated.

9. Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.

Offensive odors, fumes, dust, noise, vibration or lighting should be confined to the site itself and all measures required by the Code will be in place. The impact of the odors, fumes, dust, noise, vibration or lighting is expected to be minimized by the Conditions placed on this Permit.

10. Adequate utilities, parking, drainage and other necessary facilities will be provided.

Adequate utilities to serve this site and use are already in place. The plans, as presented, provide adequate parking. Drainage control is likely to be enhanced by the additional plantings.

11. The proposed use will not impede the normal and orderly development or improvement of the surrounding property.

The proposed use will be contained entirely on land owned by the applicant and is expected to allow the orderly development of the surrounding property to proceed.

12. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property.

The proposed use will be separated by space and screening from surrounding properties so that enjoyment of surrounding property is not expected nor is any diminishing of property values.

13. The use will not disrupt the character of the neighborhood.

The proposed use is of a nature that is expected to be an improvement over the present use of the property as a dump and storage facility that no disruption of the neighborhood is anticipated.

General Provisions

- A) This permit is not valid until it has been recorded at the Office of the County Recorder. A true and correct copy of the full legal description of the affected property must be attached to this document.
- B) This permit does not constitute a building permit, sewage system permit, grading permit, land alteration permit, well permit or the like. Separate permits may have to be applied for and obtained in order to accomplish all the goals of the project authorized herein.
- C) The issuance of this permit does not negate the need to secure other permits from other local units of government, state agencies or federal agencies who may also have jurisdiction over portions of your project.
- D) Unless otherwise specified by the City at the time it is authorized, a conditional use permit shall expire if the applicant fails to utilize such conditional use permit within one (1) year from the date of authorization.

Date of Recording Decision at County Recorder: _____

Signature of Zoning Administrator: _____ Date: _____

.....

ACCEPTANCE OF CONDITIONS OF CONDITIONAL USE

I understand and agree to abide by the conditions as set forth by the granting of this conditional use and also understand that failure to comply with the conditions of the conditional use constitutes failure to comply with the Zoning Ordinance which will result in the following: halting of construction, order to take corrective action, being charged with a misdemeanor offense, subject to fines and reimbursement of prosecution costs.

_____ Date _____
To be signed by the applicant after City Council Action

Warranty Deed

Limited Liability Company to Individual(s)

WARRANTY DEED

No delinquent taxes and transfer
entered; Certificate of Real Estate
Value (✓) filed () not required

Certificate of Real Estate

Value No. 5111
June 15, 2010

by Wendy S. Peterson County Auditor
Deputy Auditor/Treasurer

DATE 6/16/2010
DEED TAX HEREON OF \$ 495.00 PAID
RECEIPT NO. 7243
Kimberly Hambel Dep.
County Auditor/Treasurer

STATE DEED TAX DUE

HEREON: \$495.00

Date: June 3, 2010

FOR VALUABLE CONSIDERATION, Bigelow-Voigt Development LLC, a Limited Liability Company under the laws of Minnesota, Grantor(s), hereby convey(s) and warrant(s) to Jason Wilker, Grantee(s), real property in Dodge County, Minnesota, described as follows:

Lengthy - see attached

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Subject to covenants, easements and restrictions of record.

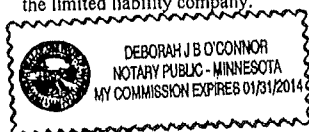
Sellers certify that they do not know of any wells on the subject property.

Bigelow-Voigt Development LLC

By: Joel Bigelow
Joel Bigelow, ~~Managing Director~~ Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF DODGE)

The foregoing instrument was acknowledged before me this 3rd day of June, 2010 by Joel Bigelow, ~~managing~~ Chief Manager of Bigelow-Voigt Development LLC, a limited liability company under the laws of Minnesota, on behalf of the limited liability company.



This instrument drafted by:
Atypical Title, Inc.
16 N. Mantorville Avenue
Kasson, MN 55944

Deborah J. B. O'Connor
Notary Public

Tax Statements for the real property
described herein shall be sent to:

Jason Wilker
308 10th Street NW
Byron MN 55920

240320701
240390800



EXHIBIT A

The SE 1/4 of Section 29, Township 107, Range 16, Dodge County, Minnesota described as follows:
Commencing at the Southeast corner of said SE 1/4, thence on an assumed bearing of North along the East line of said SE 1/4 a distance of 810.00 feet for a point of beginning of the tract to be described; thence West at right angles to said East line 410.00 feet; thence North parallel with said East line 510.00 feet, more or less, to the north line of the SE 1/4 SE 1/4; thence East along said North line 410.00 feet to the East line of said SE 1/4; thence South along said East line 510.00 feet to the point of beginning.

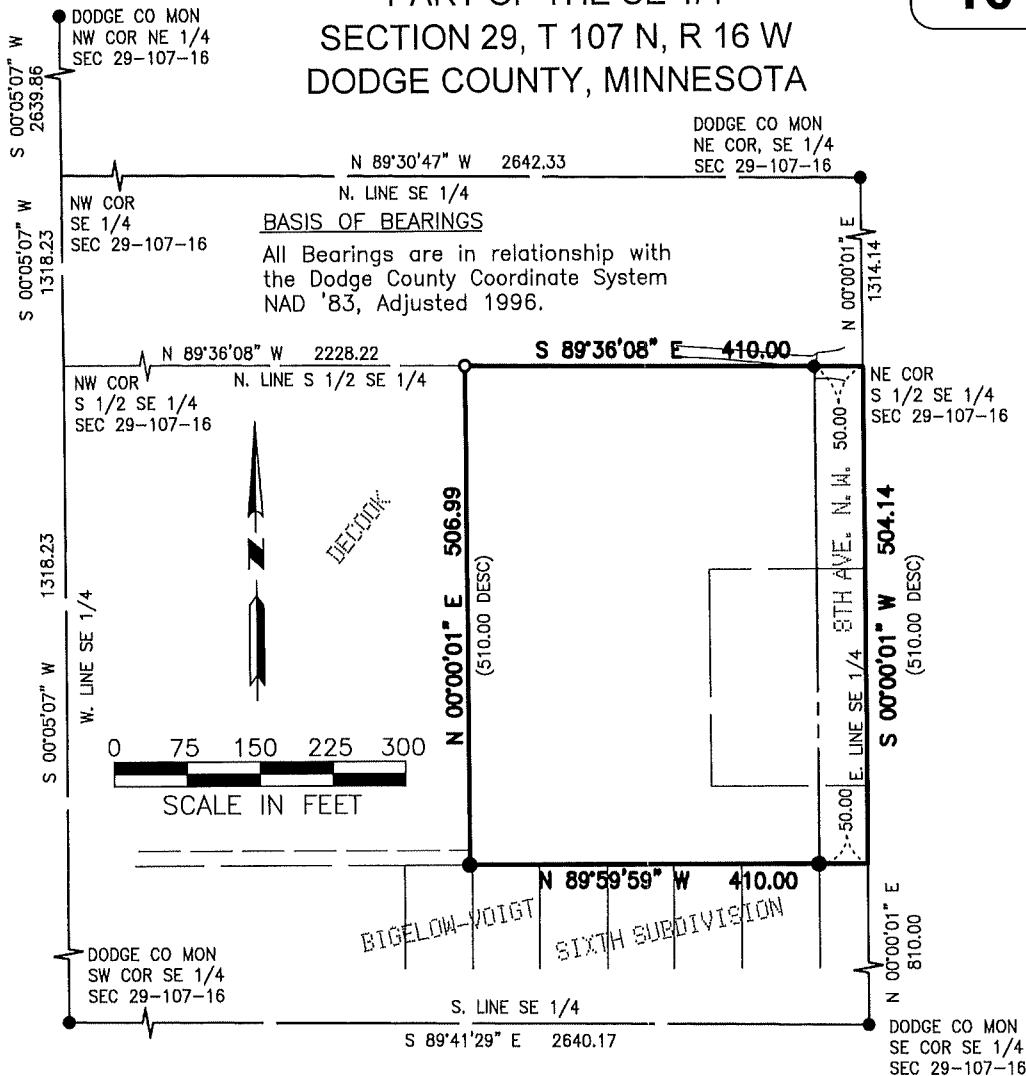
CERTIFICATE OF SURVEY

PART OF THE SE 1/4

SECTION 29, T 107 N, R 16 W

DODGE COUNTY, MINNESOTA

EXHIBIT
10



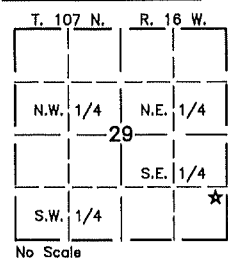
DESCRIPTION OF RECORD

That part of the Southeast Quarter of Section 29, Township 107 North, Range 16 West, Dodge County, Minnesota described as follows:

Commencing at the Southeast corner of said Southeast Quarter; thence on an assumed bearing of North along the East line of said Southeast Quarter a distance of 810.00 feet for a point of beginning of the tract to be described; thence West at right angles to said East line, 410.00 feet; thence North parallel with said East line, 510.00 feet more or less to the north line of the Southeast Quarter of the Southeast Quarter; thence East along said North line, 410.00 feet to the East line of said Southeast Quarter; thence South along said East line, 510.00 feet to the point of beginning.

Said parcel contains 4.76 acres, more or less including the 8th Avenue NW right-of-way.
Said parcel is subject to the 8th Avenue NW right-of-way over the Easterly boundary thereof and is subject to any other easements or encumbrances of record.

PROPERTY LOCATION MAP



MASSEY
LAND SURVEYING & ENGINEERING
 P.O. BOX 100, KASSON, MN 55944
 PH. NO. 507-634-4505, FAX NO. 507-634-6560

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.

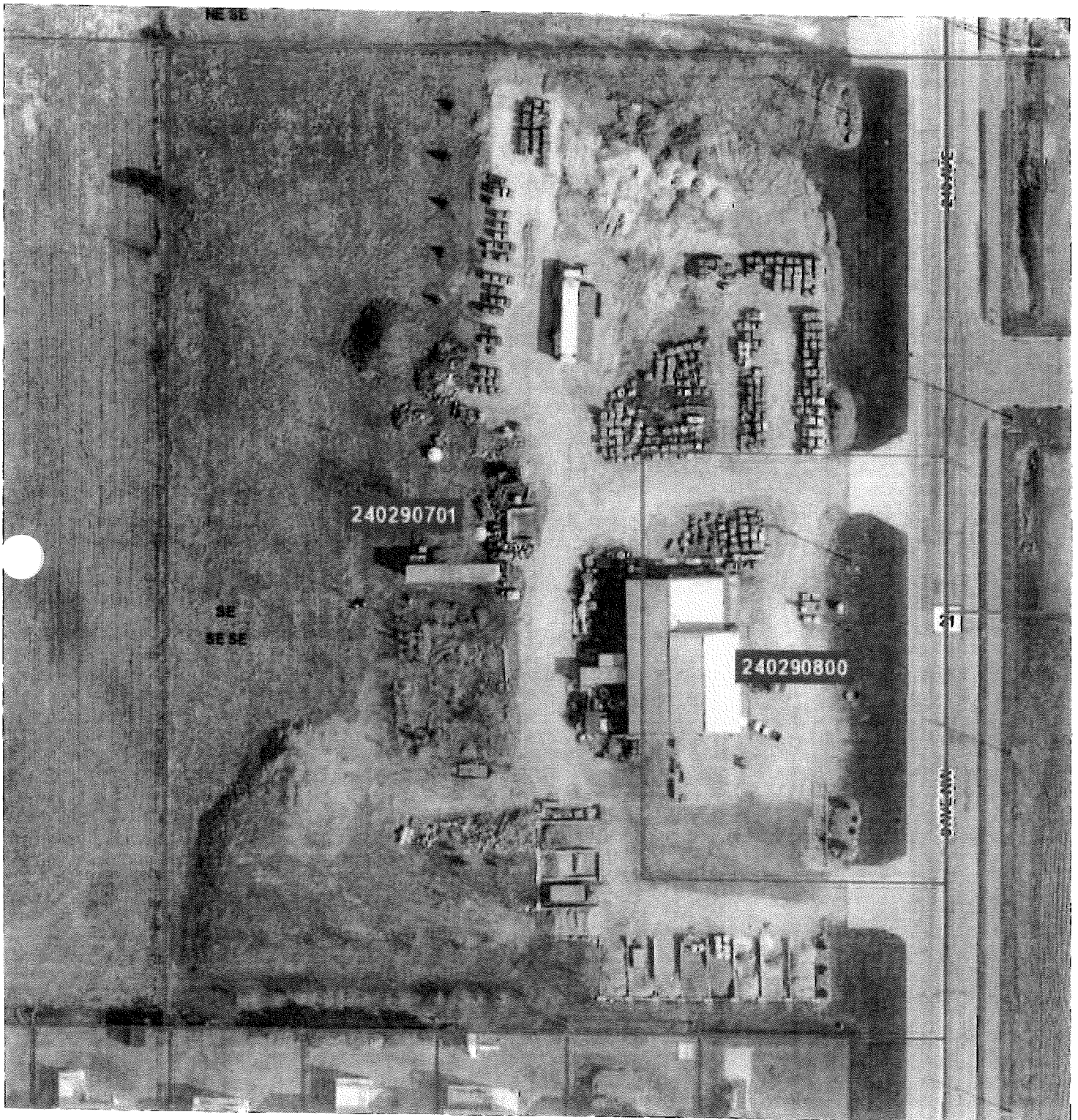
Date 12-18-17
 Richard J. Massey LIC. NO.: 41814

THIS SURVEY AND DRAWING
WAS PREPARED FOR THE
EXCLUSIVE USE OF:

JASON WILKER
KASSON, MN

- MONUMENTS**
- FOUND (5/8" PIPE UNLESS NOTED OTHERWISE)
 - SET (5/8" PIPE UNLESS NOTED OTHERWISE)

DATE: 12/12/2017
 DWG NO. 2802SC01 JOB NO. 2802
 DRAWN BY: D.A.T. SHEET 1 OF 1





DODGE COUNTY
JIM ELMQUIST
721 MAIN STREET NORTH
MANTORVILLE MN 55955

PROPOSED TAXES 2018

THIS IS NOT A BILL. DO NOT PAY.

Taxpayer:

7426 1 AB 0.400

0022103
JASON WILKER
308 10TH ST NW
BYRON MN 55920-1388

C 11
S 7426

Property Information

Property ID:
R24.029.0800

Property Address:
1103 8TH AVE NW
KASSON MN 55944

Legal Description:

Sect-29 Twp-107 Range-016
.81 AC .81 AC
.81 ACRES -COM AT THE SE COR OF
SE1/4 N890FT TO BEG W160FT

Step	VALUES AND CLASSIFICATION		
	Taxes Payable Year	2017	2018
1	Estimated Market Value	\$ 107,700	\$ 106,200
	Homestead Exclusion	N/A	N/A
	Other Exclusions/Deferrals		
	Taxable Market Value	\$ 107,700	\$ 106,200
	Property Classification	COMM	COMM
2	PROPOSED TAX		
	Property Taxes before credits	\$	3,020.00
	School building bond credit		
	Agricultural market value credit		
	Other credits		
	Property Taxes after credits	\$	3,020.00
3	PROPERTY TAX STATEMENT		
	Coming in 2018		TBD
The time to provide feedback on PROPOSED LEVIES IS NOW It is too late to appeal your value without going to Tax Court.			

Proposed Property Taxes and Meetings by Jurisdiction for Your Property

Contact Information	Actual 2017	Proposed 2018	Meeting Information
DODGE COUNTY JIM ELMQUIST 721 MAIN STREET NORTH MANTORVILLE MN 55955	\$ 797.93	\$ 828.30	DODGE COUNTY TUESDAY, DECEMBER 26, 2017 6:00 P.M. GSB BOARD ROOM 507-635-6239
CITY OF KASSON NANCY ZAWORSKI 401 5TH ST SE KASSON, MN 55944	\$ 1,393.12	\$ 1,363.34	KASSON CITY HALL WEDNESDAY, DECEMBER 13, 2017 6:00 P.M. COUNCIL CHAMBERS 507-634-7071
STATE GENERAL TAX	\$ 740.16	\$ 41.85	NO MEETING REQUIRED
SCHOOL DISTRICT 0204 K-M HIGH SCHOOL MARK MATUSKA 101 16TH STREET NE KASSON MN 55944	Voter Approved Levy \$ 555.88 Other Local Levies \$ 278.91	\$ 506.00 \$ 280.51	KASSON-MANTORVILLE ELEMENTARY MONDAY, DECEMBER 18, 2017 7:00 PM COMMUNITY FORUM ROOM KMHS 507-634-1100
Total excluding any special assessments			
	\$ 3,766.00	\$ 3,020.00	-19.8 %

IMPORTANT INFORMATION IS PRINTED ON THE BACK OF THIS FORM.

EXHIBIT

12



DODGE COUNTY
JIM ELMQUIST
721 MAIN STREET NORTH
MANTORVILLE MN 55955

PROPOSED TAXES 2018

THIS IS NOT A BILL. DO NOT PAY.

Taxpayer:

7426 1 AB 0.400

0022103
JASON WILKER
308 10TH ST NW
BYRON MN 55920-1388

C 11
S 7426



Property Information

Property ID:

R24.029.0701

Property Address:

Legal Description:

Sect-29 Twp-107 Range-016
4.00 AC 4.00 AC
4.00 ACRES - COMM SECOR SE1/4
N810FT TO BEG W410FT N510FT

VALUES AND CLASSIFICATION			
Step	Taxes Payable Year		
	2017	2018	
1	Estimated Market Value	\$ 11,600	\$ 11,600
	Homestead Exclusion	N/A	N/A
	Other Exclusions/Deferrals		
	Taxable Market Value	\$ 11,600	\$ 11,600
	Property Classification	COMM	COMM
PROPOSED TAX			
2	Property Taxes before credits	\$	326.00
	School building bond credit		
	Agricultural market value credit		
	Other credits		
	Property Taxes after credits	\$	326.00
PROPERTY TAX STATEMENT			
3	Coming in 2018		TBD
The time to provide feedback on PROPOSED LEVIES IS NOW It is too late to appeal your value without going to Tax Court.			

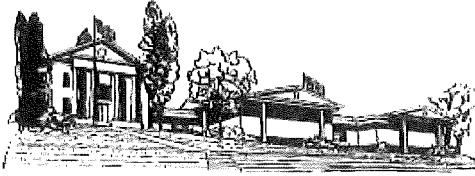
Proposed Property Taxes and Meetings by Jurisdiction for Your Property

Contact Information	Actual 2017	Proposed 2018	Meeting Information
DODGE COUNTY JIM ELMQUIST 721 MAIN STREET NORTH MANTORVILLE MN 55955	\$ 86.41	\$ 91.18	DODGE COUNTY TUESDAY, DECEMBER 26, 2017 6:00 P.M. GSB BOARD ROOM 507-635-6239
CITY OF KASSON NANCY ZAWORSKI 401 5TH ST SE KASSON, MN 55944	\$ 150.00	\$ 148.91	KASSON CITY HALL WEDNESDAY, DECEMBER 13, 2017 6:00 P.M. COUNCIL CHAMBERS 507-634-7071
STATE GENERAL TAX	\$ 79.70	\$.00	NO MEETING REQUIRED
SCHOOL DISTRICT 0204 K-M HIGH SCHOOL MARK MATUSKA 101 16TH STREET NE KASSON MN 55944	Voter Approved Levy \$ 59.85 Other Local Levies \$ 30.04	\$ 55.27 \$ 30.64	KASSON-MANTORVILLE ELEMENTARY MONDAY, DECEMBER 18, 2017 7:00 PM COMMUNITY FORUM ROOM KMHS 507-634-1100
Total excluding any special assessments			
	\$ 406.00	\$ 326.00	-19.7 %

IMPORTANT INFORMATION IS PRINTED ON THE BACK OF THIS FORM.

DODGE COUNTY ASSESSOR'S OFFICE

Ryan DeCook, SAMA
County Assessor
721 Main St N
Mantorville, MN 55955



Kim Mills
Matt Naatz, AMA
Mike Stupka, SAMA
Wendy Iverson, CMA

Phone: (507) 635-6245

Fax: (507) 635-6265

Toll-Free: (888) 600-5169

December 13, 2017

**JASON WILKER
308 10TH ST NW
BYRON MN 55920**

RECEIVED
DEC 13 2017

RE: Combining of Parcels: * 24.029.0800 & 24.029.0701

To Mr. Wilker:

You have the opportunity to combine the two parcels listed above. Combining these parcels will not change values or amount of tax, it will simply create one tax statement.

If you have any questions, please let me know. (507) 635-6245 or our toll free number, (888) 600-5169, ask for the Assessor's Office.

Sincerely,

Wendy S. Iverson
Assessment Office Manager

Please combine Parcel *24.029.0800 & 24.029.0701

X
JASON WILKER

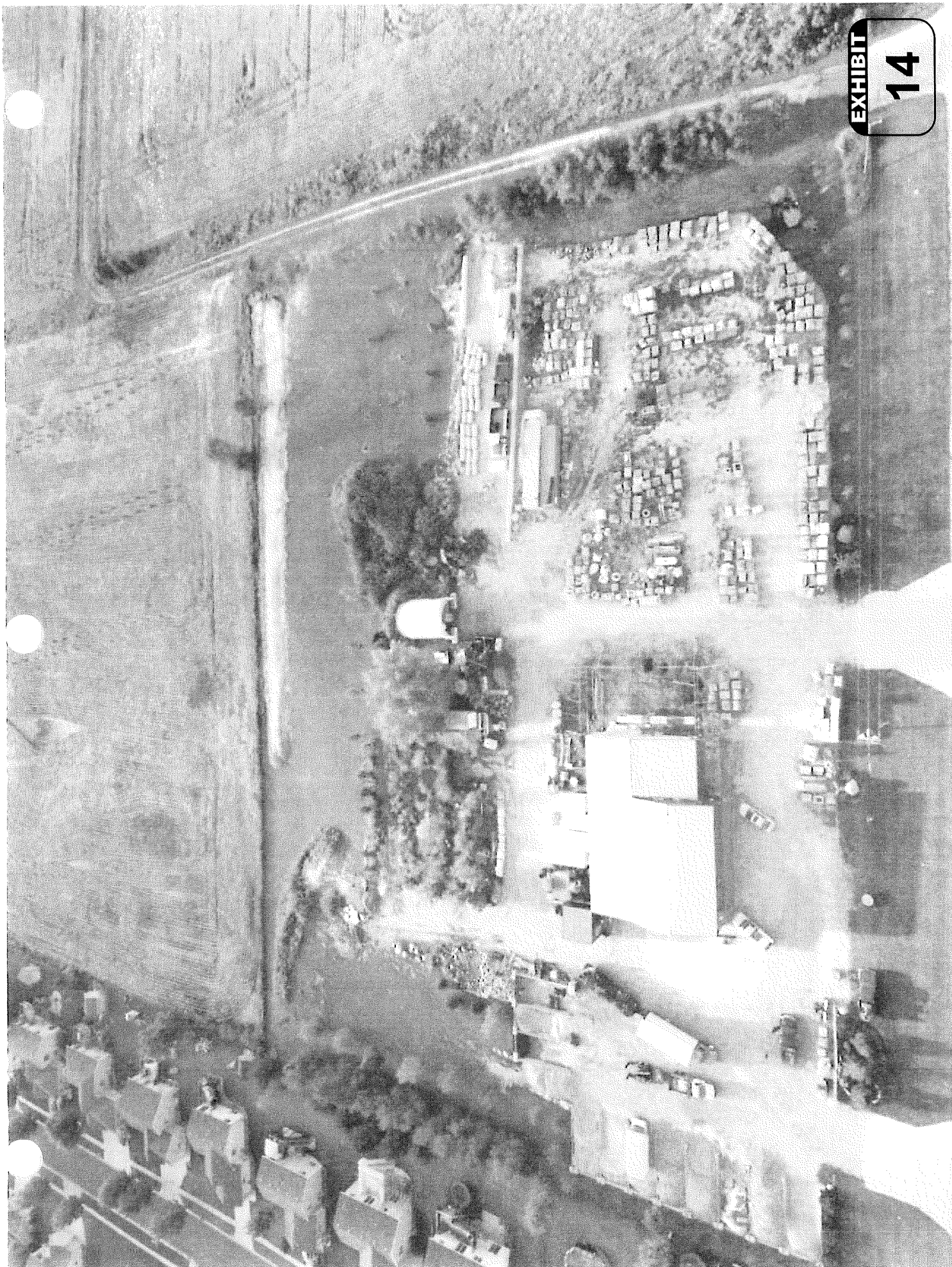
12-13-17
DATE

X

DATE

By signing this form you have acknowledged that you are aware of the potential changes to your property rights. It is the responsibility of the property owner to understand the possible Zoning ordinance changes that could occur as a result of a combination. Before signing this form it is recommended that you talk to your local Environmental Service/Zoning department.

EXHIBIT
13







MINNESOTA DEPARTMENT OF AGRICULTURE

NURSERY STOCK DEALER CERTIFICATE

WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944

20195897 05/02/2018

Certificate Number Effective date

12/31/2018

Expiration date

WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944

20195897

\$225.00

12/31/2018

Certificate Number Certificate Fee Paid Expiration date

MINNESOTA DEPARTMENT OF AGRICULTURE

625 ROBERT STREET NORTH, ST. PAUL, MINNESOTA 55155-2538
NURSERY STOCK DEALER CERTIFICATE

WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944

Certificate Categories

20195897

\$225.00

05/02/2018

12/31/2018

Certificate Number

Certificate Fee Paid

Effective date

Expiration date

This certificate must be posted in a conspicuous place and is not transferable.

AG-00853 In accordance with the Americans With Disabilities Act, an alternative form of communication is available upon request.

EXHIBIT

15

MINNESOTA DEPARTMENT OF AGRICULTURE

NURSERY STOCK DEALER CERTIFICATE

WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944



20195897 01/01/2019 12/31/2019
Certificate Number Effective date Expiration date

WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944

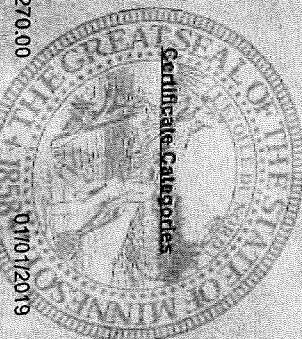
20195897 \$270.00 12/31/2019
Certificate Number Certificate Fee Paid Expiration date

MINNESOTA DEPARTMENT OF AGRICULTURE

625 ROBERT STREET NORTH, ST. PAUL, MINNESOTA 55155-2538

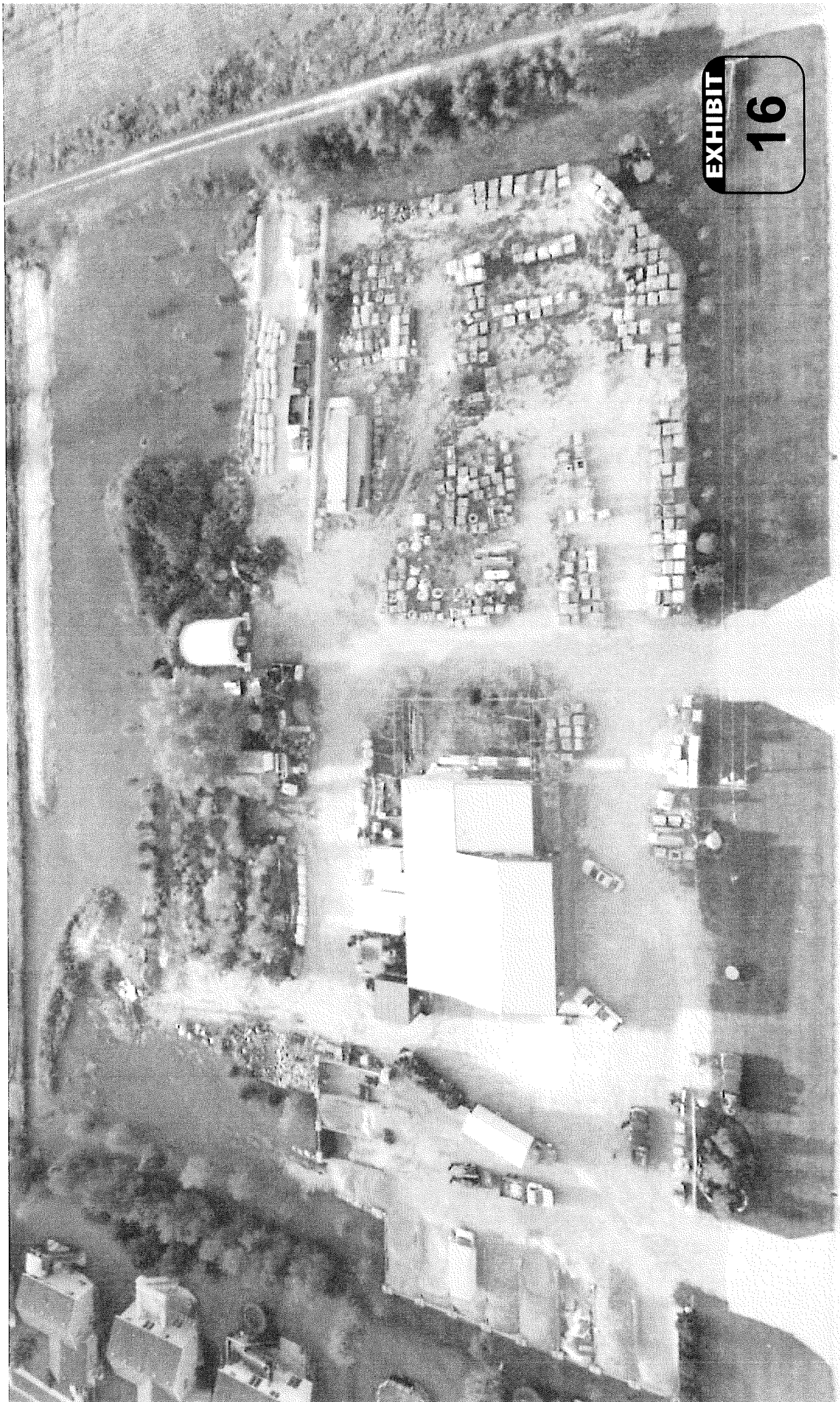
NURSERY STOCK DEALER CERTIFICATE

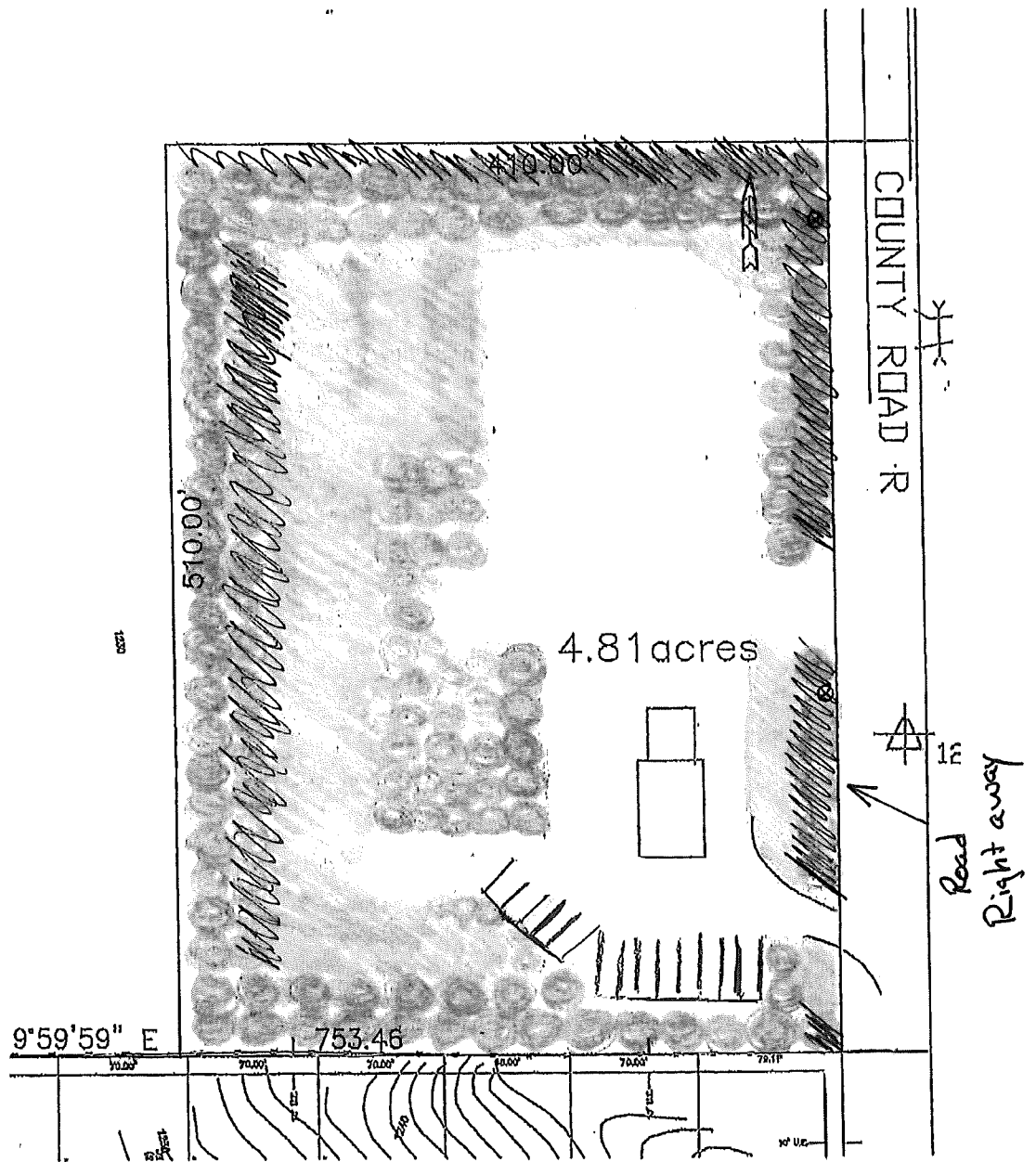
WILKER JASON J DBA
J WILKER RETAINING
1103 8TH AVE NW
KASSON MN 55944



20195897 \$270.00 01/01/2019 12/31/2019
Certificate Number Certificate Fee Paid Effective date Expiration date

This certificate must be posted in a conspicuous place and is not transferable.
AG-00853 In accordance with the Americans With Disabilities Act, an alternative form of communication is available upon request.







TO: Planning and Zoning Commission
FROM: Laura Chamberlain, Consulting Planner, HKGI
DATE: January 9, 2020
SUBJECT: Conditional Use Permit for a Nursery in the R-1 Zoning District
APPLICANT: Jason Wilker
OWNER: Jason Wilker
LOCATION: 1103 8th Avenue NW ; PID No. 240290800
MEETING DATE: January 13, 2020
COMPREHENSIVE PLAN: MDR – Medium Density Residential
ZONING: R-1 Single Family Residential District

The applicant, Jason Wilker, has applied for approval of a Conditional Use Permit (CUP) for a nursery in the R-1 Zoning District. The CUP will allow for the continuance of an existing non-conforming use on a parcel located on the northwest border of Kasson (see Figure 1).



BACKGROUND

- The applicant has been running a nursery on the property since 2009. At that time, the applicant was leasing the property from then-owner Bigelow Voigt Land Development. The applicant purchased the property in June of 2010.
- In early 2010, the City informed the then-owner that the use of a nursery would require a CUP and to cease activity until a CUP was approved.
- In March 2010, the City approved a CUP for the “operation of a nursery and landscaping business on the property and in the existing structure” with the following conditions:
 - “That no additional commercial structures will be allowed on the property
 - That, at a minimum, 60% of the entire lot be planted and maintained in trees, shrubs, or other plants in a density certified as appropriate by the City Forester
 - That the applicant shall install and maintain a buffer along the south and west sides of the property prior to commencing operations
 - That the applicant acknowledges that any additional lighting installed on the property will require a separate conditional use permit
 - That no overnight, outside storage of equipment will be permitted on the property
 - That hours of operation shall be limited to 7:00 am to 9:00 pm
 - That outside storage and/or display of landscaping materials shall be allowed only north of the existing structure
 - That the operator must have a valid nursery license prior to beginning operations”
- The City became aware of violations of the conditions of the CUP on the property in early 2017. Through the next couple of years, the City and the Planning and Zoning Commission worked with the applicant to rectify the violations. The violations were not resolved and the City revoked the CUP on the property in March 2019.
- The applicant and the City are currently engaged in pending legal decisions surrounding the use of the buildings on site.

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 Conditional Use Permit was determined to be November 27, 2019. The City's deadline for action is on January 26, 2020.

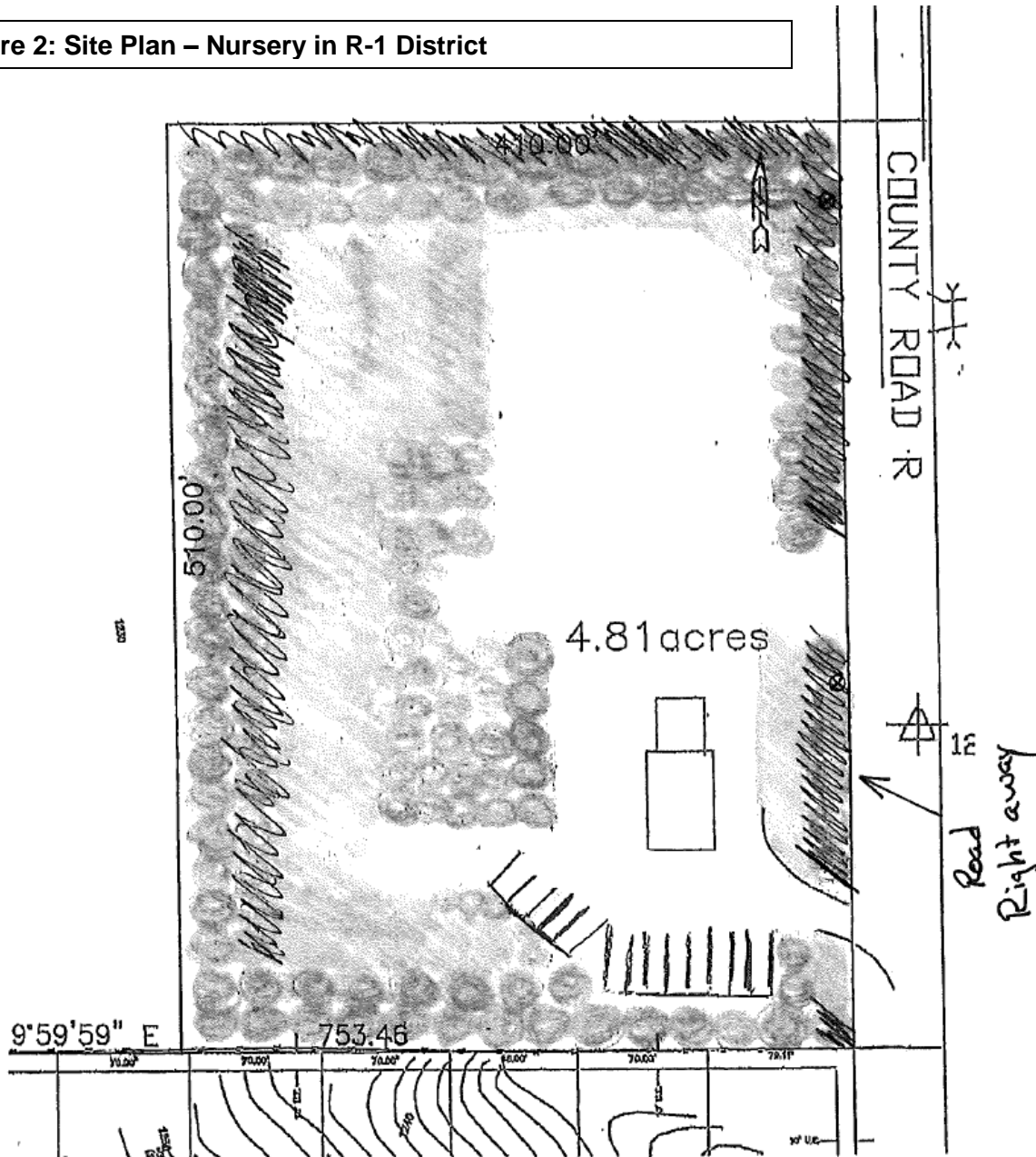
Public Hearing

City Code Section 154.029 requires a public hearing for review of the Conditional Use Permit be held by the Planning and Zoning Commission. The public hearing notice for the Conditional Use Permit was published in the Dodge County Independent on January 2, 2020 and posted on the City website on January 2, 2020. The preliminary plat public hearing notice was mailed to all affected property owners located within 350 feet of the subject properties on January 2, 2020.

CONDITIONAL USE PERMIT REVIEW

A Conditional Use Permit (CUP) allowing the site to be used for a nursery in the R-1 zoning district is being requested. The site is guided Medium Density Residential by the Comprehensive Plan and is zoned R-1 Single Family Residential District. The site is surrounded by residential properties to the south and east, and the areas to the west and north are vacant and guided for residential development.

Figure 2: Site Plan – Nursery in R-1 District



Considerations for CUP

CUPs may be allowed with appropriate restrictions in accordance with the findings listed in Sec. 154.029(A):

1. Certain conditions as detailed in this chapter exist;
2. The use or development conforms to the comprehensive plan; and,
3. Is compatible with the existing area

Additional considerations from Sec. 154.029(B)(2) include:

1. The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
3. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
4. The use, in the opinion of the city, is reasonably related to the overall needs of the city and to the existing land use.
5. The use is consistent with the purpose of this chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
6. The use is not in conflict with the comprehensive plan of the city.
7. The use will not cause traffic hazards or congestion.
8. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems; and the existing public roads providing access to the site will not need to be upgraded or improved by the city in order to handle the additional traffic generated by the use.
9. Adequate measures have been taken or are proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
10. Adequate utilities, parking, drainage and other necessary facilities will be provided.
11. The proposed use will not impede the normal and orderly development or improvements of the surrounding property.
12. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of the property.
13. The use will not disrupt the character of the neighborhood.

The City Code does not provide specific conditions for nurseries in addition to considerations taken for all CUPs. The conditions established by the City Council approval should set standards so that the use meets those considerations listed above.

Required Exhibits for CUP

Sec. 154.029(D) lists the elements required for a CUP. As seen below, there are exhibits missing from the application that are needed to make an informed decision about the proposed CUP.

Required Exhibit	Included in Application?
A completed application form	Yes, included in application
An accurate boundary description of the property	Yes, shown on the Certificate of Survey
Evidence of ownership or enforceable option on the property	Yes, included in the application
A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs	No, a site plan has been included, but the development plan needs to be shown on a to-scale drawing, preferably on the Certificate of Survey. The site plan is also missing a number of existing and proposed elements including location and size of all buildings, driveways and other impervious surfaces, outdoor storage areas, parking spaces, signs, and location of fences, berms or walls used for screening
Landscaping and screening plans	No, a site plan has been included, but the landscaping and screening plans need to be shown on a to-scale drawing, preferably on the Certificate of Survey. Landscaping elements used for bufferyards and screening need to be shown, with planting plans included, and areas intended for cultivation of plants needs to be distinguished from the landscaped areas. As mentioned above, the location of fences, berms, or walls used for screening also need to be included
Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use	A lighting plan and a sign plan, if applicable

As the required exhibits are necessary to assess the impact of the proposed use, having elements missing from the application make it difficult to move forward.

RECOMMENDATION

Conditional Use Permit

Staff recommends that the Planning and Zoning Commission recommend to City Council denial of the Conditional Use Permit for a nursery in the R-1 Zoning District.

This recommendation is based on the following findings of fact:

1. The application materials, as provided by the applicant, do not fully convey the extent or the effectiveness of measures proposed to buffer, screen, or otherwise protect the neighboring properties from the proposed use.

2. Adequate measures have not been taken or are not proposed to prevent or control offensive odor, fumes, dust, noise, vibration or lighting which would otherwise disturb the use of neighboring property.
3. The use has not been found to be separated by distance or screening from adjacent residentially zoned or used land, so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
4. Finally, evidence of adequate utilities, parking, drainage and other necessary facilities have not been provided.

Should the Planning and Zoning Commission recommend to City Council approval of the Conditional Use Permit, the City Attorney has prepared a set of conditions they would recommend that relate to the pending litigation between the applicant and the City. Those conditions can be found in Attachment B.

PLANNING AND ZONING COMMISSION ACTIONS

After the discussion, the Planning and Zoning Commission could take one of the following actions (actions recommended by Staff are **bolded**):

Conditional Use Permit

1. Table the request to the next Planning and Zoning Commission meeting and provide direction to Staff and the applicant as to the additional information needed.
2. Recommend approval with conditions and findings of fact (provide own).
3. **Recommend denial with findings of fact as presented by Staff.**

ATTACHMENTS

- A. Application for CUP for 1103 8th Avenue NW, dated November 27, 2019
- B. Memo from City Attorney with advised conditions, dated January 9, 2020

Public Hearing Opened – no comments

Public Hearing Closed

Motion to Approve the Preliminary Plat With the Conditions Either Already Met or Still Needed to Meeting made by Commissioner Thompson, second by Commission Torkelson with All Voting Aye.

PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A LANDSCAPING AND NURSERY REQUESTED BY JASON WILKER - Ms. Chamberlain gave a brief background on the property. Ms. Chamberlain has provided findings and additional considerations, in the Comprehensive Plan it is designated as medium density residential. The application as presented did not provide enough information to grant this CUP. Ms. Chamberlain reminded the Commissioners that a CUP is applied to the property and not to the owner.

Julie Nagorski , Jason Wilker's Attorney, - This plan that he has submitted is what he has used before. Wilker has a nursery stock dealer certificate, he has a plan that works under the parameters of the city ordinance. She does not believe that requirements that are not in the ordinance should not be imposed. Ms. Nagorski and Mr. Wilker are against the suggestions made by the City Attorney.

Jason Wilker – Property Owner of 1103 8th Ave NW, Kasson, resides at 630 Meadowlark Ct, Byron, MN – he feels he has met and tried to meet what the city has asked of him. He has not heard from anyone who wanted to come out to his property.

Public Hearing Opened

Ben Boynton – 209 4th St SW – he is concerned that this has become a bigger topic in town than the infrastructure. He feels that Mr. Wilker is complying with the City. Mr. Boynton supports the CUP.

Troy Andrist – 64739 270th Ave, Kasson - he knows what Jason is going through and has had the same experience. He would like to get something worked out.

Ben Boynton – he lives near two giant culverts and debris blocks culverts and if it would cause drainage issues.

Steve Arett – 25145 750th Hayfield - he is here to support Wilker.

Doug Buck – 300 15th Ave NW – he is here in support of Wilker, and attested to his character.

Coy Borgstrom – 20 E Veterans Memorial Hwy – he believes we need to go back to the book on this. This has been twisted. The CUP is answered by the neighbors, and there have been no complaints in 10 years. The only complaint was from a person 6-8 blocks away. He doesn't want anyone to take staff's recommendation and that they don't make the decisions. There are a lot of things in this community that are against the ordinance but no one is doing anything about them.

Jason Wilker – he notices that rules are bent for some people. He has had no complaints in 11 years. He believes his business benefits the city.

Public Hearing Closed

Laura Chamberlain – point of clarification, the application for a CUP does not require a General Development Plan but a cup does require a Development Plan.

Planning Commission Meeting January 13, 2020

Commissioner Thompson asked where the City is regarding litigation. City Attorney Leth stated that there has been no assurances that if this is granted that the lawsuit will go away. There has been no communication from Wilker or his Attorney in that regard. Attorney Leth stated that just because someone hasn't set foot on Mr. Wilker's property doesn't mean that there isn't sufficient evidence to take this action. The allowed CUP is for a nursery and he is not operating as a nursery he is operating as a landscaping business. In the 2010 cup he was required to plant 60% of property to trees.

Commissioner Thompson – the City does not currently have a review of CUP's process. He asked Attorney Leth to explain her recommendations. As far as the building structures this was part of the 2010 original CUP.

Chairman Ferris – this has always been a piece of property that has had a commercial use and when it was annexed it was annexed as R-1. He believes that conditions put on in 2010 were to balance the commercial activities on that land.

Commissioner Zelinske – all we want him to do is follow his conditions.

Commissioner Burton – we want to make this work for the City and Mr. Wilker. He had 14 months from when he was told that he was in violation to when the cup was revoked. We were accurate in the fact that we were not putting a street through his property and we did not even have a request for this street until Bigelow Voigt 8th Subdivision. He is willing to work with Wilker as to new trees or trees that have been planted.

Commissioner Tinsley – looked at the conditions suggested by Wilker. He is agreeable with the conditions set forth from Wilker.

Commissioner Thompson – believes we are headed in right direction, but need more clarification.

Commissioner Burton – would like the recommendation for the 12th St easement struck from recommendation clarification of no new buildings be built.

Motion to table and allow City Staff and Wilker to come to a set of conditions that will work for the site, made by Commissioner Thompson, second by Commissioner Torkelson with All Voting Aye.

10 min break 8:34.
8:43PM

BLAINES 14TH GDP – TABLED FROM DECEMBER MEETING – Laura Chamberlain gave background for the Blaine's 14th. The total GDP involves two parcels with a total of 131 single family detached lots and two outlots for stormwater. She went through requirements of the Comprehensive Plan for density, land use, green space, transportation and parks and trails. There is floodplain on the site. Dodge County is preparing a map revision and have released their best estimated for flood zone in this area. There is no approving action for a GDP it is just a concept. The Planning Commission role is to review it and let the developer know if this meets the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance. Phasing of the development is not indicated on the GDP. There is a section of land that is

Laura Chamberlain

From: Laura Chamberlain
Sent: Thursday, January 16, 2020 1:09 PM
To: 'wilkerlandscaping@hotmail.com'
Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'
Subject: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Categories: Kasson

Mr. Wilker,

As I mentioned over the phone, I am following up with you about your application with the City of Kasson for a Conditional Use Permit at 1103 8th Avenue NW to allow for a nursery on the site. As you are aware, the Planning and Zoning Commission voted to table the discussion on your application to give you the opportunity to work with the City on submitting the remaining needed materials for your application.

As I presented in my Staff Report for the Planning and Zoning Commission, there are additional materials needed by the City to fully evaluate your proposal:

§ 154.029 CONDITIONAL USE PERMITS.

(D) Required exhibits for conditional use permits. The following items shall be required:

- (1) A completed application form; **complete**
- (2) An accurate boundary description of the property; **complete**
- (3) Evidence of ownership or enforceable option on the property; **complete**
- (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs; **incomplete: the application labels Exhibit 16 as a "Development Plan - Existing" however, the exhibit is just an aerial photograph (the same as what's shown in Exhibit 14). The development plan needs to be to-scale (drawn over the survey or an overhead aerial with lot lines shown and a scale) and show existing conditions and proposed conditions of the following: location and size of all buildings, driveways and other impervious surfaces, outdoor storage areas, parking spaces, signs, and location of fences, berms or walls used for screening**
- (5) Landscaping and screening plans; **incomplete: the application labels Exhibit 17 as "Landscaping and Screening Plans" however, this drawing has incomplete information. The landscaping and screening requirements are separate from the uses on the site (cultivation of nursery stock), so trees, shrubs, fences, etc, used to screen the use from neighboring properties need to be shown and labeled. If new vegetation is needed for these bufferyards, the exact location of plantings as well as description of types of plants proposed to be used needs to be included. The number of plants, types of plants, as well as a planting schedule need to be submitted with the landscaping and screening plan. Similarly, any fences, hedges, berms or walls used for screening need to be shown on the plan and a description of the materials, height, and installation need to be included with the landscaping and screening plan.**

I have included an example of what some of these elements might look like on the drawing you've already submitted to give you an idea of what I'm looking for. What I've shown is an example only and does not reflect all of the requirements listed above.

(6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use. **Submit a lighting plan and signage plan for the use as well**

In order to have time to review the submitted materials and establish conditions for the proposed use, please have these materials submitted to the City of Kasson by end of day on **Wednesday, January 29, 2020.**

If you have any questions on these items, please feel free to contact me at the information below.

Sincerely,

Laura Chamberlain, AICP
Planner



Hoisington Koegler Group Inc.

Creating Places that Enrich People's Lives

Planning Landscape Architecture Urban Design

123 North Third Street, Suite 100

Minneapolis, MN 55401

Direct: 612.252.7126

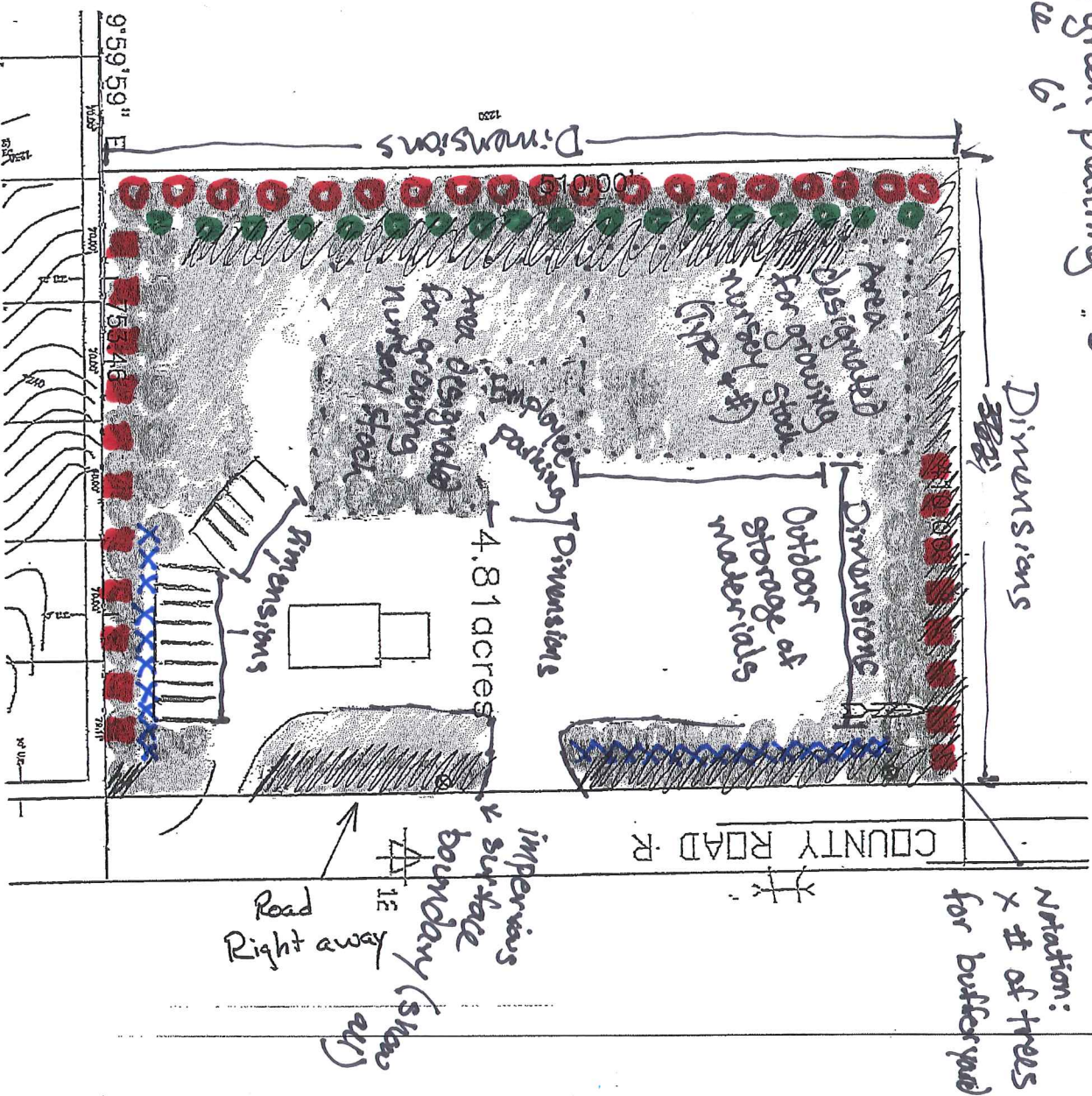
Fax: 612.338.6838

laura@hkqi.com

web: www.hkqi.com

Example 1/10/20

- = Existing Plant
- = Proposed Plant
- X = To be removed Plant
- = ~~Broad~~ Coniferous Tree 5'
- = Evergreen planting 3'
- xxxxx = Fence 6'



Laura Chamberlain

From: Laura Chamberlain
Sent: Monday, January 27, 2020 9:47 AM
To: 'wilerlandscaping@hotmail.com'
Cc: 'jnn@dewittllp.com'
Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Categories: Kasson

Jason,

I wanted to follow up with you about these items. Just a reminder that the updated materials for your CUP request need to be sent this week in order to be considered for the Planning Commission meeting. Please let me know if you have any questions or if you need to talk through any of the elements.

Thank you,

Laura Chamberlain, AICP
Planner



Hoisington Koegler Group Inc.

Creating Places that Enrich People's Lives

Planning Landscape Architecture Urban Design

123 North Third Street, Suite 100
Minneapolis, MN 55401
Direct: 612.252.7126
Fax: 612.338.6838
laura@hkqi.com
web: www.hkqi.com

From: Laura Chamberlain
Sent: Thursday, January 16, 2020 1:21 PM
To: 'wilerlandscaping@hotmail.com'
Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'
Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

My apologies, the attachment didn't go through last time. Here it is the example.

Thank you,

Laura Chamberlain, AICP
Planner



Hoisington Koegler Group Inc.

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From: Laura Chamberlain
Sent: Thursday, January 16, 2020 1:09 PM
To: 'wilkerlandscaping@hotmail.com'
Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'
Subject: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Mr. Wilker,

As I mentioned over the phone, I am following up with you about your application with the City of Kasson for a Conditional Use Permit at 1103 8th Avenue NW to allow for a nursery on the site. As you are aware, the Planning and Zoning Commission voted to table the discussion on your application to give you the opportunity to work with the City on submitting the remaining needed materials for your application.

As I presented in my Staff Report for the Planning and Zoning Commission, there are additional materials needed by the City to fully evaluate your proposal:

§ 154.029 CONDITIONAL USE PERMITS.

(D) Required exhibits for conditional use permits. The following items shall be required:

- (1) A completed application form; **complete**
- (2) An accurate boundary description of the property; **complete**
- (3) Evidence of ownership or enforceable option on the property; **complete**
- (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs; **incomplete:** the application labels Exhibit 16 as a "Development Plan - Existing" however, the exhibit is just an aerial photograph (the same as what's shown in Exhibit 14). The development plan needs to be to-scale (drawn over the survey or an overhead aerial with lot lines shown and a scale) and show existing conditions and proposed conditions of the following: location and size of all buildings, driveways and other impervious surfaces, outdoor storage areas, parking spaces, signs, and location of fences, berms or walls used for screening
- (5) Landscaping and screening plans; **incomplete:** the application labels Exhibit 17 as "Landscaping and Screening Plans" however, this drawing has incomplete information. The landscaping and screening requirements are separate from the uses on the site (cultivation of nursery stock), so trees, shrubs, fences, etc, used to screen the use from neighboring properties need to be shown and labeled. If new vegetation is needed for these bufferyards, the exact location of plantings as well as description of types of plants proposed to be used needs to be included. The number of plants, types of plants, as well as a planting schedule need to be submitted with the landscaping and screening plan. Similarly, any fences, hedges, berms or walls used for screening need to be shown on the plan and a description of the materials, height, and installation need to be included with the landscaping and screening plan.

I have included an example of what some of these elements might look like on the drawing you've already submitted to give you an idea of what I'm looking for. What I've shown is an example only and does not reflect all of the requirements listed above.

(6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use. **Submit a lighting plan and signage plan for the use as well**

In order to have time to review the submitted materials and establish conditions for the proposed use, please have these materials submitted to the City of Kasson by end of day on **Wednesday, January 29, 2020.**

If you have any questions on these items, please feel free to contact me at the information below.

Sincerely,

Laura Chamberlain, AICP
Planner



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laura@hkqi.com

web: www.hkqi.com

Laura Chamberlain

From: Julie N. Nagorski <jnn@dewittllp.com>
Sent: Wednesday, January 29, 2020 9:13 AM
To: Laura Chamberlain; wilkerlandscaping@hotmail.com
Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Categories: Kasson

Ms. Chamberlain,

Thank you for your emails. We are working hard on the materials. We expect to submit them on Monday, February 3, 2020, as early in the day as we have them ready.

Sincerely,
Julie

Julie N. Nagorski
Partner
Ph: 612.305.1427
F: 612.305.1414
jnn@dewittllp.com
2100 AT&T Tower
901 Marquette Avenue
Minneapolis, Minnesota 55402



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From: Laura Chamberlain
Sent: Monday, January 27, 2020 9:47 AM
To: wilkerlandscaping@hotmail.com
Cc: Julie N. Nagorski <jnn@dewittllp.com>
Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Jason,

I wanted to follow up with you about these items. Just a reminder that the updated materials for your CUP request need to be sent this week in order to be considered for the Planning Commission meeting. Please let me know if you have any questions or if you need to talk through any of the elements.

Thank you,

Laura Chamberlain, AICP
Planner



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From: Laura Chamberlain

Sent: Thursday, January 16, 2020 1:21 PM

To: 'wilkerlandscaping@hotmail.com'

Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'

Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

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Thank you,

Laura Chamberlain, AICP
Planner



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From: Laura Chamberlain

Sent: Thursday, January 16, 2020 1:09 PM

To: 'wilkerlandscaping@hotmail.com'

Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'

Subject: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Mr. Wilker,

As I mentioned over the phone, I am following up with you about your application with the City of Kasson for a Conditional Use Permit at 1103 8th Avenue NW to allow for a nursery on the site. As you are aware, the Planning and Zoning Commission voted to table the discussion on your application to give you the opportunity to work with the City on submitting the remaining needed materials for your application.

As I presented in my Staff Report for the Planning and Zoning Commission, there are additional materials needed by the City to fully evaluate your proposal:

§ 154.029 CONDITIONAL USE PERMITS.

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- (2) An accurate boundary description of the property; **complete**
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- (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs; **incomplete: the application labels Exhibit 16 as a "Development Plan - Existing" however, the exhibit is just an aerial photograph (the same as what's shown in Exhibit 14). The development plan needs to be to-scale (drawn over the survey or an overhead aerial with lot lines shown and a scale) and show existing conditions and proposed conditions of the following: location and size of all buildings, driveways and other impervious surfaces, outdoor storage areas, parking spaces, signs, and location of fences, berms or walls used for screening**
- (5) Landscaping and screening plans; **incomplete: the application labels Exhibit 17 as "Landscaping and Screening Plans" however, this drawing has incomplete information. The landscaping and screening requirements are separate from the uses on the site (cultivation of nursery stock), so trees, shrubs, fences, etc, used to screen the use from neighboring properties need to be shown and labeled. If new vegetation is needed for these bufferyards, the exact location of plantings as well as description of types of plants proposed to be used needs to be included. The number of plants, types of plants, as well as a planting schedule need to be submitted with the landscaping and screening plan. Similarly, any fences, hedges, berms or walls used for screening need to be shown on the plan and a description of the materials, height, and installation need to be included with the landscaping and screening plan.**

I have included an example of what some of these elements might look like on the drawing you've already submitted to give you an idea of what I'm looking for. What I've shown is an example only and does not reflect all of the requirements listed above.

(6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use. **Submit a lighting plan and signage plan for the use as well**

In order to have time to review the submitted materials and establish conditions for the proposed use, please have these materials submitted to the City of Kasson by end of day on **Wednesday, January 29, 2020**.

If you have any questions on these items, please feel free to contact me at the information below.

Sincerely,

Laura Chamberlain, AICP
Planner



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laura@hkqi.com
web: www.hkqi.com

Laura Chamberlain

From: Weber, Leth & Woessner, PLC <mleth@kmtel.com>
Sent: Tuesday, February 4, 2020 10:59 AM
To: Laura Chamberlain; cityadministrator; Linda Rappe
Subject: Fwd: Wilker proposed development plan
Attachments: Wilker Proposed Dev Plan.pdf

Categories: Kasson

Please see the below email I received from Mr. Wilker's attorney late yesterday.

Melanie

From: "Julie N. Nagorski" <jnn@dewittllp.com>
To: "mleth" <mleth@kmtel.com>
Sent: Monday, February 3, 2020 5:14:23 PM
Subject: Wilker proposed development plan

Ms. Leth,

Mr. Wilker's revised proposed development plan in support of his CUP application is attached.

He is still working and we may be submitting additional information in support of his application tomorrow.

Sincerely,
Julie

Julie N. Nagorski

Partner

Ph: 612.305.1427

F: 612.305.1414

jnn@dewittllp.com

2100 AT&T Tower

901 Marquette Avenue

Minneapolis, Minnesota 55402



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● Permit. Trees

□ Rock + Mulch Bunkers

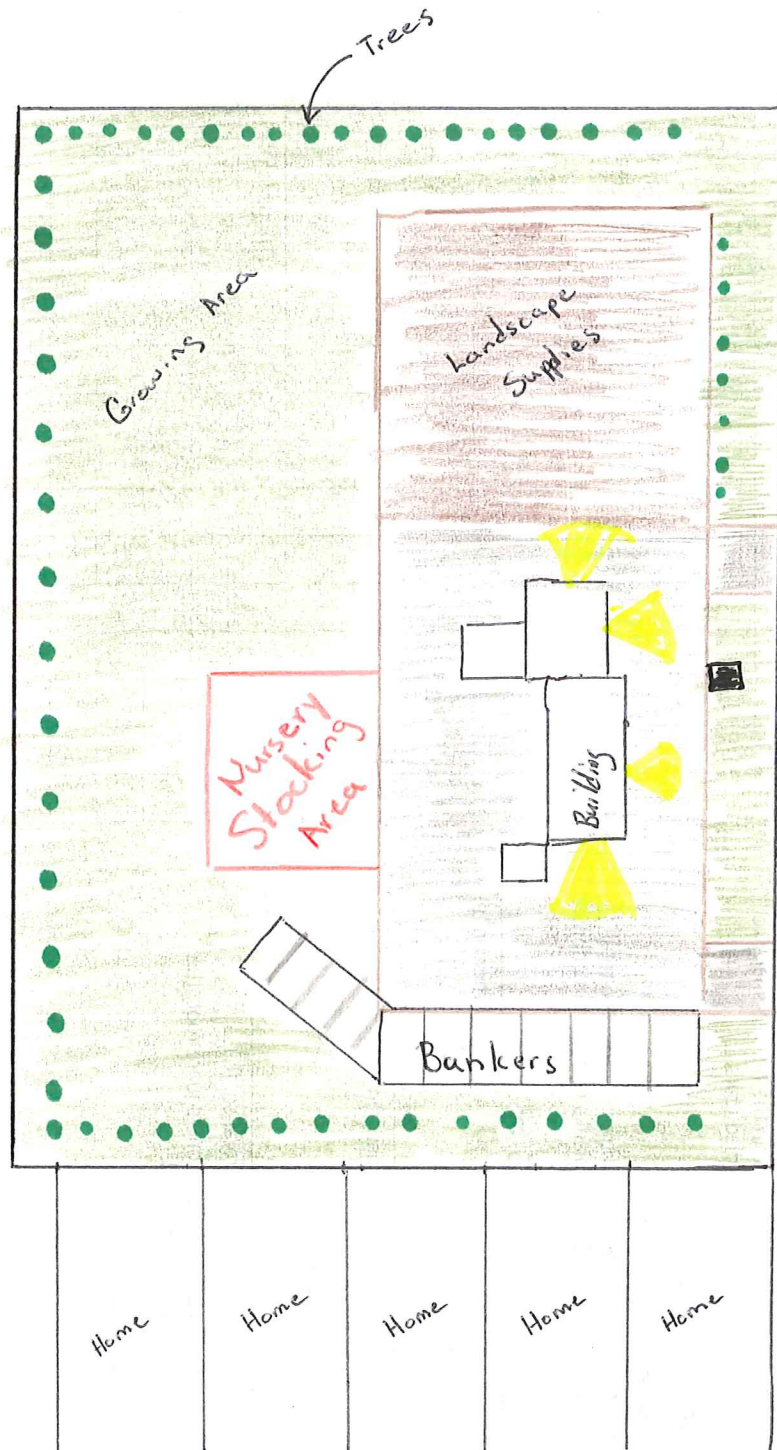
Red Nursery Stock Area

Brown Landscape Stock Area

Green Growing area

■ Sign

▲ Lighting



Laura Chamberlain

From: Laura Chamberlain
Sent: Tuesday, February 4, 2020 10:53 AM
To: wilkerlandscaping@hotmail.com; 'Julie N. Nagorski'
Cc: 'Timothy Ibisch'; Linda Rappe; 'Melanie Leth'
Subject: Follow Up - CUP for 1103 8th Avenue NW

Mr. Wilker and Ms. Nagorski,

Thank you for your continued work with me on the CUP request for 1103 8th Avenue NW. I wanted to kindly inform you that I have not received the materials requested for further consideration by the Planning and Zoning Commission for the deadline for their February 10th meeting. As I'm sure you understand, staff require adequate time to review the materials before they go into the packet for the commission. As such, your item will not be able to be considered at next week's commission meeting and will continue to be tabled.

In order to have your item considered at the March 9th Planning and Zoning Commission meeting, please have all materials submitted to me by Wednesday, February 26th. I am available if you have any questions about the materials or submittal.

Sincerely,

Laura Chamberlain, AICP
Planner



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Fax: 612.338.6838

laura@hkqi.com

web: www.hkqi.com

Laura Chamberlain

From: Laura Chamberlain
Sent: Monday, February 17, 2020 10:21 AM
To: 'wilkerlandscaping@hotmail.com'
Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'
Subject: RE: Exhibits for Conditional Use Permit - 1103 8th Avenue NW
Attachments: Wilker Proposed Dev Plan.pdf

Categories: Kasson

Mr. Wilker,

I wanted to follow up with you about the materials needed for the submittal for the next PC meeting. On February 4th the City Attorney received the attached from your attorney, Julie Nagorski. In that email she said additional information was also going to be submitted, but I have not seen additional submittals.

The attached certainly helps give a better idea of what you are proposing, however, more information is needed.

- Development Plan:
 - Add dimensions (width & length in feet, or square feet) to:
 - Landscape supplies area
 - Nursery Stocking Area
 - Bunkers
 - Buildings
 - Parking Areas
 - Growing Area
 - Identify parking spaces on the property as well as loading areas
 - No fences or berms are shown on your current submittal, I want to verify that this is the case, that you are not using fences or berms (existing or proposed) to contribute to screening
- Landscaping Plan
 - Not clear how many screening trees are currently on the property, and how many are proposed to be planted
 - Need an identification of the types of trees (current and proposed) intended to be used for screening
 - As a clarification: City code requires plantings within a bufferyard (the area used for screening) to be planted every 8 feet – these plantings do not have to all be trees, but can be a combination of coniferous trees and other evergreens not less than 3 feet in height
 - Please indicate on the drawing plantings every 8 feet, or give the total number of each plant type along each screening area
 - Also indicate how many of the above already exist on site and how many are proposed to be planted
 - Fences or berms can contribute to screening as well, as noted above, if you plan to use these items for screening please indicate their location, material, and height (existing or proposed)

Please have these items ready and submitted to me and the City Clerk electronically by end of day **Wednesday, February 26th**; our emails are laura@hkgi.com and cityclerk@cityofkasson.com, we will forward your materials onto the rest of staff (such as the City Attorney) as needed.

If you have any questions, please feel free to email me any time, or call my office number below. I will be out of the office on Friday the 21st, otherwise should be available between now and next Wednesday.

Thank you,

Laura Chamberlain, AICP
Planner



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From: Laura Chamberlain

Sent: Thursday, January 16, 2020 1:09 PM

To: 'wilkerlandscaping@hotmail.com'

Cc: 'City Administrator'; 'cityclerk'; 'Melanie Leth (mleth@kmtel.com)'; 'jnn@dewittllp.com'

Subject: Exhibits for Conditional Use Permit - 1103 8th Avenue NW

Mr. Wilker,

As I mentioned over the phone, I am following up with you about your application with the City of Kasson for a Conditional Use Permit at 1103 8th Avenue NW to allow for a nursery on the site. As you are aware, the Planning and Zoning Commission voted to table the discussion on your application to give you the opportunity to work with the City on submitting the remaining needed materials for your application.

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(D) Required exhibits for conditional use permits. The following items shall be required:

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In order to have time to review the submitted materials and establish conditions for the proposed use, please have these materials submitted to the City of Kasson by end of day on **Wednesday, January 29, 2020**.

If you have any questions on these items, please feel free to contact me at the information below.

Sincerely,

Laura Chamberlain, AICP
Planner



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web: www.hkqi.com

Laura Chamberlain

From: Melanie Leth <mleth@kmtel.com>
Sent: Thursday, February 27, 2020 8:03 AM
To: Laura Chamberlain
Cc: Timothy Ibisch
Subject: Fwd: Wilker Supplement to CUP Application
Attachments: 2020.02.26 Nagorski Cover Letter.pdf; Ex. A 2019.06.10 Complete_Packet_for_PZ Public Hearing.pdf; 2020.02.26 Wilker Application Supplement.pdf; 2020.02.26 Wilker Letter.pdf

Categories: Kasson

Laura and Tim,

I am forwarding you the emails (2) I received from Mr. Wilker's attorney last night. This is the first of two.

Melanie

Begin forwarded message:

From: "Julie N. Nagorski" <jnn@dewittllp.com>
Date: February 26, 2020 at 8:19:55 PM CST
To: "mleth@kmtel.com" <mleth@kmtel.com>
Cc: "Jill M. Mechelke" <jzm@dewittllp.com>
Subject: Wilker Supplement to CUP Application

Melanie,

Please see the attached materials we are submitting in supplementation of Mr. Wilker's November 2019 CUP application.

In an attempt to reduce the size so that transmission by email occurs, I am sending the materials via two emails.

If you don't receive both emails or if you have any questions, please let me know.

Sincerely,
Julie

Julie N. Nagorski

Partner/Co-Chair Litigation Practice Group

Ph: 612.305.1427

F: 612.305.1414

jnn@dewittllp.com

2100 AT&T Tower

901 Marquette Avenue

Minneapolis, Minnesota 55402



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Laura Chamberlain

From: Melanie Leth <mleth@kmtel.com>
Sent: Thursday, February 27, 2020 8:04 AM
To: Laura Chamberlain
Cc: Timothy Ibisch
Subject: Fwd: Wilker Supplement to CUP Application - Email 2, with Exhibits
Attachments: Ex. 19 Response.pdf; Ex. 20 2020.02.26 Supplemental Drawing.pdf; Ex. 21 2018.09.10 Public Hearing Transcript.pdf; Ex. 22 2020.01.13 Public Hearing Transcript.pdf; Ex. A 2019.06.10 Complete_Packet_for_PZ Public Hearing.pdf; Ex. 18 Proposed Conditions.pdf

Categories: Kasson

Laura and Tim,

This is the second of two.

Melanie

Begin forwarded message:

From: "Julie N. Nagorski" <jnn@dewittllp.com>
Date: February 26, 2020 at 8:21:58 PM CST
To: "mleth@kmtel.com" <mleth@kmtel.com>
Cc: "Jill M. Mechelke" <jzm@dewittllp.com>
Subject: Wilker Supplement to CUP Application - Email 2, with Exhibits

Melanie,

This is email #2 of 2 with materials in supplementation of Mr. Wilker's November 2019 CUP application.

Sincerely,
Julie

Julie N. Nagorski
Partner/Co-Chair Litigation Practice Group
Ph: 612.305.1427
F: 612.305.1414
jnn@dewittllp.com
2100 AT&T Tower
901 Marquette Avenue
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February 26, 2020

Via U.S. Mail Only

City Administrator Timothy Ibisch
City of Kasson
401 5th Street SE
Kasson, MN 55944

Re: Application for CUP – Jason Wilker Property Located at 1103 Eighth Avenue Northwest, Kasson, Minnesota

Dear City Administrator Ibisch:

Enclosed please find five color copies of Jason Wilker's Supplement to Application for Conditional Use Permit dated February 26, 2020 regarding his property located at 1103 Eighth Avenue Northwest, Kasson, Minnesota. If you would like additional color copies for dissemination to the Commissioners or the Councilmembers, please let me know and we can supply them.

With respect to Mr. Wilker's application, the City Code of Ordinances sets forth the required materials for a CUP application:

- (D) Required exhibits for conditional use permits. The following items shall be required:
- (1) A completed application form;
 - (2) An accurate boundary description of the property;
 - (3) Evidence of ownership or enforceable option on the property;
 - (4) A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs;
 - (5) Landscaping and screening plans; and
 - (6) Any additional information deemed necessary by the city to determine the suitability of the particular site for the proposed use.

Code, § 154.029. The City Code does not specify any particular requirements for either a "development plan" or "landscaping and screening plans." Further, the City Code does not require the submission of plans prepared by licensed engineers or architects to support a CUP application.

Mr. Wilker supplied the requisite existing development plan showing the existing buildings, streets, access roads, driveways, parking spaces and signs with his application dated November 27, 2019 (*see Exhibit 16 thereto*). He also supplied the requisite proposed development, landscaping and screening plans with his application dated November 27, 2019 (*see Exhibit 17 thereto*).

February 26, 2020

Page 2

Mr. Wilker has also supplied an updated proposed development, landscaping, screening and lighting plan. *See* Exhibit 20 to his supplement.

Mr. Wilker has received a request for additional information, including but not limited to drawings that are to scale and show sizes of various features of the property, the “exact locations of plantings,” a description of the “type of plants proposed to be used,” and a lighting plan.

Mr. Wilker’s plans are depicted with the specificity required by the City Code in the narrative and other materials he has submitted. For example, the size of his property is shown in the survey and on his updated drawing. *See* Exhibits 10; 20. The size of the proposed addition to his building is also depicted. *See* Exhibit 20. His plan for lighting is also depicted. *Id.* To the extent that the City requests that Mr. Wilker supply plans prepared by licensed engineers, architects, or surveyors to support his application, the City’s requirements amount to an attempt to impose costly requirements on him that are not required by the City Code.

Mr. Wilker is mindful of how the City has applied its ordinances against other property owners. *See* Exhibit A attached hereto (Sheldon Torkelson’s “land use application” requesting a re-zoning and a CUP with a total of four pages). Mr. Wilker is concerned that the City is treating him substantially different than other property owners without a rational basis. He is also concerned that the City’s attempts to impose additional onerous requirements on him, but not on others, is motivated by malice. Mr. Wilker’s narrative and other materials he has submitted depict his plans with the specificity required by the City Code.

If you have any questions, please let us know.

Sincerely,

DEWITT LLP



Julie N. Nagorski

Enclosures

cc: Melanie Leth, Esq. (*via email & mail w/ encl.*)
Jason Wilker (*via email & mail w/ encl.*)

PLANNING COMMISSION

JUNE 10, 2019

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – May 13, 2019
3. Public Hearing Bigelow Voigt – Prairie Willow 4th Final Plat
4. Public Hearing for Sheldon Torkelson Request for a Rezone
5. Public Hearing for Sheldon Torkelson Request for a Conditional Use Permit
6. Other
7. Adjourn



MINUTES OF PLANNING COMMISSION MEETING

May 13, 2019

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 13th day of May, 2019 at 6:30 PM

THE FOLLOWING MEMBERS WERE PRESENT: Commissioner Ferris, Commissioner Torkelson, Commissioner Tinsley, Commissioner Fitch, Commissioner Thompson, Commissioner Zelinske and Commissioner Burton.

THE FOLLOWING WERE ABSENT: None

THE FOLLOWING WERE ALSO PRESENT: Administrator Theresa Coleman, City Clerk Rappe, Tim O'Morro, Ramona and Olivia Torkelson and Jace Johnson

CALL TO ORDER AT 6:40PM

MINUTES OF THE PREVIOUS MEETINGS – April 8, 2019 – Motion to Approve the Minutes made by Commissioner Burton, second by Commission Zelinske with All Voting Aye.

OLIVIA TORKELSON – DISCUSSION ON HORSES – Olivia Torkelson lives at 1200 W Main, she would like to house her horse on their property and add another horse. Their parcel is 8 acres on the edge of town. Sheldon Torkelson handed out an ordinance from Mantorville allowing this. Commissioner Thompson asked how much is proposed pasture and Mr. Torkelson stated there is over 4 acres in the back by the railroad tracks. Property is currently zoned R-C. Commissioner Burton stated that we may be able to rezone it to ag district per the new comprehensive plan, he does not think that a variance would work. Mr. Torkelson asked if they could only rezone the 4.25 acres in the back. Commissioner Thompson asked about regulation the numbers of horses. Commissioner Zelinske noted that the rule of thumb is one horse per acre. Commissioner Fitch asked if the entire 4.25 acres would be fenced, and if the railroad have setbacks for animals. Mr. Torkelson will check into that. The Commissioners requested a legal opinion.

BEN KALL – POSSIBLE PROJECT PRESENTATION AND DISCUSSION - Administrator Coleman stated that Mr. Kall has an option on the Hinderman Concrete property. It would have to be rezoned to R-C to allow for the multi-family; that is the closest to the description for downtown as defined in the Comprehensive Plan. There would possibly be two conditional use permits for this use; the second for a planned unit development. Discussion included vehicle traffic, foot traffic since there is no sidewalks in that area, and inclusion in the Safe Routes to School plan. This would be on a county road and right of way. The Commission thought a rezone would appropriate. Commissioner Fitch brought up the flood zone. Coleman stated that Mr. Kall is working with SHE engineering on the flood zone. The challenge may be the city floodplain ordinance.

OTHER – Administrator Coleman received a conditional use permit application from Mr. Wilker but he did not turn in the fee and he is asking for a conditional use that is not listed in our ordinance.

ADJOURN 7:15PM

Respectfully Submitted,

Linda Rappe, City Clerk

**CITY OF KASSON
RESOLUTION # 6.x-19**

**RESOLUTION APPROVING THE FINAL PLAT OF THE
PRAIRIE WILLOW ESTATES FOURTH**

WHEREAS, Bigelow Homes, the owners of the property in question have submitted a request for a Final Plat, and;

WHEREAS, at a public hearing duly held on the 13th day of March 2017, the Planning Commission heard testimony of all persons wishing to comment on the proposed Final Plat; and

WHEREAS, the appropriate City Staff and consultants have performed a technical review of the proposed Final Plat; and

WHEREAS, following the public testimony and report of the technical review, the Planning Commission reviewed all relevant information regarding the proposed Final Plat; and

WHEREAS, it is the finding of the Planning Commission that conditions established for the approval of the Final Plat have been addressed; and

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

That the said Final Plat of Prairie Willow Estates Fourth is hereby approved by the City Council of the City of Kasson with the following conditions:

City Engineer Review of Construction Plans, Drainage Study and Final Plat
(see conditions listed in March 13, 2017 letter from City Engineer; attached)

City Engineer Approval of Final Construction Plans

Executed Development Agreement

Payment of Parkland Fees

Association Documents Prior to Building Permit Application

 Include (Outlot B) Wetlands

 Include Private Roads

 Include Private Sanitary Sewer Main

 Dedicate Storm Pond (Outlot C) to City

Adopted this 12th day of June 2019.

ATTEST:

Linda Rappe, City Clerk

Chris McKern, Mayor

The motion for the adoption of the foregoing resolution was made by Council Member --- and duly seconded by Council Member --. Upon a vote being taken, the following members voted in favor thereof: --. Those against same: --.

May 13th, 2019.

Hello,

My name is Olivia Torkelson and I met some of you at the City Council meeting Wednesday, May 8th, 2019. I understand and appreciate the importance placed on the Planning and Zoning meetings, so thank you for taking the time to review my request.

We reside on the outskirts of town, close to being outside city limits. I'm 16 years old, an avid horsewoman, responsible and concerned with proper care and horsemanship as this relates to my hobby. I own an 11 year old Registered Quarter Horse whose name is Billy. I use Billy for barrel racing and pole bending. I currently keep him seven miles from my home.

Billy is domesticated and has had human interaction his entire life. We have a large portion of property covering several acres to the south of our home. I currently own one domesticated equine and I'm looking into purchasing another equine, as my mom rides as well.

My request is for you to consider allowing the housing of my equine on our 8-acre parcel. In the past this property had been used to house equine in the back pasture south of our home. I will practice conscious ownership and with the assistance of my parents we can assure the construction of a tasteful building to house Billy in. This area will be clean, clutter free and well kept.

We presently have existing fence on the east, west, and south of our property. This fence would be repaired or replaced so it is an aesthetically pleasing, secure and a safe enclosure for both equine and humans. Making the land south of our home a pasture will help control the invasive Buckthorn that dominates the wetland presently. My dad owns a concrete business and we have the equipment that can help to dispose of any waste and have the consent from Marti Farms to dispose of the waste on their land. ←

The building we plan to build to keep Billy in to protect him from the elements will be designed to complement our home and present Morton building.

I feel our property is unique because of the size of our 8-acre parcel; we have the largest lot in Kasson city limits to accommodate this request.

I welcome any questions regarding my request and sincerely appreciate your time.

Thank you and best regards,

Olivia Torkelson

Legal opinion
□ require AG per future land use map showing green way in that area.
□ conditional use permit or is this "general farming"



268

372

342

4.25 Acres

• One acre per house

• Setback from Railroad

LAND USE APPLICATION

Rezone \$400

Fee Paid \$ 400 rezone
300 cup

Date Filed 5-30-19

Legal Description of Property _____

Owner's Name Sheldon + Ramona Torkelson Phone _____

Address 1200 W Main St

Description of Request Rezone + cup

Rezone 4.25 acres to Ag + cup to house up to 4 horses

Reason(s) for Request _____

Present Zoning Classification R-C

Existing Use of Property Residential + commercial

Signature of Applicant Sheldon Torkelson Date 5/30/19

FOR OFFICE USE ONLY

Date accepted _____

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): _____

Dodge County

Property Information, Owner, Legal Description, and Assessed Values displayed below are taken from the Tax Statements (good as of the date the tax statements were printed).

The Taxes, Special Assessments, Penalty, Interest, Paid To Date, Balance Due, Installment, Receipt information, and History is live information (accessed live from the County's Tax System dynamically).

Property Information	
Parcel Number 24.032.2100	Payable Year: 2019
Property Address 1200 MAIN ST W KASSON	Tax Roll Type: Real Estate Jurisdiction : KASSON CITY School District: SCHOOL DISTRICT 204
Owner Information	
Primary Taxpayer/Owner SHELDON L TORKELESON RAMONA D TORKELESON 1200 MAIN ST W KASSON MN 55944	
Escrow Information Escrow Agent: US BANCORP SERVICE PROVIDERS	
Legal Description Sect-32 Twp-107 Range-016 7.55 AC THAT PART OF THE N1/2 SE1/4 DESCRIBED AS FOLLOWS: COMM AT THE NECOR SE1/4, TH N89°40'25" W1657.68FT, S00°04'49" E76.39FT TO THE SOUTHERLY RIGHT OF WAY Plat:	

Real Estate and Personal Property Taxes are determined using the previous year assessment value. Mobile Home Taxes are determined using the current year assessment value.



WEBER, LETH & WOESSNER, PLC

Attorneys

Melanie J. Leth
Timothy A. Woessner
Brian L. Weber, of Counsel
Attorneys

Lindsay C. Saxton
Nicole J. Frey
Paralegals

June 4, 2019

Theresa Coleman
City of Kasson
Interim Zoning Administrator
401 5th Street SE
Kasson, MN 55944

RE: Sheldon & Ramona Torkelson
1200 Main Street West
Kasson, Minnesota
Application to re-zone
the southerly most 4.25 +/- acres of tax parcel 24.032.2100 (7.5 acres)

Ms. Coleman:

I have been asked to give a legal opinion with regards to the above-referenced application to re-zone the southerly most 4.25 +/- acres of a 7.5 acre parcel from R-C, Residential - Commercial Mixed Use District to AG, Agricultural District, and for a conditional use permit to allow up to four horses on the property.

An application for a re-zoning is a request for an amendment to the zoning ordinance. The existing zoning ordinance is presumed to be constitutional, and an applicant is only entitled to a change if they can demonstrate that the existing zoning is unsupported by any rational basis related to the public health, safety and welfare. Therefore, amendments should not be issued indiscriminately, but should only be used as a means to reflect changes in the goals and policies of the city as reflected in the comprehensive plan or changes in conditions in the city.

The changes in the conditions in the City of Kasson and in the City's goals and policies are reflected in its recently-adopted comprehensive plan. The comprehensive plan indicates that the future land use of the subject property is as Open Space. *See City of Kasson Comprehensive Plan, Figure 4.3 Future Land Use Map, p. 4-6.* It is my opinion that the future land use designation as Open Space is most compatible with the City's AG

zoning district. Since the request is for the AG zoning district, I would recommend approval of the rezone application.

Although "general farming" is a permitted use in the AG zoning district, the owners' requested use is more accurately described as the "keeping of horses and livestock," a conditional use in the AG zoning district. Therefore, it is my opinion that the owners will also need to obtain a conditional use permit to use the southerly portion of the property as requested. The application includes such a request for a conditional use permit; therefore, if the rezone application is granted, I would also recommend approval of the application for conditional use permit.

Finally, if the City grants the applications as discussed above, I would also strongly recommend that the property be surveyed and split to ensure that the City can easily determine the boundary line between the remaining parcels. This is absolutely necessary to ensure the City can properly enforce its zoning ordinance on the entirety of both parcels. Furthermore, splitting the parcel will protect future owners of the parcels against disputes over the newly created boundary line.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

WEBER, LETH & WOESSNER, PLC

A handwritten signature in dark ink, appearing to read 'Melanie J. Leth', with a stylized, flowing script.

Melanie J. Leth



342'

268'

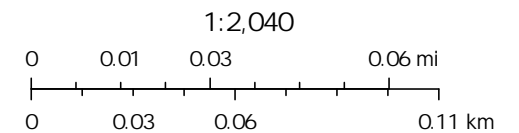
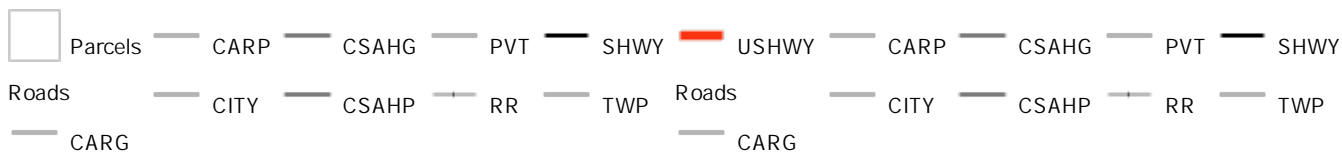
246'

4.25 Acres

ArcGIS WebMap



June 3, 2019



NPGS, Goodhue County

SUPPLEMENT TO APPLICATION FOR CONDITIONAL USE PERMIT

Fee Paid \$ 300.00

Date Filed 11/27/2019

Date Supplemented 2/26/2020

Street Address of Property 1103 Eighth Avenue Northwest, Kasson, Minnesota

Owner's Name Jason Wilker Phone 507-208-1819

Address 630 Meadowlark Court Northwest, Byron, MN 55920

Applicant (if other than Owner):

Name _____ Phone _____

Address _____

Description of Request Conditional Use Permit to Operate a Landscaping and Nursery Business on Property Zoned for Single-Family Residential and Conditionally Permitted for a Nursery and Landscaping Business for Nine Years

Reason(s) for Request See 11/27/19 narrative and its incorporated exhibits and this supplement

Present Zoning Classification CUP for Operation of Nursery and Landscaping Business on Property in R-1 Single Family Residential District

Existing Use of Property Landscaping and Nursery Business

Signature of Applicant  Date 2-26-20

FOR OFFICE USE ONLY

Date accepted _____

Recommended _____ Denied _____ by the Planning Commission on _____, 20__

Approved _____ Denied _____ by the City Council on _____, 20__

If approved, the following conditions were prescribed:

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

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

WILKER RETAINING WALLS & PAVERS, LLC

1103 8th Avenue Northwest

Kasson, MN 55944

February 26, 2020

City of Kasson Planning Commission and City Council
Attn: City Administrator
City Hall
401 5th Street SE
Kasson, MN 55944

RE: Property Located at 1103 Eighth Avenue Northwest, Kasson, Minnesota

Dear Members of the City Council and Planning Commission:

I am supplying this supplemental information in connection with the CUP application I submitted on November 27, 2019 for my property located at 1103 Eighth Avenue Northwest, Kasson, Minnesota.

This supplement includes the following additional exhibits to my CUP application:

18. My Proposed Conditions for my Property (repeated for ease of reference from my November 27, 2019 application);
19. My Response to the City Attorney's Proposed Conditions for my Property;
20. Landscaping, Screening, and Proposed Development Plan;
21. Informal Transcript of Public Hearing before Planning Commission on September 10, 2018 (Commissioners' statements disclaiming a plan to take my property to build a public road appear on pages 2 and 12); and
22. Informal Transcript of Public Hearing before Planning Commission on January 13, 2020.

If you have any questions or concerns about my application, I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "Jason Wilker/jnw".

Jason Wilker

Exhibit 18
MY PROPOSED CONDITIONS FOR MY PROPERTY

For the CUP for a nursery and landscaping business for my property, my November 27, 2019 application proposes the following conditions:

1. **Structures.** No additional commercial structures will be allowed on the property. This requirement does not prohibit greenhouses, hoop buildings, which are temporary in nature, or additions to or enlargements of the commercial structure on the property, so long as a building permit, if required by the Minnesota State Building Code, is issued.
2. **Open spaces.** At a minimum, sixty percent of the entire property shall be planted and maintained in trees, shrubs, grasses, or other plants. Annually, trees and shrubs removed from or destroyed on the property shall be replaced. For the next five years, an additional twenty trees or shrubs shall be planted and maintained on the property, not for the nursery or for sales, but to increase the number of trees on the property.
3. **Screening.**
 - a. *North Side.* The existing vegetative screen on the north side of the property shall be maintained.
 - b. *East Side.* The existing vegetative screen on the east side of the property shall be maintained.
 - c. *South Side.* The existing earthen and vegetative buffers along the south side of the property shall be maintained.
 - d. *West Side.* The existing earthen and vegetative buffers along the west side of the property shall be maintained.
 - e. *Bunkers.* The bunkers located along the south side of the Property shall be maintained or moved to a location on the Property that facilitates the use of the Property and the bunkers, without expansion of their square footage.
4. **Signage and Outdoor Lighting.** The owner may light one sign no greater than 4'x8' on the property. Outdoor lighting in areas impacted by additions to the existing structure shall be permitted to reasonably alleviate safety concerns.
5. **Outdoor Storage of Equipment.** All equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets.
6. **Hours of Operation.** Operation of equipment on the property shall be limited to the hours of 7:00 a.m. to 9:00 p.m., with reasonable exceptions during the snowplowing season.
7. **Outdoor Storage of Materials.** Outside storage and/or display of landscaping materials shall be allowed on the south side of the property in the existing bunkers, along County Road 21 in the areas where it presently exists, and otherwise on the property so long as it is reasonably screened from the view of persons on the south, west, and north sides of the property.
8. **Licensing.** The operator shall comply with the law of the State of Minnesota concerning nursery licensing as appropriate to the operation of the business on the property and as determined and enforced by the State of Minnesota. If the State of Minnesota undertakes enforcement action against the operator, the operator must notify the City of the same.



Exhibit 19
MY RESPONSE TO THE CITY ATTORNEY'S PROPOSED CONDITIONS

I have requested a conditional use permit so that I can continue to use my property to operate my business. I want to continue the economically-beneficial use of the property which has existed for over a decade and I want to have the CUP granted so that I can continue, invest in, and improve my property and my business.

The property is zoned R-1 Single Family Residential. Conditional uses in the R-1 district include gardens and nurseries. See City Code, § 154.147. The City defines a "nursery" as "land or green houses used to raise flowers, shrubs and plants for sale." *Id.* § 154.007 (definition of "nursery"). Because I use the Property to raise shrubs and trees for sale, it is a nursery under City law and I therefore meet the conditions necessary for the issuance of a CUP to continue to operate my business at my property.

Set forth below in gray boxes are the conditions that the City Attorney proposed, and, following each, in a white box, is my response:

<i>City Attorney's Proposed Condition #1</i>
Easement: The property owner shall grant to the City via easement agreement, a 10' utility easement along the entire north boundary of the property.
<i>My Response to the City Attorney's Proposed Condition #1</i>
<ol style="list-style-type: none">1. The City should not condition approval of my application for a CUP for the property I have owned for ten years on the City taking an easement it has never had on my property.2. It would be impossible to use the land within my property to raise flowers, shrubs, and plants for sale if an easement is located on my property and the soils are subject to disturbance for work within the easement.3. My property is already serviced by utilities including power, water, and sewer, so this proposed easement is not intended to benefit my property and instead is intended to benefit someone else's property.4. I believe that this condition would be an unconstitutional exaction.5. The entire length of my property on the east is already burdened by a fifty-foot right of way for Eighth Avenue Northwest. There are under-ground and above ground utilities within that right of way.6. An easement of approximately 8 or 10 feet already exists on the southern portion of my property and the utilities there, including KM Telecom fiber optic, service properties to the south.7. The parcel immediately to the north of mine is vacant and it is a larger parcel, so an easement for utilities would cause less of a burden on it.8. If the City wishes to obtain an easement on my property, it can institute condemnation proceedings against me or negotiate the terms of a written easement with me separately.

City Attorney's Proposed Condition #2

Dedication: The property owner shall grant to the City the public right-of-way for the extension of future 12th Street NW through his property to allow for the orderly development of the adjacent property.

My Response to the City Attorney's Proposed Condition #2

1. The City should not condition approval of my application for a CUP for the property I have owned for ten years on the City taking a portion of my property to construct and pave a road it has never had on my property.
2. It would be impossible to use the land within my property to raise flowers, shrubs, and plants for sale if a road is constructed on the land or through my property.
3. The plans for the development of the property to the west of mine show a **66 foot right of way, with a 32 foot wide bituminous surface** for the planned 12th Street Northwest. My property is only about 510 feet north to south and 410 feet east to west. The proposed 12th Street Northwest would destroy my property and its value.
4. My property is already accessible by a public road, namely, Eighth Avenue Northwest, so this proposed road is not intended to benefit my property and instead is intended to benefit someone else's property.
5. This condition would be an unconstitutional exaction.
6. If the City wishes to take my property for a road, it can institute condemnation proceedings against me or negotiate the terms of a written acquisition with me separately.

City Attorney's Proposed Condition #3

Buildings/Structures: No additional building or structure shall be allowed on the property. No addition to an existing building or structure shall be allowed on the property.

My Response to the City Attorney's Proposed Condition #3

1. Numerous City Councilmembers and City Planning Commissioners have stated that they support me and my ability to operate, continue, and expand my business. To operate, continue, and expand my business, I need to be able to build an addition to my existing building, and, further, in the future, I may need greenhouses or hoop buildings. I understand that I will need to apply for and obtain a written building permit for all future work that requires a building permit. The first condition that I proposed for my property is sufficient to protect the City while allowing me to operate my business on my property.
2. The City Attorney at the January 13, 2020 public hearing on my CUP application stated that my use of my property as a nursery was non-conforming, which would suggest that the City could lawfully regulate the repair, replacement, maintenance, improvement, or expansion of my property or its structures by zoning controls to eliminate an allegedly non-conforming use. The City Attorney's statement that my use of my property was non-conforming is inaccurate. My property was long used commercially, as Commissioner and Chair Tom Ferris has recognized publicly on more than one occasion. The entire time that my property has been within the City, my property has never been used for a residential purpose. The City chose to annex it in 2009 or 2010 and to zone it then in a manner that conflicted with its use. While my property has been within the City, it has been used pursuant to the 2010 conditional use permit allowing a nursery and landscaping business. A use of a property permitted by a conditional use permit is a permitted use, not a non-conforming use.

City Attorney's Proposed Condition #4

Nursery Stock: The property owner shall plant and maintain a nursery stock of no less than three hundred (300) new trees (not counting existing trees, border trees, or seasonal nursery stock) on the property at all times, subject to the following:

- The 300 new trees shall be of a diameter of at least 1”.
- The 300 new trees shall be certified nursery stock obtained from a certified nursery stock grower or dealer. The property owner shall maintain documentation from the grower or dealer from whom the new trees were acquired, and shall provide such documentation to the City within seven (7) days of a written request for same by the City.
- The 300 new trees may be planted in phases of 100 new trees per year. The first 100 new trees shall be planted by July 1, 2020; the second 100 new trees shall be planted by July 1, 2021, and the final 100 new trees shall be planted by July 1, 2022.
- Commencing July 2, 2020, the City shall schedule “nursery stock reviews” to occur three (3) times annually, once in the spring, once in the summer, and once in the fall, to ensure that there are the requisite number of new trees on the property, and that the new trees comply with these requirements.
- The City will schedule the nursery stock reviews giving the property owner at least seven (7) days written and emailed notice. The property owner shall allow the City’s staff and agents upon the property for scheduled nursery stock reviews and shall fully cooperate with all such reviews.
- The property owner shall, within thirty (30) days, replace any of the 300 new trees that die, that are destroyed, or that are sold.

My Response to the City Attorney's Proposed Condition #4

1. During 2018, I planted over 300 trees on my property.
2. Since I last planted trees on my property, the City has subjected it to intensive enforcement efforts, thus precluding me from investing substantially in it.
3. My business does not ordinarily sell 300 trees from my property in any one year. Rather, a more typical number of trees sold in one year is closer to 40 trees, on average. I generally have approximately 80 nursery stock trees on the Property. The market will not support the sale of 300 trees in a year. Buying and heeling in nursery trees not to sell them would be wasteful in manner ways, including acquisition costs, labor costs, equipment usage, water usage, and other costs associated with such trees, particularly in light of the risk that the tree will die.
 - Planting too many trees too close together will negatively alter their growing and marketability.
 - Furthermore, while the Planner used by the City has requested that I identify the type of trees that I will plant, the nature of my business does not allow me to identify what the market will want from my business this far in advance, precluding me from committing now to planting certain types of trees. I encounter the same changing market issues with my other inventory, including blocks, with customers preferring certain colors in trends.
 - The Planner used by the City has also asked me to identify impervious surfaces on my property. On my property are two concrete aprons from Eighth Avenue. Those are shown in my proposed development plan. Also, a concrete apron that is approximately 36’ by 30’ in size lies along the southern portion of my building and has always been there. Other than the aprons and my building, my property has

pervious surfaces, which are better for the environment than impervious surfaces.

- The Planner used by the City has also asked me to identify fences on my property. My property has two chain link gates near the aprons from Eighth Avenue that I may someday make operable. My property does not have non-vegetative fencing. I have used trees and shrubs for screening. My neighbors enjoy the fact that I do not use fences constructed of non-vegetative materials six feet high. The materials I use are better for the environment and aesthetics than fences.
4. The City may desire that I convert my business so that rather than operating a nursery and landscaping business from my property, I operate a retail nursery on my property. Such an alteration of my business is not consistent with what the market wants from my business or will support. The other nursery in the City, Houston's Greenhouse, supplies what the market wants in the form of small trees. I sell larger trees. Thus, we do not compete for the same business and can both operate within the City.
 5. Replacing trees within thirty days of a fall nursery stock review will cause nothing more than waste as trees are best planted when the conditions are right for their planting.
 6. If the City desires to place a condition on my CUP that gives the City the right to inspect (in addition to the State's right to inspect as would be allowed under the conditions that I proposed), then I would agree to a condition allowing the City to inspect in the following manner:
 - a. The City may inspect the Property annually, with notice of such inspection provided one week in advance to the Property owner;
 - b. If the City reasonably determines that vegetative screening is insufficient, then it will notify the Property owner and allow for supplementation of the screening within one year of the delivery of the notice to the Property owner.

City Attorney's Proposed Condition #5

Buffers: The property owner shall maintain the existing buffers along the south and west sides of the property, including but not limited to regular mowing, tree trimming, and weed control.

My Response to the City Attorney's Proposed Condition #5

I am not opposed to this proposed condition.

City Attorney's Proposed Condition #6

Lighting: The property owner acknowledges that any additional lighting installed on the property, including on the addition or bumpout, shall require a separate application pursuant to City Ordinance.

My Response to the City Attorney's Proposed Condition #6

I do not believe that I acknowledged that additional lighting installed on the property, including on the addition to the existing structure, shall require a separate application. To the contrary, my CUP application proposes that "Outdoor lighting in areas impacted by additions to the existing structure shall be permitted to reasonably alleviate safety concerns."

City Attorney's Proposed Condition #7

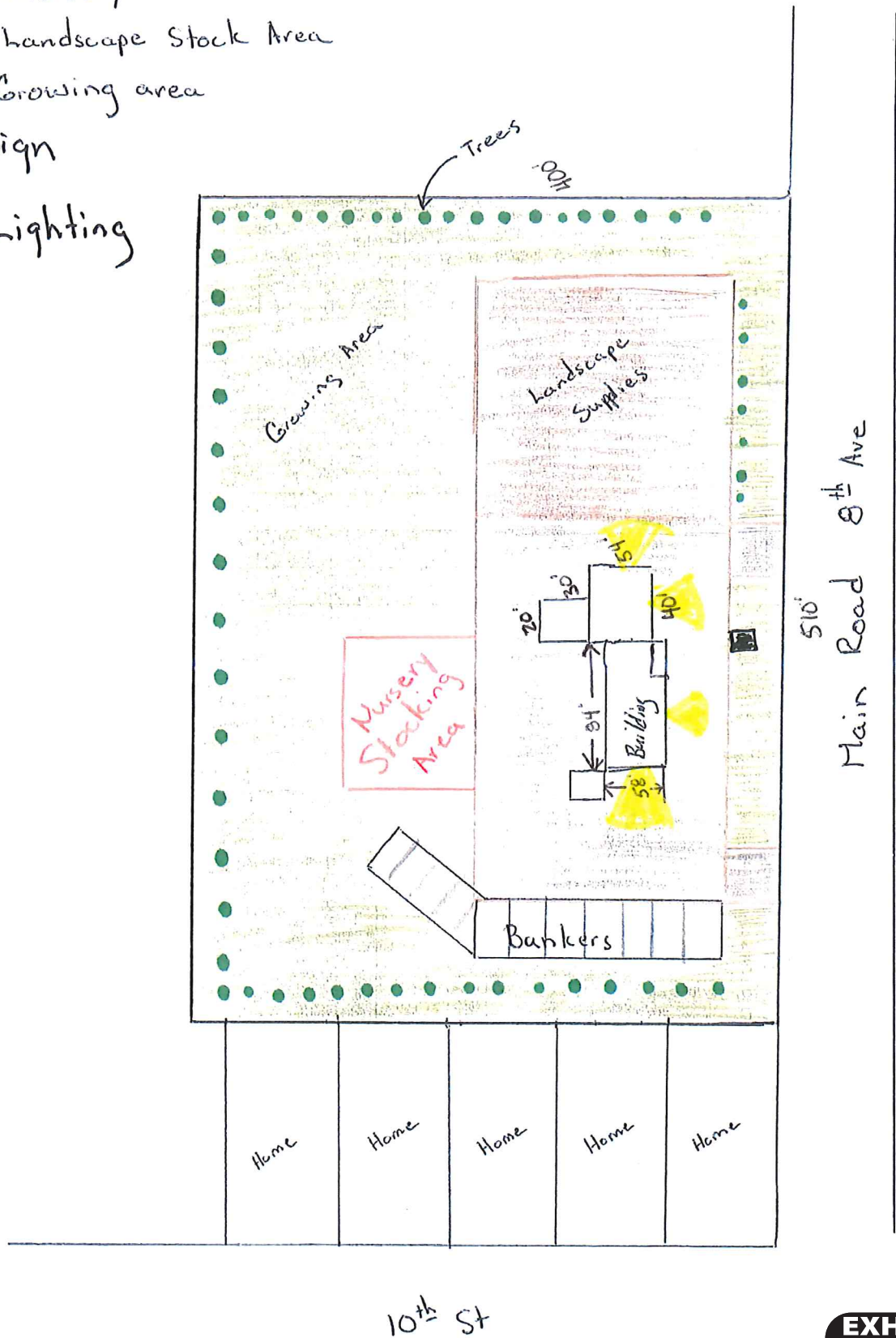
Equipment Storage: There shall be no outside storage of trucks or equipment on the property overnight without an approved bufferyard and screening unless all such trucks and equipment is properly screened from offsite viewing from areas within the City.

My Response to the City Attorney's Proposed Condition #7

With respect to equipment, my proposed condition #5 addresses this issue in a similar fashion. With respect to trucks, when we return to the Property later in the day, we generally turn off our

engines and do not unload equipment, in an attempt to not disturb the neighbors. Therefore, the trucks are reasonably not always be screened from offside viewing from areas within the City.
<i>City Attorney's Proposed Condition #8</i>
<u>Operation</u> : Hours of operation shall be between 7:00 a.m. and 9:00 p.m., except snow plowing operations which may occur outside these hours of operation.
<i>My Response to the City Attorney's Proposed Condition #8</i>
I am not opposed to this proposed condition.
<i>City Attorney's Proposed Condition #9</i>
<u>Landscaping Material Storage</u> : Outside storage and/or display of landscaping materials shall only be allowed within the existing storage bunkers located on the south side of the existing structure. The existing storage bunkers shall not be increased in size or number, and the property owner shall reasonably maintain such bunkers. No other outside storage or display of landscaping materials shall be allowed without an approved bufferyard and screening unless all such materials are properly screened from offsite viewing from areas within the City.
<i>My Response to the City Attorney's Proposed Condition #9</i>
This proposed condition is vague and ambiguous given that it specifically mentions my storage bunkers but does not specifically mention the other materials stored outdoors. My proposed conditions #3 and 7 sufficiently address this issue.
<i>City Attorney's Proposed Condition #10</i>
<u>License</u> : The property owner shall at all times maintain a valid nursery stock dealer certificate from the State of Minnesota.
<i>My Response to the City Attorney's Proposed Condition #10</i>
The State of Minnesota, rather than the City, regulates whether or not I am entitled to a nursery stock dealer certificate in any given year and the condition that I proposed better recognizes the sovereignty of State law on this issue.
<i>City Attorney's Proposed Condition #11</i>
<u>Misc</u> : The property owner shall comply with applicable laws and City Ordinances.
<i>My Response to the City Attorney's Proposed Condition #11</i>
I am not opposed to a condition providing that the owner of the Property shall comply with applicable laws and City Ordinances relating to the property.

- Permit. Trees
- Rock + Mulch Bunkers
- Red Nursery Stock Area
- Brown Landscape Stock Area
- Green Growing area
- Sign
- ▲ Lighting



Kasson City Planning Commission
September 10, 2018 Public Hearing

Transcription begins at 7:04 minutes

Time	Person	
0:7:04	Chair	Next item on our agenda public hearings of the revocation of the conditional use permit of Jason Wilker.
	T. Coleman	Right, so, I think know you all know over quite a few months' time, umm, it's become apparent that some of the conditions of the conditional use permit were not being met. Umm, Mr. Wilker did receive a letter, umm, all of the conditions of the conditional use permit are not currently being met. So we scheduled public hearing for you to take public comments, to take public comment.
	Chair	That's what I'll go ahead and open up the public hearing. If anybody has any thoughts they would like to share on the conditional use permit revocation, if they would be kind enough to come up to the podium and share their name and address, please.
7:56	Troy Andrews	<p>My name is Troy Andrews. I live at 64739 270th Avenue. My former address is 202 Eighth Avenue Northwest in Kasson here. Umm, I'm a - I'm a former resident of this town and was really frustrated with this town to the point of I did sell my house and move because of this town. I was in the past a business that I ran, did business in this town. I spent a lot of money in this town, at NAPA, the hardware store, and different places. And this town treated my business like crap, like total crap. There was another hauler hauling in this town who you guys were - or, not you guys - who the city administrator and the city council at that time, including the Mayor who I talked to, let this guy go on without being licensed but they sure took my five or eight hundred dollars and whatever it was that year. You know, you guys had laws on the books, you know, as far as how stuff was supposed to be operated. We did our best to follow it and there was haulers that were not doing this, and you guys did nothing to stop it. My business was attacked by people - or by another business in this town going door to door telling people that we sold out, went to my banker, and caused all kinds of problems. And you guys had rules in your - in your ahh ordinances on door to door salesman, they weren't allowed to do that stuff but you guys just turned a blind eye, you know, um, as if so much that has happened in this town that I didn't do business in this town for about a year and a half, didn't spend any money in this town. And, I mean I cancelled my LP account at Greenway. I didn't go to the hardware store, just because of stuff like this, you know.</p> <p>[9:50] And I think you should be working with Jason. There's two sides to this story, and I know it's not, you know, but I really question Kasson's motives here. I mean it's just, you pick and choose when</p>

		you're going to enforce laws. And I think it's a bunch of crap, really you know. I am just so frustrated with - with this thing. I just wish you'd give him a chance and if you guys do pull his conditional use permit, I am done spending anything in this town. That would be the last – last nail, so, thank you.
10:42	Julie Moss	Hi. My name is Julie Moss. I live at 502 First Avenue Northeast, Kasson. And I support Jason Wilker. And I support what he's tried to do to alleviate the conditional use permit. As far as I am aware, he's been trying to comply with all of the actions, so umm, what's been requested of him. And, so, I just wanted to let you know that I do support him. He makes a big difference in Kasson. So. It's a business that we need in Kasson. Thank you.
11:28	Gary Smith	Hi Gary Smith, 1508 16th Avenue Northeast. And I have known Jason since preschool. And he's always been a hard working kid. He's put tons and tons of hours and work into the business. And like it's been stated before, there's two sides to everything and I realize that. But I don't think he's been given a fair shot. He's worked hard. He could have had his business elsewhere. He chose here. And I think the motivation here is money for the City. You want to develop that area, put a road through, that's my guess. I don't know for sure but ahh-
12:25	Commissioner	You'll have to forgive me. I'm not aware of any ____.
12:26	Gary Smith	Okay. That's just my belief, you know, what I think is going to happen. Cause I don't see any other reason to force him out. And I work for him and I don't know what provisions have not been met on that condition. They haven't been brought up, today. Could I hear what those provisions are that he hasn't met?
12:56	Theresa Coleman	Oh, um, the public packet is right there. ____ [<i>unintelligible</i>].
	Gary Smith	Anybody, a shortcut here? And two items?
		[<i>Theresa Coleman assists Mr. Smith at the podium with the packet</i>]
	Gary Smith	Eight items?
	Theresa Coleman	Yep.
13:55	Gary Smith	Ok, the building permit was declined. Trees have been planted. "Buffer along the west side of the property" City itself has hauled dirt in there, to make a berm.
14:26	Theresa Coleman	Ah, the City didn't ____ [<i>unintelligible</i>].
	Gary Smith	Where'd that dirt come from?
	Jason Wilker	It came from a local contractor.
14:35	Gary Smith	Okay, a local contractor. And, number 5, "no overnight storage of equipment outside" If had a bigger building, that wouldn't happen. "Hours of operation 7 am to 9 pm." That's ____ [<i>unintelligible</i>].

15:15		<i>[Commissioner passes a piece of paper on which he had been writing to the Chair].</i>
	Gary Smith	<p>“Outside storage and display of landscaping materials will not be allowed north of the existing structure.” That’s an impossibility. You have that much inventory, you gotta store it somewhere.</p> <p>I have been hired by Jason to keep the lot clean and keep the premises mowed, keep the weeds down, make it look nice for the neighbors. Ahh, so.</p> <p>I guess some ____ <i>[unintelligible]</i>. It’s a Catch-22. We need the building to put stuff in it. You won’t let us proceed with something like that, we can’t comply with a few of things. So I agree he needs a fair shot to make his business go. That’s all I have to say, I guess.</p>
16:28	Wendall Engelstad	<p>I am Wendall Engelstad. I am the adjacent property owner to the north of Jason’s property. I live in the County and I’ve worked here as County Assessor up until about five and a half years ago. From my perspective, Jason’s been a good neighbor, kind of watched out for our property, ____ <i>[unintelligible]</i> people who entered when they weren’t supposed to. We’re kind of subjected to a lot of the same rules and regulations, although he’s in the City and Engelstad Properties’ 40 acres is not in the City. As I understand it, the County would prefer to have commercial property across from their landfill, which would be our property, and Jason’s, and for the remaining empty lots there, at least the first lots along the frontage. So I would expect Jason’s in compliance with what the County desires and that fits what we as owners of the other properties have to look forward to also. It’s looking more like commercial is the ultimate highest and best use for that property.</p> <p>And I haven’t seen the plat, but I would assume that that proposed street that would be going through would cut through both of our properties. So, there again, we’re kind of subjected to the same rules as we go forward.</p> <p>I am very much in favor of working with Jason, either renegotiating the conditional use permit or whatever it is, so he can continue to do business as he has been and be an asset to the community as he has been. Thank you.</p>
18:46	Tom Marty	<p>Tom Marty. 63797 250th Avenue. I have the property to the east of Mr. Wilker’s shop. And I guess I would, ahh, I’ve have never had a problem with Jason there. I’ve never anything to complain about. My one concern would be is if his legs are taken out from underneath him and he can no longer operate there. It’s always been my view that a property that has an active business on it is kept up a lot better than a property that doesn’t have an active business on it. So I would just like to see something worked out between the two sides. I also agree there’s two sides to the story, but I’d like to see something worked out. Thank you.</p>
19:45	Steve Herr	Hi. My name is Steve Herr. I live at 25145 750th Street, Hayfield.

		<p>I've known Jason for over 30 years. I was around there helping him when he started his business at nineteen, twenty years old. He's worked his fingers to the bone for his business. And he chose to base his business in Kasson. I believe good business, small businesses you have in your town makes your town stronger, brings more business to your town, and people who come to his business would be spending money at your gas station, spending money at your hardware store, your NAPA, you know. To drive a good business out simply because you want the land for whatever reason you may want it – I don't know what this is, but I'm sure you have reasons – but that doesn't really seem fair to the small businessman who's worked all his life trying to build something. If you were to just simply pull the rug out from under him and he loses everything he's worked for for the last twenty years, it doesn't really seem right. Jason is a very hardworking guy. He is a very well-liked guy. He's been doing business for so many years and the reason so many people like him, is he always does fair business. He treats people like you want to be treated. He doesn't overcharge people. He doesn't rip people off. And hard work like that should be rewarded, not penalized.</p>
21:15	Matthew Volk	<p>My name is Matthew Volk. I live at 101½ West Main Street. I am a past employee of Jason and current part-time. I've known him only - probably I'd say ten months, but one thing that I have known coming from a farming background is that people are what they're worth in work and I know that he works hard. I'm a tough individual and I can't run with him. But the fact that I -- this City. Just as long as I've been here, I currently work for another business that is picking up their roots and moving elsewhere because of zoning problems. That doesn't exactly have to do with the situation, but it just goes to show that what this City values as important long term doesn't seem to be as prioritized as maybe it should be. Small businesses are what people like because they feel they're getting a fair shake of doing business right. Jason's a hard-working individual. I'll stand by him. Through and through. I just think that he needs an opportunity. And that he needs to grow. And he currently can't. Because there's a curtain in front of him that's stopping him from going somewhere. And I don't need to tell you what it is because you all know. So I stand by him 100%. And I ask you to reconsider some of your decisions, and helping him move forward in the future. Thank you.</p>
22:55	Tim _____	<p>Tim, Kasson Auto Repair, 19 North Mantorville. I've known Jason and his father who's since passed way for going back to the early 90's when his dad owned his business in Rochester. And I don't know the trilogy of how Jason came to come over here, but he could have chosen Byron which is where he lives, and it's wonderful that he's here. It's getting hard enough having a small business just exist anymore. So, I don't know the nuts and bolts of everything going on out there, but whatever you have to do make it work needs to happen.</p>

		<p>You know, if he needs more room or a new building or do whatever. I think you know if it's not right for that area, I don't know, but it just -- we need to keep people here in town instead of, you know, sending them elsewhere. I'd like to be out here but we can't seem to get that done out here as well. So whatever you need to do to help Jason prosper. I think, and I don't know the background of that building out there but when I go by there it seems to look -- maybe it's not better in your eyes but -- it -- he does improvements as he goes. And he still works. He still gets a job done but it's looking better than from when that building existed before. I think it was a garbage place or something before. I don't know who it was but he is steadily making progress. So whatever you need to do to help him make more progress or build something new or keep things under wrap out there if that's what he wants to do then, you know, let's get it done. Or whatever building or space or anything to put stuff away is going to look better than it does. So anything you guys can do and people can do would be wonderful. And don't send him packing somewhere else. Cause he was nice enough to come over here when his father and he had owned the business in Rochester. He could have stayed over there or he could have stayed over in Olmsted County but he chose Kasson and so let's keep him here. And so. Appreciate your time.</p>
25:20	Julie Nagorski	<p>Good evening, I'm Julie Nagorski. I'm Jason Wilker's attorney. Thank you for the opportunity tonight to defend Mr. Wilker. We've heard a lot of testimony from a lot of different people in the public. The facts are that Mr. Wilker started in business in April 1999. He's been in business for almost 20 years now. He first came to Kasson in 2009 and at the time he rented the space where he is now, that property. When he started renting it, the lot was full of four-foot weeds, semis that people had parked, abandoned equipment - it was the absolute mess. Mr. Wilker took it over and cleaned it up. Ultimately, the City granted the CUP in 2010 and Mr. Wilker then bought the property because of the CUP. He has improved it steadily year after year since that time. There has been some testimony with respect to the challenges that small business owners face. Mr. Wilker is no different. He does not have an abundance of cash with which to invest in the property. What he does is when he has funds and is able to use those to invest in the property, he does that. And over the course of the almost 10 years he's been there now, he's put \$10,000 into those bunkers and about \$30,000 into berms and trees.</p>
26:56		<i>[Commissioner takes piece of paper back from Chair].</i>
	Julie Nagorski	<p>At the time that the 2010 CUP was granted, he was operating a business that did primarily retaining walls and pavers and the landscaping was on the side. Since that time, he does retaining walls, landscaping, and nursery. All three. The CUP does not require that a certain percentage of his business be devoted to one or the other. It</p>

		<p>says “and.” He does operate a landscaping and a nursery there and so he is complying with the CUP.</p> <p>Mr. Wilker currently employs thirteen people. Most of those people are local citizens here or within the County. His customers come from all over Dodge County. His customers know the location and they know Mr. Wilker because of the location and he generates profits and assists people within the community because of that business location. The location. It is the business and the location.</p> <p>One of his largest tree customers is the City of Kasson. I have with me here today invoices for the last several years showing that the City has purchased ten red royal trees in 2018, one snow tree, all kinds of trees that the City has purchased. I’d like those entered into the record, if I could.</p>
28:17	Theresa Coleman	<p>Actually -- this is not -- this is just a public hearing. And those invoices are currently public records that would be considered public data and anyone can come to City Hall and request copies of those invoices. There’s no record ____ [unintelligible].</p>
28:41	Julie Nagorski	<p>Okay. Mr. Wilker has also purchased in the last few years hundreds and hundreds of trees. And those trees he is putting to good use on the property and selling to the City. Very recently he ordered 40 more trees for the west side of the property and those are still at the property waiting to be put in.</p> <p>The evidence before the City tonight in the form of the packet, which I would like to have the invoices to supplement, is dated. The photos in that packet do not show the dates on which they were taken and that’s vital. Mr. Wilker has obtained just tonight photos that were taken by a drone and they show the substantial trees and landscaping that has been added to the property including 25 foot trees here that were put in 2010 or 2011, 25 foot trees that were put here in 2010 or 11 when the CUP was first granted. Shrubs and crabapple trees all along here and this berm that was added just this summer, with the 40 foot trees that are going to go there and then 320 trees that are planted in this area. The 320 trees that are planted are newer because he had planted trees back there and a farmer accidentally mowed those down when haying that area. So, you know, he is investing in the property.</p> <p>It looks as though the City believes Mr. Wilker is violating the CUP on eight fronts. I’d like to briefly address each of those eight. The first is “no additional commercial structures will be allowed on the property.” That is subject to some litigation and a court decision as to whether or not his addition to his structure is consistent with the CUP.</p> <p>Second is “at a minimum, 60 percent of the entire lot be planted and</p>

		<p>maintained and trees, shrubs or other plants in a density certified as appropriate by the City Forester.” If you look through your packet you’ll notice that something is missing and that is the certification by the City Forester. There is no City Forester that has ever communicated to Mr. Wilker with respect to the density of shrubs trees and other plants that are required on his property. Beyond that, it’s compliant. It’s not gravel, it’s not an open pit; it’s grass, trees and shrubs.</p> <p>Third. “Applicant shall install and maintain a buffer along the south and west sides of the property prior to commencing operation.” There is a buffer on the south side; it’s trees. There is a buffer on the north side; it’s trees. There is also berming. On the west side of the property, there’s a fence. The fence has been there since, Mr. Wilker believes, before he started operating there in 2009 and his understanding is that the fence is a buffer. If it is not, he would like direction from the City, perhaps the City Forester, as to what would be a sufficient buffer for the City.</p> <p>[31:45] The fourth condition that the City alleges Mr. Wilker is violating is that with the respect to additional lighting. Mr. Wilker has not changed the lighting on the property since he’s operated there.</p> <p>“Outside storage is not permitted” and that is why Mr. Wilker is seeking to expand on his structure.</p> <p>Six. “Hours of operation shall be limited from seven to nine.”You’ve heard from multiple people and perhaps more and I haven’t heard anyone state that there is a violation of that condition.</p> <p>Seventh was “outside storage is not allowed other north of the existing structure.” There are bunkers on the property. Those were put in at 2010 with the consent of the City. And as I said, Mr. Wilker spent about \$10,000 putting those bunkers in. The neighbors actually appreciate them because they put the materials below the level of the eye lines.</p> <p>[32:43] And, eight, the final one, is “the operator must have a valid nursery license prior to beginning operations.” There, we ask that you look at the actual language in the CUP. It says he “must have a valid nursery license prior to beginning operations.” He did have that valid nursery license and he does have one now. The City indicates there have been some gaps in that, but the CUP did not require that he maintain the nursery license throughout the time that he exists there. And to the extent that he needs a license for what he’s operating, he does do go out and obtain that license.</p>
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		<p>If the City does revoke his CUP, it will force Mr. Wilker to shut his business down. He will lose customers. They will drive farther. They will have to go perhaps outside of the County to get landscape rock and other items. Mr. Wilker will lose his substantial investment in that property. There has been some question tonight with respect to motives and why the City has decided that it wants to shut down Mr. Wilker. We believe that the motive is the comp plan adopted in June of 2018. Here's Mr. Wilker's property. It's slated for medium density residential. Right there. It's currently not medium density residential, obviously. If the city wants it to become medium density residential, it has a couple of options. One is buy the property from Mr. Wilker. And two is negotiate with Mr. Wilker. You don't revoke his CUP because you have a Christmas wish list of medium density residential where a small business has operated for 10 years. We ask that you not revoke the CUP. Thank you.</p>
34:45	Wild Smith	<p>All right ladies and gentlemen, my name is Wild Smith. I live at 803 10th Street Northwest. My backyard, our backyard, my wife Ruth butts right up against Mr. Wilker. Now I don't know what's going on here, but we've been there since Mother's Day weekend. We moved in there then. I do not have anything against his equipment, where he's got it stored, because I'm a farm boy. I lived north of Byron, out in the valley by ____ [<i>unintelligible</i>] Park almost all my life. Now, to me, if you're trying to me if you're trying to take his property away, that's not right. If you're trying to ask him to do something different, that's okay. But in my estimation, you folks have got to give him time to get this done and far as storage of his equipment outside, that don't bother me a bit. Like I said, I'm from a farm. All of our equipment was stored outside for many years. Nobody ever complained about it and I'm not going to -- complain against Mr. Wilker. And like some of these guys said, I have known him since he was knee high to a grasshopper. He actually graduate from high school with our young son. Now, that don't mean anything here. But I can't agree with him having to shut down and move his business. Like I said, it doesn't bother us a bit. And the trees, I wondered what the heck they were, but I found out tonight they're crabapple trees. But if you shut him down, and as the indication from the young lady over there against the wall, if you're going to City residents in that area, if you want to do that, I can't see shutting him down for that. And if you're trying to say, too, that you're going to put a street right back to my house for that area and take part of my property, no, that's not right. Not right at all. Even though I just moved in and we talked about moving many years and we chose Kasson. I did. It wasn't her, it was me.</p> <p>Well, ok, here we are. But, like I said, I can't agree with some of the things you want to do but I'm not on the council and therefore I don't</p>

		<p>want to be.</p> <p>And another thing that pertains to all you folks, the only one I heard up here at this thing right here was that lady over there. And I got ear gumdrops in my ears and I got them turned up as high as I can. I couldn't hear you at all. You have to, if I may ask, and please use those microphones if they're turned on. I couldn't hear you say hardly anything. I think you're the Chairman, right?</p>
	Chair	Yes.
	Wild Smith	Okay. Now probably you've heard enough of me but still I just don't think it's right to make him exit the City. Thank you.
38:55	Chair	Anybody else have anything else you'd like to add?
39:04	Commissioner	<p>Okay I've known Jason for a long time. We worked together. When I was at Twinke companies, we worked together. I have known him for a long time. We've talked together. Back and forth. We are not here to drive him out. We are not here to impose anything more than we would anybody else. So you can forget all that rhetoric that's not true. It isn't proposed to get a street through there. The comp plan is just a general guide. If he's still in business the street will go around them. It's not set in stone, okay, so forget about all that rhetoric. That's junk, garbage. Jason, he agreed to this conditional use permit in 2010. And he come to us and city council and said he had met all points of his conditional use permit. That's why he was asking for this other conditional use to add onto the building.</p> <p>We asked him straight out if he did. At that time, he did not have 60 of his lot planted in trees. He did still store stuff on the south side of the building. It's still there. He agreed to this conditional use permit. And it states nothing is supposed to be stored on the south side. So you see for us he wasn't meeting his points. That's all it was. I don't want to see him go. I want to see him work with us. But when he come and asked for that building permit for that addition, I asked him straight out and Jason you can't deny this I said can you blanket it or put straw in it until we get this worked out. And you turned around two weeks later and started digging. All those points just load right up. I'm willing to work with you yet. I'd still like to talk everybody into having you meet these conditional use permits and then come and ask for a new permit to add to your building. I have no issue with that but you need to stay with the program. You need to stay with what's planned and follow through. That's just my point of view. That's all there is to it. And we've talked about this Jason so don't, don't think that we're trying to run him out because we're not. We're trying to work with him. He needs to follow through. My point.</p>
41:33	Chair	There's no additional comments I will go ahead and close the --
41:35	Matthew Volk	I do. I got one. Again, my name is Matthew. I was an investigating officer in the United States Army for seven years. I've done two tours and I come back to here. I can read people. I'm good at. Whether

		you want to believe me or you don't, it's entirely on you. You're not an honest individual. You give up body language. It just totally makes me sick.
	Commissioner	Perfect.
	Matthew Volk	I understand that this is a city that wants to grow. It doesn't feel like you want to grow it. It sounds like you want to knit pick fine details. I get it. That's a conditional use permit. That's just like a law. A law is a law and it applies to everyone. I get it. Fine. Maybe you need to recondition. Whatever he needs to do to. Come back to this video and see this. I don't buy it. I just don't. And as you look at me square in the face you can understand how serious I am about it. I don't believe a word that comes out of your mouth. I respect you especially as an authority figure, but I don't believe you. So when you tell us to forget some of these details it's kind of hard because you can't strip things from the record that has already been spoken. I apologize for blowing up.
43:07	Troy Andrews	Sorry to get a little wound up here, but you know, in a business when you, got like --
43:20		<i>[Theresa Coleman exits the room].</i>
	Troy Andrews	I'm going to use the County for an example. I was in kind of the same situation Jason Wilker is in. You know, you start your business, you do try to follow the CUP the best you can. Your business grows a little bit. Now you're boxed in. You're doing your best to go to work, especially during the summer time, you're busier than busy trying to keep all the customers happy, keep the government happy, keep your wife happy, keep everyone happy. And it is the toughest thing. It's not all lake homes and Cadillacs when you're a small business owner. That, that's the truth. And I kind of went through the same thing. Melanie Leth was my lawyer at that time, going through the Dodge County. And I was getting runaround, trying to get my new CUP because the State of Minnesota changed the rules on what regulated my business. So they say I need this giant building put up and I gotta put this building up and go through all this stuff. And going back and forth, kind of like this stuff here. We walked down to Dwayne Johnson's office that day and she says, you know what, no matter what you do, he is not ____ <i>[unintelligible]</i> your business there. He wants you to do business out of the County. And, you know, it cost a lot of money. It can cert-- eat up all your time, what little time you have to yourself, when you're in business. And it gets eaten up by government stuff. And, you know, this town - - I had to -- my employees -- I had to do turn in their names, drivers' license numbers, everything about my driver. See, you guys can do background checks on my drivers. Well how of good background protection did you guys do on your own police officers. You know it's just pretty sad. And this competing business, when they sold here not too long ago, one of their drivers didn't have a driver's license.

		Traveling this truck around the street. Your, your police department knew that they were running a single axel truck overweight and your police department did nothing to do -- take care of it -- beating the crap out of your streets, you know.
45:25		<i>[Theresa Coleman returns to the room, walks over to center of commissioners' table and whispers].</i>
	Troy Andrews	<p>So when you tell someone that they need to stay on top of something, you guys look in the -- in the -- mirror. Because this City has not stayed up on top of anything. You guys have got building permits coming up tonight. You know, I built a garage. Cost me about 50 grand to build this garage on Eighth Avenue. And the reason I built this garage just because they raised Eighth Avenue. They took all the ____ <i>[unintelligible]</i> from the driveway there. My driveway was flat. There was a pool, they put a little, probably like 4-6 inch PVC pipe off the side of the driveway that was supposed to take the water away. Every time the wind blew, the water went right into the garage. I talked to the City, say hey, you know, I'm going to have to tear my garage down, raise it up, build a new garage. I mean that was my only fix. So guess what, you guys got money for my building permits, you know. Just, it you know it cost me money for something that you guys did that didn't care about the public and their property, you know. Then the garage is going built and the contractor was a crappy contractor. I would never have guessed it. And there was all this really shoddy work going on. I brought it up to your inspector. I actually called your inspectors from the City to come to look at and pointed out all this stuff. Well we can't really get into the middle of this stuff you know. I'm not asking you to get in the middle, I'm just asking is this passing. Well, we really can't inspect workmanship. Well, workmanship is the biggest part of it. You can have the best materials in the world, but if it ____ <i>[unintelligible]</i>. Well guess what I had to fire that that contractor and got someone else in there. And when stuff was getting inspected, all the stuff that this contractor did had to be redone, my roof had to be tore off, the sheeting on the roof. I pointed it out to your inspector at that time. New header over the door, siding had to come off. It cost me a lot of money to fix that garage and we had it fixed right. We had -- we got a ____ <i>[unintelligible]</i>. He really did a fabulous job, fixed it up to the point where I would have sold it to a family member. You know, I mean, I --. But anyway, that was the City in my opinion that left one of their citizens just totally out hanging.</p> <p>[47:50] I went to the City. I bought Scott McMillan's place across from the 4-H building up here. I wanted to put a four- or a six-plex in there. I came in here, talked to Mike. Mike's like, no that's only zoned for two, two family dwelling. Well, I said I ain't gonna invest all this money for two family, I'm like a minimum of four maximum</p>

		of six. No, no. And I'm not dragging you into this Coy, you had nothing to do with this. But he was dropping your name, saying Coy Borgstrom, he won't allow this. And I never did talk to you so I mean. I'm not bagging on you, Coy, but, you know.
48:23		<i>[Commissioner passes paper to Chair].</i>
	Troy Andrews	And I'm just like, you know what, I don't feel like another battle. So this isn't -- you had nothing to do this. I've never talked to you about this but this is what Mike said. So I just, I scrapped it. Shortly after that, that old school project came up. You guys gave them zoning variances and it was all easy peasy and Mike he was right behind a pushin. So I'm the local guy here, willing to take my money and reinvest it back in this town but it's not good enough for this town. But an out-of-town guy is perfectly fine and I see that happen in this town a lot. You know, it's not just one little thing that made me stop spending money in this town. It was a lot of stuff. And so, you know, I just really -- when you guys say he's not pulling his weight, I can say the City of Kasson has not pulled their weight at all. So, anyway, that's where I'm at and uhh I just -- you guys better take a long long hard look at yourselves before you start judging this guy here.
49:32	Chair	If there's nothing else, I will go ahead and close the public hearing. Thank you all.
	Commissioner	Where would you like to start with this one?
	Theresa Coleman	Your only obligation tonight was to hold a public hearing. ____ <i>[unintelligible].</i>
	Chair	Were there worthy of any further discussion?
50:10	Commissioner	Well I'll just make a couple comments. One, that I agree with what Lonnie was saying, that there is no unintended purposes other than to try to hold Mr. Wilker compliant with the conditional use permit that was outlined in 2010. He's had eight years to do be in compliance and it's not been compliant during this eight-year period. Now, I've only been in this position for a year and a half now or almost two years and I don't know during that course of six years prior to me coming what communications has happened between Mr. Wilker and the City as to whether Mr. Wilker has come in and asked for an amendment to the conditional use permit to allow the bunker and things, to allow on site storage of equipment, things like that. To my knowledge none of that has taken place. So I am feeling that Mr. Wilker is more than 50% responsible for not being compliant and not working with the City. I think the City is more than willing to work with him and to work with this, to look at amending the conditional use permit or at least considering amending the conditional use permit that may be more in a line with the way his business is today and where we see it going in the future. But the fact of the matter is it's been eight years and it doesn't appear, at least in all the correspondence I have, that there's been this ongoing dialogue to address the conditions of the conditional use permit. And so we're

		faced with enforcing it and we're enforcing it only because we've received complaints regarding the property. That's what initiated this, is was a compliant was ____ [unintelligible]
52:26	Commissioner	What was the complaint?
	Commissioner	Jerry Berg.
		____ [unintelligible].
52:30	Commissioner	We're not addressing each other. That came in after in fact.
52:31	Commissioner	That came in regarding this and the conditional use. That's what prompted this. So that's where I'm at. As planning and zoning, I'm willing to look at the conditional use permit and look at amending that to help Jason continue to grow his business. But you gotta meet us partway, or halfway at least. Come in, talk to us, see what you can do, what you can't do, see what – where the city is in their position, what they can, and cannot do. Let's get this dialogue going rather than this antagonism that appears to be well, obviously, has happened. I have that nothing against Jason personally. I know him, I know of him, I know his family. So I have nothing against Jason personally. I just wish that he would have come in and had this ongoing dialogue.
53:52	Commissioner	Yeah, I'm torn. I agree with the fact that, yes, he's been in business this time. He agreed to the conditions. But I also don't feel that it's necessarily 100% his fault for not necessarily staying up. I agree with Troy; life gets in the way. We get busy with business. We get busy trying to keep things going. So I can understand some of this stuff and some of the conditions that aren't being met. My concern more so with this and I think it brings a bigger light for this board in the City of Kasson is the fact that there's no follow up. I realized that that's a daunting task and we've talked about that in the past. We talked about the only time than anything gets brought up on any these CUPs that we do is if a complaint is filed and I don't agree with that. It's we put these things in place and, yes the business owners agree to them, but it's our job, not the citizens of our community to police that. And with that being said, I just I don't -- I don't agree with the fact that that revoking the conditional use permit is best thing to do. I would agree with Dwayne that, you know, whether it's we look at where he's at today and what his business is and if this needs to be adjusted trying to adjust it in some way. I also know Jason. Jason's been a huge supporter of the fire department which I am the fire chief of. He's allowed us to do many things out there on his property that are benefits to this City and I think if that business goes away that's a detriment to this City. With some of the things that we do from that aspect, so from my perspective, some kind of communication and conversation has to be had in regards to where we sit today with his conditional use permit and what we can do and some kind of time frame to get him back into compliance.

56:27	Commissioner	I agree with pretty much what everyone has said. This is a perfect example of how things can ____ [<i>unintelligible</i>] when we haven't had anybody that's gone around and really made sure everything was compliant. This is the extent of what happens. I don't want to see us revoke anybody's conditional use permit. Jason has worked hard out there. It's great that he's growing. I think that we just need to get together and work on this, and maybe in the future, we can find some way to go around and check on these things, make sure that there -- that everything's on the up and up so we don't come to this point. I am sure Jason is ____ [<i>unintelligible</i>] and all get together and work on a few things. ____ [<i>unintelligible</i>]. The point that we can use it in the future so that we don't come to this point again. It really just hurts everybody.
57:42	Chair	What are the mechanisms available to revise a conditional use permit? Is it the same process as before? Can you answer? Can you hear me, sir? I'm sorry, I'm trying.
	Theresa Coleman	Um, unfortunately, in the case um uh Mr. Wilker has hired an attorney. Um, so that his attorney would need to communicate directly with the City attorney in order um for communication to take place.
58:11	Commissioner	Tom, was that what you were asking for? Or was it actually, what's the process of doing an amendment?
	Chair	Is there a mechanism in place? Cause at least my memory over the last ten years, whatever it's been, is that we've never actually had somebody come in saying, hey guys, I'm struggling to meet these conditions set forth in my conditional use permit, is there a mechanism by which you can review these to see?
58:36	Commissioner	You're not asking to talk to Mr. Wilker quite yet, you're just asking about the mechanism in the ordinance.
		[<i>Talking over each other</i>]
	Theresa Coleman	Yeah, Mr. Wilker was offered two opportunities and actually two public hearings were scheduled um in regard to his conditional use permit um and both times his attorney requested that those hearings be cancelled.
	Commissioner	Why is that, Mr. Wilker?
	Theresa Coleman	I don't know that that's appropriate. I think we will allow his attorney to correspond with our attorney.
		[<i>Commissioner speaking - [unintelligible]</i>]
	Theresa Coleman	I'm sorry, no. I'm just trying to be cautious.
	Public	Do you mind if I approach the podium?
	Theresa Coleman	No. No. No. Thank you.
	Chair	I think that's the hard part here for me, is the communication. Even when I went around. I was trying to figure out what was or wasn't going on. Took a few photos. I believe the communications we got

		from his attorney was to the effect of reminding me ____ [unintelligible] case I was trespassing. So it's how do you start this dialogue. How do you have this conversation. And I guess if we turned it into a legal matter --
	Theresa Coleman	It has become a legal matter.
	Chair	It definitely handcuffs our ability to handle ____ [unintelligible]. That would be my challenge. Tom, ____ [unintelligible].
	Commissioner	I've probably already made my comments. I still say, Jason, talk to your attorney, have your attorney talk to our attorney. Let's get something going. I said I'm willing to work with you. We just need to work with each other and be straight up. I think that's the next move. Get the attorneys to talk. Let's meet. Let's get this thing going. I've said it from the start. But you got to work with us.
		[Commissioners talking - ____ [unintelligible]].
1:00:38	Commissioner	I really don't have much to add. ____ [unintelligible]. I just kind of agree what's already been said here tonight. ____ [unintelligible]. And I think we need communication or dialogue to find this pathway to compliance. ____ [unintelligible].
1:01:00	Commissioner	Well, I do agree a lot with Troy on this here in there is certain things to be in small business. Especially when you work in your business every day, you're an accountant, you're the bill collector, you're the bidder, you do all this stuff. You don't necessarily always remember what you did back in 2008 that you had a certain conditions ____ [unintelligible]. I don't know exactly how we let it get this far. I apologize if I did anything to let it get this far. It has gotten outta hand and is in my eyes ridiculous that it's this far. If there are certain things that need to be fixed because they're outside of a conditional use permit or a variance or something and it slipped through the cracks, I'm sure anyone sitting at this table tonight could drive around town and find something on somebody's property that has something that it's not in compliance. But for this to get this far, for somebody who has a growing business in this community and hasn't had a legitimate complaint against his business, for the neighbors to say that there isn't a problem. I've been around the State quite a bit here this year with work and everything else and the one thing about you'll find a nursery or landscape business, you find them in the residential areas. There's areas up in Eagan that have massive nurseries, landscape businesses in the residential area. Where I found the ones that have closed up and left are these commercial concerns. The residences are the ones who patronize these guys in the weekend and night whenever they call, set up appointments, on his number to set up an appointment after hours. So for this to go this far is beyond comprehension. But I agree with everybody else that we need to move forward and work with him on it. 100%. I mean, there's a couple things – the bunkers on the south side. Like I said, I haven't heard a neighbor complain

		about them. If they've been good this long, I don't have a problem with them. And if we're going to allow him to have them, I'm not going to make him dig them up to meet his conditional use permit. I asked if I could drive around out there and I do see that he has planted multiple trees out there on the west side. But, yeah, we need we need to open up a line of communication with him and get this process to move forward and create an amendment to his CUP so he can expand in the future also.
	Chair	Who starts the conversation?
	Theresa Coleman	His attorney may contact ____ [<i>unintelligible</i>].
	Chair	Any other conversation that needs to be had ____ [<i>unintelligible</i>].
	Theresa Coleman	____ [<i>unintelligible</i>].
	Chair	That's what I'm asking.
	Commissioner	I'm good.
1:04:00	Chair	Put this one to bed for the time being, then.
		____ [<i>unintelligible</i>].
	Chair	Next item on our agenda a general downtown comp plan

Kasson City Planning Commission
January 13, 2020 Public Hearing

First segment of video of meeting		
Time	Person	
45:23	Chairperson Tom Ferris	Next item on our agenda this even is Public Hearing Conditional Use Permit for Wilker Landscaping and Nursery.
45:33	L. Chamberlain Outside Planning Professional, hired by the City	<p>Alright, thank you Mr. Chair, so before you the property located at 1103 8th Avenue NW is requesting a conditional use permit to allow for an existing nursery landscaping nursery in the R1 zoning district. This property is right next-door to the one we just discussed. Just some consideration for you as we are reviewing the conditional use permit, the conditional use permit has specific elements that need to be, that are findings of fact, that need to be found in accordance with City code. I have provided a printout of those and they are also within your staff report. There are general findings as well as additional consideration, I will not read them all aloud, but just to keep those all in mind. Again, this parcel is located in northwest Kasson to the South and East are single family residential developments and agriculture uses to the North and West that are planned for future single-family residential. The site is currently operating as a nursery which was an existing nonconformity and moving forward the site as the Planning Commission probably have some familiarity with the site the use of the nursery, and I learned about this just this last week, so I apologize if some of my dates are incorrect so please feel free to, Commissioner, to let me know. The nursery use commenced in 2009 around that time that the City put a stop order on operations until a conditional use permit was acquired. The property was approved for a conditional use permit in 2010 and then around 2017 the property was found to be in violation of those conditions or of some of the conditions of that conditional use permit. The violations were not resolved and over time the City revoked the Conditional Use Permit in March of 2019. There is currently pending litigation over an existing building on the site between the Applicant and the City and that is ongoing. The site within the comprehensive plan is designated as medium density residential. The continuation of a nursery used on the site will not impede that, however, future long-term development of the site should be considered for residential usage. And the site is zoned R1 single-family residential where gardens and nurseries are conditionally permitted. The Applicant provided a site plan for the site and showing proposing a number of buffers and landscaping screens to in particular to the south to for the property itself and for future they will avoid a condition to the west. However, the site plan does not give indication of all those</p>

		<p>buildings located on site the location of existing impervious surface outdoor storage areas and their dimensions, the buffer yards and what materials make up those buffer yards as well as locations of driveways parking and signs existing or proposed and no topography or grading. These are elements that we would consider would be needed for a development plan as required by a conditional use permit of the existing conditions and proposed conditions on the site. In particular because of the intense use of storing elements out or materials outdoors and screening those elements as well as the possibility of moving materials during the day you want to make sure that landscaping and screening of those areas can buffer sound and noise as well as sight to the extent possible. Other elements that might be appropriate for the City to receive include a lighting plan and a sign plan if those elements are also opposed. Reviewing these materials, we found that the application as presented did not provide enough information for moving forward with the conditional use permit. As such staff recommends Planning and Zoning Commission recommend to the City Council denial of the conditional use permit for nursery in R1 zoning district. A denial of conditional use permit requires findings of fact to be lifted and then conveyed to the Applicant upon that action being taken and those findings of fact that staff recommend are above we believe that adequate measures have not been taken or not proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of the neighboring property that being one of the considerations listed within the City Code. Other elements that the use has not been found to be screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and will be no deterrent to development of the bigger plan. Finally, there is no evidence of adequate parking drainage or other necessary facilities. As such, that is the recommendation of City staff. A note on conditional use permits, they are applied to the City, not to the Applicant and so what the conditional use permit is allowed that property can as long as those conditions are met that property can maintain that use in perpetuity. Also if the action of the recommendation of the Planning and Zoning Commission and the action of the City Council results in denial, the Applicant is not allowed to resubmit the same which are the same proposal without significant changes and City staff would consider explanation of those landscaping elements and screening elements to be a significant change in that regard. So those are the possible actions for the Planning and Zoning Commission after the public hearing.</p>
53:29	Chairperson Tom Ferris	Thank you, ma'am.

53:30	L. Chamberlain Outside Planning Professional, hired by the City	Thank you.
53:31	Chairperson Tom Ferris	Jason, you're the Applicant, do you have anything you'd like to share before we begin?
<i>Ms. Nagorski approaches the podium (53:39)</i>		
53:53	J. Nagorski	[asking to use the chair behind her for her laptop – words cannot be clearly understood]
53:57	J. Nagorski	Members of the Planning Commission, thank you for having us here tonight. I know I'm familiar to all of you. I thought perhaps I'd give you just a little piece of my background. I grew up in small town Minnesota outside Minnesota City. My mom raised nine children, she was the town clerk. My dad was almost identical to Mr. Wilker. He owned a contracting company in Goodview. I worked for a year in Rochester. I'm telling you this because of my positive experience with small town Minnesota. I think Kasson personifies small-town (excuse me) Minnesota except for how it's handled Mr. Wilker. Mr. Wilker is one of you. Mr. Wilker is ingrained in this community for decades. His children probably know your children or you. He lets the fire department use his property, he donates funds to the police department, he supports the local businesses at every opportunity. What makes small town Minnesota, small town Minnesota is its village atmosphere which is "we support one another, we have one another's back." Mr. Wilker asks that the City treat him that way tonight. He has submitted his CUP application. This whole matter began with Mr. Wilker doing precisely what most governments want property owners and business owners to do. He wanted to improve his property. Exactly what is good for this City, what is good for the residents, what is good for the business. What he found himself in is two years of dealings with the City. At one point he reached out to the Mayor and a council member and said, "please come onto my property. You're telling me you want me to communicate. Here's your opportunity. Please come onto my property. Learn my property, learn my business, tell me what it is that you would want, that you would want me to do." In response Mr. Wilker heard nothing but crickets. He has submitted this application and it sets forth a plan for his property that is consistent with the plan that has worked for his business for two decades. The City's ordinance defines a nursery in a very generic manner. It states that a nursery is land used to raise flowers, shrubs and plants for sale. That's City Code section 154.007. State law has a different definition. Mr. Wilker complies with both City ordinance and State law. Mr. Wilker has a nursery stock dealer certificate granted by the state. The state imposes certain

		<p>restrictions on nursery stock dealer certificate holders. The City doesn't impose restrictions on CUPs for nurseries other than as set forth in the ordinance. His application consists of the plan for his property and his business that works under the parameters of the City ordinance. We understand we've had a brief opportunity to look at the staff recommendation. It was nice to see an analysis of the issues and we appreciate that. It sounds as though staff believes that the application is incomplete, we would submit that it is. Requirements that are not stated in the ordinance are not something that should be imposed on Mr. Wilker. Requirements that have not been imposed on conditional use permits previously are not requirements that should be imposed on Mr. Wilker tonight. Some of you may be aware of the fact that in 2018 at the City's urging I believe the City Council told him "submit a CUP application." Mr. Wilker did what the City asked and he submitted a CUP application. If you haven't seen that before tonight, I ask you to take a look at it. It says "CUP Period." If the City thought that application was complete, I suggest that tonight's application is more than complete. We've had an opportunity to briefly look at the City's memo. Of particular concern there is the unconstitutional exaction that that memo requires of Mr. Wilker. There is abundant authority that prevents the City from imposing unconstitutional exactions on property owners. There's a 2013 United States Supreme Court case <i>Koontz v. St. John River Water Management District</i>. If unconstitutional taking occurs when a permitting authority, such as the City of Kasson, makes an improper demand for property in exaction under the proportionality and Nexus test, to make a demand of a property owner who's submitting an application for a lawful use the City cannot impose unconstitutional conditions. There must be a connection between the proposed use and the debate, excuse me, demand made of the property owner. Above and beyond that, there's the problem of <i>Kilo v. City of New London</i>. I would think that many of you are familiar with that case. That case provides that the government may not take property from a private citizen for the benefit of another private citizen. Here, the City is proposing through public hearing tonight to take Mr. Wilker's private property to allow Bigelow Voight, I'm sorry if I said it wrong, to develop it's property. Unconstitutional. That's a taking. If the City wants Mr. Wilker's property, the City must pay him for it. Above and beyond that, I recall at another public hearing here there were two citizens that raised the notion that Mr. Wilker was being persecuted because of the desire to include the road through his property out to eight.</p>
<i>Ms. Nagorski grabs her laptop from the chair behind her (59:54)</i>		
59:59	J. Nagorski	In response to that, this is at a September 9, 2018 Planning

		Commission public hearing. Commissioner Zilansky, at this you said “you’ll have to forgive me, I’m not aware of any” in response to Gary Smith who said “you want to develop that area, put a road through there, that’s my guess.” The answer was “you’ll have to forgive me, I’m not aware of any.” Later in that same meeting and this is all recorded, right, in that same meeting, there was another Commissioner and here I don’t have the name I’m sorry. 1) I agree with what Lonnie was saying that there is no unintended purpose other than to try to hold Mr. Wilker compliant with the conditional use permit that was outlined in 2010. The City assured Mr. Wilker then that all it wanted was communication an application and not his property for a road for another private property owner. But yet here, we have a memo from City Attorney
<i>Ms. Nagorski returns her laptop to the chair behind her (1:01:01)</i>		
1:01:03	J. Nagorski	stating that the City should require a dedication of property. Beyond that, the memo is problematic for Mr. Wilker because it seeks to impose conditions on the operation of his property, excuse me, on the operation of his business rather than on the operation of his property. When the City says it wants 300 new trees a year --
<i>Ms. Nagorski looks to Mr. Wilker and asks a question (1:01:25)</i>		
1:01:25	J. Nagorski	Mr. Wilker can you sell 300 trees?
1:01:28	Jason Wilker	Absolutely not.
1:01:30	J. Nagorski	Mr. Wilker knows his business, he knows the market, he knows supply and demand. He knows what works for the City and the City’s proposal here does not work for him. What the City is asking in the memo would not be that different than telling Casey’s it needs to supply 500 1-liter Pepsi bottles every month when I think Casey’s knows how many citizens drink Pepsi or Diet Pepsi and how many want a 1-liter bottle versus a 20 ounce bottle. Another example of what the City would be trying to impose on Mr. Wilker would be to take a look at the application tonight. I see proposed houses of various sizes. Some of them are large. Six thousand seven hundred square feet. Some are smaller, various square footages. Well let’s take a look at this and tell the developer he must build only a house with only 4,700 square feet five times, ten times, fifteen times. No. The developer decides what works in the market and that is what Mr. Wilker has done with his application. He has set forth conditions that work for the property, that has successfully operated there without complaints by the neighbors for years and he asks that the City please grants him the conditional use permit. If you have any questions, I’m happy to take them and otherwise Mr. Wilker might be able to answer any as well.
<i>Ms. Nagorski leaves the podium (1:03:02)</i>		
1:03:02	Chairperson	Thank you.

	Tom Ferris	
1:03:09	Chairperson Tom Ferris	As gracefully as I can. Oh did you, forgive me Jason come right in.
<i>Jason Wilker approaches the podium (1:03:08)</i>		
1:03:11	Jason Wilker	I think there's a few more than just me, but . . . Jason Wilker, I'm the property owner at 1103 8th Avenue NW, Kasson. A residence in Byron at 630 Meadowlark Court NW in Byron. Well, all I'm going to be pretty short and sweet on this. Basically, I have felt that I have met and tried to meet any more things that the City has asked me to do on this property. I have also asked a few members to come out, both on City Council and on Planning and Zoning. I have only had one phone call. I phone call out of all of it. I phone call to come out to my property. And I have also invited people to come out to my property. Has there been one of you that has come out to my property?
<i>Chairperson Tom Ferris raises his hand (1:04:19)</i>		
1:04:21	Jason Wilker	Okay.
1:04:22	Chairperson Tom Ferris	I believe I was accused of trespassing if that is correct?
1:04:27	Jason Wilker	That is correct.
1:04:28	Chairperson Tom Ferris	Okay.
1:04:28	Jason Wilker	And why is that? Because there was no phone call. No phone call. Now if I stepped on your property and entered into your home without a permission, what is that called? What is that called? Trespassing. Breaking and entering. Correct?
1:04:47	Chairperson Tom Ferris	Yep.
1:04:48	Jason Wilker	Now, a simple phone call, any one of you are welcome on my property with a simple phone call. All it is. I want to work with you, you need to work with me. And basically if you want a business to run in this town and run smoothly in this town, to pay taxes in this town plus benefit the residents in this town so they don't have to drive to Rochester. Fireman – God said it – wherever to take this money out of this community, take it somewhere else. Who lives in this community? People that work for me, people that that pay taxes. In order for that to happen and keep that money in this town, business needs to run smoothly. And asking me to plan 300 trees – yeah over time could I plant 300 hundred trees, and can I sell 300 trees over time, possible – but the diameter in trees and telling me how to design and to put the stipulations on my business of what I can and can't sell and the size of them is not okay to me. It's basically telling me that you want to run my business for me. And that's not okay to me. I don't tell you how to run the City of Kasson. I don't expect you to tell me how to run my business.

		That's basically all I have to say – is I've tried to comply with you guys – now you need to work to comply with me and help me out, not be against me. That's all I've got to say. I think there's a few other people that might have something else to say.
<i>Jason Wilker leaves the podium (1:06:37)</i>		
1:06:44	Chairperson Tom Ferris	Thank you sir. Before I open up the public hearing, this has come before Planning and Zoning in the past and things have deteriorated so I would ask everybody to avoid any sort of personal attacks against either other people in the room, against members of the council. My mother is in her 70s and sitting here thinking about it for a minute she would just tell me to mind my p's and q's when I was a small child growing up and I would ask all of you to do the same things so that's it, I'll go ahead and open up the public hearing. If you have anything to share, give me time enough to come up to the podium and give Linda your name and address please.
<i>Ben Boynton approaches the podium (1:07:22)</i>		
1:07:27	Ben Boynton	Ben Boynton, 209 Fourth Street Southwest, Kasson, Minnesota. I am a friend of Jason Wilker's. I am a client of Jason Wilker's. I'm also his insurance agent. Thank you all for taking your time in this case, I know it's been two years of a lot of stuff that hasn't been a lot of a lot of fun, so I appreciate you guys listening to us tonight. I'd like to mention that I've read all of the info including the old CUP, watched every video of every one of these Planning and Zoning meetings and the City Council meetings. So I have a little bit of knowledge when it comes to what's going on with this case. I'm a little concerned as a resident that this case over a building permit and the CUP is becoming more important and becoming a bigger topic in town than the infrastructure that we have to deal with going forward as far as all the flooding, that we all know what's going on with the City of Kasson. It's becoming increasingly expensive when it comes to the litigation that could potentially happen with this, so for me I'm a little concerned and that's why I feel the need to come up and speak with you guys today. It's hard for me to understand and comprehend how the City, the Council and the Planning and Zoning, when there's only been supposedly one of you has ever stepped foot on his property, to make recommendations of where he was on that old CUP. None of you have stepped foot on that property except for maybe one and you guys are telling him that he's not coming up and meeting, to use your words in several of the meetings that I've watched in video and read "that Jason hasn't come up to the plate to meet and work with the City." Jason has openly invited a couple of you to come out. To me that's working with the City. He was compliant with ceasing the building, the building of his addition to his property when he was told. He was told by a City

		<p>employee that probably didn't have the authority that he could do it, that it shouldn't be an issue. It because an issue and that's why we're here today. Mr. Wilker stopped building and doing when he was told. That's working with the City. He was compliant in getting his license. I know that was one of the points of contention and one of the, in several of the meetings – that he didn't have the proper licensing. I believe he did, I believe he does now, as he's told me several times. His equipment is stored indoors, that was part of the old CUP. His stock has been moved, has all been moved to the north. That was being compliant with his old CUP. The City Attorney in her recommendation now allows and was okay with allowing the bunkers on the north, or south side of his property to remain as long as no more are put in place. That and his old CUP also said that that was a violation but now it's okay. If none of you have ever stepped a foot on his property in the last two years, do you know that he's planted over three hundred and eight trees already since this has been going on. And now the City Attorney is making a recommendation that he plant 300 more trees, or is that after the trees that he's already planted because none of you even know that he's planted these trees and he's come up to the plate several times, but none of you know this apparently because he's come up to the plate and he's tried to work with you guys but I don't know what's getting lost in translation and that's what my fear is, is that the information isn't being told to you guys how to make the proper recommendations because nobody at the City Administration has been on his property, nobody on the Council and nobody on the Planning and Zoning except for maybe one. That's kind of scary to me that you, that the Council revoked his CUP with no information or never even being on his property to know if he's actually been trying to work with you guys. So how can recommendations be requested or made when nobody's been on his property? Another thing that's concerning to me, and using Mr. Burton's words from March, the March 13th meeting is that, and let me go back to that meeting and read his words so that I don't butcher them. "Council Burton, or Councilperson Burton has no interest in driving a business out of town, but we are here to enforce the ordinances of the City and the City is at the point to the action that we have to take." And that was to revoke his CUP. For ten years nobody had ever been, nobody has even been on his property. Now all of a sudden he goes for a building permit, and now it becomes a major issue that could get the City into a \$500,000 litigation prep case? That's concerning to me, because if you're not enforcing the ordinances like you were told to do or that you should have been doing and that the City is being reactionary and now all of a sudden you guys are going to impose this only on Jason Wilker,</p>
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		or Mr. Wilker's CUP, and not the other ones that aren't in compliance because nobody at the City is actually doing anything about this. It's concerning to me that all of a sudden we're calling out one person. It doesn't have to get to this point and it never had to get to this point. So in conclusion, (get me back to this screen right here – <i>said under his breath</i>) I wholeheartedly support the approval of his CUP and that the people that I know and respect because I know many of you on this, on this board, and I respect all of you, that you guys will make the right decision so we can move forward to the larger issues that are facing the City. Thank you and have a good night.
<i>Ben Boynton Leaves the podium (1:13:30)</i>		
1:13:31	Chairperson Tom Ferris	Forgive me sir, did you say a City employee gave him permission to start construction on a
1:13:37	Ben Boynton	Mmm hmm.
1:13:38	Chairperson Tom Ferris	on that site?
1:13:38	Ben Boynton	Yes.
1:13:38	Chairperson Tom Ferris	Okay.
1:13:39	Ben Boynton	Yes.
1:13:40	Chairperson Tom Ferris	There was
1:13:41	Ben Boynton	Now later revoked
1:13:42	Chairperson Tom Ferris	And that was just a verbal permission?
1:13:43	Ben Boynton	Yes.
1:13:45	Chairperson Tom Ferris	Thank you.
<i>Trey Anderson approaches the podium (1:13:50)</i>		
1:13:54	Trey Anderson	My name's Trey Anderson up at 64739 – 270th Avenue, Newcastle and this is going to be tough for me because I know, I know so many of you on the board here and I just, I'm not trying to attack you guys but, you know when I listen to you read off all this stuff and I'm not attacking you but it did sound like there was just a pile of b.s. pushed onto this thing. I've been in a situation pretty much a twin to what Wilker has going on right now and it's not pleasant. You know, if you wonder why people get standoffish or aggressive or whatever, it's their livelihood and it's no joke, because I was in this exact situation. I had the State of Minnesota that came to me and told me I needed to put up this big building with a certain type of floor and it was hundreds of thousands of dollars to build this stuff. And at the same time, I have Dodge County fighting me, I'm even staying in the county. As a matter of fact they told me to move my business to Olmstead County. Then I have Olmstead County

		<p>saying “hey we’re going to buy a 52 new garbage trucks and we’re going to cancel everyone’s license.” And if they do that then I’m out of business. This is all in the same summer and if one of them pieces would have fell out I would have lost everything. My home, I would have been crushed. So this isn’t a joke. You know when I reached out to two council members of the City this summer, I wanted to urge them to talk to Wilker, I wanted to talk to them about my experience that I’ve had and no one really got ahold of me. To have this conversation, which I wanted to have in private – one of the people involved in this whole situation – is representing the City and that was also the person that was representing me while my stuff was going on. This person told me, “no matter what you do, Dodge County is going to fight you no matter what you do.” And I’m talking, I was going to move my business to an industrial park over [unintelligible] Addition, Mormons Building and no matter, they tell me to go there, I go there to start getting the deal worked out and then they’re like “oh you’re not going there.” And this just repeatedly went on. You know how frustrating that is? And then they come down to a County Board meeting and I was there and I’m there and my representation never showed until after I had to represent myself. Then put me on path to hire another representative to come in and get the situation taken care of. On one meeting and a couple letters and he had the whole thing resolved, it was you know, but just thousands of dollars just going out the window constantly. So this is kind of really said that this thing has got this far. I mean when you talk about worrying about depreciation of homes over in that property I don’t think when the Shopko went in over there you worried about the depreciation of any of the properties and went over there and – what’s going on over there right now, is it like an indoor skate park or is it just closed, I don’t know, it’s kind of a bad decision that the City made. You know, you’re worried about commercial operations, well now what do you got, garbage trucks running up and down that road all the time, you got litter, you got gravel trucks running up, you got farmers running the elevator just a few blocks to the south, you got gas stations, elevators, I mean it’s – that County Road is – it’s a heavy used County Road. There’s nothing wrong with a landscaping business being in that property. Actually, if a little work was done that place could fit in there beautifully. But I just don’t think a real effort has been put in and it’s pretty sad when an unelected official like a City Administrator which this City’s had problems with numerous of them, really is running the show, and it’s not the elected officials. Because a lot of times unfortunately the elected officials, and I’m giving you guys a break on this because you can’t get into everything, you have to</p>
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		take the word of your hired people, but sometimes they're not after the City's best interest, sometimes they're just, I don't know, you guys too have to reach out and do this work. So I don't really have much more to say about that, but I just hope you guys can get something worked out Wilker because I just know this is not fun you know, so thank you.
<i>Trey Anderson leaves the podium (1:18:50)</i>		
1:18:50	Chairperson Tom Ferris	Thank you, Trey.
<i>Ben Boynton approaches the podium (1:18:54)</i>		
1:18:54	Ben Boynton	One more thing to add, sorry Ben Boynton, with 209 Fourth Street Southwest, one more thing, I do live right over by the Shopko and when you guys were talking about 12 th Avenue with the Bigelow Voigt and saying and you did ask how big of a culvert that you need. So, I live with my backyard is in the park. There are two giant – I would say giant culverts – that are in that, that go across that street. And debris fills those up and this last year and two years prior to this I had water within three feet of coming in my house. My neighbors have also had water because debris from trees and grass fills that up so to put 12 th Avenue through that property against the advice of these people of how expensive it would be and to have culverts, to answer your question on that might, to take that recommendation to give the City permission to use that as they need on 12 th Avenue. To me, living where I get flooded quite often it's not fun. Okay, three times I was cleaning water out of my basement, talking to my clients on the phone as I'm dragging carpet out of my basement. It's not fun. And if it's going to cause rage issues, I would heed the advice of the people that know the best, so to put that road through there, I don't see, I don't see that recommendation, and if you're going to go off of the recommendations, I would try to strike that out if you guys do approve this tonight. If you don't whatever, but I can tell you that it's not fun living next to that – those culverts with all that water coming through.
<i>Ben Boynton leaves the podium (1:20:31)</i>		
1:20:30	Chairperson Tom Ferris	Thank you.
<i>Steve Emerick approaches the podium (1:20:39)</i>		
1:20:41	Chairperson Tom Ferris	If you'd be so kind sir, we do need to stay focused on Mr. Wilker's conditional use permit, as opposed to other topics, please.
1:20:49	Steve Emerick	I haven't said anything yet, but you're already attacking me, what's the point of that? I haven't even said anything.
1:20:56	Chairperson Tom Ferris	I'll be more than happy to stick around after the meeting if we need to expand to other topics.
1:21:02	Steve Emerick	Okay. My name is Steve Emerick. My address is 25457 150 th Street, Hayfield. I've known Jason Wilker pretty much all my

		<p>life and I'm here to support him in him trying to get his CUP approved from you guys, and I know pretty much whatever any of us say, it really ain't going make a lot of difference, because I've been coming to all these different meetings. I was at the meeting when you said that there was no plans for Jason Wilker's property whatsoever. And then we see tonight how you want to put 12th Street right on through his property. And my guess is, you're going to satisfy the Bigelow Voigt because they're a much bigger business than Mr. Wilker's business. And at the end of the day, it all comes down to money, it all comes down to power, money and influence. And you guys are going to support whoever has the most power, money and influence that you think will help you in your personal lives or in the City. Now, I'm not sure how you're going to waste half a million dollars in litigation trying to fight Mr. Wilker. I know your plan is to get him to eventually just give up, because you want his property. It has nothing to do with the building permit that he was told he could start building on, and then you removed it. You're using it as an excuse to get Mr. Wilker's property, because you want his property. You lied when you said, "oh we know nothing about any plans for his property." Not true, it was been right here, you want 12th Street to go through there. Now I know everything I'm saying doesn't mean anything, because you guys don't care about what I say. You're attacking me before I even said anything. So, I already know what you guys are going to do tonight, but I wanted my word heard.</p>
<i>Steve Emerick leaves the podium (1:22:44)</i>		
<i>Doug Buck approaches the podium (1:22:47)</i>		
1:22:54	Doug Buck	<p>Doug Buck, 300 15th Avenue, Kasson. I'm here in support of Jason and his cup tonight. I, from ground level, kind of seen how it all started out. We were told once it was because of a complaint. We know it was because of the City Administrator. She started on it, saying that the properties weren't going together and this and that. And she had about three excuses before she got down to something to do with the cup. So from that, Jason's a wonderful guy, 17 people he employs here in town, pays taxes here in town. Good guy to work back and forth with. Would get the best trees the City of Kasson does from him. And go out and look at the ones that have been planted. Look at that other outfit that's been there, they came and planted some at my place and stomped the root to the ground. I went and bought some trees and replanted them. That don't happen when Wilker plants them. So he's only done two things wrong here – he's worked hard and he's grew. Now help him out a little bit. Thank you.</p>
<i>Doug Buck leaves the podium (1:23:54)</i>		
<i>Coy Borgstrom approaches the podium (1:24:04)</i>		

1:24:12	Coy Borgstrom	Coy Borgstrom, 20 East Veterans Memorial Highway, Kasson. Can I have you back that up a little bit? Oh, one too far. (<i>looks to something on righthand wall</i>) The staff recommendations here on this. I have a tough time swallowing, you guys just let Bigelow Voigt walk out here with a piece of crap being approved later. Jason's general development plan doesn't need to be in here right Aaron?
1:24:53	Planning Commission Member Aaron Thompson	Uh . . .
1:24:53	Coy Borgstrom	You need, to build, a general development plan for bringing in a development, right?
1:25:00	Planning Commission Member Aaron Thompson	Well, he's just doing a Conditional Use Permit.
1:25:03	Coy Borgstrom	I'm asking a question.
1:25:04	Planning Commission Member Aaron Thompson	Yeah.
1:24:05	Coy Borgstrom	You need a general development plan to do a development? There's no development here. So, he doesn't need that. You guys need to go back to the book here and take a look at this. This is not a findings of fact, stuff that is just made up. Like I said, Bigelow Voigt just walked out of here with what I regard as being very incomplete and sitting on this Board here for over 20 years, I pushed hard to get people to quit doing things half-assed. You know the rules, you know what you need to bring to this Board. Either do your job or wait another month. Jason's deal is unique right? But he has gone through change after change and trying to get this done. We've sat here with City Council and said we'd interpret it different. The Mayor has sat there and said that this is not a new building, it's an addition. To have somebody turn around and say something to someone else to have it brought back again and twist it another way. You guys have had piss-poor advice in direction. You need to step up and look at it by yourself. We hear some good comments on this and we hear some negative stuff. The conditional use permit on this thing is pretty much answered by the neighbors. They've been here, they've spoke. Have you heard of one complaint from the neighbor, not somebody 6, 8 blocks away that says you're not following the rules? Everybody expands if they grow. You forget about a conditional use permit that you had 10 years ago. I forgot about it, I was on the Planning Commission when we put it in place, and we haven't heard any complaints yet. I don't quite understand. The City Administrator has moved on and I'm thankful for that. She had a vendetta against him. I have no idea why, but it's time to move forward with this and you guys need

		<p>to just sit down and look at it. I said the neighbors are going to set the conditional use permit. He's been there long enough that you should be setting a conditional use permit on complaints, not trying to pull something out of your rear-end and stop him. I have not heard of a complaint. Duane tried to reiterate, when I said that before, that there was one complaint. There was, that was Jerry Berg, 6, 8 blocks away, which Duane did acknowledge at that time also. This is pretty simple. We've had people come in here, a garage that sits in the setback, we worked with them, let them rebuild the garage in the nonconforming use because they did not take up the foundation. There is one conditional use permit that is being violated. You guys see it every time you drive out of here. Every meeting you drive out of here, you see it. It was brought up at a public meeting to Teresa, your former City Administrator. And I don't think there's been a letter that goes out for their sound barrier for their rooftop unit. And I would recommend that if one doesn't go out tomorrow, you might want to find different staff. You guys have our land ground-work with what just left here for more lawsuits. Can we go to the next slide?</p>
1:29:20	L. Chamberlain Outside Planning Professional, hired by the City	Next one, or previous one?
1:29:21	Coy Borgstrom	Yes please.
1:29:22	L. Chamberlain Outside Planning Professional, hired by the City	Ok.
1:29:22	Coy Borgstrom	<p>Thank you. Bottom bullet, "Recommended denial with findings of fact as presented by staff." Can I please go back to what I've urged before? Not to take recommendations from staff, they are to do your legwork, answer your questions, find the stuff you need. They do not get to recommend. They do not get a vote. Their job is to find your facts. There's people in this town communities that will grow. There's Lonnie over at T Works, there's Joel Albert's A&A Electric. When this was going on, anybody could have walked out there and said – they're in violation, they've got equipment in the road right-away – and I could have done that, but I didn't, was mute, was worthless, was a joke if I would have done that. There's other conditional use permits that – I should say that are not in complaint – houses that have things built into the property setbacks that I specifically gave addresses to Mike Martin, which I'm sorry to bring that one up, that did not get taken care of. So, there's a lot of things in this community that are against the ordinance, but no one's policing it. This one here became a vendetta; bad advice was</p>

		given to a lot of people and we need to move forward. Like I said, if you're going to set conditions, he deserves his conditional use permit, he just outgrew it. But if you're going to set conditions with the conditional use permit, you need to listen to the neighbors and see what conditions need to be set, because right now my recommendation is to grant this condition with no conditions, because there are none that are being complained on. Thank you.
<i>Coy Borgstrom leaves the podium (1:31:30)</i>		
1:31:45	Chairperson Tom Ferris	Does anyone else have anything they would like to share?
<i>Jason Wilker approaches the podium (1:31:47)</i>		
1:31:48	Jason Wilker	I do have one more thing. With my conditional – Jason Wilker 630 Meadowlark Court, Byron. I do have another thing to say too on this whole thing. I do notice that you do bend the rules for some things and some and certain people. I've also known I've had a landscape business there for 11 years and I have had no complaints in that specific spot. I also know that you've been able to bend the rules and allow farming into town. You brought a farm into town not that long ago. You brought horses into town. There's a stable that was built, there's a fence that was built. You made conditions for that and you worked with that person to make sure that it wasn't in violation of or hurting any other property. My property has been there for several years, it's been a business for several years in that location with no complaints. There was, when I went into that property, there was a scare that I was going to put a garbage business there or something that would offend that property or the neighbors of that property. I brought a landscape business in into that property, which sells trees to this community, plants to this community, rock, mulch, different softscapes, hardscapes to this community. I believe that my business benefits this community huge. I don't know of another landscape outfit that basically carries all that product even in Dodge County. So once again, I want to hit that – I leave this community – it leaves a hole for this community, so that's all I'm going to say.
<i>Jason Wilker leaves the podium (1:34:08)</i>		
1:34:20	Chairperson Tom Ferris	Anyone else? Ok now we'll go ahead and close the public hearing, thank you all.
<i>Public Hearing Closed (1:34:31)</i>		
1:34:37	L. Chamberlain Outside Planning Professional, hired by the City	Mr. Chair, this is a point of clarification on one minor item that was brought up by one of the public hearings. The application for a conditional use permit does not require a general development plan, that is correct, however, a development plan is a required element of the middle for a conditional use permit. They are different. Unfortunately, the terms are so similar that it is very confusing. In our re-write updating of the zoning

		ordinance forthcoming there will be some different terminology brought. Thank you.
1:35:21	Chairperson Tom Ferris	Thank you.
1:35:25	Coy Borgstrom	<i>(From his chair)</i> Can I clarify on that?
1:35:27	Chairperson Tom Ferris	[unintelligible]
1:35:27	Coy Borgstrom	It was a general development plan that was used on part of our findings of fact because the land owners and adjacent properties and stuff, it wasn't, it wasn't clarified as a used development, excuse me, general development, on her findings of fact.
1:35:45	Chairperson Tom Ferris	Alright, gentlemen we would like to start the conversation on this.
1:35:58	Planning Commission Member	I think, I mean I was not a part of a year ago because I've only been on the Commission for a year, but yes I understand that he is bringing a current CUP request to the Planning Commission to move through the City from that standpoint. I guess is there any concern of any current or past litigation that we need to be worried about, or this kind of if this moves forward and gets approved, all of that goes away, or I guess [unintelligible] what?
1:36:32	M. Leth	Thank you. We do not have any assurances from Mr. Wilker or his attorney at this point that if this conditional use permit if it's granted that the litigation will go away. We have not received any communication with them, from them in that regard, but because the City has been asking Mr. Wilker to come back and apply for a conditional use permit, we've allowed this to proceed. A couple of things that I would otherwise like to clarify is that as we all know the property is adjacent to a public street. So, because – simply because no one from the City has set foot on Mr. Wilker's property – doesn't mean that there hasn't been sufficient evidence to support the actions that the City has taken thus far. Photos were taken by both City Staff from the public right-of-way and Mr. Wilker and his representatives submitted photographs to the City in its consideration. So, just to clarify that simple because no one has set foot on his property, it's, that's not a controlling fact here. That the City, no City staff needed to be able to accurately view the conditions of the property. With regard to the claim that the City is requiring, is not dictating how Mr. Wilker operates his business – I'd like to be perfectly, so everyone understands – the allowed conditional use permit, or the allowed conditional use in an R1 Zone is for a nursery, not a landscaping business. Mr. Wilker has been operating, he himself said, has been operating as a landscaping business. That's not the allowed conditional use in this district. The allowed conditional use is as a nursery, and Mr. Wilker has not been operating as a nursery. The suggested

		conditions that he be required to plant trees is an attempt to ensure that he's actually going to operate as a nursery. There was in his 2010 conditional use permit that was revoked, Mr. Wilker was required to plant 60% of the property with trees and he failed to do that. That was one of the many reasons why the 2010 conditional use permit was in fact revoked.
1:39:34	Planning Commission Member	Clarification that this is now one piece of property versus two, is it one piece of property?
1:39:42	M. Leth	Yes.
1:39:42	Planning Commission Member	Ok, because originally it was two different PIDs
1:39:46	M. Leth	Correct, yes.
1:39:46	Planning Commission Member	Ok, so it is one.
1:39:48	L. Chamberlain Outside Planning Professional, hired by the City	On the Dodge County website it is now one property.
1:39:51	Planning Commission Member	Alright.
1:40:01	Planning Commission Member	I guess a comment about you know, granting somebody a conditional use permit and then ultimately, no the City does not have a process that I know of where there's regular review and I don't think any City has the regular review. I do believe that if we're citizens around the property, that we kind of make sure that it's meeting and that you know, good fences make good neighbors, so I'm sure that that's something that Jason has tried to do over the years. So, trying to continue to move forward without something in place really means we're looking to move forward with this to help him put this all behind us, but ultimately there is no process that's going to be trying to make sure something gets taken care of. There's some comments, and this is Leth's letter that says somebody will go out and review all of this and I guess I don't know a mechanism in the City that has this happening from that standpoint so it's kind of hard to start to put regulations in place and I guess the other question I would have is if one could just explain a couple of the items in her recommendation. One of the concerns that I have is, no extra buildings can be built, but then where does he store his equipment to manage his nursery and things like that so if you could just kind of go through your recommendations
1:41:39	M. Leth	Sure.
1:41:39	Planning Commission Member	Why, you know, I think maybe even there's a clarification of trees. I don't think you're asking him to plan 300 new trees every single year.
1:41:48	M. Leth	Alright, I would [unintelligible] the recommendation is a total of 300 new trees on the property. Not every year. But 300 trees so

		that he at least appears as though he's actually operating as a nursery.
1:42:04	Planning Commission Member	So, if he's planted 306, he's met that requirement per your recommendation at this point if that has been done per the [unintelligible] okay, no new trees per year, okay but
1:42:19	M. Leth	With regard to the restriction on no additional housings or structures and no additions to existing buildings or structures – that comes out of – it's a clarification of a condition that was in his 2010 conditional use permit, it specifically stated there shall be no additional structures located on this property.
1:42:46		New
1:42:46	M. Leth	It said no additional commercial structures. If you read it, that's the language. So, that was a clarification because apparently there was a misunderstanding that as long as the, isn't it if it were an addition, the argument was made that if it was connected to the existing structure, it didn't constitute an additional commercial structure and I think the, I believe that the Council disagreed with that assertion.
1:43:29		[Background noise – unintelligible]
1:43:30	Planning Commission Member	Is there a reason, is there a reason the current CUP, why that would have to be a stipulation from something
1:43:37	M. Leth	I believe that the reason it was in the initial conditional use permit was to prevent the non-conforming use from expanding, because if eventually if the property changes uses at all, it's no longer contemplated that it would be allowed a landscaping contractors yard.
1:44:00	Planning Commission Member	But ultimately we're entertaining a new CUP, not anything to do with the 2010 CUP.
1:44:05	M. Leth	Correct.
1:44:07		[unintelligible]
1:44:08	Planning Commission Member	Okay.
1:44:13	Chairperson	One of the challenges and it's a challenge today as it was back in 2010 is that Mrs. Voigt's had a piece of property that has entertained commercial pursuits. It has never been a residential property. It was annexed into the City at some stage in the game prior to 2010 and when you go through the annexation property of being zoned R1 because that was the most restrictive at the time. So, that in part I think is part of the challenge and we don't have any control over that at least at a political level in a State position. Prior to Jason, my memory serves, A to Z Sanitation was using that property to either house garbage trucks and/or cleaning garbage trucks and I'm not positive on the cleaning part, that's my memory failing. So I think a lot of the conditions that were put in place at the time were to try to balance the commercial activities being taken on that piece of land or potentially on that piece of land with residents around it. And I

		do believe there were some residents who came in and commented on that fact, but again it's a long time ago, and my memory is far from [unintelligible] Any thoughts [unintelligible]?
1:45:53	Planning Commission Member	<p>Okay. I just hear a lot of misinformation from a lot of people. This whole thing started when Jason wanted to do an addition, so he come to planning, actually he come to the City Council, didn't even come to the Planning and Zoning. Mr. Borgstrom was on City Council at the time Mr. Borgstrom said that he had met all the conditions of his conditional use permit that he had in hand from the 2010. But he had not, so had went back and forth and told him to take it to Planning and Zoning which he did. I asked Mr. Wilker to hold off until we worked this thing through, but Mr. Wilker went through and started building his building. That's when most of this started falling apart. And me and Duane sat through a whole day down at the courthouse trying to work this out with Mr. Wilker and we got nowhere. We aren't asking for anything exorbitant. Six or 300 trees, 100 trees a year is far less than 60%. We've been bending left and right trying to make this thing work. Before he got his attorney, I talked to Mr. Wilker several times and I said "all you gotta do is come to Planning and Zoning and say, hey I screwed up, let's start this thing over, let's get this thing going." But it proceeded to the attorney. Once the attorney got involved, none of us could talk to Mr. Wilker because it was in litigation. So, we couldn't go to his business to walk with him on the land. We were restricted from doing that. So, we tried over and over to get this thing worked out, and we're still willing to work it out with him, but he's gotta follow the points of the conditional use permit. He has to follow them. It's everybody's – if you pulled out a conditional use permit – you'd be required to follow the points of that conditional use permit. That's all we're asking Jason to do. That's it, we aren't asking for anything crazy. That's all we want to do. And we still want work, make this work.</p>
1:48:28	Planning Commission Member	<p>I'll reiterate some points. I agree, we want to make this work for the City and for Mr. Wilker. Just to clear up and bring some facts to this, it was January of 2018 that we received a letter from the City Attorney regarding the building permit application and the violations of the conditional use permit. It wasn't until 14 months later, March of 2019 that the conditional use permit was revoked. He had 14 months to come to the City to talk to us about you know, what we can do to work together. I agree, we went into litigation and from that point we could not communicate any further with Mr. Wilker or any representatives of him including Troy, I know you called me, and because we were in litigation I just could not return your phone call as a result.</p>

1:49:33	Troy	Yes, I understand that, but just one quick comment.
1:49:36	Planning Commission Member	Yeah.
1:49:37	Troy	I just wanted to point out to you that the lawyer that was working on your thing is the, on my thing is the same lawyer that was working on your thing and it just stopped.
1:49:47	Planning Commission Member	Yep.
1:49:47	Troy	That lawyer wasn't helping [unintelligible]
1:49:50	Planning Commission Member	Yep, understood. I also made comment, there are multiple comments talking about the City wants to put a street through Mr. Wilker's property and when we had our public hears and issues back in March of 2019, we were accurate in the fact that we had no desire to do that or nor were there any plans. The first plan that actually came to the City in which we were made aware of this was as of the Bigelow Voigt that was applied tonight and that came in November of this last year, so I don't know about everybody else's crystal ball but mine isn't that clear to be able to predict six to seven months into the future what developer's gonna bring to the City.
1:50:40	audience member	Well, I think it isn't very clear when you have right in the, I know I read something tonight before I came and someone's response has [unintelligible] that street will come through his property as part of the deal if he settled with him. Did I not read that right on that response?
1:50:55	Planning Commission Member	That was then via the attorneys recommendation tonight based on the staff recommendations of the Bigelow Voigt. So, that was as of tonight, that wasn't past a month ago.
1:51:10	audience member	I knew I read it tonight, and I think one of them responses was you.
1:51:11	Planning Commission Member	Yeah.
1:51:12	audience member	You guys have a 20-year plan of what you're going to do with this City? You're telling me you didn't know what was [unintelligible] six or eight months ago?
1:51:17	Planning Commission Member	Nope.
1:51:18	audience member	That's not true.
1:51:20	Planning Commission Member	That is absolutely true.
1:51:21	Planning Commission Member	[unintelligible]
1:51:21	Jason Wilker	And I'm going to say something to that because I have physically caught people that have said that they have been on my property, I heard beeping noises going on, on my property. I went outside and it was a survey company that said that they were up there for Bigelow and the City of Kasson. They said

		that they were up there. Where were they? Right where the street goes. I said “get off of my property because you’re not welcome here without a phone call.” So that tells me that you were planning on putting a street through my property. That there is
1:52:04		[unintelligible background noise]
1:52:05	Jason Wilker	no reason anybody out there
1:52:07	Planning Commission Member	Survey companies have to work off exploits
1:52:10	Jason Wilker	Okay, but they need permission to cross the property.
1:52:14	Planning Commission Member	As long as they’re in the right of way . . .
1:52:15	Jason Wilker	They were not in the right of way, there is no right of way there, there is no easement there. His easement is on the north side and the south side of my property, it is not in the goddamn middle of the property.
1:52:	Planning Commission Member	[unintelligible]
1:52:29	L. Chamberlain Outside Planning Professional, hired by the City	Mr. Chair
1:52:29	Jason Wilker	I’m telling you.
1:52:31	Planning Commission Member	[unintelligible]
1:52:32	Jason Wilker	It’s not in the middle of my property.
1:52:33		Raise money [unintelligible]
1:52:35	L. Chamberlain Outside Planning Professional, hired by the City	Mr. Chair,
1:52:36		[unintelligible background noise]
1:52:39	L. Chamberlain Outside Planning Professional, hired by the City	A point of order Mr. Chair. We already had the public hearing. If you would like to open up the public hearing again to take more public comment, that would be the process in order to receive that.
1:52:50	Chairperson Tom Ferris	Yes ma’am, thank you.
1:52:53	Planning Commission Member	I agree with Mr. Wilker’s comment that a phone call should have been made, but I disagree with his perception that it was in regards to creating a map for street access. So, those are the points. I want to work with Mr. Wilker. I think the fact that if he has 300 trees and the comments are correct that he’s, from Mr. Boynton, that he has added 300 hundred trees to his property, now we’re getting into the area where we can consider this being a nursery as a turning [unintelligible] as stated. I’m willing to work with them as whether we need new trees or

		whether we're going to consider the trees that have come in since the last conditional use permit was revoked as meeting that qualification.
154:03	Chairperson Tom Ferris	Sheldon, anything you'd like to add.
154:06	Planning Commission Member Sheldon Torkelson	Not at this time.
1:54:09	Chairperson Tom Ferris	Collin?
1:54:10	Planning Commission Member Collin Tinsley	The application that was submitted there's a list of proposed conditions that Mr. Wilker has proposed the following conditions and I don't know if everyone up here is familiar with those, but since this is a consideration of a new CUP [unintelligible] is in the past, these are ones that he proposed and let's go through them here then quickly.
1:54:42	Planning Commission Member Collin Tinsley	So, for structures listed – no additional commercial structures would be allowed on the property. This requirement does not prohibit greenhouses, hoop buildings which are temporary in nature, or additions to or enlargements of commercial structure on the property so long as a building permit, if required by the Minnesota State Building Code is issued. For the most part I don't seem to have a problem with that.
	Planning Commission Member Collin Tinsley	I would probably just qualify that and just say that the underlying zoning restrictions on the property that would apply in terms of setbacks and building heights, that sort of thing would still apply.
1:55:13	<i>Unknown</i>	Mmm hmm.
1:55:16	Planning Commission Member Collin Tinsley	Open spaces – at a minimum 60% of the entire property shall be planted and maintained in trees, shrubs, grasses or other plants. Annually, trees and shrubs removed from or destroyed on the property shall be replaced. For the next five years, an additional twenty trees or shrubs shall be planted and maintained on the property, not for the nursery or for sale, but to increase the number of trees on the property.
1:55:37	Chairperson Tom Ferris	I'm fine with that.
1:55:38	Planning Commission Member Collin Tinsley	Screening – the existing screening that's there would be maintained. North, east, south, west sides and the bunkers located on the south sides will be maintained or moved to a location on the property that facilitates the use of the property and the bunkers without expansion of their square footage. So, essentially what's there could remain.
	Planning Commission Member Collin Tinsley	Again, I don't have any objection to that.
1:56:07	Planning Commission	Signage and outdoor lighting – The owner may light one sign no

	Member Collin Tinsley	greater than four feet by eight feet on the property. Outdoor lighting in areas impacted by additions to the existing structure shall be permitted to reasonably alleviate safety concerns.
1:56:21	Planning Commission Member Collin Tinsley	I think I just want to make sure that we're not getting any lighting bleed over that would be obnoxious to adjacent properties, which is a typical stipulation. So, that might necessitate maybe a photometric plan or something like that to indicate where those lighting poles are, but on the surface of it
1:56:47	Planning Commission Member Collin Tinsley	Outdoor Storage of Equipment – All equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets.
1:56:54	Planning Commission Member Collin Tinsley	Agreeable to that.
1:56:56	Planning Commission Member Collin Tinsley	Hours of operation – Operation of equipment on the property shall be limited to the hours of 7:00 a.m. to 9:00 p.m. with reasonable exceptions during the snowplowing season.
1:57:08	Planning Commission Member Collin Tinsley	I think that's acceptable as well.
1:57:10	Planning Commission Member Collin Tinsley	Outdoor storage of materials – Outside storage and/or display of landscaping materials shall be allowed on the south side of the property in the existing bunkers, along County Road 21 in the areas where it presently exists, and otherwise on the property so long as it is reasonably screened from the view of persons on the south, west, and north sides of the property.
1:57:28	Planning Commission Member Collin Tinsley	That might be in conflict with the bunkers. We might need a little more clarification on that because I think in the previous one about the bunkers it said without expansion of square footage, so if there are other ones located that might need a little more clarification on that.
1:57:46	Planning Commission Member Collin Tinsley	Licensing – The operator shall comply with the law of the State of Minnesota concerning nursery licensing as appropriate to the operation of the business on the property and as determined and enforced by the State of Minnesota. If the State of Minnesota undertakes enforcement action against the operator, the operator must notify the City of the same.
1:58:02	Planning Commission Member Collin Tinsley	I think I'm agreeable to that, I think there's some of the other recommendations in the package of that licensing be maintained. So I think that's maybe another revision to that that might get added in there, as long as you know, you're in operation, maintain your license.
1:58:25		[unintelligible]
1:58:33	Chairperson Tom Ferris	Want to know what your others thoughts are on it.
1:58:39	Planning Commission Member	I guess one of my thoughts is that we're headed in the right direction. I think there needs to be a little bit more clarification

		either with City Staff and the owner. What Collin just went through talks about a lot of things, but there's still some things that can be, you know, left open to interpretation, which can sometimes get us into hot water from that standpoint. So I mean, there's a way that you know, I'm not sure the proper way to perceive that the City Staff and Wilker could come to some more agreeable things of where are the, where are the nursery trees going to be, where are the permanent planted trees going to be, so somebody is trying to verify that we're meeting requirements. They're following what's there from that standpoint and trying to make some more to-scale drawings from that standpoint. But I think we're moving in a positive direction on the CUP that's been requested tonight, which is where we're moving, not in the past, which is an unfortunate past, but
2:00:03	Chairperson Tom Ferris	[unintelligible]
2:00:06	Chairperson Tom Ferris	Someone driving by would probably take the perspective that he's in need of additional space out there and I think he is trying to start something there and has stopped at some point in the past.
2:00:24	Planning Commission Member	So are you talking a building structure?
2:00:25	Chairperson Tom Ferris	Yes.
2:00:25	Planning Commission Member	Okay.
2:00:27	Chairperson Tom Ferris	It appears from the street to be an addition to the existing building that has been there historically, so when you say structures, no additional commercial structures, does that also mean no additions to existing structures?
2:00:42	Planning Commission Member	I don't think that's what applicant is asking for. I think the applicant is asking for, you know, can I put up some hoop buildings or can I put an addition to my existing structure, which I think is to clean up the site. If you have more space, you can put more nursery equipment inside, so that it is well protected and you know, not seen and I think that was what the intention was. Just the order of operation it got kind of mixed up and `
2:01:17	Planning Commission Member	I understand your point.
2:01:24	Chairperson Tom Ferris	Do we want to make a recommendation in terms of going forward?
2:01:31	Planning Commission Member	I would like to, I don't know, is it proper to table it and ask for more clarification between City Staff and the owner or is it
2:01:41	L. Chamberlain Outside Planning Professional, hired by the City	If recommending denial is not the course of action that the planning

2:01:45		[background noise, unintelligible]
	L. Chamberlain Outside Planning Professional, hired by the City	commission wants to take, then I would recommend tabling the request until to allow the City Staff, myself and to come to talk with Wilker and get those landscaping with plans possibly with a lighting plan, impervious surface, all of those elements that are laid out, to have a complete application, and from there take the applicants proposed conditions as well as those put together by the City Attorney and see if we can't come to a set of conditions that work best for the site. The physically considering this application and disregarding the previous elements that have happened previously.
2:02:37	Planning Commission Member	And for clarification, is that you or City Staff taking care of that?
2:02:41	L. Chamberlain Outside Planning Professional, hired by the City	Yeah. Yeah.
2:02:42	Planning Commission Member	Okay, I just want to make sure that you know
2:02:43	L. Chamberlain Outside Planning Professional, hired by the City	Yeah I was
2:02:44	Planning Commission Member	who was proceeding, so okay
2:02:45	L. Chamberlain Outside Planning Professional, hired by the City	Staff is in the general term,
2:02:46	Planning Commission Member	Yep.
2:02:46	L. Chamberlain Outside Planning Professional, hired by the City	I am representing staff in this instance.
2:02:49	Planning Commission Member	Okay.
2:02:51	Planning Commission Member	I want to make a point that the recommendation came from the City Attorney regarding dedication of 12th Street, that that be struck from consideration. And clarification on building a structure is new building and this is requiring footings, foundation, things like that. Temporary building that meet the code ordinances hopefully
2:03:29	Chairperson Tom Ferris	With all that said, would someone like to make a motion?
2:03:30	Planning Commission Member	I will make a motion that we take table the CUP, to further staff and owner collaboration to come to a and can be resubmitted

		addressing the concerns that are brought.
2:03:46	Chairperson Tom Ferris	Pardon me. We have a motion, do we have a second?
2:03:48	Planning Commission Member	I'll second.
2:03:50	Chairperson Tom Ferris	The motion is seconded, all in favor say Aye.
2:03:52	All Members	Aye.
2:03:53	Chairperson Tom Ferris	opposed?
2:03:56	Chairperson Tom Ferris	We vote the CUP
2:03:57		I need a moment.
2:04:18		You want to take a 5 to 10 minute break?
2:04:19	Chairperson Tom Ferris	Pardon me, would you like one?
2:04:20		Yeah it's be nice.
2:04:21	Chairperson Tom Ferris	Why don't we go ahead and take a 10-minute break
2:04:27		[unintelligible]
<i>Transcript Ends (2:04:48)</i>		