

PLANNING COMMISSION

JULY 11, 2022

6:30 O'CLOCK P.M.

1. Call to Order
2. Swear in New Member
3. Minutes of the Previous Meeting – June 13, 2022
4. Public Hearings For Schuette Property – Zoning Amendment and Comp Plan Amendment
5. Public Hearing – Interim Use Permit
6. Public Hearing – Home Business Permit Request from Robert Ackrapovik
7. Other
8. Adjourn

MINUTES OF PLANNING COMMISSION MEETING

June 13, 2022

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 13th day of June, 2022 at 6:30 PM

THE FOLLOWING WERE PRESENT: Chairman Ferris, Commissioner Thompson, Commissioner Tinsley, Commissioner Eggler, and Commissioner Fitch

THE FOLLOWING WERE ABSENT: Commissioner Burton and Commissioner Johnson

THE FOLLOWING WERE ALSO PRESENT: City Clerk Linda Rappe, Brad Scheib – HKGi, Brandon Theobald City Engineer, Ari Kolas and Ryan Nolander

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETING – April 11 and May 9, 2022 **Motion to Approve made by Commissioner Eggler, second by Commissioner Tinsley with All Voting Aye.**

PUBLIC HEARINGS VAIL PROPERTY COMPREHENSIVE PLAN AMENDMENT, REZONING, PRELIMINARY PLAT – All of the public hearings were held simultaneously. Planning Consultant Brad Scheib stated that the City is the developer on this project. The comp plan amendment is needed to re-guide a portion of the site from medium density to high density. Rezone entire parcel to PUD-R-3 and Preliminary plat into 4 lots, 2 outlots and ROW. The final plat and the final PUD and site plan will go to City Council.

Higher density is supported with the following findings:

Proximity to downtown this is connected to the trail system, the proximity to other higher density housing, and the proximity to Lions Park and this affords the City the opportunity to expand Lions Park.

The City is dedicating about 30% of the site as parkland. The reason for the PUD is the shape of the lot, Masten Creek, the creek corridor and Lions Park expansion. An exception is needed for the covered garages, the setbacks will be adjusted slightly and for the parking setback. The hardcover of the site across the entire PUD more than 55%. They meet the parking requirement for lot 1.

This will be a City street ending in a cul de sac. There will be access to Greenfield from this street.

Commissioner Fitch asked about possibly extending the road into the Golden Kernel property. Scheib stated that there are many options all depending on who wants what and who owns or buys what and what they are going to do with the properties, we would like to use the options that are already there if possible.

Commissioner Thompson was concerned that if the City is the developer is development going to pay for development. Scheib stated that the intention of the Council is to cover the costs, but this is a Council consideration. Commissioner Tinsley asked about the density and the one access. Theobald stated that there will be signs for traffic control and it will be 28 feet wide with no parking, there could be times that traffic could be cued. Lot 1 will have 52 units and the 2nd phase could be 40-55 units. Scheib the max density for all four lots would be 275 and it will be less than that for all four lots.

Commissioner Eggler asked about snow removal. Theobald stated that it will be treated as any other cul de sac in town. Mr. Kolas stated that it would not be put in the parking stalls and would take it away as needed or push at the end of the cul de sac.

Public Hearing Opened

Ryan Nolander, Hamilton Real Estate – nothing to add Scheib has summed it up well.

Public Hearing Closed

Commissioner Tinsley - good project but concerned that there is only one access point.

Commissioner Egger - stated could be the biggest congestion would be during harvest time. But likes the fact that Highway 34 is a wide street and the inside street is wider.

Commissioner Thompson – questions that because the City is the developer that one access is fine and the City has made other developments have two, although he doesn't have a problem with that. Scheib stated that what we can do as a staff level and if there is a problem there could be accommodations made and addressed. The County looked at this and at the accesses.

Commissioner Egger - stated that some of the developments have future growth this will not have future growth and this is not an equal comparison.

Motion to Recommend Approval of the Comp Plan Amendment made by Commissioner Aaron, second by Commissioner Egger with All Voting Aye

:

Motion to Recommend Approval the Rezone to PUD R-3 made by Commissioner Egger, second by Commissioner Fitch with All Voting Aye.

Motion to Recommend Approval of the Preliminary Plat made by Commissioner Fitch, second by Commissioner Tinsley with All Voting Aye.

UPDATES – Scheib stated that there are a lot of things on the table that have a lot of complications.

OTHER - Nothing

ADJOURN – 7:27pm

Respectfully Submitted,

Linda Rappe, City Clerk

**CITY OF KASSON
RESOLUTION # 7.X-22**

**RESOLUTION APPROVING AMENDMENT TO THE 2040 COMPREHENSIVE PLAN
TO REGUIDE 4.21 ACRES OF PID NO. 240281500 FROM HIGH DENSITY
RESIDENTIAL TO RETAIL/SERVICE COMMERCIAL**

WHEREAS, the applicant, Schutte Enterprises, LLC, has submitted an application for a Comprehensive Plan Amendment; and

WHEREAS, the proposed Comprehensive Amendment would reguide the southeast corner of PID No. 240281500 and specifically described as follows: the south property line up to the centerline of the existing drainage ditch and from the east property line to approximately 485' to the west including approximately 4.21 acres [Subject Property]; and

WHEREAS, the Subject Property is proposed to be reguided from High Density Residential to Retail/Service Commercial; and

WHEREAS, the appropriate City Staff and consultants have performed a technical review of the application and submitted a staff report dated July 6th, 2022; and,

WHEREAS, pursuant to Chapter 462, Section 355, Subdivision 2 of the Minnesota State Statutes, the Planning and Zoning Commission held an official public hearing on July 11th, 2022, to allow formal public comment on the proposed comprehensive plan amendment; and

WHEREAS, following the public testimony and report of the technical review, the Planning and Zoning Commission reviewed all relevant information regarding the proposed amendment and recommended approval; and,

WHEREAS, the City Council reviewed the matter at its July 13th, 2022, meeting.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KASSON, MINNESOTA does hereby incorporate and restate the recitals set forth above and approve an amendment to the 2040 Comprehensive Plan Future Land Use map, shown within Figure 4.3 on page 4-6 to change the future land use designation for the Subject Property from High Density Residential to Retail/Service Commercial.

Adopted by the City Council this 13th day of July, 2022.

ATTEST:

Linda Rappe, City Clerk

Chris McKern, Mayor

The motion to approve 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: _____.

STAFF REPORT

TO: Planning and Zoning Commission
FROM: Brad Scheib, Consulting Planner, HKGi
DATE: July 6, 2022
SUBJECT: Schuette Property – Phase 1 Comp Plan and Zoning amendments
APPLICANT: Schuette Enterprises, LLC
OWNER: Schuette Enterprises, LLC
LOCATION: Generally described as the southeast 4.21 acres of a portion of PID No. 240281500
MEETING DATE: July 11, 2022
COMPREHENSIVE PLAN: High Density Residential - amend to Retail/Service Commercial
ZONING: Development Holding Zone – request to rezone to C3

BACKGROUND

The owner, Schuette Enterprises, LLC., represented by Dean Schuette and WSE/Massey Engineering, has applied for an amendment to the comprehensive plan and a rezoning for approximately 4.21 acres of PID No. 240281500 (see Figure 1). The purpose of the amendments are to allow for a first phase commercial development that would be accessed via a public street accessing Mantorville Ave.



Subject of application is approximately 4.21 acres of the parcel.

Concept Plan Review

The Planning Commission reviewed the Schuette parcel concept plan at its meeting in December of 2021 and offered comments on the concept generally in support of the comprehensive plan land use guide change and rezoning to Retail/Service Commercial.

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 Comprehensive Plan amendment and Rezoning applications was determined to be July 6, 2022. The City's deadline for action or extension is on September 2, 2021.

Public Hearing

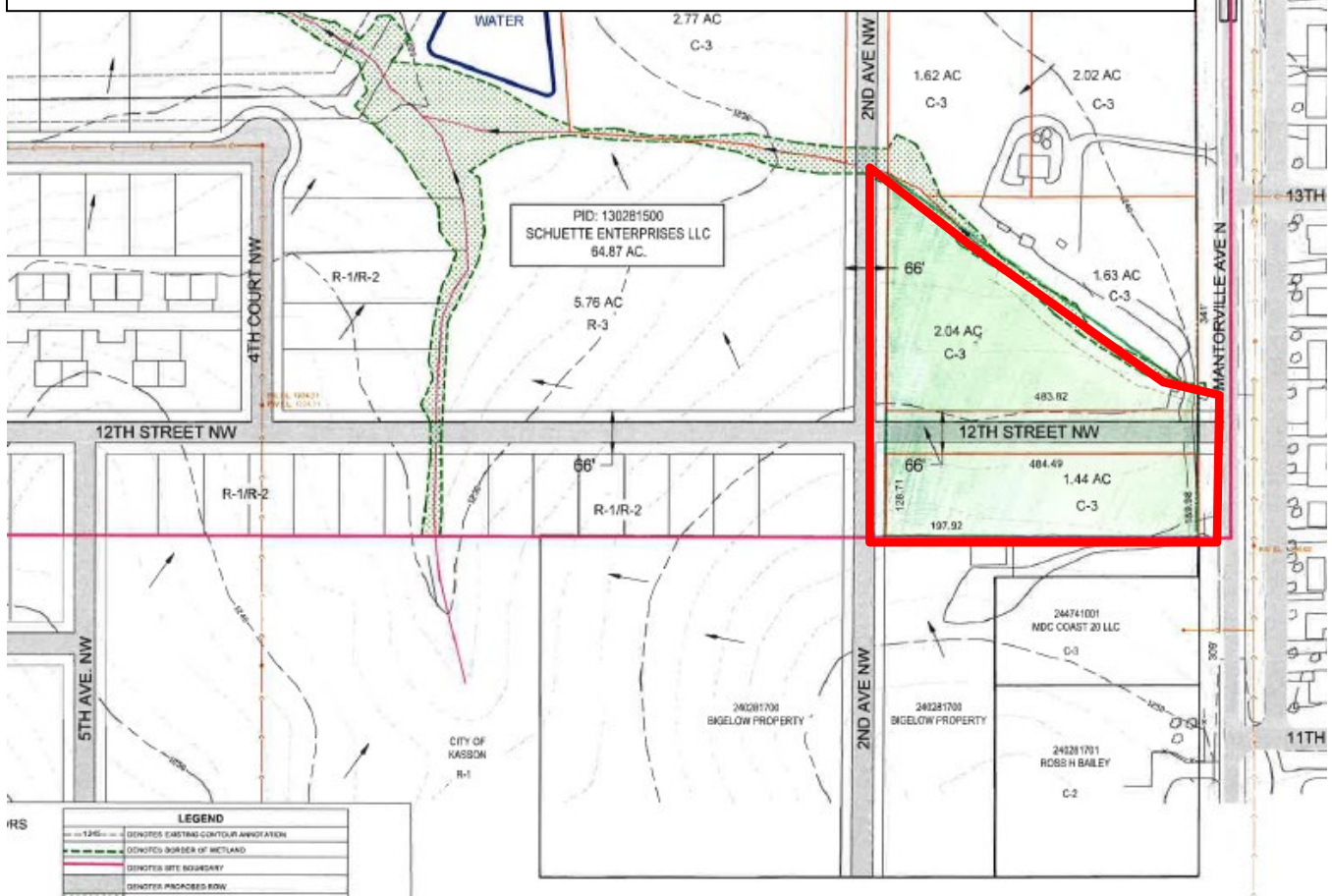
City Code Section 30.034 requires the Planning and Zoning Commission hold a public hearing for any amendment to the Comprehensive Plan. Section 154.069 requires that a public hearing for a zoning amendment, including rezoning of parcels, be held by the Planning and Zoning Commission. The public hearing notices for the comprehensive plan amendment, and the zoning amendment were published in the Dodge County Independent and posted on the City website. The public hearing notices were mailed to all affected property owners located within 350 feet of the subject property.

ANALYSIS

Existing Site Characteristics

- The current site is a part of a 65.4 acre parcel used for agriculture / vacant land; the parcel extends from Highway 57 on the east to 8th Avenue NW on the west and is adjacent the proposed 16th Street extension on the north. The subject of the comprehensive plan amendment and rezoning request is generally described as: "the south property line up to the centerline of the existing drainage ditch and from the east property line to approximately 485' to the west". Included in this area is approximately 4.21 total acres consisting of approximately 0.73 acres of ROW for 12th St NW, a 1.44-acre parcel on the south side of the 12th St NW ROW, and a 2.04-acre parcel on the north side of the ROW.
- The parcel was annexed into the city earlier this year.
- Surrounding Uses:
 - North:
 - Drainage ditch and ag land (planned for future commercial development)
 - East: Established Single Family Residential neighborhood across Hwy 57
 - South:
 - Commercial Properties fronting on Hwy 57: Dollar General & Carriage House Animal Hospital
 - Vacant Land
 - West: Vacant rural / agricultural

Figure 3: Comprehensive Plan Future Land Use amendment from high density residential to commercial and rezone from DH to C3.



- Zoning Districts
 - Existing: DH – Development Holding
 - Proposed: C-3 – Highway Commercial District
 - Surrounding all zoned DH currently until rezoning requested

Discussion Items

- The application is the initial request for entitlements to facilitate development of commercial uses. Prior to any physical development the property will require platting (preliminary and final plat) and site plan approvals.
- Planning commission should discuss the proposed amendment in the context of surrounding parcel developability. The current request is only for the 4.21 acres of the full parcel. More information will be provided at the meeting regarding future planned improvements associated with this request.

STAFF / CONSULTANT / AGENCY COMMENTS

This request is for a comprehensive land use plan amendment and rezoning. Prior concept plan review included discussions with MnDot regarding access to State Highway 57. Access and street connectivity

has been considered and will be subject to future entitlements. Detailed staff/department review will also be included as part of platting and site plan approvals.

RECOMMENDED ACTION

There are two actions to be taken. The Planning Commission may choose to act on either by recommending approval with or without conditions, recommend denial, or table the application to allow additional information to be prepared and presented at a future meeting.

In the event the commission wishes to ‘deny’ staff recommends discussing findings for denial and tabling action with the direction to prepare proper findings for denial for consideration at the August PC meeting.

Comprehensive Plan Amendment

Staff recommends that the Planning and Zoning Commission discuss the request in the context of surrounding parcels and make a recommendation to the City Council approving the proposed amendment to the future land use designation from High Density Residential to Retail/Service Commercial with conditions as discussed and deemed appropriate at the public hearing.

A draft resolution of this recommendation for approval has been included as an attachment for the Commission’s consideration.

Zoning Amendment

If the Commission recommends to the Council approval of the Comprehensive Plan, the Planning and Zoning Commission should approve the proposed zoning change from DH to C3 of the 4.21 acre parcel (a part of PID No. 240281500) described in this report:

1. The zoning amendment shall be conditional upon the approval of the Comprehensive Plan Amendment, mentioned above.

This recommendation is based on the following findings of fact:

1. The proposed zoning of C-3 Highway Commercial District complies with the overall guidance of the comprehensive plan land use for the site; and
2. The proposed zoning of C-3 Highway Commercial District is appropriate given the proximity to other commercial uses and access to major roads; and
3. The proposed zoning will not have a negative impact on the site and adjacent properties.

A draft ordinance of this recommendation has been included as an attachment for the Commission’s consideration.

ATTACHMENTS

- A. Resolution approving the comprehensive plan amendment from High Density Residential to Retail/Service Commercial
- B. Ordinance amending the zoning code from DH to C-3
- C. Supporting application materials

**CITY OF KASSON
RESOLUTION # XX-22**

**RESOLUTION APPROVING AMENDMENT TO THE 2040 COMPREHENSIVE
PLAN TO REGUIDE 4.21 ACRES OF PID NO. 240281500 FROM HIGH
DENSITY RESIDENTIAL TO RETAIL/SERVICE COMMERCIAL**

WHEREAS, the applicant, Schutte Enterprises, LLC, has submitted an application for a Comprehensive Plan Amendment; and

WHEREAS, the proposed Comprehensive Amendment would reguide the southeast corner of PID No. 240281500 and specifically described as follows: the south property line up to the centerline of the existing drainage ditch and from the east property line to approximately 485' to the west including approximately 4.21 acres [Subject Property]; and

WHEREAS, the Subject Property is proposed to be reguided from High Density Residential to Retail/Service Commercial; and

WHEREAS, the appropriate City Staff and consultants have performed a technical review of the application and submitted a staff report dated July 6th, 2022; and,

WHEREAS, pursuant to Chapter 462, Section 355, Subdivision 2 of the Minnesota State Statutes, the Planning and Zoning Commission held an official public hearing on July 11th, 2022, to allow formal public comment on the proposed comprehensive plan amendment; and

WHEREAS, following the public testimony and report of the technical review, the Planning and Zoning Commission reviewed all relevant information regarding the proposed amendment and recommended approval; and,

WHEREAS, the City Council reviewed the matter at its July 13th, 2022, meeting.

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Adopted by the City Council this 13th day of July, 2022.

ATTEST:

Linda Rappe, City Clerk

Chris McKern, Mayor

The motion to approve 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: _____.

DRAFT

**CITY OF KASSON
ORDINANCE NO. 2021-XX**

**ORDINANCE AMENDING THE KASSON OFFICIAL ZONING MAP TO REZONE A PORTION
OF PID NO. 240281500 FROM DEVELOPMENT HOLDING (DH) TO HIGHWAY COMMERCIAL
DISTRICT (C-3)**

The City Council of Kasson does ordain:

Section 1: The Kasson Official Zoning Map is hereby amended by changing the zoning district boundaries to classify the parcel identified by the description described in **Exhibit A** to C-3 Highway Commercial District.

Section 4: This ordinance is effective upon adoption and official publication.

Adopted by the City Council this 13th day of July, 2022.

Mayor Chris McKern

Attest: Linda Rappe, City Clerk

EXHIBIT A

Description of Property

A 4.21 acre part of;

The North One Half (N1/2) of the Southwest Quarter (SW1/4) of Section Twenty Eight (28) in Township One Hundred Seven (107) North, Range Sixteen (16) West, Dodge County, Minnesota,

EXCEPT:

A part of the Southwest Quarter of Section 28, Township 107 North, Range 16 West, Dodge County, Minnesota, described as follows:

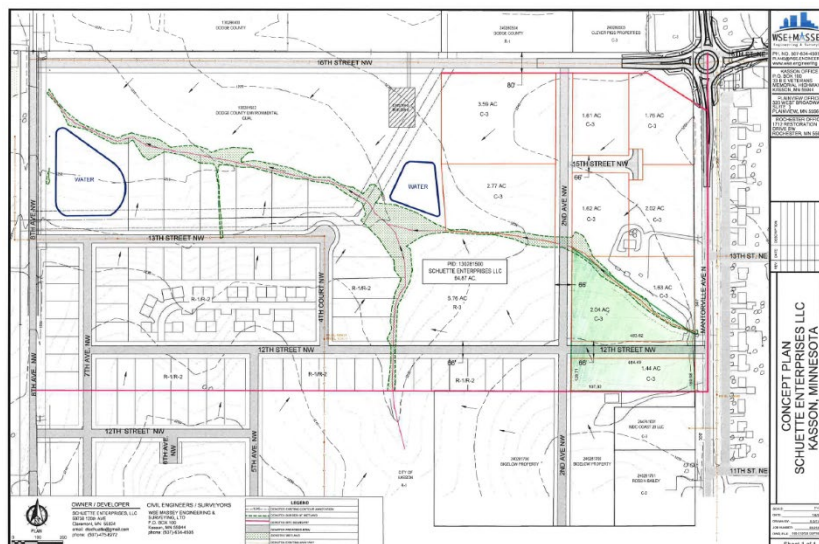
Beginning at the northwest corner of the Southwest Quarter of said Section 28; thence North 89 degrees 20 minutes 14 seconds East (NOTE: all bearings are in relationship with the north line of said Southwest Quarter which is assumed) along the north line of said Southwest Quarter for a distance of 1591.77 feet; thence South 00 degrees 40 minutes 48 seconds East for a distance of 400.00 feet; thence South 89 degrees 20 minutes 14 seconds West for a distance of 1591.23 feet to the west line of said Southwest Quarter; thence North 00 degrees 45 minutes 28 seconds West along said west line for a distance of 400.00 feet to the POINT OF BEGINNING.

Said parcel is subject to the Trunk Highway No. 57 right-of-way and subject to the C.S.A.H. No. 21 right-of-way.

Said parcel contains 64.89 acres, more or less, including Trunk Highway No. 57 right-of-way along the easterly boundary thereof and subject to C.S.A.H. No. 21 right-of-way along the westerly boundary thereof and is subject to any other easements or encumbrances of record.

Further described as:

Specifically, the south property line up to the centerline of the existing drainage ditch and from the east property line to approximately 485' to the west. Included in this area is approximately 0.73 acres of ROW for 12th St NW. This would generally include a 1.44-acre parcel on the south side of the 12th St NW ROW and a 2.04-acre parcel on the north side of the ROW.



WSE MASSEY ENGINEERING & SURVEYING, LTD
320 WEST BROADWAY PLAINVIEW, MN 55964

MAILING ADDRESS: PO BOX 100 KASSON, MN 55944

507.634.4505 ■ WSE.ENGINEERING



Memorandum

To: City of Kasson
From: Schuette Enterprises LLC
Date: July 6, 2022
Re: Rezone and Comp Plan Amendment

As per our recent discussions, Schuette Enterprises LLC wants to get a comp plan amendment and zone change for the southeast corner of their newly annexed property.

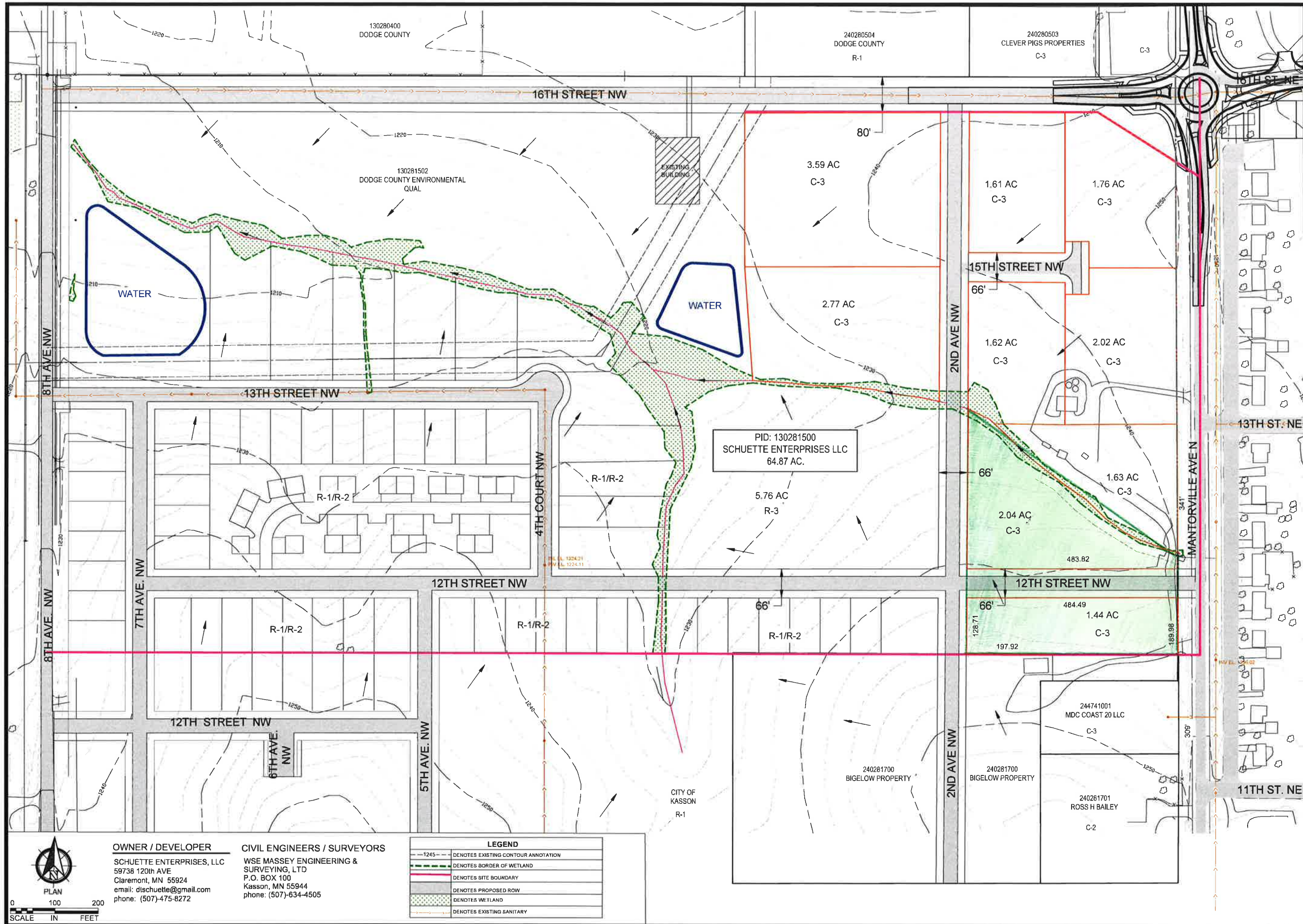
Specifically, the south property line up to the centerline of the existing drainage ditch and from the east property line to approximately 485' to the west. Included in this area is approximately 0.73 acres of ROW for 12th St NW. This would generally include a 1.44-acre parcel on the south side of the 12th St NW ROW and a 2.04-acre parcel on the north side of the ROW.

We would like the City of Kasson Comprehensive Plan to indicate the future land use for this area is "commercial" and we would like the zoning changed to C-3.

Additional information has been provided in the original submittal dated June 8, 2022.

093-213720 CEPT02.dwg

7/6/2022 9:18:55 AM



PH. NO. 507-634-4505
PLANS@WSE.ENGINEERING
www.wse.engineering

KASSON OFFICE
P.O. BOX 100
33 B E VETERANS
MEMORIAL HIGHWAY
KASSON, MN 55944

PLAINVIEW OFFICE
320 WEST BROADWAY
SUITE 3
PLAINVIEW, MN 55964

ROCHESTER OFFICE
1712 RESTORATION
DRIVE SW
ROCHESTER, MN 55902

REV. DATE: DESCRIPTION:

CONCEPT PLAN SCHUETTE ENTERPRISES LLC KASSON, MINNESOTA

SCALE: 1"=100'
DATE: 7/6/2022
DRAWN BY: S.S.T.S.W.
JOB NUMBER: 93-213720
DWG. FILE: 093-213720 CEPT02.dwg

Memorandum

To: City of Kasson

From: Schuette Enterprises LLC

Date: June 8, 2022

Re: Rezone and Comp Plan Amendment

Schuette Enterprises LLC owns approximately 65 acres along the MN HWY 57 corridor just south of 16th St NW in Kasson, Minnesota. The land was annexed in early 2022. It is the intention of the Owner to start development on the land. Specifically, a general retail chain is interested in the southeast corner of the property along MN HWY 57. Generally, this is about 3.88 acres of developable land along with ROW and storm water facilities.

The general retail site plan is proceeding. A general site plan is provided. A preliminary plat and construction plan set is in progress as well. This application is to rezone this part of the site to C3 to accommodate general retail in this area. C3 zoning would reflect highway frontage along MN HWY 57. It uses high visibility and good access to the arterial system. Uses in this category might be general retail, service commercial, specialty retail, small professional offices and support services. (Page 4-8, Kasson Comp Plan).

The Kasson Comp Plan currently indicates a future land use along this corridor for "high density residential", i.e. apartments. Traditional planning techniques would allow for commercial zoning along the MN HWY 57 corridor to buffer higher density residential behind which in turn would buffer low density residential beyond. Along this corridor, that traditional planning method would work very well.

At this time, we only want to address the southeast corner of the property. Since a general retail chain is interested in this location, we know that this zone change will accommodate this proposed/pending development.



RETAIL/SERVICE COMMERCIAL



Reflects highway frontage along Highway 14, and small neighborhood nodes (5 to 10 acres in size). Uses require high visibility and good access to the arterial system. Uses in this category might be general retail and service commercial, specialty retail, small professional offices and support services.



INDUSTRIAL/MANUFACTURING/BUSINESS



Intended to provide a coordinated and planned environment for business uses including manufacturing, light industrial, research and design, or professional offices. This category is less focused on retail goods and services and more focused on jobs. This use should be characterized by strict development standards, which include well designed buildings, generous landscaping, and limited outdoor operations.



PUBLIC/INSTITUTIONAL



Represents uses such as churches, schools, and government facilities. Properly integrated into neighborhoods, public/institutional uses can be a strong anchor.



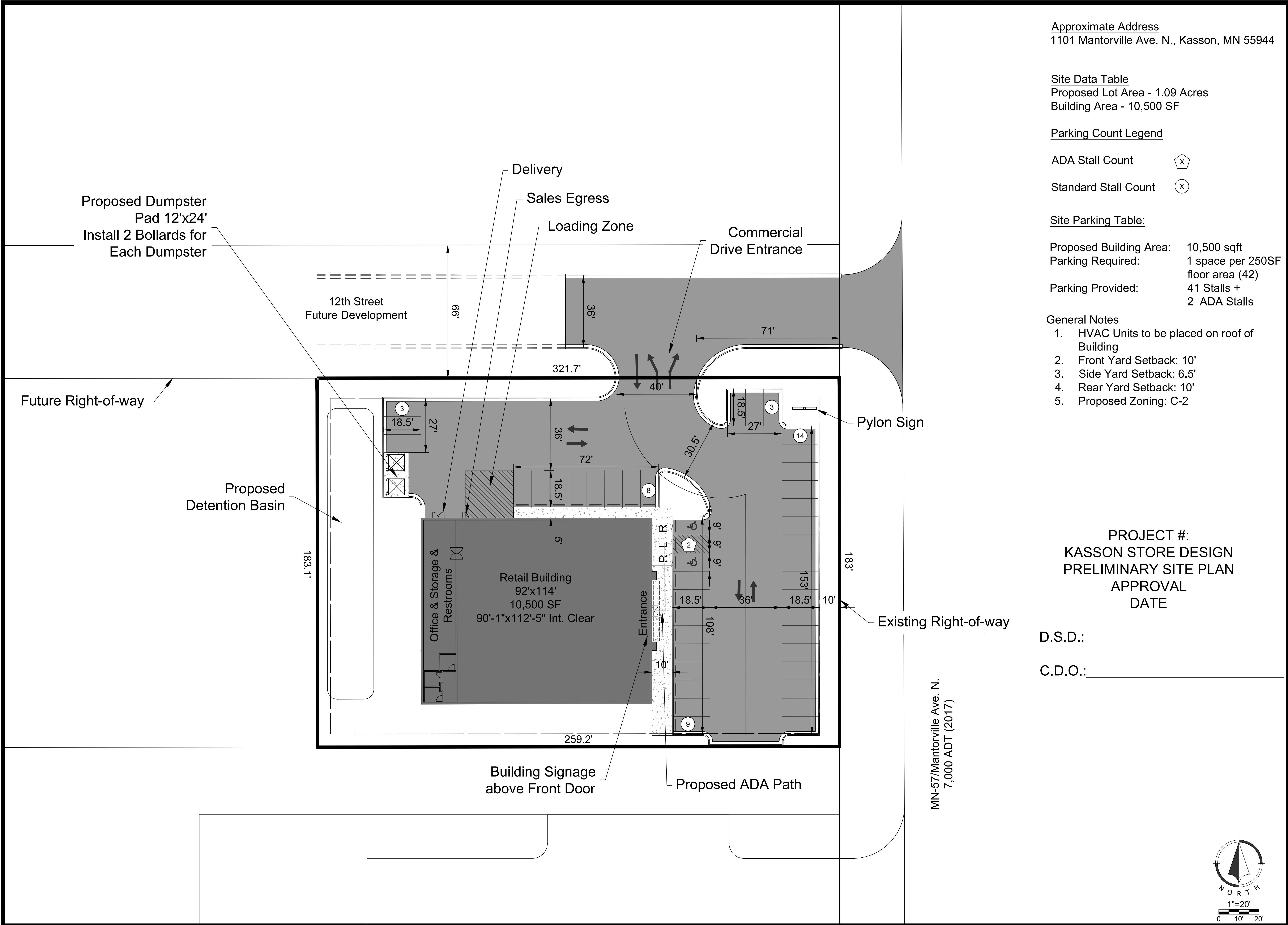
OPEN SPACE



Represents areas where the community intends to preserve and manage the valued natural resources. Open space is more passive in character. Recreational trails may be included in open space corridors where appropriate, but development is kept to a minimum.



May 17, 2022 6:01 pm
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Sheet	
C01	

Concept Plan	
21-0188 Retail Building Kasson, Dodge County, Minnesota	

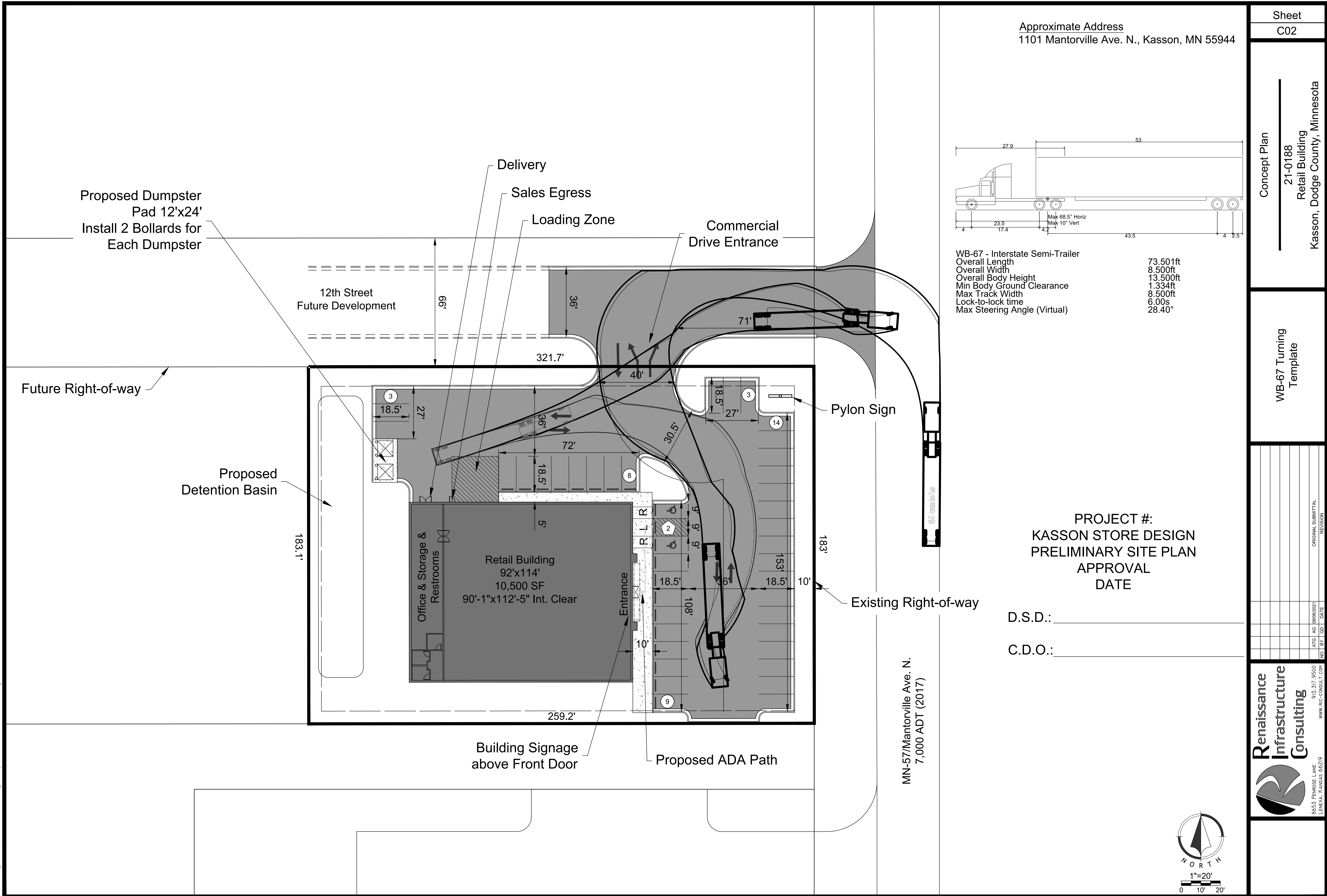
Site Layout	

ORIGINAL SUBMITTAL	
NO.	DATE
ATG	08/06/2021
AG	08/06/2021
BY	08/06/2021

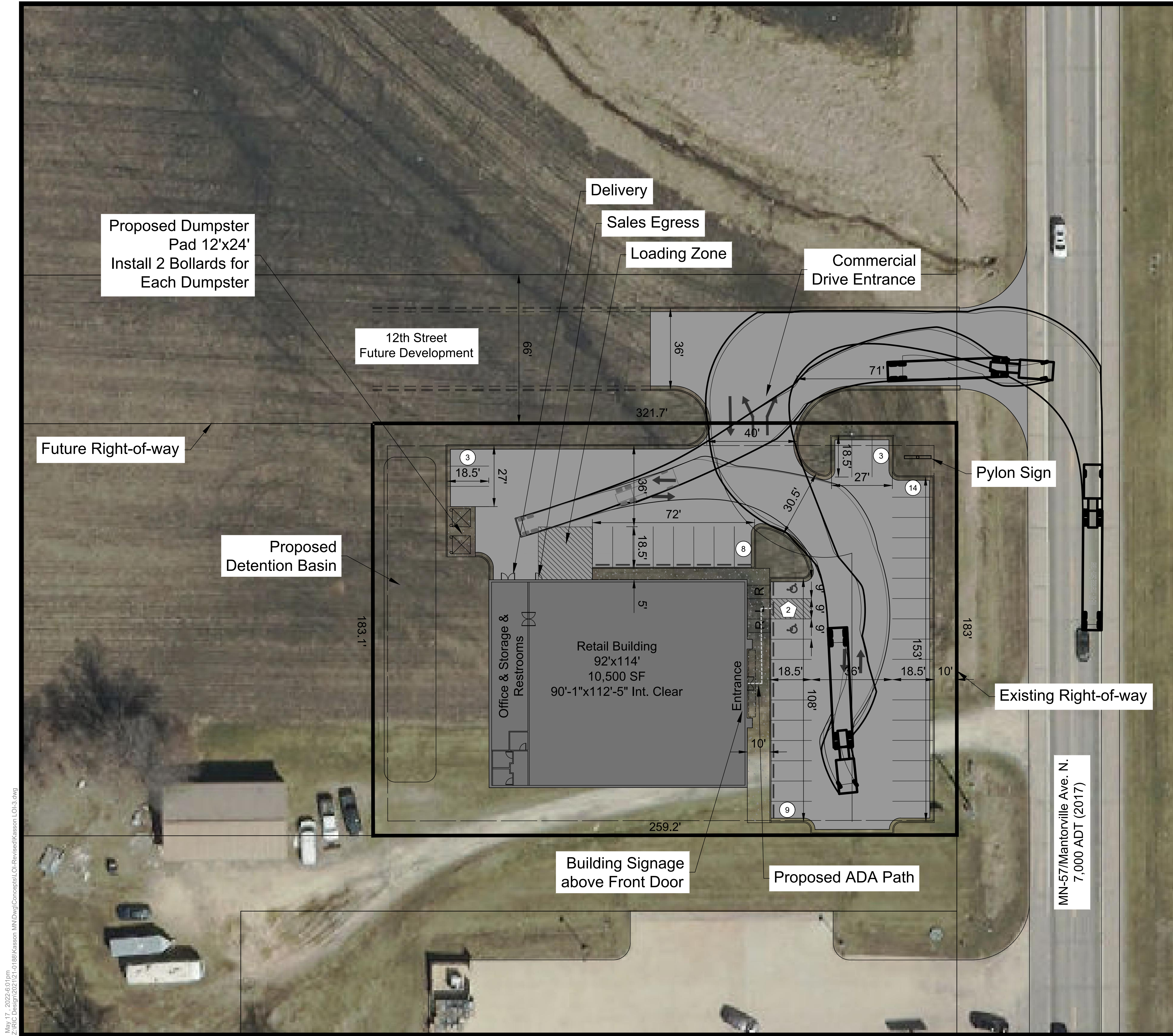
REVISION	
NO.	DATE
ATG	08/06/2021
AG	08/06/2021
BY	08/06/2021

8653 PENROSE LANE
LENEKA, KANSAS 66219
913.377.9500
WWW.RIC-CONSULT.COM

May 17, 2022 6:01 pm
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Sheet	C02
Concept Plan	21-0188 Retail Building Kasson, Dodge County, Minnesota
WB-67 Turning Template	
REVISION	NO. BY DATE
ORIGINAL SUBMITTAL	ATG AG 08/06/2021
REVISION	NO. BY DATE
Renaissance Infrastructure Consulting 8653 PENROSE LANE LENEKA, KANSAS 66219 913.377.9500 WWW.RIC-CONSULT.COM	



Approximate Address
1101 Mantorville Ave. N., Kasson, MN 55944

Site Data Table
Proposed Lot Area - 1.09 Acres
Building Area - 10,500 SF

Parking Count Legend

ADA Stall Count 
Standard Stall Count 

Site Parking Table:

Proposed Building Area: 10,500 sqft
Parking Required: 1 space per 250SF floor area (42)
Parking Provided: 41 Stalls + 2 ADA Stalls

General Notes

1. HVAC Units to be placed on roof of Building
2. Front Yard Setback: 10'
3. Side Yard Setback: 6.5'
4. Rear Yard Setback: 10'
5. Proposed Zoning: C-2

PROJECT #:
KASSON STORE DESIGN
PRELIMINARY SITE PLAN
APPROVAL
DATE

D.S.D.: _____

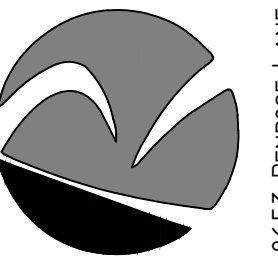
C.D.O.: _____

Sheet
C03

Concept Plan
21-0188
Retail Building
Kasson, Dodge County, Minnesota

Site Layout

NO.	BY	CD	DATE	REVISION



Renaissance
Infrastructure
Consulting

8653 PENROSE LANE
LENEKA, KANSAS 66219
913.377.9500
WWW.RIC-CONSULT.COM





STAFF REPORT

TO: Planning and Zoning Commission
FROM: Brad Scheib and Trey Rouse, City Planning Consultants
DATE: June 24, 2022
SUBJECT: Zoning Code Amendment to establish Interim Uses
APPLICANT: City of Kasson
OWNER: City of Kasson
LOCATION: Citywide
MEETING DATE: July 11th, 2022
COMPREHENSIVE PLAN: N/A
ZONING: N/A

OVERVIEW

The Interim Use Permit is a permit that allows for a use to temporarily exist upon a property and contains conditions that deem when that use will terminate among other conditions. Interim Use Permits are used in many communities to maintain temporary uses such as home occupation/business uses and make sure that they do not carry with the land but instead carry with the owner or business and end at a predetermined time. Such conditions can be based upon time or a specific event decided upon by the City Council.

Currently the City of Kasson does not have interim use as a type of use identified within the city zoning code.

BACKGROUND

The topic of the Interim Use Permit surfaced based upon reviewing potential home occupations and home businesses within Kasson. These home occupations typically are applied for through the current Conditional Use Permit procedure, but in doing so means these uses are tied to the land and are only removed if they are not meeting the conditions imposed and the city takes official action to revoke. Some of the uses being brought up through the Conditional Use Permit procedure aren't conducive to becoming permanent uses within Kasson's residential neighborhoods and can change the character of these neighborhoods if allowed for long periods of time.

The Interim Use Permit procedure would allow for the continued application of home occupations, but give conditions as to when the use would terminate without having to go through an extensive process to revoke the permit.

PROCEDURE

This is an amendment to the zoning code that impacts the entire city. The city is the applicant, and the Planning Commission shall hold a public hearing to receive comments and questions from the public. The public hearing was published in the city paper. The 60-day rule is hereby waved as the City is the applicant.

The Planning Commission is asked to give a recommendation following the public hearing.

ANALYSIS

Minnesota Statutes enable cities to use interim uses, this can be found in MN Statute 462.3597.

Interim Use Permits are utilized in several communities in Minnesota. The purpose in the communities that utilize them is to be able to have temporary uses that are tied to the owner/applicant instead of to the property/land.

In Kasson, the interim use permit may be used for uses that require licensing or authorization from state or federal entities that would be directly connected to the owner and not the property while the property is located in a district where such a use is not common or customary. It may also be used in circumstances where the use is temporary in nature. The process to issue the permit will follow the current process used to consider and issue conditional use permits.

RECOMMENDATIONS

Staff recommends approval of the Interim Use Permit process and recommends Planning Commission recommend to the City Council approval of the ordinance amendment.

ATTACHMENTS

Attached is the draft ordinance pertaining to the Interim Use Permit.

**CITY OF KASSON
DODGE COUNTY, MINNESOTA**

RESOLUTION NO. 7.X-22

**RESOLUTION APPROVING A INTERIM USE PERMIT AT 506 15TH AVENUE NW
FOR A HOME BUSINESS TO SELL FIREARMS AND AMMUNITION FROM A
HOME LOCATED IN THE R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

WHEREAS, on June 16, 2022, Robert Akrapovic of 506 15th Avenue NW applied for an Interim Use Permit to allow for the sale of firearms and ammunition as a home business from the property of 506 15th Avenue NW; and

WHEREAS, the property is located in the R-1 Single-Family Residential district; and

WHEREAS, the Comprehensive Plan indicates that the land is to be used in the future as low-density residential housing; and

WHEREAS, the Kasson Zoning Code allows for home occupations and home businesses to operate out of the R-1 Single-Family Residential District with a conditional use permit; and

WHEREAS, the applicant is proposing to allow for the sales of firearms from their home; and

WHEREAS, on July 11th, 2022, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

WHEREAS, on July 11th, 2022, the Planning Commission recommended approval of the proposed use as an Interim Use Permit; and

WHEREAS, on July 13th, 2022, the City Council considered the Interim Use Permit, respective conditions and findings of fact.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Kasson, Minnesota hereby approves the requested Interim Use Permit with the following conditions:

- (1) The home business will not disturb the neighbors and normal use of their properties.
- (2) Firearms shall be stored in a locked gun safe at all times except at the time of sale/transfer.
- (3) The premises shall at all times be protected by a contracted security service.
- (4) Acquire and show proof of a Federal Firearm License issued by the Bureau of Alcohol, Tobacco, Firearms and Ammunition for the purposes of selling firearms as a home business.

- (5) The applicant for the duration of the permit continue to provide evidence to the City of issuance of FFL renewal licenses and/or Letters of Authorization from the Federal Firearms Licensing Center prior to the expiration of the Federal Firearms License.
- (6) The home business shall not have more than 1 customer per day visiting the residential premise.
- (7) All customers visiting the home for business shall be by appointment only.
- (8) The home business shall only be conducted by the occupants of the premises and may not employ any person not residing in the residence.
- (9) No external signage shall be used to promote the sale of guns.

BE IT FURTHER RESOLVED that the City Council of Kasson, Minnesota hereby approves the requested Interim Use Permit with the following findings of fact:

1. The use is not in conflict with the comprehensive plan of the city;
2. The use will not cause traffic hazards and 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;
3. The proposed use will not impede the normal and orderly development or improvements of the surrounding property;
4. 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; and
5. The use will not disrupt the character of the neighborhood.

APPROVED by the City Council of the City of Kasson, Minnesota this 13th day of July, 2022.

BY: _____
Chris McKern, Mayor

ATTEST:

Timothy Ibisch, City Administrator

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

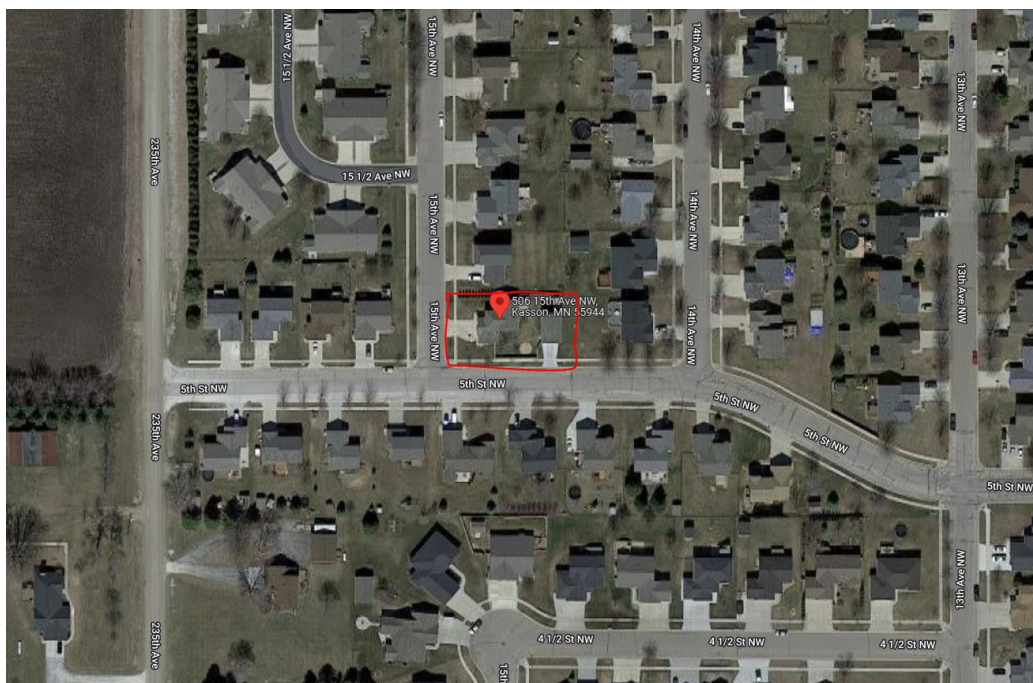


STAFF REPORT

TO: Planning and Zoning Commission
FROM: Brad Scheib and Trey Rouse, City Planning Consultants
DATE: June 24, 2022
SUBJECT: Conditional Use Permit
APPLICANT: Robert Akrapovic
OWNER: Krunoslav Akrapovic
LOCATION: 506 15th Avenue NW, Kasson
MEETING DATE: July 11th, 2022
COMPREHENSIVE PLAN: Low Density Residential
ZONING: R-1 Single-Family Residential District

OVERVIEW

The applicant has proposed a Conditional Use Permit on the property of 506 15th Avenue NW in Kasson that lies within a Single-Family Residential District for a home business selling and distributing firearms and ammunition.



Site Location of 506 15th Avenue NW

Home occupations are allowed in Residential Districts because they do not typically include any visual clues that they exist (for example someone who offices out of their home). A home business on the other hand may include visual clues that are not typical of residential character such as signage and traffic. In this case, the applicant is requesting to sell and distribute firearms from his home and therefore due to customers coming and going a conditional use permit for a home business is required.

REVIEW PROCEDURE

The applications submitted include the following requests:

- Approval of a Conditional Use Permit to sell and distribute firearms from a home business

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 application was determined to be June 16, 2022. The City's deadline for action is on August 15, 2022.

Public Hearing

City Code § 154.312(B)(3) requires a public hearing for review of a conditional use permit to be held by the Planning and Zoning Commission. The public hearing notice for the CUP was published in the Dodge County Independent and mailed to all affected property owners located within 350 feet of the subject properties.

APPLICATION REVIEW

Conditional Use Permit Review

As described in Section 154.067(D)(4), the following should be considered during review of a conditional use permit application:

- (1) The effects of the proposed use on the comprehensive plan; and
- (2) The effects of the proposed use upon the health, safety and general welfare of occupants of surrounding lands.

Additionally, the following findings should be made, when applicable:

- (1) The use is not in conflict with the comprehensive plan of the city;
- (2) 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;
- (3) The use will not disrupt the character of the neighborhood; and
- (4) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

COMPREHENSIVE PLAN

The Comprehensive Plan Future Land Use Plan has the property with a land use of Low Density Residential. The long-term use of the property will not change from residential. The introduction of the home-based business is a temporary use until the use ceases or relocates.

The use requires a federal license and is accessory to the residential use of the property and therefore does not have an impact on the Comprehensive Plan.

ZONING

The zoning of the property and its adjacent districts are R-1. Home businesses are allowed within the R-1 district with a conditional use permit. In reviewing uses of this nature, staff has determined that a best practice is to issue an interim use permit that is not a permanent use permit like a conditional use is. (Note: An ordinance amendment to allow for interim use permits is an agenda item on the same meeting of the Planning Commission.) In addition, the types of conditions associated with this application will address public safety and management of customers coming to the home which may affect the residential character of the neighborhood. These types of conditions are contained below in the recommendations.

USE OF THE HOME FOR BUSINESS

The applicant has stated in their application that they will be selling firearms with the applicant being the only employee. Customers will come to home on an order-to-order basis. There will be no display or stock of firearms as part of the business. The applicant

Home occupation and home businesses, by Section 154.256 (C), are not allowed to alter the structure or utilize outdoor storage.

RECOMMENDATIONS

Staff's recommendation will be based on prior actions of the Planning Commission in consideration of an amendment to the zoning code that establishes an Interim Use Permit. Because the requested application includes a non-local licensing or permitting process, an Interim Use Permit, which is tied to an applicant's license, is a preferred entitlement versus a Conditional Use Permit which runs with the property.

The following recommendation is conditioned upon Planning Commission and City Council approval of the Interim Use Permit ordinance amendment.

Planning staff recommends that the Planning and Zoning Commission make recommendation to the City Council to approve the application as an Interim Use Permit for a home business that allows for firearm sales on the property, with the following conditions:

- (1) The home business will not disturb the neighbors and normal use of their properties.
- (2) Firearms shall be stored in a locked gun safe at all times except at the time of sale/transfer.
- (3) The premises shall at all times be protected by a contracted security service.
- (4) Acquire and show proof of a Federal Firearm License issued by the Bureau of Alcohol, Tobacco, Firearms and Ammunition for the purposes of selling firearms as a home business.

- (5) The applicant for the duration of the permit continue to provide evidence to the City of issuance of FFL renewal licenses and/or Letters of Authorization from the Federal Firearms Licensing Center prior to the expiration of the Federal Firearms License.
- (6) The home business shall not have more than 1 customer per day visiting the residential premise.
- (7) All customers visiting the home for business shall be by appointment only.
- (8) The home business shall only be conducted by the occupants of the premises and may not employ any person not residing in the residence.
- (9) No external signage shall be used to promote the sale of guns.

In recommending approval of the conditional use permit, staff offers the following findings of fact:

- (1) The use is not in conflict with the comprehensive plan of the city;
- (2) The use will not cause traffic hazards and 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;
- (3) The proposed use will not impede the normal and orderly development or improvements of the surrounding property;
- (4) 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; and
- (5) The use will not disrupt the character of the neighborhood.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning and Zoning Commission, it will be forwarded to the City Council for action at the July 13th, 2022 meeting.