

PLANNING COMMISSION

SEPTEMBER 11, 2023

6:30 O'CLOCK P.M.

1. Call to Order
2. Minutes of the Previous Meeting – August 14, 2023

Public Hearings

- 3. Minor Subdivision – Ken Durst and Janice Borgstrom-Durst
 - 4. Conditional Use Permit for Fence – Tim Morten
 - 5. Conditional Use Permit for Fence – Jadenn Clark and Jaren Holleback
 - Preliminary Plat – Renaissance Infrastructure Consulting (**to be tabled**)
 - Zoning Amendment – Renaissance Infrastructure Consulting (**to be tabled**)
6. Discussion on Signs Placed in Easements
 7. Discussion on Nuisance Ordinance and Native Landscaping Statute

MINUTES OF PLANNING COMMISSION MEETING

August 14, 2023

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 14th day of August, 2023 at 6:30 PM

THE FOLLOWING WERE PRESENT: Chairman Ferris, Commissioner Hanson, Commissioner Eggler, Commissioner Tinsley and Commissioner Johnson

THE FOLLOWING WERE ABSENT: Commissioner Buckingham, Commissioner Fitch

THE FOLLOWING WERE ALSO PRESENT: Ian Albers, Planning/EDA Assistant, City Administrator Tim Ibisch, City Clerk Linda Rappe, Mike Sinner, Stacy Sinner

CALL TO ORDER AT 6:30PM

MINUTES OF THE PREVIOUS MEETING – July 10, 2023 Motion to Approve made by Commissioner Eggler, second by Commissioner Tinsley with All Voting Aye

PUBLIC HEARING – Zoning Amendment – Privacy Fences at Corner Lots – Community Development Assistant Albers went through the ordinances from other cities. Albers presented sample language to change the fence code. Which front yard is the actual front. The planning commissioners want the homeowners to pick what their front yard is. The Commissioners gave their comments on the proposed ordinance and those comments will be incorporated into the final language.

Ph opened

No comments

Ph closed

Motion to move forward with changes to the fence ordinance as discussed made by Commissioner Eggler, second by Commissioner Johnson with All Voting Aye.

PUBLIC HEARING - Conditional Use Permit for Fence – Sinner (Tabled from July Meeting) – Albers went through a recap and with the ordinance change this would be appropriate. We could recommend approval with standard conditions and a condition that it would not go into effect until the Council approves the ordinance change. Albers will be sending a letter to extend the 60 day rule.

Ph opened

No comments

Ph closed

Commissioner Eggler asked about site triangles and Albers stated he has verified they are good. **Motion to Approve with the conditions as stated made by Commissioner Johnson, second by Commissioner Tinsley with All Voting Aye.**

PUBLIC HEARING - Variance for Fence in Front Yard – Sinner (Tabled from July Meeting) – Albers stated that staff is recommending denial due to there not being unique characteristics.

Ph opened

Stacy sinner asked if they would get a refund for the cost of the variance. Administrator Ibisch stated they would not get the variance fee returned but we can refund the filing fee since nothing will be filed.

Ph closed

Motion to Deny the Variance made by Commissioner Egger, second by Commissioner Johnson with All Voting Aye.

PUBLIC HEARING - Conditional Use Permit for Fence – Bakken – The Bakken's are asking to extend a chain link fence to the property line on the back three sides. Albers stated the standard conditions easement acknowledgement and access agreements are linked to this.

Ph opened

No comments

Ph closed

Motion to Approve the Conditional Use Permit made by Commissioner Johnson, second by Commissioner Egger with All Voting Aye.

What is a Fence? – Discussion the Commissioners talked about a non-definition to be able to alter it based on. The City has what you cannot use for fencing material.

OTHER - Traffic study scheduled for when roundabouts are open.

ADJOURN – 7:16pm

Respectfully Submitted,

Linda Rappe, City Clerk

STAFF REPORT

TO: Planning Commission
FROM: Ian Albers, Community Development Assistant
DATE: August 23, 2023
SUBJECT: Borgstrom Minor Subdivision
APPLICANT: Ken Durst and Janice Borgstrom-Durst
OWNER: Ken Durst and Janice Borgstrom-Durst Living Trust
LOCATION: 601 and 601 ½ 2nd St SW
MEETING DATE: September 11, 2023
COMPREHENSIVE PLAN: Low Density Residential
ZONING: R-1 Single Family Residential

BACKGROUND

The applicants, Ken Durst and Janice Borgstrom-Durst, have applied for a minor subdivision involving Lots 17 and 18, Block 25 of the Original Plat. Currently, Lot 17 (601 2nd St SW) contains a rented single-family house and a detached garage. Lot 18 (601 ½ 2nd St SW) is vacant except for a small shed, though the applicants desire to place a manufactured home on this lot. Manufactured homes are permitted within the R-1 Single Family Residential District. However, the existing structure on Lot 17 (constructed in 1900) was built right up to the side property line based on the submitted site plan and survey, and thus the structure is non-conforming. To remedy the non-conformity, a minor subdivision would shift the side property line – increasing width of Lot 17 and reducing the width of Lot 18. As the required side yard setback in the R-1 zoning district is 6.5 feet, and Lot 17 is not in compliance with the setback requirements, a minor subdivision is required to adjust the lot line and bring the site into compliance. Additionally, both lots must conform to the area and width requirements according to the use and zoning district. For a single-family detached structure in the R-1 District, the minimum lot area is 8,000 square feet, the minimum lot width at the building line is 66 feet, and the minimum lot width at the street line is 45 feet. According to the proposed site plan, the lot area of Lot 17 would be 7,957 square feet, while the minimum lot width at both the building line and street line would be 60.5 feet. This would leave Lot 17 at 43 square feet too small in area, and 5.5 feet too narrow in area at the building line. While there may be some flexibility in enlarging the area of Lot 17, there is not much that can be done to increase the width of the lot to meet the requirement while simultaneously eliminating the non-conformity at Lot 18. To approve a minor subdivision, a subdivision variance would also need to be approved. A subdivision variance has fewer criteria that need to be considered in comparison to a standard variance:

- The requested Subdivision Variance is in harmony with the general purposes and intent of this Chapter;
- The requested Subdivision Variance is consistent with the Comprehensive Plan and all other applicable City plans;
- The applicant has established that there are special circumstances or conditions, such as topography, drainage, or other natural occurring characteristics, affecting the property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of the land; and
- The impact the variance will have on the public health, safety, and welfare of other property in the vicinity in which the property is situated.

The site plan and certificate of survey will also need to be amended based on the comments from the electric department (notes are attached). Currently, there exists an overhead electric line that runs across Lot 18 and connects to the house on Lot 17. Staff is recommending that this line be moved underground, and that a minimum 5' utility easement is established along 2nd St SW and on either side of the shared line between Lots 17 and 18.

Finally, Section 153.053(C)(2) states that assessments shall be paid in full prior to the approval of the subdivision. Lots 17 and 18 both have pending assessments that are unpaid as of the meeting date.

Due to these factors, staff is recommending tabling action on the minor subdivision request.

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 minor subdivision application was determined to be August 23, 2023. The City's deadline for action is October 22, 2023.

Public Hearing

The public hearing notice for the minor subdivision was published in the Dodge County Independent and mailed to all affected property owners located within 350 feet of the subject properties.

APPLICATION REVIEW

Existing Site Character

See attached pictures.

Minor Subdivision Review

As described in Section 153.053(C)(1-2), the following should be considered during review of a minor subdivision application:

- (1) In making the determination, whether or not the minor subdivision is to be allowed, the City Council shall make the following findings:
 - (a) The proposed subdivision is not in conflict with the comprehensive plan of the city;
 - (b) The proposed subdivision will not disrupt the character of the neighborhood; and
 - (c) The proposed subdivision does not result in the creation of a substandard (non-buildable) lot, according to the current zoning classification.
- (2) Assessments shall be paid in full prior to the approval of the subdivision.

RECOMMENDATION

Staff recommends to the Planning Commission to table a recommendation on the minor subdivision to allow staff to continue working with the applicants and satisfy all requirements. As of now, the following conditions are proposed:

- (1) The pending assessments for PID 24.100.4000 and PID 24.100.3980 shall be paid in full prior to the approval of the subdivision, in accordance with Section 153.053(C)(2).
- (2) The site plan and certificate of survey shall be revised such that the lots created by the minor subdivision meet the area requirements for the R-1 District, as specified in Chapter 153.
- (3) The site plan and certificate of survey shall be revised such that there is a minimum 5' utility easement along 2nd St SW and on either side of the shared property line between Lots 17 and 18.
- (4) An approved subdivision variance shall be required to allow the minimum lot width at the building line of Lot 18 to be less than the requirement for the R-1 District, as specified in Chapter 153.

As of now, staff offers the following findings of fact:

- (1) The proposed subdivision is not in conflict with the comprehensive plan of the city, which guides the area towards low density residential.
- (2) The proposed subdivision will not disrupt the character of the neighborhood – a subdivision variance is proposed to allow the minimum lot width at the building line of Lot 18 to be less than the requirement for the R-1 District.
- (3) A manufactured home is proposed for Lot 18 – such homes are permitted in the zoning district.
- (4) The non-conforming structure at Lot 17 would be resolved through the approval of the subdivision.
- (5) There are pending assessments for PID 24.100.4000 and PID 24.100.3980 (Lots 17 and 18 respectively), that as of the meeting date are unpaid. These assessments are included as part of the 2023 street improvement projects.

SITE PLAN
LOTS 17 & 18, BLOCK 25
ORIGINAL PLAT, KASSON
DODGE COUNTY, MINNESOTA

AND
CANDIAN AND PACIFIC RAILWAY
(FORMERLY D. M. & E.)

ZONING DISTRICT: R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT)

	REQUIRED	PARCEL A	PARCEL B
MINIMUM LOT AREA:	8000 SQ. FT.	7957 SQ. FT.	9410 SQ. FT.
MINIMUM LOT WIDTH:	BUILDING LINE 66 FT.	60.50 FT.	71.50 FT.
STREET LINE	45 FT.	60.50 FT.	71.50 FT.
SETBACK FRONT YARD:	20 FT.	20 FT.	20 FT.
SETBACK REAR YARD:	25 FT.	25 FT.	25 FT.
SETBACK SIDE YARD:	6.5 FT	6.5 FT	6.5 FT
REAR YARD ACCESSORY BUILDING:	35 FEET OR 2 1/2 STORIES	1 STORY	1 STORY
BUILDING HEIGHT:	40%	40% (369 SQ. FT. EXISTING)	40% (3765 SQ. FT.)
MAXIMUM IMPERVIOUS:		2776 SQ. FT. PROPOSED	3145 SQ. FT. TOTAL

LEGEND

	PROPERTY LINE
	CENTER LINE
	LOT LINES
	RIGHT OF WAY LINE
	OVERHEAD ELECTRIC/POWER POLE
	EXISTING WOOD FENCE
	EXISTING BITUMINOUS
	EXISTING CONCRETE
	PROPOSED BUILDING
	PROPOSED DRIVEWAY

PROPERTY DESCRIPTION

PARCEL A Lot 18, Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota, EXCEPTING the East 5.50 feet thereof.

PARCEL B The East 5.50 feet of Lot 17 and all of Lot 18, all in Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota.

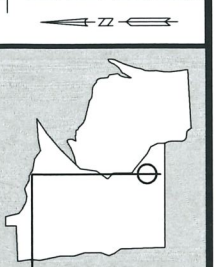
BASIS OF BEARINGS
All Bearings are in relationship with the Dodge County Coordinate System NAD '83, Adjusted 1996.

0 5 10 15 20
SCALE IN FEET

MONUMENTS
● FOUND (5/8" PIPE UNLESS NOTED OTHERWISE)
○ SET (5/8" PIPE UNLESS NOTED OTHERWISE)
THIS SURVEY AND DRAWING WAS PREPARED FOR THE EXCLUSIVE USE OF:
JANICE & KEN DUNST
KASSON, MN

SCALE: 1" = 10'
DATE: 8/21/2023
DRAWN BY: G.D.Z.
CHECKED BY: R.W.Z.
JOB NUMBER: 4452
DWG. FILE: 4452CS01
REVISION DATE:

PROPERTY LOCATION MAP
T. 107 N.
R. 16 W.
N.W. 1/4
N.E. 1/4
S.W. 1/4
S.E. 1/4
No Scale



WSE MLASSEY
ENGINEERING & LAND SURVEYING LTD.
P.O. BOX 100, KASSON, MN 55944
PH. NO. 507-634-4505, EMAIL SURVEY@WSEENGINEERING

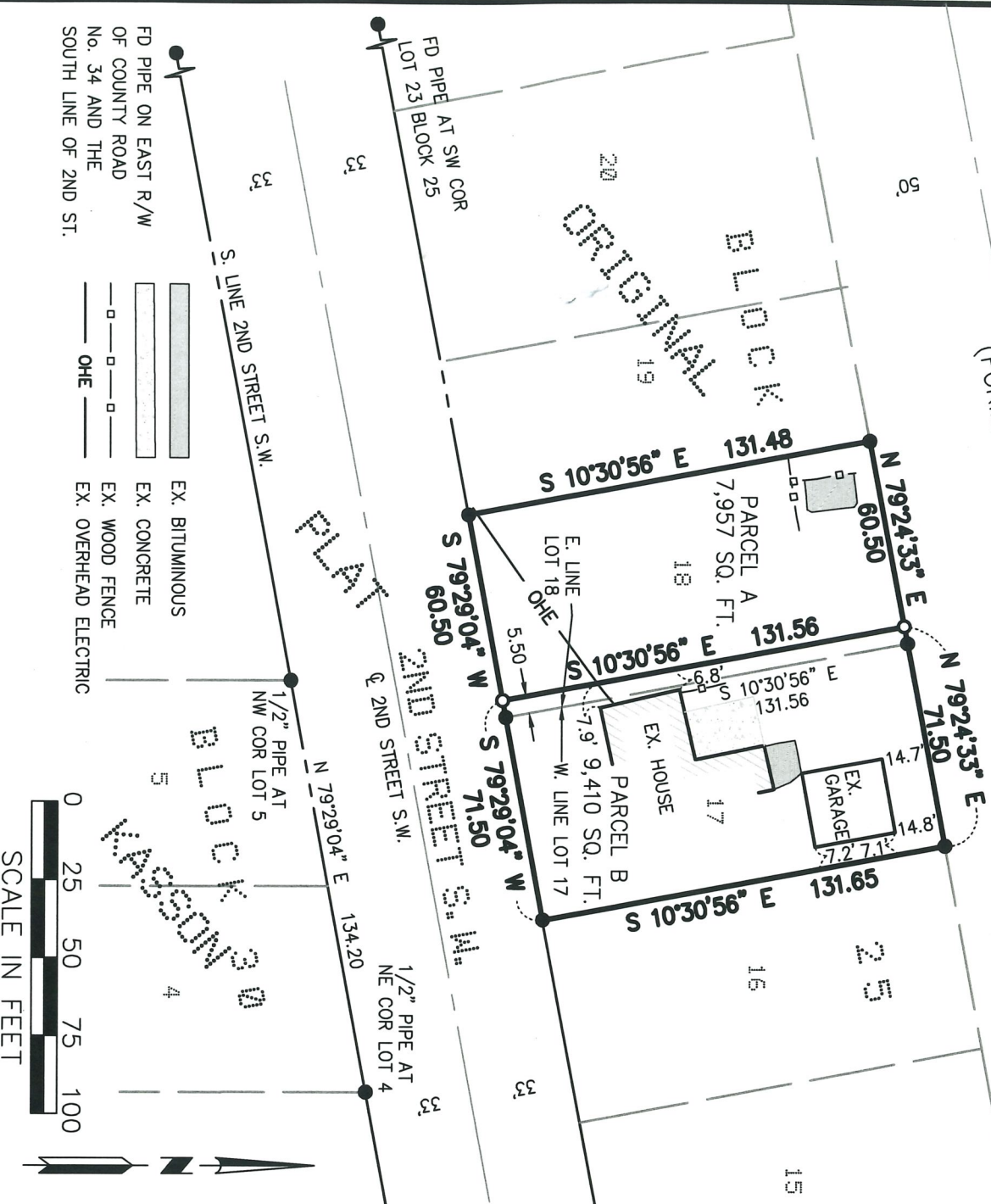
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the laws of the State of Minnesota.
Date 3/24/2023
LIC. NO.: 59823
Reinhold W. Ziemann

CERTIFICATE OF SURVEY
LOT 17 AND 18, BLOCK 25
ORIGINAL PLAT, KASSON
DODGE COUNTY, MINNESOTA

BASIS OF BEARINGS

All Bearings are in relationship with
the Dodge County Coordinate System
NAD '83, Adjusted 1996.

☐ CANDIAN AND PACIFIC RAILWAY
(FORMERLY D. M. & E.)



PARCEL A
Lot 18, Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota, EXCEPTING the East 5.50 feet thereof.

PARCEL B
The East 5.50 feet of Lot 17 and all of Lot 18, all in Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota.

PROPERTY LOCATION MAP

T. 107 N.	R. 16 W.
N.W. 1/4	N.E. 1/4
★	33
S.W. 1/4	S.E. 1/4

No Scale

WSE + M H SSEEY

ENGINEERING & LAND SURVEYING

P.O. BOX 100, KASSON, MN 55944
PH. NO. 507-634-4505, EMAIL SURVEY@WSEENGINEERING

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 8/18/2023
Reinhold W. Ziemann LIC. NO.: 59823

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

JANICE & KEN DURST
KASSON, MN

MONUMENTS

- FOUND (AS INDICATED)
○ SET (6\"/>

DATE: 8/18/2023
DWG NO. 4452SC01 JOB NO. 4452
DRAWN BY: G.D.Z. SHEET 1 OF 1

5. CANTON AND PACIFIC RAILWAY
(FORMERLY D. M. & E.)



LEGEND

- | | |
|--|-----------------------------|
| | PROPERTY LINE |
| | CENTER LINE |
| | LOT LINES |
| | RIGHT OF WAY LINE |
| | OVERHEAD ELECTRIC/POWER POL |
| | EXISTING WOOD FENCE |
| | EXISTING BITUMINOUS |
| | EXISTING CONCRETE |
| | PROPOSED BUILDING |
| | PROPOSED DRIVEWAY |

BASIS OF BEARINGS
All Bearings are in relationship with
the Dodge County Coordinate System
NAD '83. Adjusted 1996.

PROPERTY DESCRIPTION

PARCEL A Lot 18, Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota, EXCEPTING the East 5.50 feet thereof.

PARCEL B The East 5.50 feet of Lot 17 and all of Lot 18, all in Block 25, ORIGINAL PLAT, City of Kasson, according to the plat thereof on file at the County Recorder's Office, Dodge County, Minnesota.

MONUMENTS

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

THIS SURVEY AND DRAWING
WAS PREPARED FOR THE
EXCLUSIVE USE OF:
JANICE & KEN DUNST
KASSON, MN

SCALE: 1" = 10'
DATE: 8/21/2023
DRAWN BY: C.D.Z.
CHECKED BY: R.W.Z.
JOB NUMBER: 4452
DWG. FILE: 4452C501
REVISION DATE: _____

PROPERTY LOCATION MAP

T. 107 N. R. 16 W.

NW 1/4	33	NE 1/4
SW 1/4	SE 1/4	



WSE & M A S S E Y
ENGINEERING & LAND SURVEYING LTD.
P.O. BOX 100, KASSON, MN 55944
PH. NO. 507-634-4505, EMAIL SURVEY@WSE.ENGINEERING

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 3/24/2023
LIC. NO.: 59823

Rev3

Dushield & Pines

5' minimum Utility Easement along 2nd St. between Parcel A & B.

PROJECT NUMBER: 4452 COMPUTER FILE: 4452CS01.DWG

STAFF REPORT

TO: Planning Commission
FROM: Ian Albers, Community Development Assistant
DATE: August 15, 2023
SUBJECT: Morten CUP for fence
APPLICANT: Tim Morten
OWNER: Tim Morten
LOCATION: 11 5th St NW
MEETING DATE: September 11, 2023
COMPREHENSIVE PLAN: Low Density Residential
ZONING: R-1A Single Family Older-Core Residential

BACKGROUND

The applicant, Tim Morten, has applied for a conditional use permit for a privacy fence that was constructed this summer at 11 5th St NW, which is a corner lot. The existing privacy fence extends from the southeast corner of the house to the front property line, then continues along the property line before connecting to a detached garage. The front property line where the fence has been constructed abuts the 5th St NW ROW, so there is not a neighboring property within 3 ft of the fence. A conditional use permit is required to allow the fence to be placed closer than 3 feet to the property line, and a conditional use permit is required to place a privacy fence within the required front yard area of a corner lot.

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 application was determined to be August 15, 2023. The City's deadline for action is on October 14, 2023.

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 property.

APPLICATION REVIEW

Existing Site Character

See attached pictures.

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 proposed conditional use meets all of the applicable use specific standards listed within § 154.175 to 154.178;
- (2) The use is not in conflict with the comprehensive plan of the city;
- (3) 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;
- (4) 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 by the city in order to handle additional traffic generated by the use;
- (5) 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 the neighboring property;
- (6) Adequate utilities, parking, drainage and other necessary facilities will be provided;
- (7) The proposed use will not impede the normal and orderly development or improvements of the surrounding property;
- (8) 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;
- (9) The use will not disrupt the character of the neighborhood; and
- (10) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

RECOMMENDATION

Staff recommends to the Planning Commission to recommend approval of the application for a CUP to allow placement of a privacy fence closer than 3 feet to the property line, and within the required front yard of a corner lot with the following condition attached:

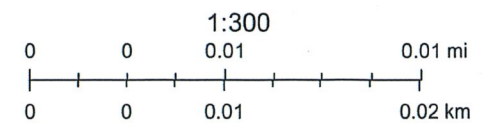
- (1) The property owner at 11 5th St NW acknowledges that any section of the fence that is located within a utility easement may be dismantled at the owner's expense if this easement is utilized.

ArcGIS WebMap



August 14, 2023

Roads — SHWY Name
 — CITY PIN Parcels



STAFF REPORT

TO: Planning Commission
FROM: Ian Albers, Community Development Assistant
DATE: August 25, 2023
SUBJECT: Holleback-Clark CUP for fence
APPLICANT: Jaren Holleback and Jadenn Clark
OWNER: Jaren Holleback and Jadenn Clark
LOCATION: 1307 1st Ave Cir NE
MEETING DATE: September 11, 2023
COMPREHENSIVE PLAN: Low Density Residential
ZONING: R-1 Single Family Residential

BACKGROUND

The applicants, Jaren Holleback and Jadenn Clark, have applied for a conditional use permit to place a fence closer than 3 feet to the side and rear lines at their property at 1307 1st Ave Cir NE. The proposed fence would extend from the rear wall of the house to a point not closer than 3 feet to the rear property line and then northward to a point closer than 3 ft to the side property line. The proposed fence would then extend along the side property line before finally connecting back to the side of the house. A conditional use permit is required to allow the fence to be placed closer than 3 feet to the property line.

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 application was determined to be August 25, 2023. The City's deadline for action is on October 24, 2023.

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

Existing Site Character

See attached pictures.

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 proposed conditional use meets all of the applicable use specific standards listed within § 154.175 to 154.178;
- (2) The use is not in conflict with the comprehensive plan of the city;
- (3) 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;
- (4) 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 by the city in order to handle additional traffic generated by the use;
- (5) 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 the neighboring property;
- (6) Adequate utilities, parking, drainage and other necessary facilities will be provided;
- (7) The proposed use will not impede the normal and orderly development or improvements of the surrounding property;
- (8) 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;
- (9) The use will not disrupt the character of the neighborhood; and
- (10) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

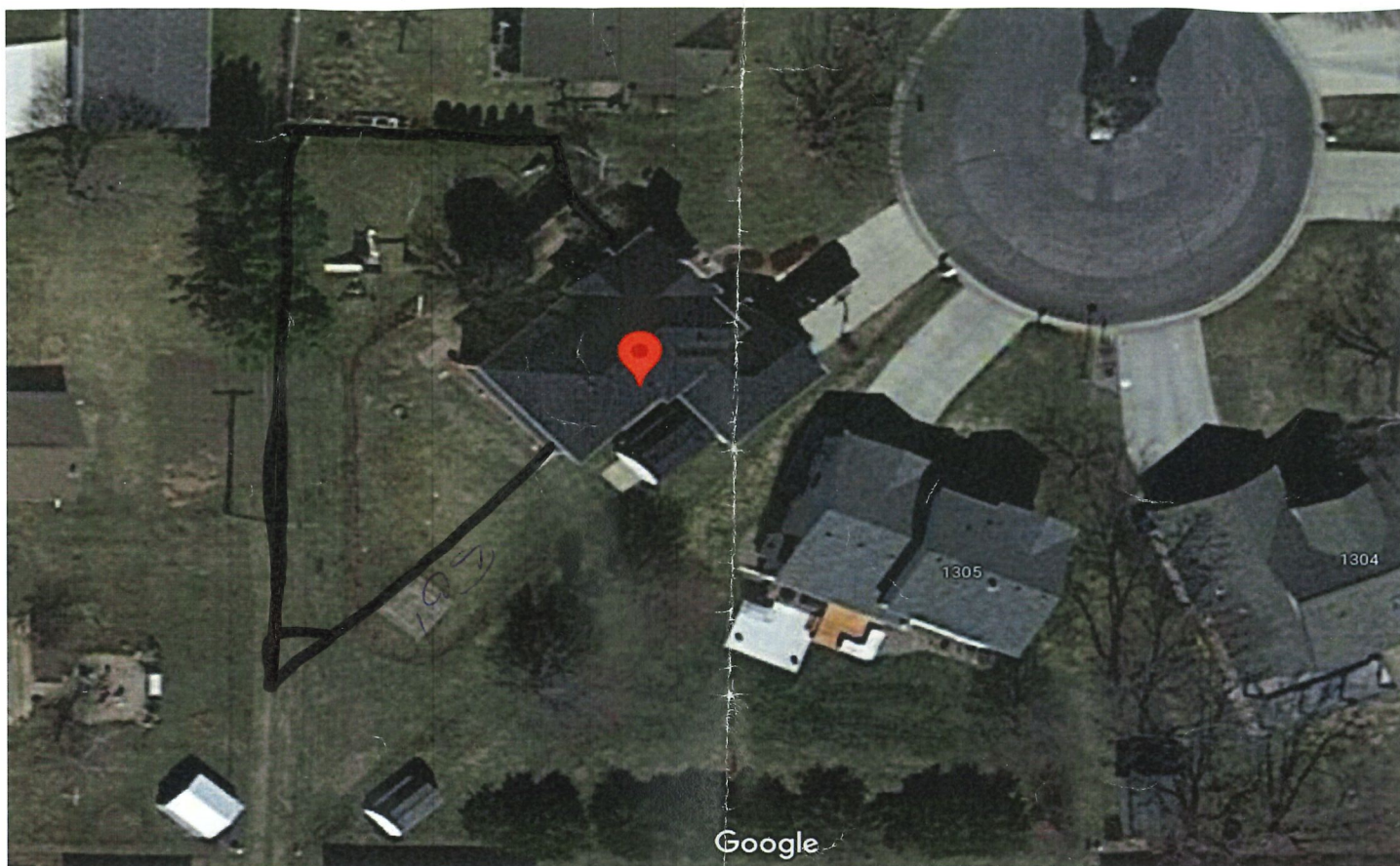
RECOMMENDATION

Staff recommends to the Planning Commission to recommend approval of the application for a CUP to allow placement of a fence closer than 3 feet to the side and rear property lines with the following conditions:

- (1) An access agreement shall be notarized and recorded with the property owner to the north of 1307 1st Ave Cir NE so that the fence can be placed closer than 3 feet to the shared property line.
- (2) The property owner at 1307 1st Ave Cir NE acknowledges that any section of the fence that is located within a utility easement may be dismantled at the owner's expense if this easement is utilized.

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

- (1) The property has a 5-foot utility easement along the rear property line.



250,
0

MEMO

TO: The Planning Commission
FROM: Ian Albers, Community Development Assistant
DATE: September 11, 2023
RE: Discussion on Signs Placed in Easements

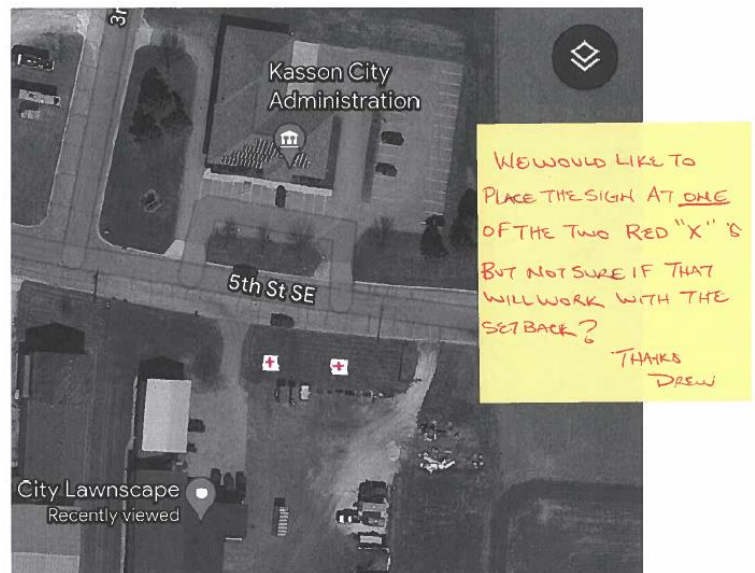
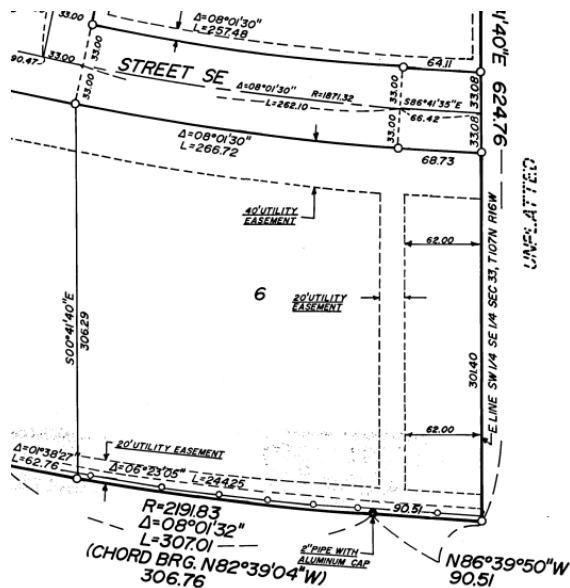
A building permit application has been submitted by River City Lawnscape at 400 5th St SE for a sign. However, the proposed location of the sign is within a utility easement, which the code does not allow for:

§ 154.345 PROHIBITED SIGNS, ALL DISTRICTS.

The following shall be prohibited in all zoning districts:

- (A) Any sign located in the public right-of-way or easements, except those listed in divisions § 154.344(B) and § 154.347(H);

There exists a 40' utility easement along the front property line, as shown in the plat map. The applicants proposed two locations for the sign – both of which are within the utility easement.



There are a few options that could be taken in this situation: the code could be amended to make an exemption for signs placed in large easements with administrative location approval by staff; this specific easement could be considered unique enough to qualify for a variance; or finally, the applicants could propose a location outside of the easement to get approved for a permit.

MEMO

TO: The Planning Commission
FROM: Ian Albers, Community Development Assistant
DATE: September 11, 2023
RE: Discussion on Nuisance Ordinance and Native Landscaping Statute

The State has recently passed a new law that went into effect on July 1 requiring cities to allow property owners to install and maintain managed natural landscapes. This statute reads as follows:

Section 1. [\[412.925\] NATIVE LANDSCAPES.](#)

[\(a\) A statutory city or home rule charter city shall allow an owner, authorized agent, or authorized occupant of any privately owned lands or premises, to install and maintain a managed natural landscape. For purposes of this section, the terms are defined as follows:](#)

[\(1\) "managed natural landscape" means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscapes does not include turf-grass lawns left unattended for the purpose of returning to a natural state;](#)

[\(2\) "meadow vegetation" means grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, not including noxious weeds. Noxious weed shall have the meaning assigned by section 18.77, subdivision 8;](#)

[\(3\) "ornamental plants" means grasses, perennials, annuals, and groundcovers purposefully planted for aesthetic reasons;](#)

[\(4\) "rain garden" means a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of stormwater and accompanying pollutants from entering streams, lakes, and rivers; and](#)

[\(5\) "turf-grass lawn" means a lawn comprised mostly of grasses commonly used in regularly cut lawns or play areas, including but not limited to bluegrass, fescue, and ryegrass blends, intended to be maintained at a height of no more than eight inches.](#)

[\(b\) Managed natural landscapes may include plants and grasses in excess of eight inches in height and that have gone to seed, but may not include any noxious weeds and must be maintained.](#)

[\(c\) Except as part of a managed natural landscape as defined in this section, any weeds or grasses growing upon any lot or parcel of land in a city to a greater height than eight inches or that have gone or are about to go to seed are prohibited.](#)

Effectively, the state statute supersedes local law. While our code does not explicitly prohibit managed natural landscapes, there is potential to clear up the nuisance ordinance in specific regard to vegetation. Currently, the code simply states in part:

§ 51.02 OPEN AREAS.

“Any weeds or tall grass growing upon any lot or parcel of land in the city are hereby declared to be a nuisance and dangerous to the health, safety and good order of the city.”

A reference to the state statute could be added to the code so that managed natural landscapes are explicitly exempted from the nuisance ordinance. With this, it will be important to avoid a situation where a complaint is made about tall grass and weeds when there actually exists a managed natural landscape that is protected by state statute. Fortunately, the state statute also protects against claims that an unattended turf-grass lawn is a managed natural landscape. Some cities, such as Mankato, require a permit for natural landscapes (see attached). The benefit of this is that property owners are required to submit an application with a site plan, plant list, and maintenance plan to the city for approval by staff.

If an ordinance change is recommended, a public hearing would be required to take place at a future meeting.

CITY OF MANKATO

NATURAL LANDSCAPE PERMIT

Name of Applicant: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

Legal Address of Property to be Permitted: _____

Landscape Architect, Designer or Contractor if applicable: _____

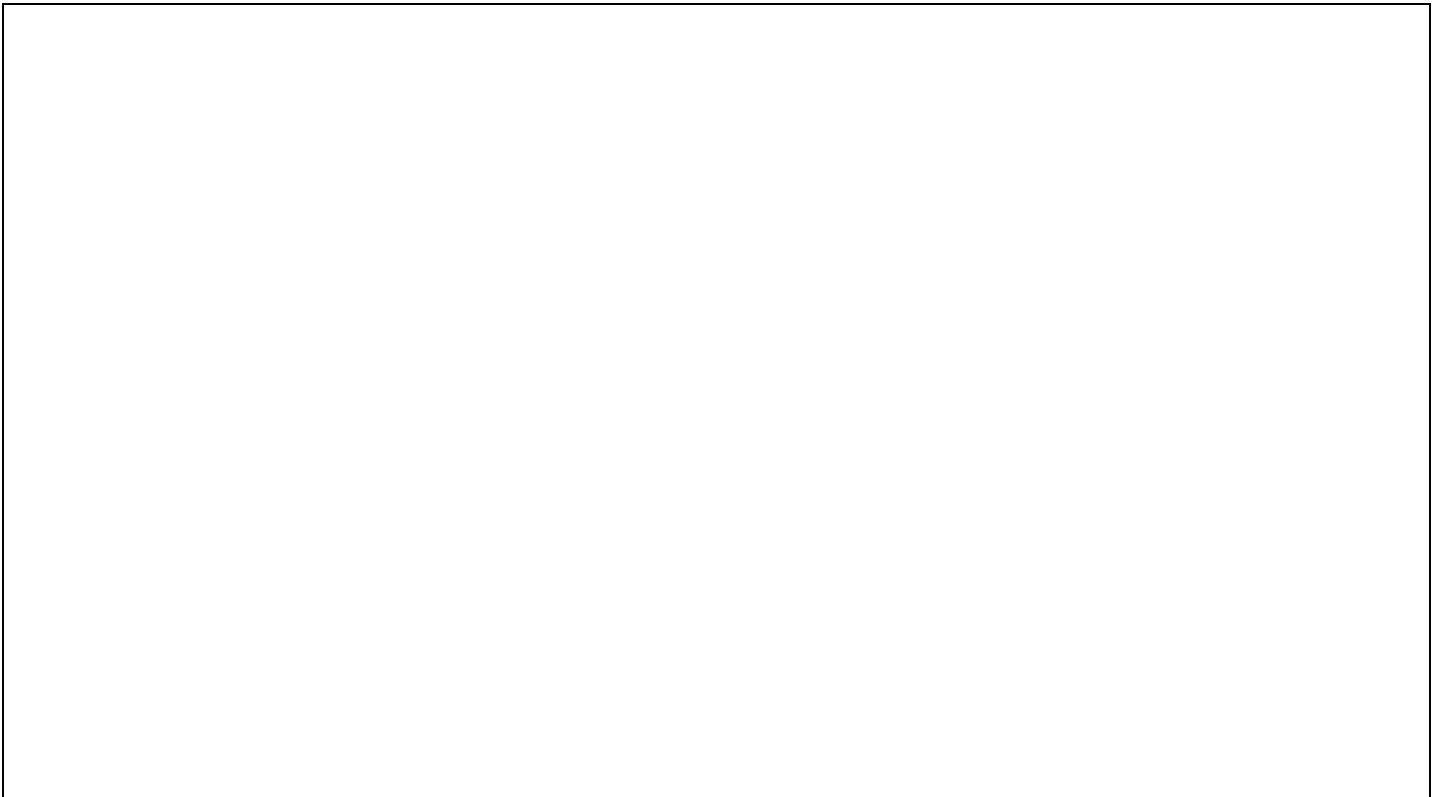
Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

This permit is for a: ☐ New natural landscape planting ☐ Existing natural landscape planting

Site Plan: Please sketch proposed native planting location below, additional sheets may be attached if necessary.



Sketch should include property lines, buildings, proposed planting area, adjacent properties, streets, and alleyways.

CITY OF MANKATO

NATURAL LANDSCAPE PERMIT

Planting Schedule: List common or botanical names, average height, source type (seed or plug) and quantity of all plant materials being installed.

Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____
Plant Name:	_____	Average Height:	_____	Type:	_____	Quantity:	_____

Additional planting schedule information may be attached if necessary, including seed mix if available.

Management and maintenance plan: Please describe how the planting will be installed and maintained.

INTERNAL USE ONLY

Permit Approved: ☐ Approved By: _____ Date: _____

Permit Denied: ☐ Denied By: _____ Date: _____

Reason for denial: ☐ Management and maintenance plan incomplete

☐ Planting area does not meet setback requirements

☐ Other _____