

**CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION**

Agenda
July 21, 2020
7:00 PM

- 1. ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. APPROVAL OF MINUTES**
 - 3A. June 16, 2020 regular meeting minutes
- 4. PUBLIC DISCUSSION – Public comment on any item not otherwise listed on the agenda.**
- 5. PUBLIC HEARINGS**
 - 5A. An application by Sandra Carlson for a Subdivision to create a 147-foot-wide parcel of 1.69 acres and a 3.90-acre lot accessed by way of a flag lot of 37-foot width at 5161 Morris Thomas Road. The property is located in an R-3 zoning district.
 - 5B. An application by William and Jennifer Wolk for a Subdivision to create a 135-foot-wide parcel of 0.79 acres and a 4.26-acre lot accessed by way of a flag lot of 31.75-foot width at 5140 Morris Thomas Road. The property is located in an R-3 zoning district.
 - 5C. An application by David Mesojedic for the rezoning of 3721 Lavaque Road from R-3, Residential to C, Commercial.
 - 5D. An application by P&R Properties for a Wetland Replacement Plan for wetland impacts located at 5298 Miller Trunk Highway. The property is located in a C, Commercial zoning district.
- 6. CONTINUING BUSINESS**
- 7. NEW BUSINESS**
- 8. COMMUNICATIONS**
- 9. COMMISSION MEMBER REPORTS**
 - Greg Zimmerman –
 - Joe Peterson –
 - Corey Kolquist –
 - Tracy Lundeen –
 - Valerie Ouellette –
 - Samuel Clark –
 - Kristi Schmidt –

ADJOURN

Because attendance at the regular meeting location is not feasible due to the health pandemic, Hermantown's July 21, 2020, Planning and Zoning Commission meeting will be conducted remotely, utilizing the platform "Zoom" – which allows the public to view and/or hear the meeting from their phone or computer.

Beginning shortly before 7:00 p.m. on July 21, 2020, this meeting will be available at: <https://us02web.zoom.us/j/81675706587?pwd=MDRQS1ZXMU8yYU41NThxWTBtTmxyZz09> and/or by calling the number 312 626 6799 and utilizing the meeting ID 816 7570 6587 and the password 701530.

A few important tips regarding the Zoom platform:

- If you do not have audio on your computer, but wish to see the meeting and speak at the meeting – you can log in both on your computer (to see) and call in on your phone (to speak)
- It is a new situation for all of us, so grace and understanding are appreciated

CITY OF HERMANTOWN
PLANNING & ZONING COMMISSION
June 16, 2020 Meeting Summary
7:00 PM

1. ROLL CALL

Members Present: Joe Peterson; Greg Zimmerman; Chad Scott; Corey Kolquist; Tracy Lundeen; Valerie Ouellette; Samuel Clark; and Kristi Schmidt.

Members Absent: None.

Others Present: Eric Johnson, Community Development Director; Joe Wicklund, Communications & Community Engagement Manager; Christie Erickson; Todd Pelkey; Gary Gilbert; Sabrina, Brady Korwin; and Mark Johnson, Vice President of Vireo Health.

2. APPROVAL OF AGENDA

Motion made by Chad Scott to approve the June 16, 2020 agenda as presented. Seconded by Samuel Clark. Motion carried.

3. APPROVAL OF MINUTES

Motion made by Corey Kolquist to approve the May 19, 2020 minutes as presented. Seconded by Valerie Ouellette. Motion carried.

4. PUBLIC DISCUSSION

None.

5. PUBLIC HEARINGS

5A. An application by Fresenius Kidney Care Duluth for a Commercial Industrial Development Permit (CIDP) for 12,000 square foot medical dialysis clinic located at 41xx Richard Avenue. The property is located in a HM, Hermantown Marketplace zoning district.

Eric Johnson, Community Development Director presented to the Commission that applicant Fresenius Kidney Care of Duluth requests a Commercial Industrial Development Permit to locate a medical clinic at a one-story, 11,934 square foot building at the northwest corner of Richard Avenue and Eeve Drive. Fresenius will be a tenant of the proposed building with Patriot Properties being the overall property developer.

Medical and Dental Clinics are permitted with a CIDP in the HM, Hermantown Marketplace Zoning District.

Parking will be provided on the north, east, and south sides of the site. Car Parking in the HM zoning district is the same as the C zoning district. The HM zoning district requires bicycle parking.

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The Hermantown Marketplace requires a landscaping plan for the overall site and landscaping of the parking areas and lot boundaries. Patriot Properties as part of their site planning process will be preparing plans for these requirements.

Proposed traffic volumes at the clinic will not have a major impact on the roadway system around the area. Access to the site will be via Richard Avenue and Eeve Street. This area of the City is commercial in nature and the roads have been constructed in such a way as to have substantial excess capacity. Patriot Properties, the overall developer, has entered into an agreement with the City on a roadway assessment which addresses the future extension of Richard Avenue and subsequent utilities, north to Lindgren Road.

Patriot Properties is proposing to utilize the existing stormwater pond which is shared with Sam's Club, on the west side of the property. In addition, an extension to this existing pond is proposed along the north portion of this property. The stormwater plans will be reviewed and approved by the City Engineer.

To date, Patriot Properties has been utilizing building signage for their projects. All signage on the site must be within the requirements of the Zoning Ordinance, and sign permits will be required. Signs shall be of compatible colors and materials.

Corey Kolquist asked if this project will affect any wetlands.

Eric stated the wetland process has been approved and wetland credits have been purchased.

Motion made by Samuel Clark to approve the application by Fresenius Kidney Care Duluth for a Commercial Industrial Development Permit (CIDP) for 12,000 square foot medical dialysis clinic located at 41xx Richard Avenue. Seconded by Corey Kolquist. Joe Peterson abstained. Motion carried.

5B. An application by Northwoods Sodding for a Special Use Permit (SUP) for the purpose of grading and filling in a Natural Environment Shoreland Area in order to increase the yard capacity of their facility located at 3688 Midway Road. The property is located in a BLM, Business Light Manufacturing zoning district.

Eric introduced to the Commission that the applicant, Northwoods Sodding, purchased the property and existing building, located at 3688 Midway Road, in 2018 for the purposes of operating his commercial landscape business and have a small retail componenet. As he began operating he discovered that there are traffic conflicts between the retail customers and the commercial vehicles using the property. The applicant is proposing to enlarge the parking and turnaround area in the yard to reduce traffic conflicts as well as for his commercial vehicles to operate in a more safe, efficient manner.

The property consists of a 4,500 square foot building, 5,000 square foot customer parking area and a 50,000 square foot commercial landscape area utilized for deliveries, storage

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and commercial vehicle parking. There is an unmapped tributary of the Midway River in the rear half of the property which bisects the area at an angle.

The applicant is proposing to grade and fill a 20,100 square foot area which would square off the commercial vehicle parking area and create an area for these vehicles to maneuver. This area is entirely within the 300' natural area shoreland associated with the unmapped tributary.

The Hermantown TEP reviewed the delineation at its October 28, 2019 meeting. The TEP found that the delineation was presented accurately and should be approved. In addition, the TEP reviewed the request for 14,890 square feet of wetland impacts in order to create a parking and turn around area for tractor trailers that support his landscaping business.

Corey asked what a trout stream was and how it functions.

Eric stated that tributaries are small connector streams running into a main stream or river. With this project, the wetland replacement typically you can fill up to 10,000 sq. ft. of wetland with a basic permit. However, when you're in shoreland areas, or trout streams, that area is reduced to 400 sq. ft. After 400 sq. ft., you have to purchase wetland credits.

Samuel Clark asked if there has ever been a problem with their space to date.

According to Eric, there have been no issues.

Motion made by Valerie Ouellette to approve the application by Northwoods Sodding for a Special Use Permit (SUP) for the purpose of grading and filling in a Natural Environment Shoreland Area in order to increase the yard capacity of their facility located at 3688 Midway Road. Seconded by Corey Kolquist. Motion carried.

5C. An application by Northwoods Sodding for a Wetland Replacement Plan in order to increase the yard capacity of their facility located at 3688 Midway Road. The property is located in a BLM, Business Light Manufacturing zoning district.

Eric shared two additional graphics with the Commission. One is the wetland delineation that was done for this property. The second is the proposed area of the wetland filled. It is a little over 20,000 sq. ft. associated with that wetland fill.

Again, Eric noted that the Hermantown TEP reviewed the delineation at its October 28, 2019 meeting and found that the delineation was presented accurately and should be approved.

Motion made by Chad Scott to approve the application by Northwoods Sodding for a Wetland Replacement Plan in order to increase the yard capacity of their facility located at 3688 Midway Road. Seconded by Tracy Lundeen. Motion carried.

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5D. An application by JLG Enterprises for a Final Plat for a 6 lot and 2 outlot subdivision located at 3956 Stebner Road. The property is located in an R-3 zoning district.

Eric advised the Commission that the applicant, JLG Enterprises, is requesting approval of a Final Plat for construction of a six lot, 2 outlot residential development at 3956 Stebner Road.

The preliminary plat for this project had been approved several months ago. The initial preliminary plat was looking at more lots for this development in the first phase.

The applicant proposes to plat the five parcels for residential development, starting with six single family residential lots an Outlot (A) containing stormwater treatment facilities on approximately 2 acres with a large Outlot (B) covering the remaining 67 acres to be reserved for future subdivision. Phase 1 will have access from Stebner Road via a new City street to be constructed by the Applicant. Future additions to the subdivision will require an additional road connection on the eastern portion of the property connecting to Oak Ridge Drive for public safety, road maintenance, and traffic improvements.

The proposed final plat meets the R-3, Residential dimensional standards for single-family homes connected to City water and sanitary sewer of ½ acre in area with 100 feet wide frontage at lot line and at the 50' building setback line of lots on cul-de-sacs.

The project will connect to City water lines located adjacent to the subdivision in the right-of-way of Stebner Road. Sanitary sewer will be served via an existing stub into the property. The new sewer and water lines will be a City main constructed to City standards. The applicant will provide engineered plans to the City Engineer for utility connections prior to beginning such work on the site. Preliminary engineering plans have been presented with the Final Plat.

Greg Zimmerman asked about the eastern portion of the development, could that have the option for having something other than single family homes, or is this all being designated single family homes?

Eric stated that at this time, that eastern portion of the property is zoned HM (Hermantown Marketplace) and there are different housing options that can occur in an HM zoning district, are are allowed if the developer chooses to continue with single family homes. If something were to change, those changes would be considered PUD's (Planned Unit Developments).

Valerie Ouellette asked if the developer will handle the installation of the utilities or will the City.

Eric said all of the utilities are the responsibility of the developer. The developer designs and installs the utilities based on the City's standards. Once installed, the City Engineer and the Public Works Department will inspect the installations.

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Motion made by Greg Zimmerman to approve application by JLG Enterprises for a Final Plat for a six lot and 2 outlot subdivision located at 3956 Stebner Road. Seconded by Corey Kolquist. Chad Scott abstained. Motion carried.

5E. An application by Vireo Health for a Commercial Industrial Development Permit (CIDP) for 2,500 square medical cannabis dispensary located at 4960 Miller Trunk Hwy, Suite 300. The property is located in a C, Commercial zoning district.

Eric presented to the Commission that the applicant, Vireo Health, is proposing to lease a 2,500 square foot space at Sugar Maple Crossing for the purposes of opening a medical cannabis dispensary.

The State of Minnesota amended its Medical Cannabis regulations to allow the expansion of distribution facilities from eight to sixteen statewide. Each Congressional District is allowed two distribution facilities. A facility operated by Leafline, Inc. already exists in Hibbing.

The City Council passed a six month moratorium on medical cannabis facilities in August 2019 to allow time to consider what, if any, regulations should be enacted in regards to medical cannabis facilities. Staff discussed the subject and possible zoning approaches with the Planning Commission at its August 2019 meeting and the ordinance change was approved at the November 2019 City Council meeting.

Distribution facilities are heavily regulated by the State and cannot be located within 1000 feet of a public or private K-12 school. Patients on the medical cannabis registry visit the distribution facility by appointment and meet with a pharmacist to discuss their specific medication needs. Prescriptions are not written at the facility nor is the medical cannabis administered or used on site.

Kristi Schmidt asked that prescriptions are not written on site, patients have to bring a prescription from a physician, and the facility fills the prescription at the site.

Eric stated that was correct.

Samuel asked for the reasoning for the CIDP to change the ownership.

Eric stated that City Staff and the City Attorney are looking into that and that for the time being, the way the Ordinance is written, this is the correct route to follow.

Greg Zimmerman asked what the demand is for the product and what kind of traffic can be expected.

Mark Johnson, Vice President of Vireo Health stated that their dispensary volumes vary depending on the market. Their facility in Moorhead, MN (the lowest volume) has approximately 150 patients that come through per week. Their facility in Bloomington, MN (the highest volume) has approximately 700 patients per week.

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Tracy Lundeen asked what the hours of operation would be.

Mark noted that typically, they open at 8:00 am and close as early as 5:00 pm. Mark stated that it all depends on demand and frequency as well as what is convenient for the patients, and that the facility is only open to those people who have prescriptions. Mark also stated that there is a secure storage area in the back of the space. That space will be reinforced and will have 24 hour surveillance both inside and outside. The State of Minnesota requires that they store those surveillance videos for up to 90 days, and that the local police department come and review the facility before opening to make sure everyone is comfortable with the operation.

Samuel stated that if in the future a lease change comes up, in his opinion the Commission is not the best use of the Commission's time when the matter could be handled by City Staff.

Motion made by Corey Kolquist to approve the application by Vireo Health for a Commercial Industrial Development Permit (CIDP) for 2,500 square medical cannabis dispensary located at 4960 Miller Trunk Hwy, Suite 300. Seconded by Samuel Clark. Joe Peterson abstained. Motion carried.

6. CONTINUING BUSINESS

None.

7. NEW BUSINESS

None although Eric did state that Staff will be reviewing how Staff might clean up some items of the CIDP process as well as looking at the flag lot ordinance.

8. COMMUNICATIONS

None.

9. COMMISSION MEMBER REPORTS

Joe Peterson – None.

Greg Zimmerman – None.

Chad Scott – Tendering resignation.

Corey Kolquist – None.

Tracy Lundeen – None.

Valerie Ouellette – None.

Samuel Clark – None.

Kristi Schmidt – None.

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ADJOURN

Motion made by Chad Scott to adjourn the meeting. Seconded by Greg Zimmerman. Meeting adjourned at 8:01 pm.

Officiated by:

Transcribed by:

Joe Peterson, Chairman

Mary Melde, Administrative Assistant

5A. Subdivision Application to create a flag lot in an R-3 zoning district

Applicant: Sandra Carlson
Case No.: 2020-45-SUB
Staff Contact: Eric Johnson, Community Development Director
Request: Subdivision of an R-3 zoned property to create a flag lot.

DESCRIPTION OF REQUEST:

The applicant owns a 5.46 acre property at 5161 Morris Thomas Road, one-quarter mile west of Lavaque Road with a lot frontage of 183'. A single family house and one accessory building are located on the property.

The applicant proposes to create a new flag lot along the western border of the existing property. The applicant is proposing a 37 foot 'pole/driveway' connection to Morris Thomas Road for a distance of 500 feet with the 'flag' portion of the lot being approximately 183' x 823'. The proposed lot sizes for the two total parcels are:

Parcel A: 147' x 500' / 73,616 sf. or 1.69 acres
Parcel B: 37' x 500' and 183' x 823' / 169,884 or 3.90 acres

The applicant intends to sell the new lot for a new single-family home. The applicant will keep the existing home. The applicant will need to remove the secondary gravel drive on the west side of the property which serves the existing home as shared driveways are not permitted.

SITE INFORMATION:

Parcel Size: 5.46 acres
Legal Access: Morris Thomas Road
Wetlands: No
Existing Zoning: R-3, Residential
Minimum Lot Area: 0.5 acres (city services are available)
Airport Overlay: No
Shoreland Overlay: No
Comprehensive Plan: Residential

BACKGROUND:

The City updated its regulations covering splitting of land and subdivisions in 2016. The update to the regulations created a process to allow flag lots in residential zoning districts. A flag lot is defined as a lot containing an area shaped like a “flag” which is the portion of the lot where all structures are to be located and an area shaped like a “pole” which is the portion of the lot where the vehicular access between the flag and its adjoining road shall be located. The regulations set ten standards for flag lots in Hermantown. These are listed in the Findings section. Flag lots require a public hearing by the Planning Commission and approval by the City Council.

Administrative approvals and Flag Lot approvals require a certificate of survey, resulting legal descriptions, and review of any assessments. In addition, the City charges a fee in lieu of land dedication of \$1,100 for parks and recreation for every new residential lot created.

National Wetland Inventory maps do not show the presence of wetlands on this property.

There is an existing water line and sanitary sewer within the right of way of Morris Thomas Road. The property owner will need to submit for the proper required permits and pay any applicable connection and access fees in order to utilize these existing utility services. The existing home utilizes City water and sewer and the new flag lot will also be required to utilize City sanitary sewer and water services.

FINDINGS:

Staff recommends the following findings of fact regarding the flag lot split application:

- 1. The resulting lots do not violate any provision of the Hermantown Zoning Regulations, Comprehensive Plan, or any other local ordinance.** The lot exceeds minimum standards in the R-3, Residential District, maintains the suburban residential development pattern identified in the Comprehensive Plan, and has access to water and sewer.
- 2. The width of the flag lot at the front yard setback line must meet the lot width requirements of the Hermantown Zoning Regulations.** The lot is 183’ wide at the front yard setback line which exceeds the requirement of 100’.
- 3. The pole portion of a flag lot shall not exceed 500 feet.** The pole is 500’ feet long.
- 4. The pole portion of a flag lot must have a minimum width of 30 feet, be of uniform width, be a platted part of the flag lot, and connect to a public street. The driveway shall be set back a minimum of 10 feet from the neighboring property that was not used to create the flag lot and five feet from the mother property.** The pole is 37’ wide. Approval of building permits will be conditioned on siting of the driveway to meet setback standards defined in Section 1010.04.04 of the Hermantown Zoning Regulations.
- 5. The pole portion of the flag lot will not be included in calculating the minimum lot area.** The lot area without the “pole” is 3.47 acres which exceeds the ½ acre minimum lot size of the R-3, Residential zoning district.
- 6. Only one flag lot may be created from an existing/mother property.** The city will record that no further flag lots can be created from PIN # 395-0010-08370
- 7. Must be used exclusively for single family dwelling and accessory uses.** The intended use of the new developable lot is for single family residential. The City will only issue building or zoning permits for single family residential and related uses.
- 8. The City must determine that the creation of the flag lot will not interfere with future development of roads or interior lands.** The backside of the parcel abuts the County Acres development and the creation of a flag lot would not hinder development in this area.

9. **The City must determine that the flag lot provides adequate accessibility of emergency responders.** The proposed pole meets minimum width and the maximum length. Both standards were developed with emergency response vehicles in mind.
10. **All flag lots must display an address at their closest point of access to a public street for emergency responders.** The applicant will have to assent to displaying 911 addressing in a visible location at the entrance of the driveway.

RECOMMENDATION:

1. Recommend approval of the creation of a 183' by 823' flag lot with a 37' by 500' pole abutting Morris Thomas Road.
2. Adopt the stated Findings of Fact and other content of this report as the required findings identified in Section 1010.04.11.6 of the Hermantown Zoning Regulations.
3. Prior to recording of the flag lot the property owner shall pay a fee in lieu of land dedication for parks and recreation of \$1,100.
4. Prior to issuance of a City land alteration permit for site work on the flag lot the property owner of the land alteration permit will provide a site plan depicting the driveway and flag the location of the driveway for inspection to confirm that it meets setback requirements listed Section 1010.04 of the Hermantown Zoning Regulations.
5. The new flag lot will be required to utilize City sanitary sewer and water services and pay all applicable fees.
6. The property owner shall sign a consent form assenting to all conditions of this approval.
7. The property owner shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS

- Location Map
- Proposed Survey and Legal Descriptions

Location Map



SURVEY FOR: SANDY CARLSON
 5161 MORRIS THOMAS ROAD
 HERMANTOWN, MN 55810

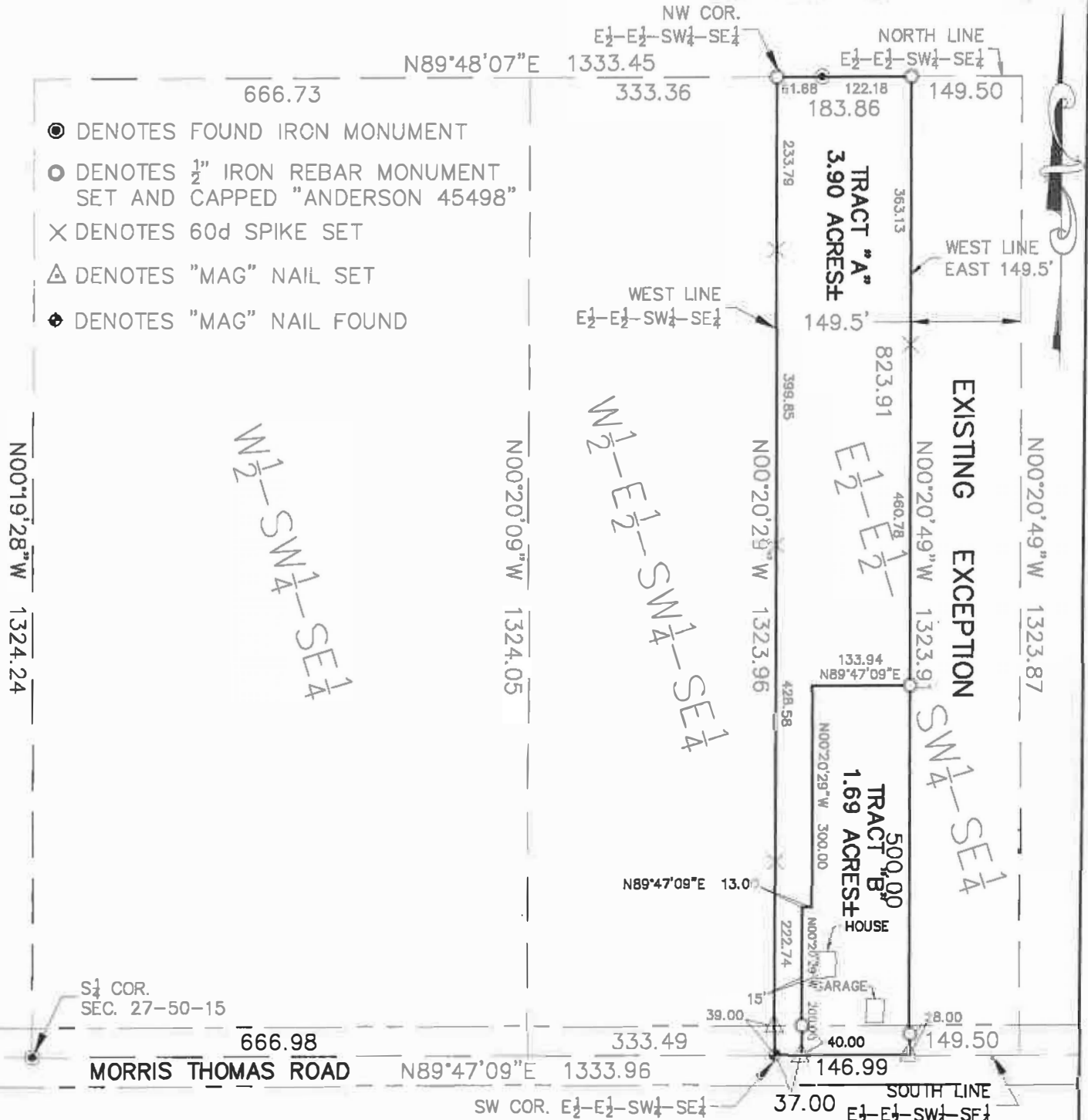
STRAIGHTLINE SURVEYING, INC.

P.O. Box 510, 500 Foiz Blvd
 Moose Lake, MN 55767
 E-MAIL: bAnderson@straightlinesurveying.com

Telephone: (218)-485-4811
 Fax: (218)-485-4811

SURVEY OF: TWO PROPOSED TRACTS LOCATED IN THE
 EAST HALF OF THE EAST HALF OF THE
 SOUTHWEST QUARTER OF THE SOUTHEAST
 QUARTER, SECTION 27, TOWNSHIP 50, RANGE
 15, ST. LOUIS COUNTY, MINNESOTA.

SCALE 1" = 200'



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.

Tract "B" Legal Description

That part of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, Section 27, Township 50, Range 15, St. Louis County, Minnesota, described as follows:

Commencing at the southwest corner of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence easterly, along the south line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 37.00 feet to the actual point of beginning of the tract of land herein described; thence northerly, parallel with the west line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 200.00 feet; thence easterly, parallel with said south line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 13.00 feet; thence northerly, parallel with said west line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 300.00 feet; thence easterly, parallel with said south line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 133.94 feet to the west line of the East 149.50 feet of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence southerly, along last described west line, a distance of 500.00 feet to said south line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence westerly, along last described south line, a distance of 146.99 feet to said point of beginning.

Tract "A" Legal Description

That part of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, Section 27, Township 50, Range 15, St. Louis County, Minnesota, described as follows:

Beginning at the southwest corner of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence easterly, along the south line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 37.00 feet; thence northerly, parallel with the west line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 200.00 feet; thence easterly, parallel with said south line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 13.00 feet; thence northerly, parallel with said west line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 300.00 feet; thence easterly, parallel with said south line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 133.94 feet to the west line of the East 149.50 feet of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence northerly, along last described west line, a distance of 823.91 feet to the north line of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence westerly, along last described north line, a distance of 183.86 feet to the northwest corner of said East Half of the East Half of the Southwest Quarter of the Southeast Quarter; thence southerly, along said west line of the East Half of the East Half of the Southwest Quarter of the Southeast Quarter, a distance of 1323.96 feet to said point of beginning.

5B. Subdivision Application to create a flag lot in an R-3 zoning district

Applicant: William and Jennifer Wolk
Case No.: 2020-44-SUB
Staff Contact: Eric Johnson, Community Development Director
Request: Subdivision of an R-3 zoned property to create a flag lot.

DESCRIPTION OF REQUEST:

The applicant owns a five acre property at 5140 Morris Thomas Road, one-quarter mile west of Lavaque Road with a lot frontage of 166'. A single family house and three accessory buildings are located on the property.

The applicant proposes to create a new flag lot along the western border of the existing property. The applicant is proposing a 31.75 foot 'pole/driveway' connection to Morris Thomas Road for a distance of 255 feet with the 'flag' portion of the lot being approximately 166' x 1032'. The proposed lot sizes for the two total parcels are:

Parcel A: 135' x 255' / 34,425 sf. or 0.79 acres

Parcel B: 31.75 x 255' and 166' x 1032' / 185,454 or 4.26 acres

The applicant intends to construct a new single-family home on the new parcel and then sell the existing home upon completion of the new residence. There is an existing power pole within the right of way of the newly created 'pole' which the applicant would need to coordinate with the utility company to have relocated.

SITE INFORMATION:

Parcel Size: 5.0 acres
Legal Access: Morris Thomas Road
Wetlands: Yes, at south end of property – N/A
Existing Zoning: R-3, Residential
Minimum Lot Area: 0.5 acres (city services are available)
Airport Overlay: No
Shoreland Overlay: No
Comprehensive Plan: Residential

BACKGROUND:

The City updated its regulations covering splitting of land and subdivisions in 2016. The update to the regulations created a process to allow flag lots in residential zoning districts. A flag lot is defined as a lot containing an area shaped like a “flag” which is the portion of the lot where all structures are to be located and an area shaped like a “pole” which is the portion of the lot where the vehicular access between the flag and its adjoining road shall be located. The regulations set ten standards for flag lots in Hermantown. These are listed in the Findings section. Flag lots require a public hearing by the Planning Commission and approval by the City Council.

Administrative approvals and Flag Lot approvals require a certificate of survey, resulting legal descriptions, and review of any assessments. In addition, the City charges a fee in lieu of land dedication of \$1,100 for parks and recreation for every new residential lot created.

The existing home utilizes City water but has an existing private septic system. The property is stubbed to the sanitary service in Morris Thomas Road but is not currently hooked up. As part of the flag lot project, the applicant is planning to complete the hook up to City services and pay the associated sewer assessment balance and City and WLSSD hookup fees. The new flag lot will also utilize City sanitary sewer and water services and will be required to pay the associated sewer assessment and City and WLSSD hookup fees.

City wetland inventory maps indicate the potential of a 20,000 square foot wetland area approximately 900’ south of Morris Thomas Road. This potential wetland area is not within the proposed building pad area.

There is an existing water line and sanitary sewer within the right of way of Morris Thomas Road. The property owner will need to submit for the proper required permits and pay any applicable connection fees in order to utilize these existing utility services.

FINDINGS:

Staff recommends the following findings of fact regarding the flag lot split application:

- 1. The resulting lots do not violate any provision of the Hermantown Zoning Regulations, Comprehensive Plan, or any other local ordinance.** The lot exceeds minimum standards in the R-3, Residential District, maintains the suburban residential development pattern identified in the Comprehensive Plan, and has access to water and sewer.
- 2. The width of the flag lot at the front yard setback line must meet the lot width requirements of the Hermantown Zoning Regulations.** The lot is 166’ wide at the front yard setback line which exceeds the requirement of 100’.
- 3. The pole portion of a flag lot shall not exceed 500 feet.** The pole is 255’ feet long.
- 4. The pole portion of a flag lot must have a minimum width of 30 feet, be of uniform width, be a platted part of the flag lot, and connect to a public street. The driveway shall be set back a minimum of 10 feet from the neighboring property that was not used to create the flag lot and five feet from the mother property.** The pole is 31.75’ wide. Approval of building permits will be conditioned on siting of the driveway to meet setback standards defined in Section 1010.04.04 of the Hermantown Zoning Regulations.
- 5. The pole portion of the flag lot will not be included in calculating the minimum lot area.** The lot area without the “pole” is 3.93 acres which exceeds the ½ acre minimum lot size of the R-3, Residential zoning district.
- 6. Only one flag lot may be created from an existing/mother property.** The city will record that no further flag lots can be created from PIN # 395-0012-00150.

7. **Must be used exclusively for single family dwelling and accessory uses.** The intended use of the new developable lot is for single family residential. The City will only issue building or zoning permits for single family residential and related uses.
8. **The City must determine that the creation of the flag lot will not interfere with future development of roads or interior lands.** The backside of the parcel abuts Wagner Road and the creation of a flag lot would not hinder development in this area.
9. **The City must determine that the flag lot provides adequate accessibility of emergency responders.** The proposed pole meets minimum width and is less than the maximum length. Both standards were developed with emergency response vehicles in mind.
10. **All flag lots must display an address at their closest point of access to a public street for emergency responders.** The applicant will have to assent to displaying 911 addressing in a visible location at the entrance of the driveway.

RECOMMENDATION:

1. Recommend approval of the creation of a 166' by 1023' flag lot with a 31.75' by 255' pole abutting Morris Thomas Road.
2. Adopt the stated Findings of Fact and other content of this report as the required findings identified in Section 1010.04.11.6 of the Hermantown Zoning Regulations.
3. Prior to recording of the flag lot the property owner shall pay a fee in lieu of land dedication for parks and recreation of \$1,100.
4. Prior to issuance of a City land alteration permit for site work on the flag lot the property owner of the land alteration permit will provide a site plan depicting the driveway and flag the location of the driveway for inspection to confirm that it meets setback requirements listed Section 1010.04 of the Hermantown Zoning Regulations.
5. The new flag lot will be required to utilize City sanitary sewer and water services and pay all applicable fees.
6. The property owner shall sign a consent form assenting to all conditions of this approval.
7. The property owner shall pay an administrative fine of \$750 per violation of any condition of this approval.














ATTACHMENTS

- Location Map
- Proposed Survey and Legal Descriptions

Location Map



LEGEND

-  BITUMINOUS SURFACE
-  GRAVEL SURFACE
-  EXISTING BUILDINGS
-  FENCE LINE
-  OVERHEAD UTILITIES
-  SECTION SUBDIVISION LINE
-  RIGHT OF WAY LINE
-  BOUNDARY LINE AS SURVEYED
-  PROPANE TANK
-  GUY ANCHOR
-  UTILITY POLE
-  MISC MANHOLE
-  CAST IRON MON

PARENT LEGAL DESCRIPTION PER DOCUMENT NO. 1024784
 East One-half of West One-half of West One-half of Northeast Quarter of Northeast Quarter (E1/2 of W1/2 of W1/2 of NE1/4 of NE1/4), of Section Thirty-four (34), in Township Fifty (50) North of Range Fifteen (15) West of the Fourth Principal Meridian, St. Louis County, Minnesota.

LEGAL DESCRIPTION OF PARCEL A
 The East 135.00 feet of the North 225.00 feet of the East One-half of West One-half of West One-half of Northeast Quarter of Northeast Quarter (E1/2 of W1/2 of W1/2 of NE1/4 of NE1/4), of Section Thirty-four (34), in Township Fifty (50) North of Range Fifteen (15) West of the Fourth Principal Meridian, St. Louis County, Minnesota.

Said parcel contains 34,425 square feet or 0.79 acres.

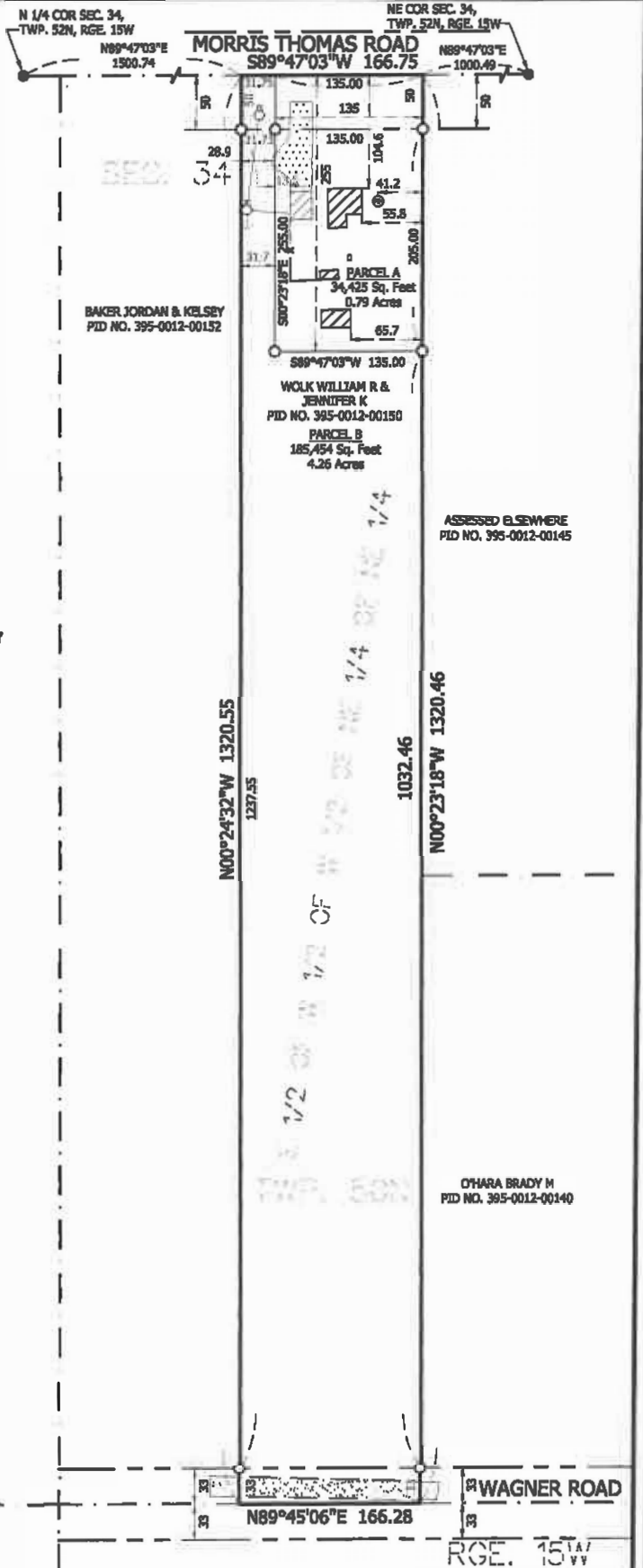
LEGAL DESCRIPTION OF PARCEL B
 The East One-half of West One-half of West One-half of Northeast Quarter of Northeast Quarter (E1/2 of W1/2 of W1/2 of NE1/4 of NE1/4), of Section Thirty-four (34), in Township Fifty (50) North of Range Fifteen (15) West of the Fourth Principal Meridian, St. Louis County, Minnesota, EXCEPT the East 135.00 feet of the North 225.00 feet thereof.

Said parcel contains 185,454 square feet or 4.26 acres.



SURVEYOR'S NOTES

- NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1986. (MAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.



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.

David R. Egan
 David R. Egan

Date: 2020 05, 2020 MIN. Lic. No. 49303

CERTIFICATE OF SURVEY

CLIENT: JESSE AND WENDY
 DATE: JUNE 20, 2020
 PROJECT: E1/2 OF W1/2 OF W1/2 OF NE1/4 OF NE1/4 OF SECTION 34, T50N R15W
 JOB NUMBER: 18-087

ALTA
 LAND SURVEY COMPANY

• LAND SURVEYING
 • LAND DEVELOPMENT
 • PLANNING
 • LEGAL CONSULTING

MINNESOTA LICENSED IN ME & PL
 CERTIFIED FEDERAL SURVEYOR
 WWW.ALTA-SURVEY.COM



5C. Subdivision Application to create a flag lot in an R-3 zoning district

Applicant: David Mesojedic
Case No.: 2020-43-ZM
Staff Contact: Eric Johnson, Community Development Director
Request: Rezoning from R-3, Residential to C, Commercial

DESCRIPTION OF REQUEST:

Staff recommends that the Planning Commission recommend approval of the proposed change to the Hermantown Zoning Map by rezoning 3721 Lavaque Road (395-0010-08390), a 5.82-acre parcel from R-3, Residential to C, Commercial.

SITE INFORMATION:

Parcel Size: 5.82 acres
Legal Access: Lavaque Road
Wetlands: No
Existing Zoning: R-3, Residential
Shoreland Overlay: No
Airport Overlay: No
Comprehensive Plan: Small Economic Activity Centers

BACKGROUND

During the spring of 2020, Mr. Mesojedic inquired with St. Louis County why his property was being assessed at a commercial rate. The question was brought to the Hermantown Board of Appeal and Equalization on April 15, 2020 and staff verified that the property was zoned R-3, Residential. However, from review of the property file, internet search and visual inspection it was apparent that the Mr. Mesojedic was conducting a business out of a residentially zoned property, which is in violation of the City ordinance.

From staff review of the property file, this lot was originally zoned C, Commercial. In 2010 the previous property owner applied for a lot split and a rezoning of the original 22 acre property. The application was approved with the result being a 5.82 acre lot (3721 Lavaque Road) and a 16.23 acre lot (3747 Lavaque Road) which were both rezoned from C, Commercial to R-3, Residential.

Staff contacted Mr. Mesojedic to discuss this and offered one of two courses to resolve the zoning violation. One option was the rezoning of the property back to a C, Commercial zoning with the second being the relocation of the business to an appropriately zoned district.

The C, Commercial zoning would allow for Mr. Mesojedic to continue using the property for his business as well as allow the dwelling structure as a non-conforming use. Mr. Mesojedic weighed these options and chose to pursue the rezoning.

As a C, Commercial zoned property, the property is served by public utilities. City watermain and sanitary sewer mains are located along the entire frontage of Lavaque Road.

The site is also well served by roads. Lavaque Road is a St. Louis County Road and the site is approximately 700 feet from the signed intersection of Lavaque Road and Morris Thomas Road.

The six abutting properties to the south and west are zoned C, Commercial and consist of Minardi Lumber and Millwork, Hermantown General Store, 3 residentially utilized properties and a Northern Natural Gas facility. The property immediately to the north (3747 Lavaque Road) was originally zoned C, Commercial as well. The properties on the east side of Lavaque Road contain a twinhome development.

Dimensional standards would change as follows:

Dimensional Standards	C	R-3
Height	65 feet	35 feet
Setbacks		
<i>Front</i>	35 feet	50 feet
<i>Side (abutting street)</i>	35 feet	50 feet
<i>Side</i>	10 feet	10 feet (25' aggregate)
<i>Rear</i>	40 feet	40 feet
Minimum lot area	None	½ acre
Minimum lot width	None	100'
Maximum lot coverage	50%	35%

The property is in a Small Economic Activity Center. The city contains several small areas where commercial and industrial activity occurs in relative proximity to residential uses. A goal for small neighborhood commercial areas is to define the scope and nature of non-residential uses which are compatible with the surrounding neighborhood. The use of this property as a business has worked in harmony of the adjacent residences for the past 10 years.

As discussed, the surrounding zoning and uses are compatible with the C, Commercial district. The adjacent property zoned R-3 is 16.23 acres in size with the residential structure approximately 400 feet from the nearest proposed C, Commercial property line.

SUMMARY & JUSTIFICATION:

The proposed rezoning meets the criteria of the Comprehensive Plan and the overall goals and policies of the Zoning Ordinance. The 5.82-acre site is located in an area that has an existing commercial character and development of the site could be complementary to the area. Staff recommends approval of the rezoning based on the following findings:

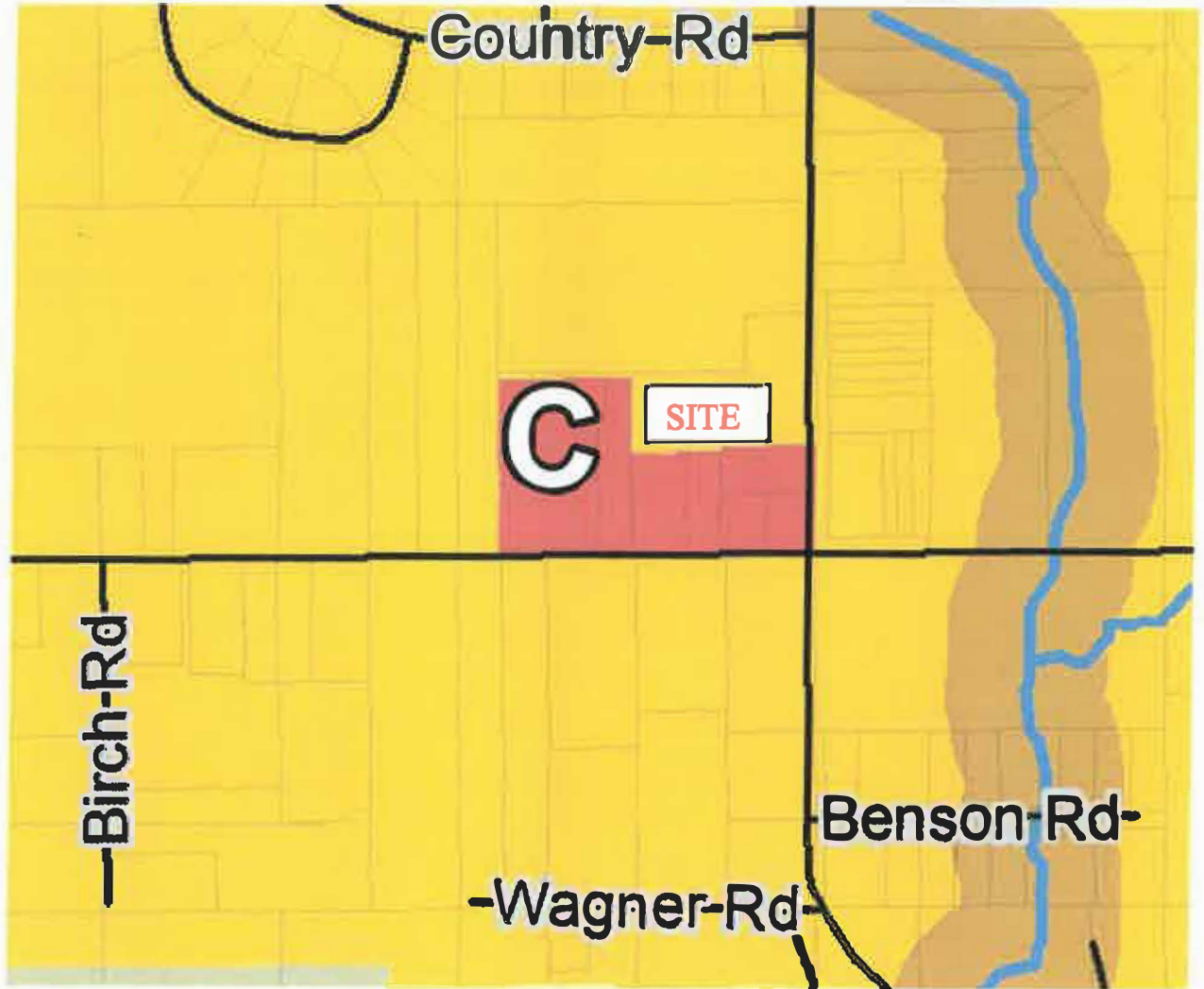
1. The property is included in the Small Economic Activity Center of the Comprehensive Plan within which commercial zoning and commercial development are currently allowed.

2. C, Commercial uses are compatible with the surrounding uses, including a lumberyard/building supply store, a convenience store, a Natural Gas facility and multi-family housing.

Attachments

- Location Map
- Current and Proposed Zoning Map

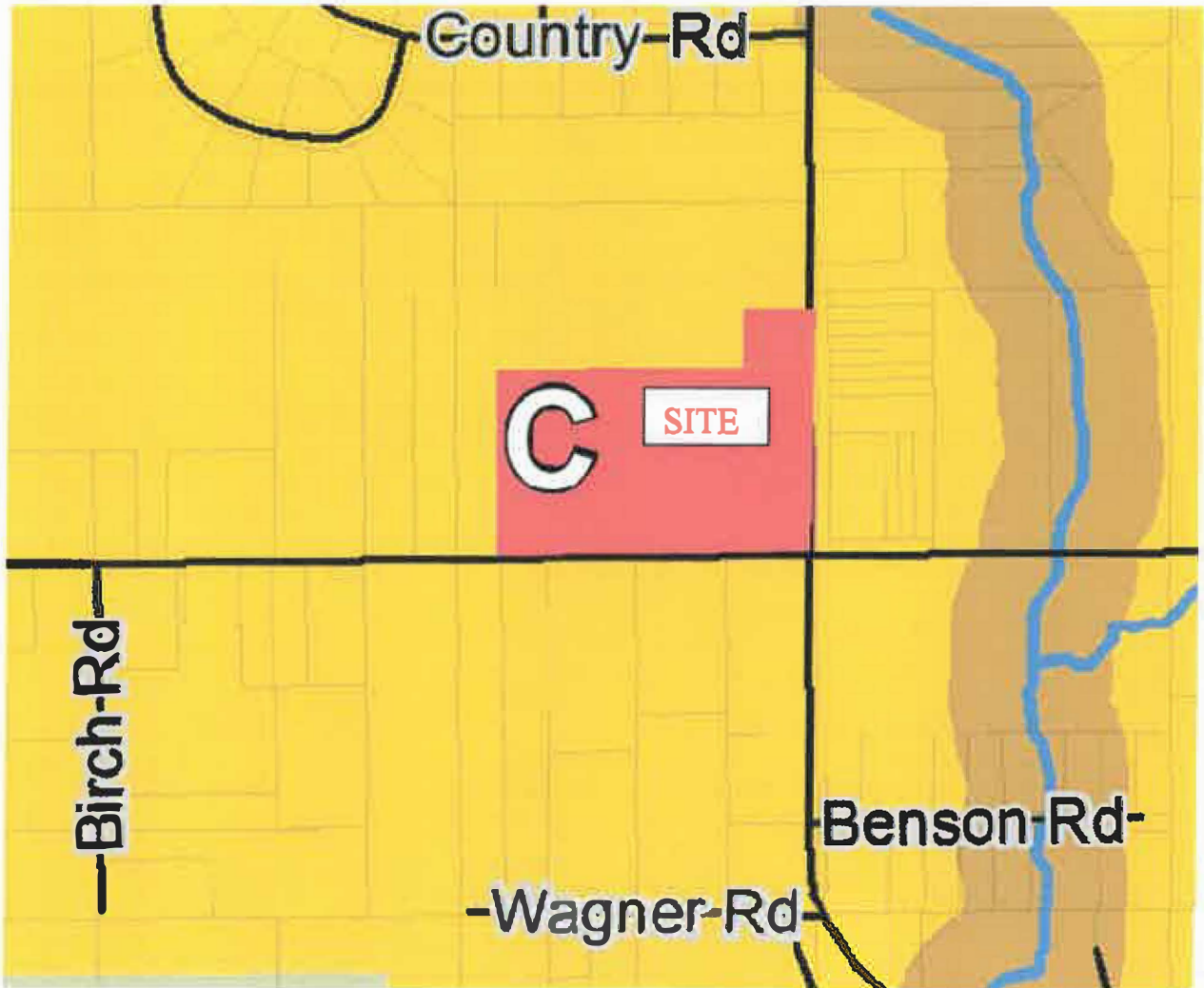
Existing Zoning Map



Location Map



Proposed Zoning Map



5D. 5298 Ugstad Road– Wetland Replacement Plan

Applicant: P&R Properties
Case No.: 2020-28 - WRP
Staff Contact: Eric Johnson, Community Development Director
Request: Wetland Replacement Plan to impact 13,540 square feet of wetland

RECOMMENDED ACTION:

Approve a Wetland Replacement Plan in order to construct a proposed apartment building development.

DESCRIPTION OF REQUEST:

The applicant is proposing a 148-unit, five story apartment building consisting of 11 alcove/studio units, 84 one bedroom units, 33 two bedroom units and 20 three bedroom units. The building has a footprint of approximately 42,260 square feet for a total of approximately 222,050 square feet in size.

The location of the building and stormwater pond will impact 13,540 square feet of wetland on the property. The proposed delineation has been reviewed and approved by the Hermantown Technical Evaluation Panel (TEP) with the impacts scheduled to be approved on July 17, 2020.

SITE INFORMATION:

Parcel Size: 5.0 acres
Legal Access: 5298 Ugstad Road
Wetlands: Yes, delineation approved in 2020; Impacts approved in 2019
Existing Zoning: C, Commercial
Airport Overlay: C, height restrictions only
Shoreland Overlay: None
Comprehensive Plan: Commercial

Development Details

The applicant is proposing to grade and fill a 13,540 square foot area in order to construct the building and stormwater facility. Numerous concepts were presented to the TEP in order to minimize or avoid impacts to the wetlands. After discussions and on site meetings it was determined that the impacts should be approved along with the creation of a 3,642 square foot rain garden which would use the on-site wetland soils as its drainage bed.

Wetlands

The Hermantown TEP reviewed the delineation at its June 15, 2020 meeting. The TEP found that the delineation was presented accurately and should be approved. In addition, the TEP received an application for 13,540 square feet of impacts on June 25, 2020 for the purpose of constructing the building and stormwater management improvements. This request is scheduled to be approved by the TEP on July 17, 2020.

Summary

Staff recommends approval of the Wetland Replacement Plan with the following conditions:

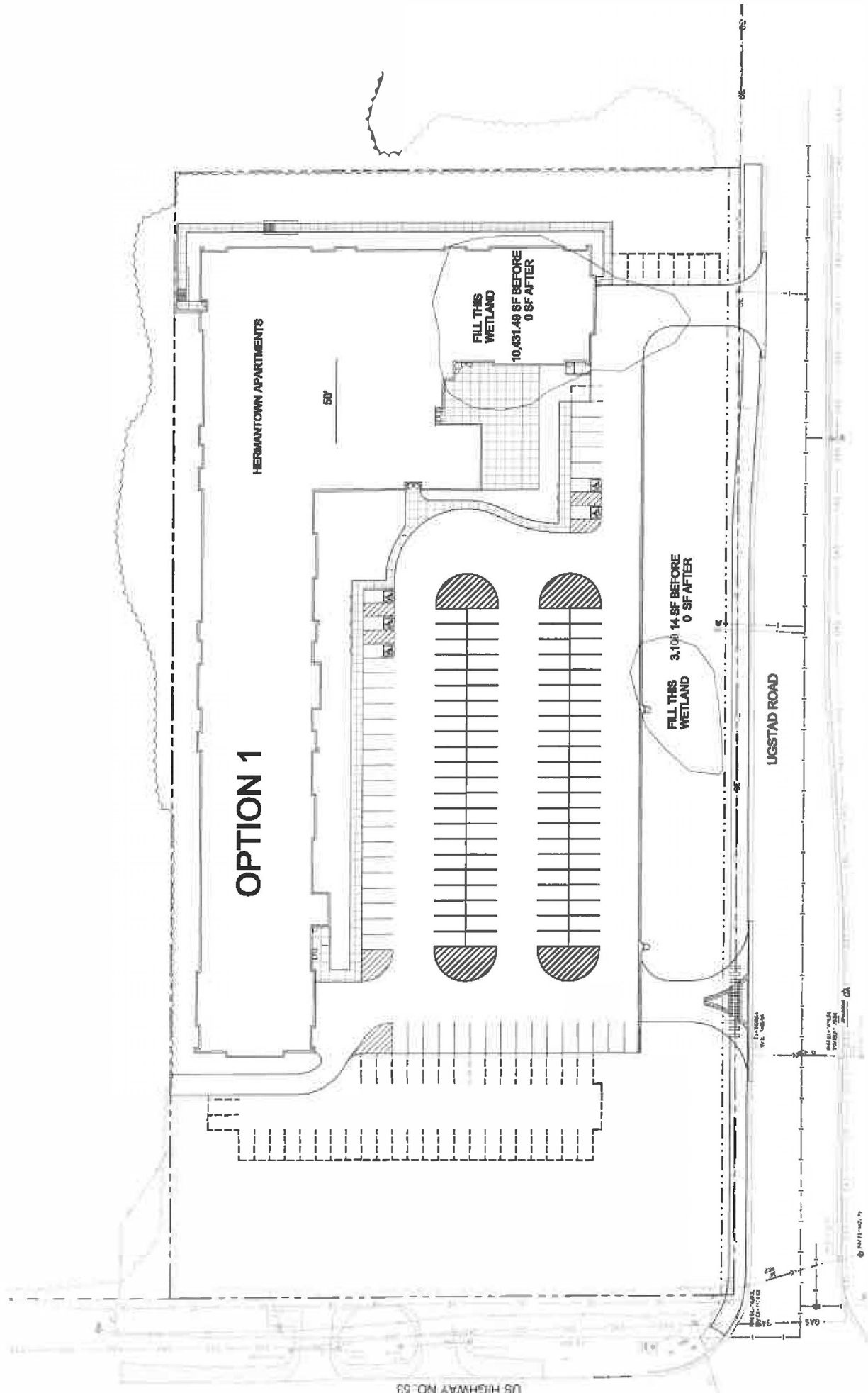
1. Proof of a purchase agreement for wetland credits in Bank Service Area 1.
2. Conduct best management methods that will be used to protect the wetland soils harvested from the existing wetlands and being used in the raingarden.
3. Construct the 3,642 square foot raingarden in accordance with the approved engineering plans.
4. The applicant shall sign a consent form assenting to all conditions of this approval.
5. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS:

- Location Map
- Wetland Delineation
- Proposed Site Plan
- Credit Purchase

Location Map





OPTION 1

HERMANTOWN APARTMENTS

50'

FILL THIS WETLAND
10,431.49 SF BEFORE
0 SF AFTER

FILL THIS WETLAND
3,100 14 SF BEFORE
0 SF AFTER

LUGSTAD ROAD

US HIGHWAY NO. 53

WATER

GAS

0.00114274



Mississippi and Superior
Wetland Mitigation Banks

5550 Newbury Street, Suite B
Baltimore, MD 21209
P: 443.921.9441
F: 410.235.1503

June 24, 2020

Via E-mail

Ryan Nelson
P&R Companies
2306 W Superior Street
Duluth, MN 55816
ryan@prplumb.com

Re: Credit availability at the Mississippi Mitigation Bank 1/Itasca/Deer River (1521)

Dear Ryan,

This letter shall serve to provide documentation that **0.465 type 3 shallow marsh wetland mitigation credits** are currently available in inventory at the Mississippi Mitigation Bank 1/Itasca/Deer River (1521) (the sponsor for which is EIP Credit Co., LLC) for the below-referenced project. Please note that this letter of credit availability does not in any way constitute a credit reservation, and that while these credits are available in inventory as of the date of this letter, this letter does not constitute a guarantee that they will be available at the time of permit issuance. In order to secure this guarantee for reserved credits, the permittee must make contractual arrangements with EIP Credit Co., LLC.

Permittee:

P&R Companies
2306 W Superior Street
Duluth, MN 55816

If there are any questions regarding this letter of credit availability, please do not hesitate to contact Joe Williams at 443.921.9441. Thank you very much.

Sincerely,

DocuSigned by:

Katherine Birnie

Managing Director
katherine@ecosystempartners.com