



City of Nowthen
PLANNING & ZONING COMMISSION MEETING
TUESDAY, SEPTEMBER 26, 2023
A G E N D A
7 PM

Called to Order

- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight's meeting agenda of September 26, 2023.

- 1. 7:00 PM: Public Hearing: Accessory Building Variance, 7700 188th Lane NW**
Consider approval of a Variance to allow placement of a 3,200 SF accessory building within the front yard of an existing developed residential property. PID 33-33-25-21-0011
- 2. 7:15 PM: Public Hearing: Front Porch Variance, 8766 Norris Lk. Rd.**
Consider approval of a Variance to allow a covered front porch addition to extend six (6) feet closer to Norris Lk. Rd. PID: 08-33-25-32-0008
- 3. 7:30 PM: Public Hearing: Interim Use Permit, 7411 181st Avenue NW**
Consider an Interim Use Permit request to allow the outside storage of a landscape contractors vehicles, materials and equipment for a temporary period of time. PID 33-33-25-43-0011
- 4. 8:00 PM: Discussion, Continued: Subsurface Sewage Treatment System Ordinance**
Consider changes to the City's septic system ordinance pertaining to maintenance and general updates to reflect the MN 7080 rules

Upcoming Projects:

- a. Complete updates to landscaping, fencing, screening ordinance
- b. Leistico Subdivision
- c. Gustafson Subdivision
- d. Krogstad IUP, home business

Motion to Adjourn

Minutes from the August meeting have not been completed and will be ready for approval at the October meeting.



3601 Thurston Avenue
Anoka, MN 55303
763.231.5840
TPC@PlanningCo.com

PLANNING REPORT

TO: Nowthen Mayor and City Council
Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: September 18, 2023

RE: Nowthen – Moan Variance – 7700 188th Lane NW
(PID 33-33-25-21-0011)

FILE NO: 122.02 – 23.07

BACKGROUND

Eric and Kristin Moan have requested approval of a variance to allow a new accessory building greater than 800 square feet within the front yard of their property located at 7700 188th Lane NW. The 3.68-acre property is irregular in shape and is located on the corner of 188th Lane and Xenolith Street. By City Code definition, the front yard is the side abutting a public street with the least width (Xenolith Street) but the existing home faces 188th Lane and gains access from that side.

The Moans are proposing a 3,200 SF accessory building at a setback of +/- 160 feet from the centerline of Xenolith Street and twenty (20) feet from the south property line. The property is zoned RRA, Rural Residential Agriculture, within which single family residential structures and accessory structures are permitted uses.

EXHIBITS

Exhibit A – Variance Application (4 pages)
Exhibit B - Site Location
Exhibit C – Site Survey
Exhibit D – Detailed Survey
Exhibit E – Aerial Photo
Exhibit F – Site Photos
Exhibit G - Findings of Fact

CONSIDERATIONS & ANALYSIS

Zoning. The property is zoned RRA, Rural Residential Agriculture. Pole sheds are permitted accessory uses to single family homes within this zoning district. The existing residence and proposed shed are consistent both with the low-density residential land uses guided by the City's Land Use Plan and with other properties in the City in similar zoning districts/adjacent uses.

Front Yard Definition/Building Placement.

The City Code defines the front yard as the side of a parcel with the least width that abuts a public street, which is the Xenolith Street side of the Moan parcel, as shown in Exhibit E. The perceived front is the direction that the house faces to 188th Lane and from which driveway access is gained.

In looking at the graphic, there is a limited amount of space on the northeast side of the house and the area slopes down from the side of the foundation toward the drainage and utility easement. There are also more trees that would need to be removed in this location due to extensive grading and possibly fill/retaining wall. The drainage and utility easement prevents the shed from being pushed back in line with the side of the house facing 188th Lane. The Xenolith Street side contains gentler topography and less trees to remove. It also allows for the option of a second driveway.



Accessory Structure Regulations.

Section 11-4-2 of the Nowthen City Code contains the following accessory building regulations which were updated in 2022. The items which are highlighted represent the regulations from which variances are being requested.

1. Detached accessory structures shall be located in side or rear yards.
2. Accessory structures shall comply with all setback requirements of the principal structure.
3. Accessory structures shall not be located nearer the front lot line than the principal structure or three hundred (300) feet setback from the centerline of local, collector or arterial streets.
4. If the principal structure is closer to the front lot line or a public road than the required setback, any accessory structure shall be setback a distance equal to or behind the principal structure, provided no accessory structure is permitted closer than thirty-five (35) feet from the front property line or side property line (in the case of corner lots) or seventy (70) feet from the street centerline, whichever is greater.
5. One (1) accessory structure may be located in the front yard (OR side yard in the case of corner lots, but not both), closer to the front OR side lot line than the principal structure, provided:
 - a. The structure is not closer than thirty-five (35) feet from the front property line (or side property line in the case of corner lots) or 70 feet from the street centerline, whichever is greater.
 - b. The building may not be located more than sixty (60) feet from the principal structure, nor directly in front of it, except in the case of narrow parcels where no alternative options exist, the building shall be located at the side yard setback line and may be placed partially or completely in front of the home.
 - c. The overall floor area of the accessory structure shall not exceed eight hundred (800) square feet, with sidewall height not to exceed ten (10) feet.
 - d. The exterior color and materials, such as shingles, siding, roof pitch, door/window style, wainscot, trim and other design elements of the accessory structure must match the principal structure.
 - e. Pole style accessory buildings with sheet metal siding shall not be permitted unless the principal structure incorporates this style/material.

6. One (1) additional structure up to twenty (20) square feet to be used as a school bus shelter or for the concealment of refuse/recycling containers shall be permitted in addition to the structure permitted by Subsection 11-4-2.A.4.a and shall not count against the allowable number or square footage of accessory buildings.

Variance Review Criteria. The purpose of the Variance is to provide the City with an opportunity for amelioration of unnecessary hardships resulting from the rigid enforcement of its Zoning Ordinance. This Variance provision authorizes the City Council to permit a particular property to be used in a manner not allowed for by the Ordinance by varying the terms of this Chapter. Variances shall pertain only to the physical characteristics of the land or structures to be built thereon, such as area, height, setback requirements, and density. Specifically, the City Council may grant only non-use or area Variances and shall not grant use Variances.

Under the terms of the City's Zoning Ordinance regarding Variances, Section 11-11 of the Nowthen City Code, the property owner must show that the circumstances for which the Variance is requested are unique to the property and a reasonable use afforded to other property owners. A Variance request shall not be approved unless a finding is made by the City Council that failure to grant the Variance will result in practical difficulties.

1. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter and include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Comment: The City Council must find that the proposed accessory building represents a reasonable use of the property, and that placement in the front yard (on the Xenolith Street side) will not have a negative influence upon the neighborhood in which it's located. Note that the neighbor across Xenolith Street has a shed that was approved prior to 2005 in a comparable location. It is possible that older City Codes varied in the definition of 'front yard' or that the placement was overlooked by previous building officials because it seems very logical.

2. The application for Variance shall also demonstrate that the request satisfies the following criteria:

- a. That the Variance would be consistent with the Comprehensive Plan.

Comment: The low-density residential use of the property is consistent with the City's Comprehensive Land Use Plan and the proposed use is permitted under the terms of the City Code.

- b. That the Variance would be in harmony with the general purposes and intent of the City's Zoning Ordinance.

Comment: The proposed structure meets all size requirements and setbacks and is therefore in harmony with the intent of the Zoning Ordinance. While it is not unlike many other properties in the community, the parcel's unique configuration and corner lot status in association with a drainage and utility easement to the northeast of the home, make the site challenging.

- c. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.

Comment: The request for a Variance is based upon preexisting conditions where the irregular lot configuration, corner lot and drainage/utility easement may justify deviation from the strict application of Zoning Ordinance regulations. The definition of lot front as applied to this lot is somewhat of a technicality and not something most homeowners, or even developers, think about when siting a home.

- d. That the purpose of the Variance is not an exclusively economic consideration.

Comment: The applicant's request for a Variance is unrelated to economics. The owner's intend to build an above-average garage/shed in terms of exterior finishes which incorporates stone, wood and some hardy siding to complement the metal exterior.

- e. That the granting of the Variance will not alter the essential character of the neighborhood in which the parcel of land is located.

Comment: The single-family neighborhood within which the property is located will not be negatively impacted by the proposed shed. The majority of residential lots in Nowthen contain accessory buildings in side or rear yards.

- f. That the requested Variance is the minimum action required to eliminate the practical difficulty.

Comment: The City Council shall make a determination as to whether the request for a setback Variance seems reasonable given the circumstances and physical configuration of the site. The shed is set fairly close to the house and not proximate to either street ROW line; it is likely the best setting to be attained on this site.

Exterior Building Materials.

The proposed pole shed is planned as a metal building which incorporates upgraded architectural features such as exposed wood beams and accents, stone and maybe Hardy siding in more grey tones. The existing tan/brown house siding will be upgraded to match the new shed.

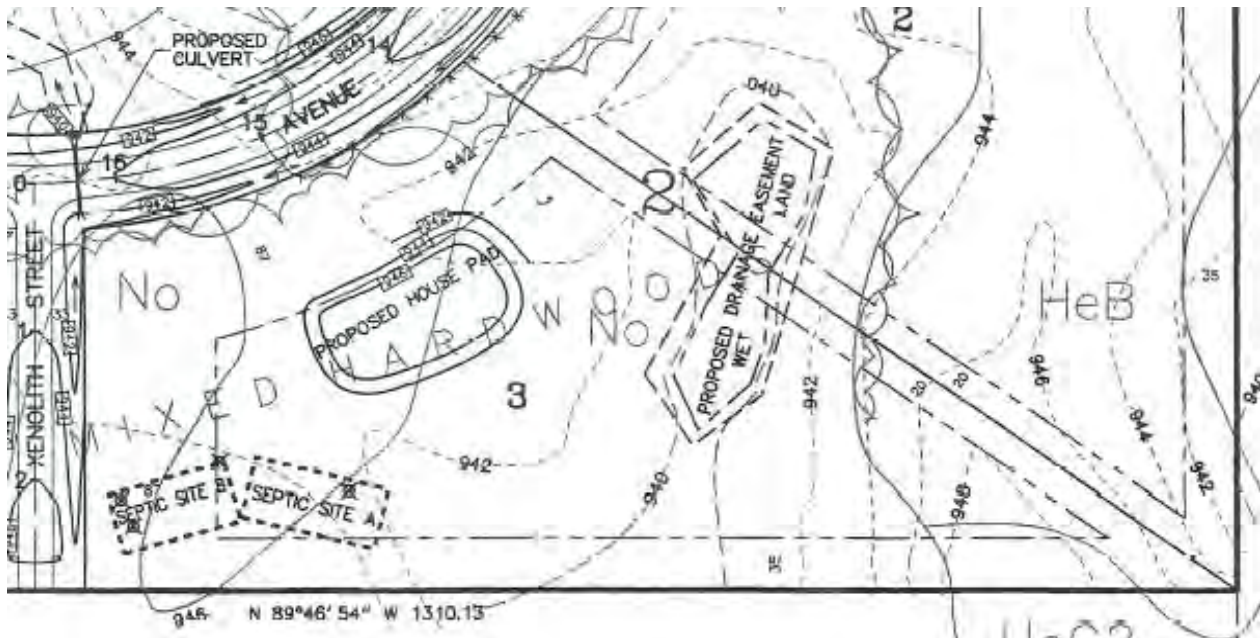


Building Size.

For parcels encompassing 2.5 acres but less than 5 acres, a maximum of two (2) accessory structures are allowed with a total floor area not to exceed 3,200 SF. The proposed shed maximizes the allowable square footage in the single proposed structure.

Subsurface Sewage Treatment System.

The primary and secondary septic drainfield sites were designated as part of the Preliminary Plat for Jensens Pine Woods. It appears as though the primary site is within the setback area just west of the proposed building. The backup site could be accommodated within the setback area along Xenolith Street in the future as there is only a ten (10) foot setback required to the lot line. As a condition of approval, a licensed septic system inspector shall evaluate the septic system for compliance, in consideration of the possible addition of a bathroom in the pole shed and in terms of moving the sewer line to cross under the proposed driveway or around the back of the building rather than under it.



SUMMARY

In granting any Variance, the City Council may impose conditions to ensure compliance with the City Code and to protect adjacent and affected properties. The City Council may motion one of three ways following consideration of the factors outlined herein:

- Motion to **approve** the Variance for a proposed 3,200 SF pole shed based on demonstration that practical difficulties exist and the request’s consistency with Comprehensive Plan and Zoning Ordinance regulations, subject to the conditions (as may be amended) attached in the findings of fact.
 - A maximum 3,200 SF pole shed located within the front yard as defined in the City Code, between the house and Xenolith Street.
 - Shed exceeds the 800 SF limitation for location within a front yard.
 - Shed shall not be required to conform to the house’s identical exterior materials (although should be coordinated as described herein) and may incorporate metal siding as is typically allowed for pole shed construction.
- Motion to **deny** the application based on a finding that the request does not demonstrate practical difficulties or meet Zoning Ordinance criteria.
- Motion to **table/continue** the public hearing until the next meeting.

C: Scott Lehner, City Administrator
 Natalie Johnson, Deputy Clerk
 Eric and Kristin Moan



AUG 18 2023

VARIANCES & APPEALS

8188 199TH AVENUE NW, NOWTHEN, MN 55330

(763) 441-1347

RETURN TO: INFO@NOWTHENMN.NET

| | |
|---|---|
| <input checked="" type="checkbox"/> VARIANCE <input type="checkbox"/> APPEAL Base Fee: \$200 Escrow: \$1,000 Public Hearing Fee: \$250 Recording Fee: \$46 Total Amt. Due: \$1,496 Amt. Paid: <u>\$1496.00</u> CC/Check# <u>CHK # 3436</u> | <p>***FOR OFFICE USE ONLY *** FOR OFFICE USE ONLY***</p> Date Application Received: <u>8/18/23</u> Date Application Complete: <u>8/18/23</u> <small>(60-day review period starts from this date)</small> Public Hearing Date: <u>9/26/23</u> City Council Approval/Denial Date: <u>10/10/23</u> 60-Day Review Period Ends: <u>10/17/23</u> 60-Day Extension: <u>Yes</u> No Expires On: _____ Received By: <u>Uz Sporkman</u> |
|---|---|

Instructions: Please read carefully and answer all questions thoroughly. Only complete applications will be accepted after validation by the Zoning Administrator, and prior to acceptance of required processing fees and escrows.

Property Information Street Address: 7700 188th Lane NW Nowthen MN 55303

Property Identification Number (PID#): 33-33-25-21-0011

Type of Business or Use Requested: residential shed

Legal Description (Attach full description of Metes & Bounds if necessary):
Lot 3, Block 2 Jensens Pine Woods

Applicant Information

Name: Eric & Kristin Moan Business Name: _____

Mailing Address: 7700 188th Lane NW

City: Nowthen State: MN Zip Code: 55303

Telephone: 612-850-9375 Cell Phone: 612-804-2428 Work: _____

e-mail: eric.s.moan@gmail.com // kam@wilkusarch.com

Property Owner Information (If other than applicant):

Name: same Business Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code : _____

Telephone: _____ Cell Phone: _____ Work: _____

e-mail: _____

Description of Request (attach additional sheets as necessary)

Existing Use of Property: Residential Home - RRA Rural Residential Agriculture

Description of Proposed Use: requesting Variance for location of additional outbuilding (garage) to be in "front yard" exceeding 800 sf

Reason(s) to Approve Request: Location of proposed building, while requiring a variance, makes the most sense. Our front yard is technically the side yard based on length, but our house faces the side yard, not the front yard.

Please describe any previous applications pertaining to the subject site:

Project Name: Deck Date of Application: 2022

Nature of Previous Request : construction of new Deck.

Required Submittal Information:

Site Survey, drawn to scale with detailed information including all primary and accessory structures, patios/decks, fences, driveways, well, and septic system.

Detailed building/construction plans including floor plans, elevation drawings, materials and construction specifications.

Factors Considered in Determining Variances

The City Council will not approve a variance unless it finds evidence that practical difficulties exist which prevent a property owner from using their property in a reasonable manner. Variances shall pertain only to the physical characteristics of the land or structures to be built thereon, such as area, height, setback requirements, and density. Specifically, the City Council may grant only non-use or area variances and shall not grant use variances.

Explain how the property circumstances (shape of lot, topography, vegetation, setbacks, proximity to neighboring homes/uses, or wetlands) are unique and necessitate a variance (as opposed to preferences or circumstances created by the landowner). _____

Our property is a corner lot, with the longest side (assumed front yard) being aesthetically our "side yard" and has room for a garage. The other side of our property is constantly a wet condition and adjacent to the neighbors wet area/pond.

Explain whether the requested variance is the minimum action required to eliminate the practical difficulty. For instance, if the request involves a setback, is the proposed structure encroaching into the required setback area the least amount possible? _____

The garage footprint is pushed back into the yard as possible from the road while still avoiding the septic

If the request involves construction of a structure, is there any other location on the property where the structure could be placed which meets City Code requirements? If so, please explain.

NA - the structure is limited in location to the area shown.

Explain how the purpose of the variance is not exclusively economic in nature.

variance needed due to site configuration.

Explain how the requested variance will not alter the character of the neighborhood in which it is located. Currently we reside in an area where multiple houses have buildings (some grandfathered in) at or in front of the "front" of their house. Our variance request still keeps the nature of what would appear to be our side yard and have our second garage still pushed back into the yard as much as restraints allow

Does the property contain any structure which has a solar energy system? Yes No

If so, does it have adequate access to direct sunlight? _____

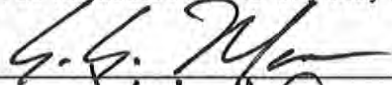

APPLICATION FEES AND EXPENSES: We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$¹⁴⁹⁶ 1000 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. **All fees and expenses are due whether the application is approved or denied.**

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: Eric Moan Date: August 17 2023
Property Owner: Eric & Kristin Moan Date: August 17 2023

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

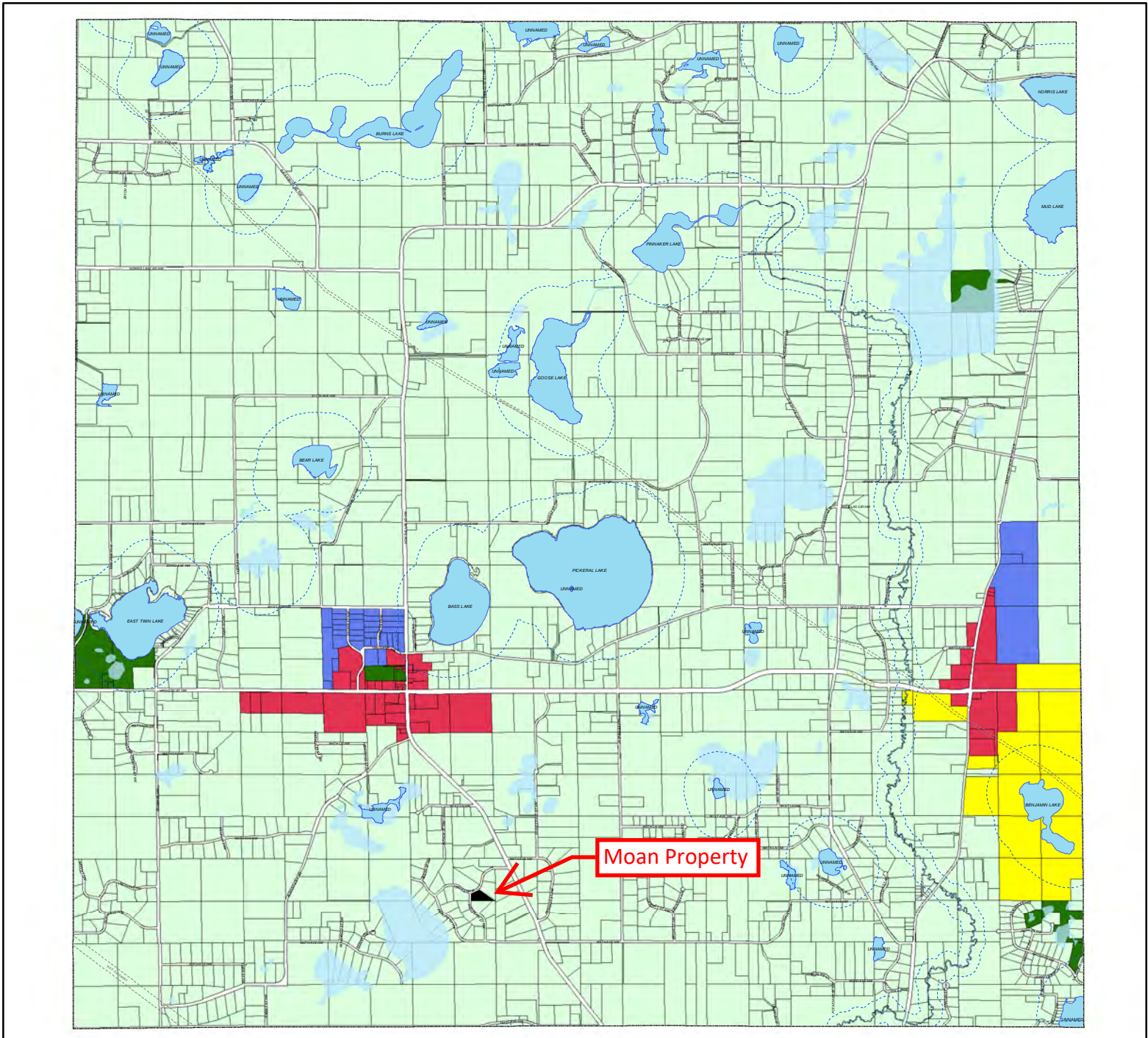
I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant:  Date: 18 Aug 23
Signature of Property Owner:  Date: 8/18/23
Signature of Property Owner: _____ Date: _____
Signature of Property Owner: _____ Date: _____

NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.

CITY OF NOWTHEN

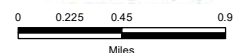
Zoning Map



ZONING

- C-1 - Commercial District (370 acres / 1.74%)
- I-1 - Industrial District (220 acres / 1.04%)
- CON - Conservancy District (156 acres / 0.74%)
- RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
- RRT - Rural Residential Transition (478 acres / 2.26%)
- Shoreland Overlay District

B



SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC

Adopted: Aug 11, 2020

K:\GIS\Projects\Municipal\NT901\2019\LandUse2040

Certificate of Survey for Eric Moan

Lot 3, Block 2, JENSENS PINE WOODS City of Nowthen, Anoka County, Minnesota

REFERENCE BENCHMARK
Anoka County Benchmark No. 2084
Elevation = 527.55 feet (NGVD 29)

PROJECT BENCHMARK
Top of Iron pipe 4.5 feet westerly of the
Proposed shed
Elevation = 844.69 feet (NGVD 29)

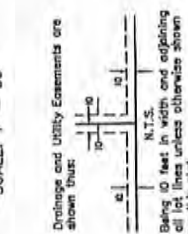
PROPOSED SHED ELEVATIONS
Top of Block (Slab) Elev = 846.0

PROPOSED IMPERVIOUS SURFACES
Area 1st Area = 801.21 S.F.
Area 2nd Area = 153.28 S.F.
Childs Cooks Area = 200.0 S.F.
Proposed Shed Area = 3,182.9 S.F.
Proposed Driveway Area = 2,245.0 S.F.
Cul-de-sac/Driveway Area = 2,455.0 S.F.
Total Impervious Area = 14,687.1 S.F. (0.33)

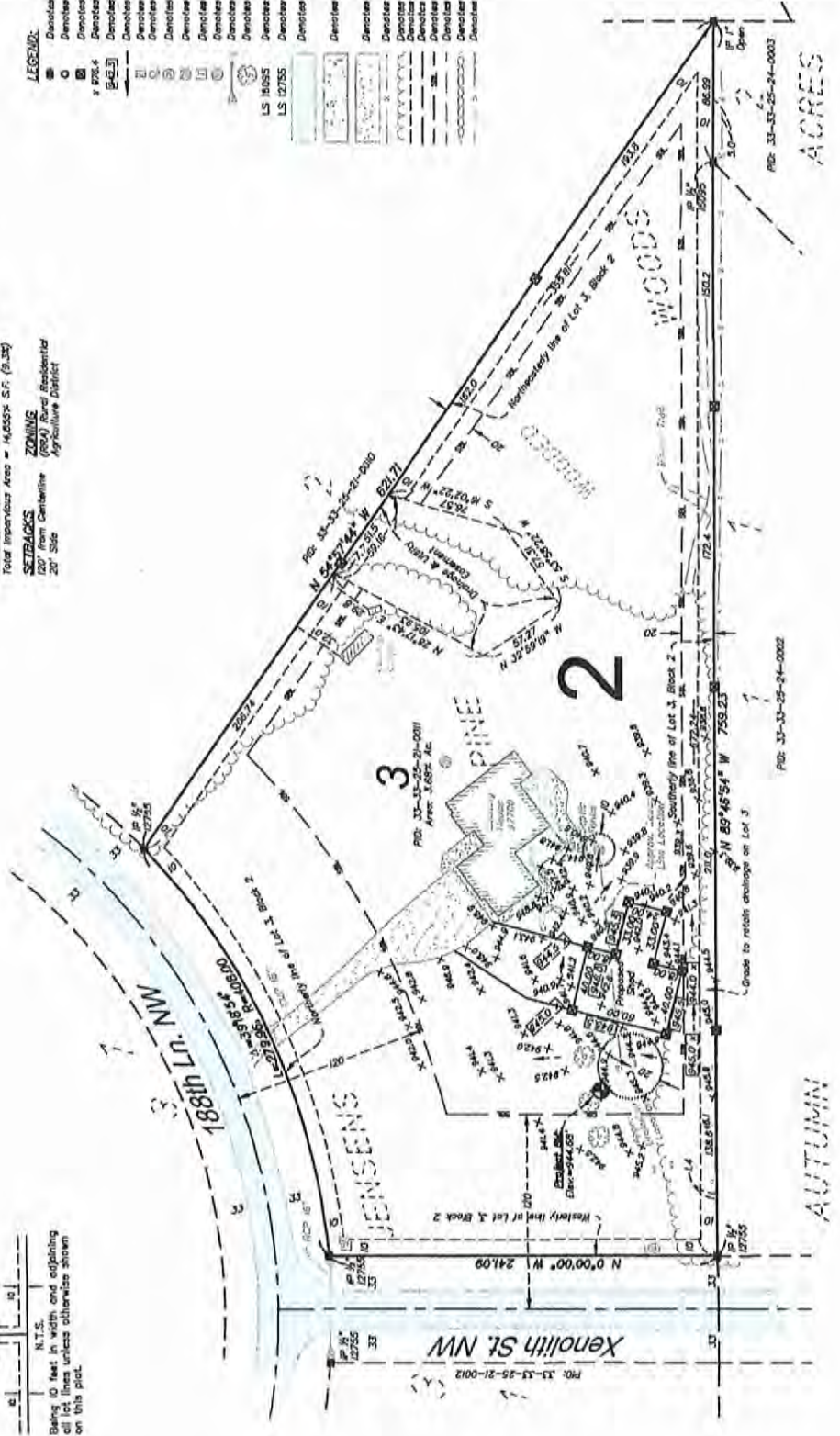
SETBACKS
120' from Centerline
(RRA) Rural Residential
20' Side
Agriculture District

Survey Notes:

- This survey was performed without the benefit of a title report. No search for restrictions or encumbrances was made by the surveyor. He reserves the right to update this survey upon the receipt of a satisfactory title report.
- This plat is a part of a plat of JENSENS PINE WOODS, said plat was recorded January 10th, 2002, the plat of JENSENS PINE WOODS, said plat was recorded January 10th, 2002, the plat of JENSENS PINE WOODS, said plat was recorded January 10th, 2002.
- Reference 2002 survey for Exceptional Homes by Bogart, Pederson and Associates, Inc., File No. 102381D.

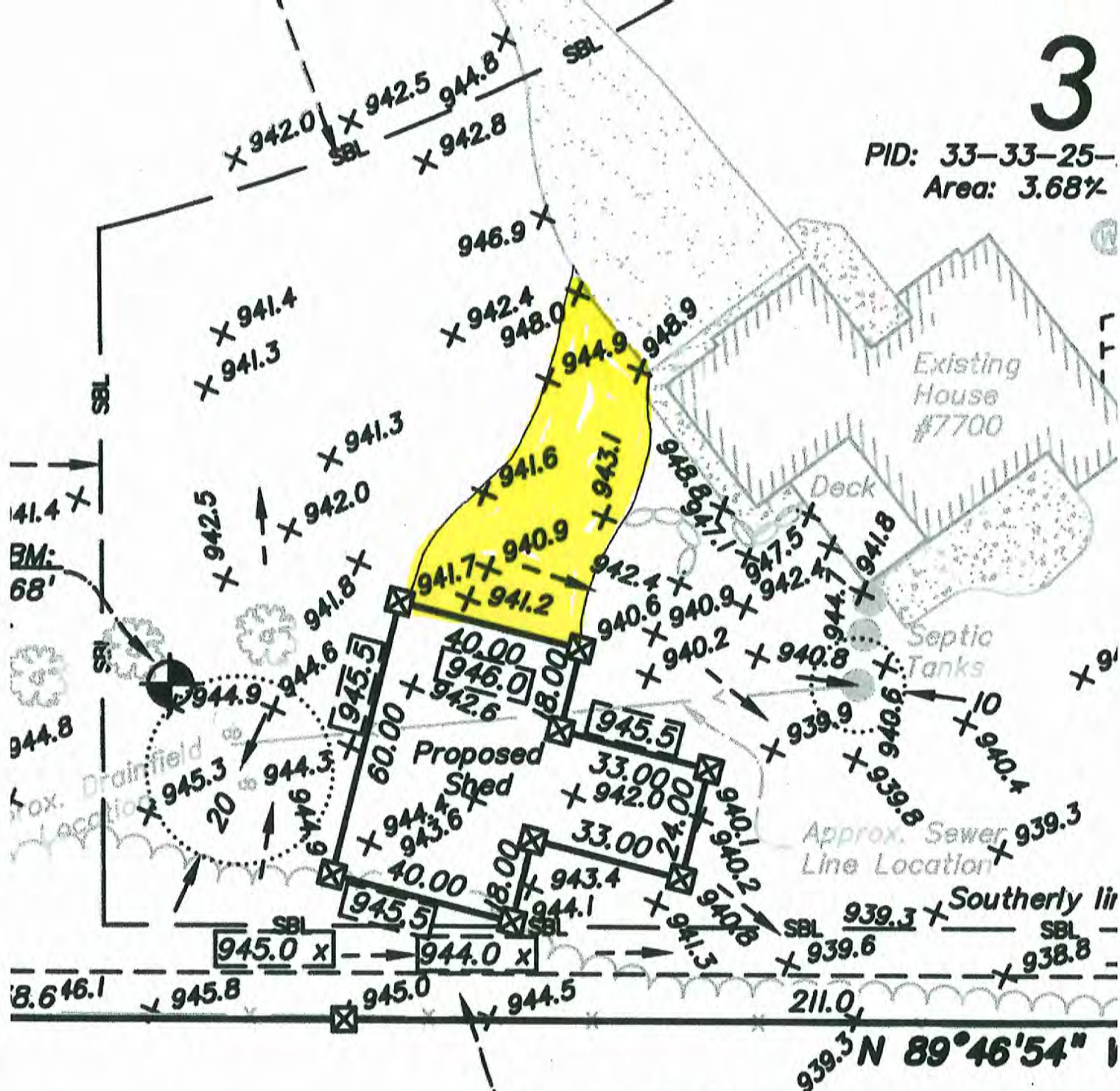


- LEGEND:**
- Denotes found iron monument
 - Denotes set iron monument
 - Denotes existing ground elevation
 - Denotes proposed drainage flow
 - Denotes electrical cabinet
 - Denotes utility monument
 - Denotes gas marker
 - Denotes septic manhole
 - Denotes telephone pedestal
 - Denotes well
 - Denotes culvert
 - Denotes line, open
 - Denotes Densite Prokerman, LS
 - Denotes Mark Cronberg, LS
 - Denotes bluffs/surface
 - Denotes concrete surface
 - Denotes gravel surface
 - Denotes barbed wire fence
 - Denotes tree line
 - Denotes existing topography
 - Denotes building footprint line
 - Denotes existing well
 - Denotes sewer line



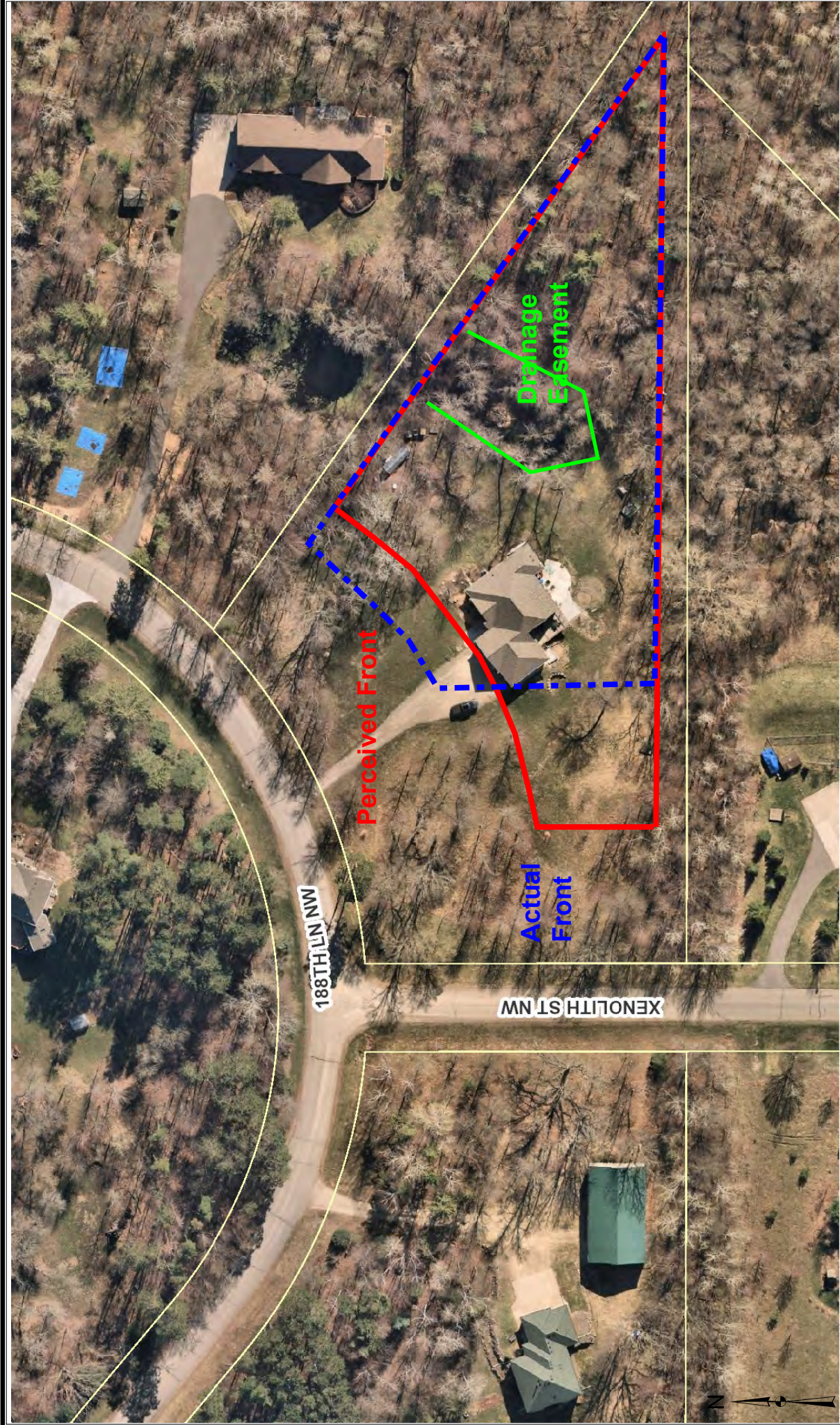
| | | | | | |
|----------------|----------------|--|------------|---|------------|
| SHEET NO. 1 | OF SHEETS 1 | Eric Moan L3, B2, JENSENS PINE WOODS 7700 188th Ln. NW Nowthen, MN 55303 City of Nowthen, Anoka County, Minnesota | | BOGART, PEDERSON & ASSOCIATES, INC. LAND SURVEYING CIVIL ENGINEERING MAPPING 12076 FIRST STREET, BECKER, MN 55306-5332 TEL: 763-262-5822 FAX: 763-262-5844 | |
| | | Certificate of Survey | | 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. Signed: <i>Craig W. Pederson</i> Craig A. Wenmann Date: 8/18/23 Lic. No. 47466 | |
| DATE: | 8/1/23 | DESIGN BY: | CK | CHECKED BY: | CJP/CNW |
| REV. NO. | | DWG FILE: | 23-0285005 | FILE NO.: | 23-0285005 |

PID: 33-33-25-
Area: 3.68%



--- Grade to retain drainage on Lot

Anoka County Parcel Viewer



| | |
|--|---|
| <p>Parcel Information: 33-33-25-21-0011 7700 188TH LN NW NOWTHEN MN 55303</p> | <p>Owner Information: MOAN, ERIC M 7700 188TH LN NW NOWTHEN MN 55303</p> |
| <p>Approx. Acres: 3.68 Plat: JENSENS PINE WOODS Commissioner: MATT LOOK</p> | <p>Date: 9/19/2023 1:1,200</p> |



Anoka County GIS

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.



View from driveway toward proposed building site



View from 188th Lane

**CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA**

**PLANNING & ZONING COMMISSION
FINDINGS & RECOMMENDATION
ACCESSORY BUILDING VARIANCE**

APPLICANT: Eric and Kristin Moan, 7700 188th Lane NW, Nowthen, MN 55303
PID# 33-33-25-21-0011

APPLICATION: Request for approval of a Variance to allow:

- A maximum 3,200 SF pole shed located within the front yard as defined in the City Code, between the house and Xenolith Street.
- Shed exceeds the 800 SF limitation for location within a front yard.
- Shed shall not be required to conform to the house's identical exterior materials but shall be coordinated with the home and may incorporate metal siding

PLANNING & ZONING COMMISSION MEETING: September 26, 2023

FINDINGS: Based upon review of the application and evidence received, the Planning and Zoning Commission of the City of Nowthen now makes the following findings of fact:

1. The legal description of the property is **Lot 3, Block 2, Jensens Pine Woods**.
2. The subject site is guided by the Comprehensive Plan permanent rural residential land uses through the year 2040.
3. The subject site is zoned RRA, Rural Residential Agriculture.
4. The subject property encompasses 3.68 acres and contains an existing residence.
5. The property is irregular in shape, is located on the corner of 188th Lane and Xenolith Street and contains a wetland protected by a drainage and utility easement in the northeast portion of the site.
6. Section 11-11-2.C of the Nowthen City Code specifically addresses variances:
 - C. Review Criteria: A variance request shall not be approved unless a finding is made by the City Council that failure to grant the variance will result in practical difficulties.

1. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter and include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
2. The applicant for variance shall also demonstrate that the request satisfies the following criteria:
 - a. That the variance would be consistent with the Comprehensive Plan.
 - b. That the variance would be in harmony with the general purposes and intent of this Chapter.
 - c. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - d. That the purpose of the variance is not exclusively economic consideration.
 - e. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
 - f. That the requested variance is the minimum action required to eliminate the practical difficulty. (Ordinance #39, adopted December 13, 2011)

D. Conditions Imposed: In granting any variance, the City Council may impose conditions to ensure compliance and to protect adjacent and affected properties.

7. The Planning Report dated September 19, 2023 prepared by the City Planner, The Planning Company LLC., is incorporated herein.
8. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at their regular meeting on September 26, 2023.

RECOMMENDATION: Based on the foregoing information and applicable ordinances, the **Moan Variance is APPROVED** subject to the following conditions:

1. The shed shall not exceed a maximum of 3,200 SF.
2. The pole shed is located within the front yard as defined in the City Code, between the house and Xenolith Street, no closer than 120 feet to the centerline of Xenolith Street, no closer to 188th Lane than the existing house and 20 feet from the south property line.

3. Shed shall not be required to conform to the house's identical exterior materials but shall be coordinated with the home and may incorporate pole-style construction with metal siding.
4. The accessory building meets all state and local building codes and a building permit is obtained prior to beginning grading or construction.
5. A licensed septic system inspector shall evaluate the septic system for compliance, in consideration of the possible addition of a bathroom in the pole shed and in terms of moving the sewer line to cross under the proposed driveway or around the back of the building rather than under it.
6. The applicants are responsible for all costs associated with the processing of this request.

MOTION BY:

SECOND BY:

ALL IN FAVOR:

THOSE OPPOSED:

ADOPTED by the Planning & Zoning Commission of the City of Nowthen this 26th day of September 2023.

CITY OF NOWTHEN

By: _____
Dale Ames, Commission Chair

Attest: _____
Scott Lehner, City Administrator

Item 2



3601 Thurston Avenue
Anoka, MN 55303
763.231.5840
TPC@PlanningCo.com

PLANNING REPORT

TO: Nowthen Mayor and City Council
Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: September 20, 2023

RE: Nowthen – Thompson Variance – 8766 Norris Lake Rd. NW
(PID 08-33-25-32-0008)

FILE NO: 122.02 – 23.08

BACKGROUND

Shawn Thompson has requested approval of a Variance to allow a covered front porch addition on the existing home located at 8766 Norris Lake Road. The house, which was built in 1925, is legally non-conforming in terms of setback to the centerline of Norris Lake Road at a distance of 80.33 feet. The required setback from the centerline of county roads under existing regulations is 150 feet. The property encompasses 15.83 acres.

The proposed covered porch measures 6 feet deep by 40 feet wide and encompasses 240 square feet in area. The addition is being requested to assist in the resolution of drainage issues and to improve the architectural character of the façade. The property is zoned RRA, Rural Residential Agriculture, within which single family residential structures and accessory structures are permitted uses.

EXHIBITS

Exhibit A – Variance Application (3 pages)
Exhibit B - Site Location
Exhibit C – Site Survey
Exhibit D – Detailed Survey
Exhibit E – Aerial Photo
Exhibit F – Porch Plans/Elevations (2 pages)
Exhibit G – Site Photos
Exhibit H – Email from Hobs Excavating
Exhibit I – Findings of Fact

CONSIDERATIONS & ANALYSIS

Zoning. The property is zoned RRA, Rural Residential Agriculture. The existing residence is consistent both with the low-density residential land uses guided by the City's Land Use Plan and with other properties in the City in similar zoning districts. Many of the older homes in the City do not meet current setback standards.

Front Setback.

As shown on the attached survey, the existing home is located 80.33 feet from the centerline of Norris Lake Road at the closest point at the northwesterly corner (28.08 feet from the property/ROW line). The proposed front porch addition would reduce the front setback six (6) feet to 74.33 from centerline or 22.08 feet from ROW line.

Variance Review Criteria. The purpose of the Variance is to provide the City with an opportunity for amelioration of unnecessary hardships resulting from the rigid enforcement of its Zoning Ordinance. This Variance provision authorizes the City Council to permit a particular property to be used in a manner not allowed for by the Ordinance by varying the terms of this Chapter. Variances shall pertain only to the physical characteristics of the land or structures to be built thereon, such as area, height, setback requirements, and density. Specifically, the City Council may grant only non-use or area Variances and shall not grant use Variances.

Under the terms of the City's Zoning Ordinance regarding Variances, Section 11-11 of the Nowthen City Code, the property owner must show that the circumstances for which the Variance is requested are unique to the property and a reasonable use afforded to other property owners. A Variance request shall not be approved unless a finding is made by the City Council that failure to grant the Variance will result in practical difficulties.

1. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter and include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Comment: The City Council must find that the proposed addition represents a reasonable use of the property, and that it will not have a negative influence upon the neighborhood in which it's located. Adjacent neighbors are all more than 1,000 feet from the Thompson home.

2. The application for Variance shall also demonstrate that the request satisfies the following criteria:
 - a. That the Variance would be consistent with the Comprehensive Plan.

Comment: The low-density residential use of the property is consistent with the City's Comprehensive Land Use Plan and the proposed use is permitted under the terms of the City Code.

- b. That the Variance would be in harmony with the general purposes and intent of the City's Zoning Ordinance.

Comment: The proposed addition is in harmony with the intent of the Zoning Ordinance and front porches are a common feature found on homes in the community.

- c. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.

Comment: The request for a Variance is based upon preexisting conditions with the house having been built in 1925 may justify deviation from the strict application of Zoning Ordinance regulations. Drainage concerns being addressed on site include adding the larger overhang on the porch to keep water away from the foundation.

- d. That the purpose of the Variance is not an exclusively economic consideration.

Comment: The applicant's request for a Variance is unrelated to economics. The owner's intend to build the porch to aid in the control of stormwater runoff and to improve the architectural aesthetic of the façade.

- e. That the granting of the Variance will not alter the essential character of the neighborhood in which the parcel of land is located.

Comment: The single-family neighborhood within which the property is located will not be negatively impacted by the proposed addition. It is not out of place with the neighborhood or rest of the community.

- f. That the requested Variance is the minimum action required to eliminate the practical difficulty.

Comment: The City Council shall make a determination as to whether the request for a setback Variance seems reasonable given the circumstances and physical configuration of the site. The porch addition is only six (6) feet in depth rather than being an oversized deck. Variances are a way for a property owner to seek relief when the standards in place in the municipality impose conditions that cannot be met and when the proposed deviation in character with the surrounding locality. There appear to be no impacts which would impair the health, safety or general welfare of Nowthen citizens.

Exterior Building Materials.

The property owner plans to replace the roof and siding on the home and coordinate these with the proposed covered porch. The siding is white and black vinyl with cedar-toned Trex decking.

SUMMARY

In granting any Variance, the City Council may impose conditions to ensure compliance with the City Code and to protect adjacent and affected properties. The City Council may motion one of three ways following consideration of the factors outlined herein:

- Motion to **approve** the Variance for a proposed 6x40 covered front porch addition based on demonstration that the request is reasonable and the request’s consistency with Comprehensive Plan and Zoning Ordinance regulations, subject to the conditions (as may be amended) attached in the findings of fact.
- Motion to **deny** the application based on a finding that the request does not demonstrate practical difficulties or meet Zoning Ordinance criteria.
- Motion to **table/continue** the public hearing until the next meeting.

C: Scott Lehner, City Administrator
Natalie Johnson, Deputy Clerk
Shawn Thompson

AUG 15 2023

VARIANCES & APPEALS



8188 199TH AVENUE NW, NOWTHEN, MN 55330
(763) 441-1347

RETURN TO: PERMITS@NOWTHENMN.NET

| | |
|---|---|
| <input checked="" type="checkbox"/> VARIANCE <input type="checkbox"/> APPEAL | <p>Base Fee: \$200 Escrow: \$1,000 Public Hearing Fee: \$250 Recording Fee: \$46 Total Amt. Due: \$1,496</p> |
| | <p>Amt. Paid: <u>\$ 1,496.00</u> CC/Check# <u># 4698</u></p> |
| <p>***FOR OFFICE USE ONLY *** FOR OFFICE USE ONLY***</p> | |
| <p>Date Application Received: <u>8/15/23</u></p> | |
| <p>Date Application Complete: <u>8/15/23</u> <small>(60-day review period starts from this date)</small></p> | |
| <p>Public Hearing Date: <u>9/26/23</u></p> | |
| <p>City Council Approval/Denial Date: <u>10/10/23</u></p> | |
| <p>60-Day Review Period Ends: <u>10/14/23</u></p> | |
| <p>60-Day Extension: <u>Yes</u> <u>No</u> Expires On: _____</p> | |
| <p>Received By: <u>Donna Ogdall</u></p> | |

Instructions: Please read carefully and answer all questions thoroughly. Only complete applications will be accepted after validation by the Zoning Administrator, and prior to acceptance of required processing fees and escrows.

Property Information Street Address: 8766 Norris lake RD NW ~~Nowthen~~ MN
 Property Identification Number (PID#): 08-33-25-32-0008
 Type of Business or Use Requested: Residential Deck
 Legal Description (Attach full description of Metes & Bounds if necessary):

Applicant Information

Name: Shawn Thompson Business Name: _____
 Mailing Address: 8766 Norris lake RD NW Nowthen MN 55330
 City: Nowthen State: MN Zip Code: 55330
 Telephone: 763 221 6816 Cell Phone: _____ Work: _____
 e-mail: Shawn.JT.3644@gmail.com

Factors Considered in Determining Variances

The City Council will not approve a variance unless it finds evidence that practical difficulties exist which prevent a property owner from using their property in a reasonable manner. Variances shall pertain only to the physical characteristics of the land or structures to be built thereon, such as area, height, setback requirements, and density. Specifically, the City Council may grant only non-use or area variances and shall not grant use variances.

Explain how the property circumstances (shape of lot, topography, vegetation, setbacks, proximity to neighboring homes/uses, or wetlands) are unique and necessitate a variance (as opposed to preferences or circumstances created by the landowner). _____

~~The house was built in 1925 and currently sits at a setback of 80.33 feet from the centerline of Norris Lk. Rd.~~

Explain whether the requested variance is the minimum action required to eliminate the practical difficulty. For instance, if the request involves a setback, is the proposed structure encroaching into the required setback area the least amount possible? _____

~~The porch addition is only six feet deep and extends across the front of the house. It is not an excessively oversized deck.~~

If the request involves construction of a structure, is there any other location on the property where the structure could be placed which meets City Code requirements? If so, please explain.

~~NA~~

Explain how the purpose of the variance is not exclusively economic in nature.

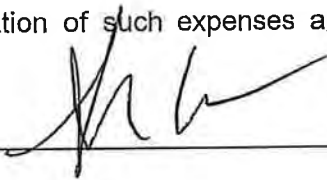
~~The request is being made to assist in addressing basement water issues and to improve the appearance of the home's facade.~~

Explain how the requested variance will not alter the character of the neighborhood in which it is located. ~~Front porches are commonly found on other homes in the community and this house sits 1,000 feet+ from other homes in the vicinity.~~

Does the property contain any structure which has a solar energy system? Yes No
If so, does it have adequate access to direct sunlight? _____

APPLICATION FEES AND EXPENSES: We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$ _____ as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. **All fees and expenses are due whether the application is approved or denied.**

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant:  Date: 6-14-23
Property Owner: _____ Date: _____

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant:  Date: 6-14-23

Signature of Property Owner: _____ Date: _____

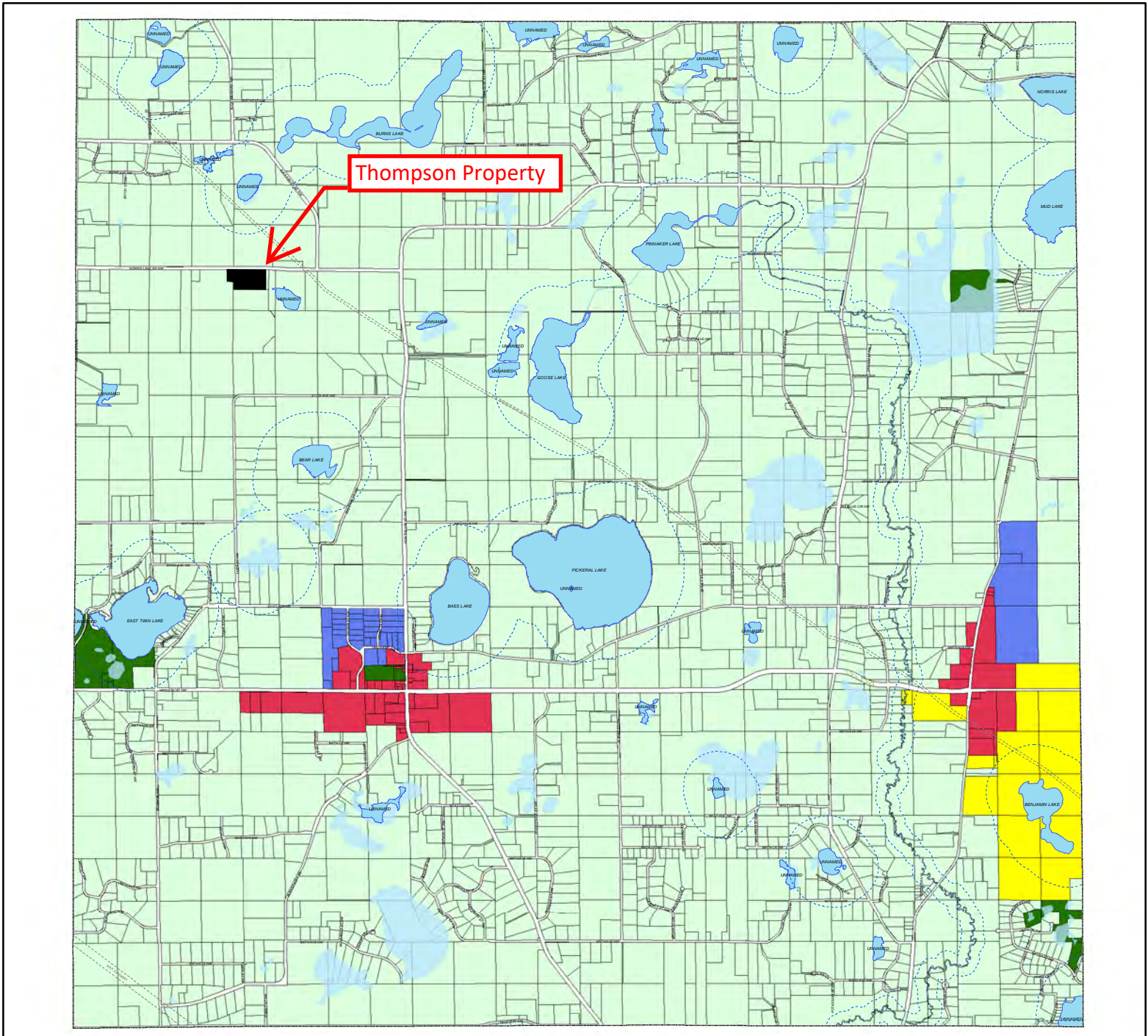
Signature of Property Owner: _____ Date: _____

Signature of Property Owner: _____ Date: _____

NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.

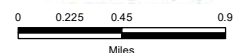
CITY OF NOWTHEN

Zoning Map



ZONING

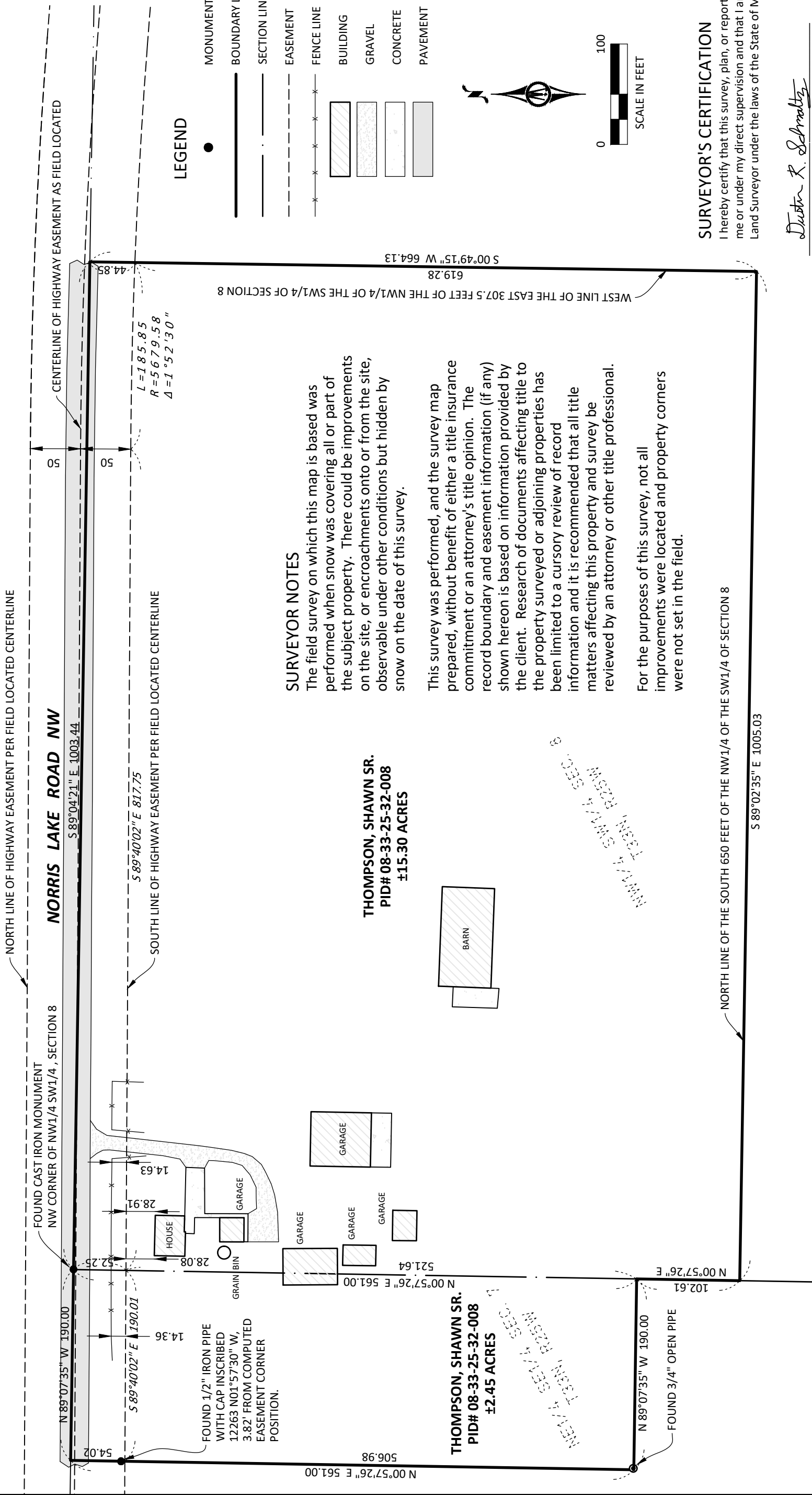
- C-1 - Commercial District (370 acres / 1.74%)
- I-1 - Industrial District (220 acres / 1.04%)
- CON - Conservancy District (156 acres / 0.74%)
- RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
- RRT - Rural Residential Transition (478 acres / 2.26%)
- Shoreland Overlay District



SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC

Adopted: Aug 11, 2020

K:\GIS\Projects\Municipal\NT901\2019\LandUse2040



LEGEND

- MONUMENT FOUND
- BOUNDARY LINE
- - - SECTION LINE
- - - EASEMENT
- * - * - FENCE LINE
- [Hatched Box] BUILDING
- [Dotted Box] GRAVEL
- [White Box] CONCRETE
- [Grey Box] PAVEMENT



SURVEYOR NOTES

The field survey on which this map is based was performed when snow was covering all or part of the subject property. There could be improvements on the site, or encroachments onto or from the site, observable under other conditions but hidden by snow on the date of this survey.

This survey was performed, and the survey map prepared, without benefit of either a title insurance commitment or an attorney's title opinion. The record boundary and easement information (if any) shown hereon is based on information provided by the client. Research of documents affecting title to the property surveyed or adjoining properties has been limited to a cursory review of record information and it is recommended that all title matters affecting this property and survey be reviewed by an attorney or other title professional.

For the purposes of this survey, not all improvements were located and property corners were not set in the field.

SURVEYOR'S CERTIFICATION

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.

Dustin R. Schmaltz
Dustin Schmaltz
License Number 53683

4/17/2023
Date

CERTIFICATE OF SURVEY

8766 NORRIS LAKE ROAD, NOWTHEN, MN
7533 SUNWOOD DR NW
SUITE 206
RAMSEY, MN 55303
(763) 433-2851



PART OF SECTION 7 & 8, T33N, R25W
ANOKA COUNTY, MN

FOR: SHAWN THOMPSON

THOMPSON, SHAWN SR.
PID# 08-33-25-32-008
±15.30 ACRES

THOMPSON, SHAWN SR.
PID# 08-33-25-32-008
±2.45 ACRES

INTERFERING PARTY
 12263 N01°57'30" W,
 3.82' FROM COMPUTED
 EASEMENT CORNER
 POSITION.

FOUND CAST IRON MONUMENT
NW CORNER OF NW1/4 SW1/4, SECTION 8

N 89°07'35" W 190.00

54.02

S 89°40'02" E 190.01

14.36

52.25

28.91

14.63

HOUSE

28.08

GRAIN BIN

GARAGE

FOUND 1/2" IRON PIPE
WITH CAP INSCRIBED
12263 N01°57'30" W,
3.82' FROM COMPUTED
EASEMENT CORNER
POSITION.

GARAGE

GARAGE

GARAGE

GARAGE

N 00°57'26" E 561.00
506.98

N 00°57'26" E 561.00

521.64

THOMPSON, SHAWN SR.
PID# 08-33-25-32-008
±2.45 ACRES

NE1/4 SE1/4 SEC. 7
T33N, R25W

N 89°07'35" W 190.00

FOUND 3/4" OPEN PIPE

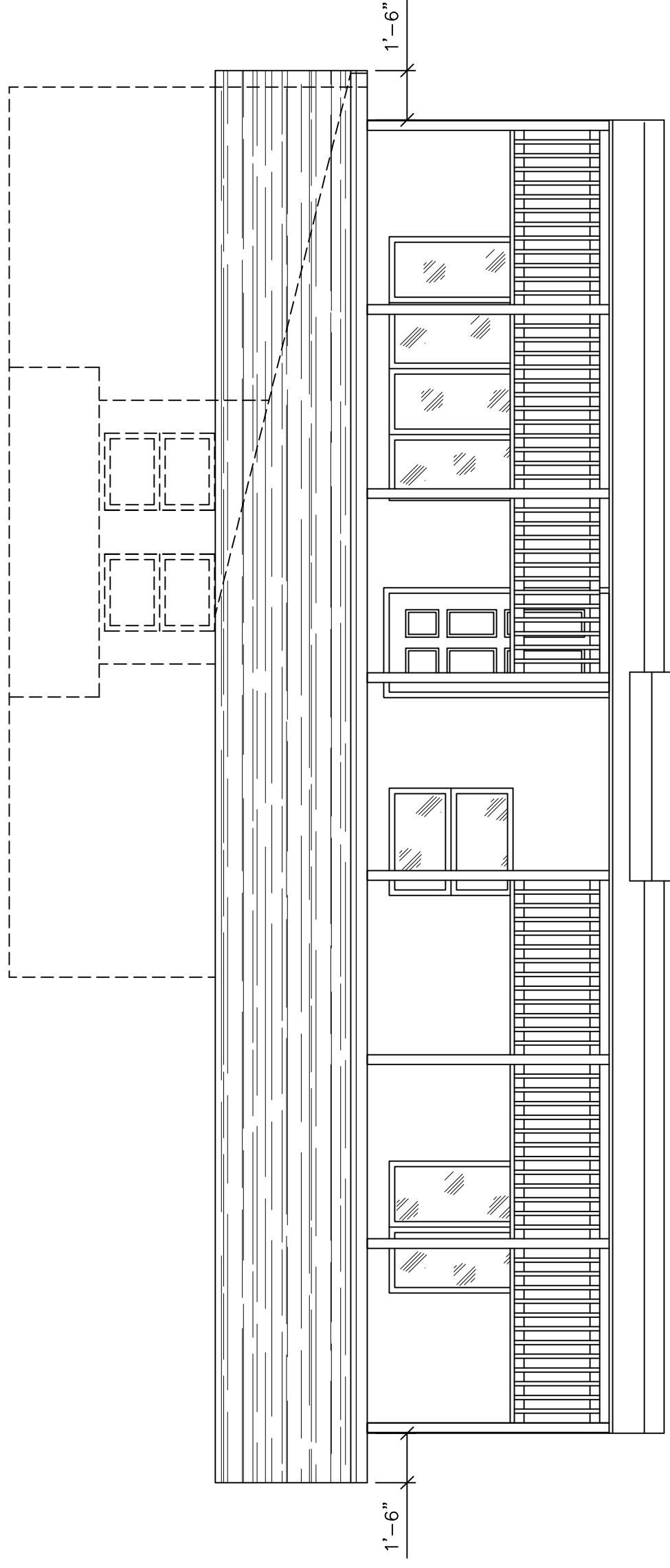
26" E

Anoka County Parcel Viewer



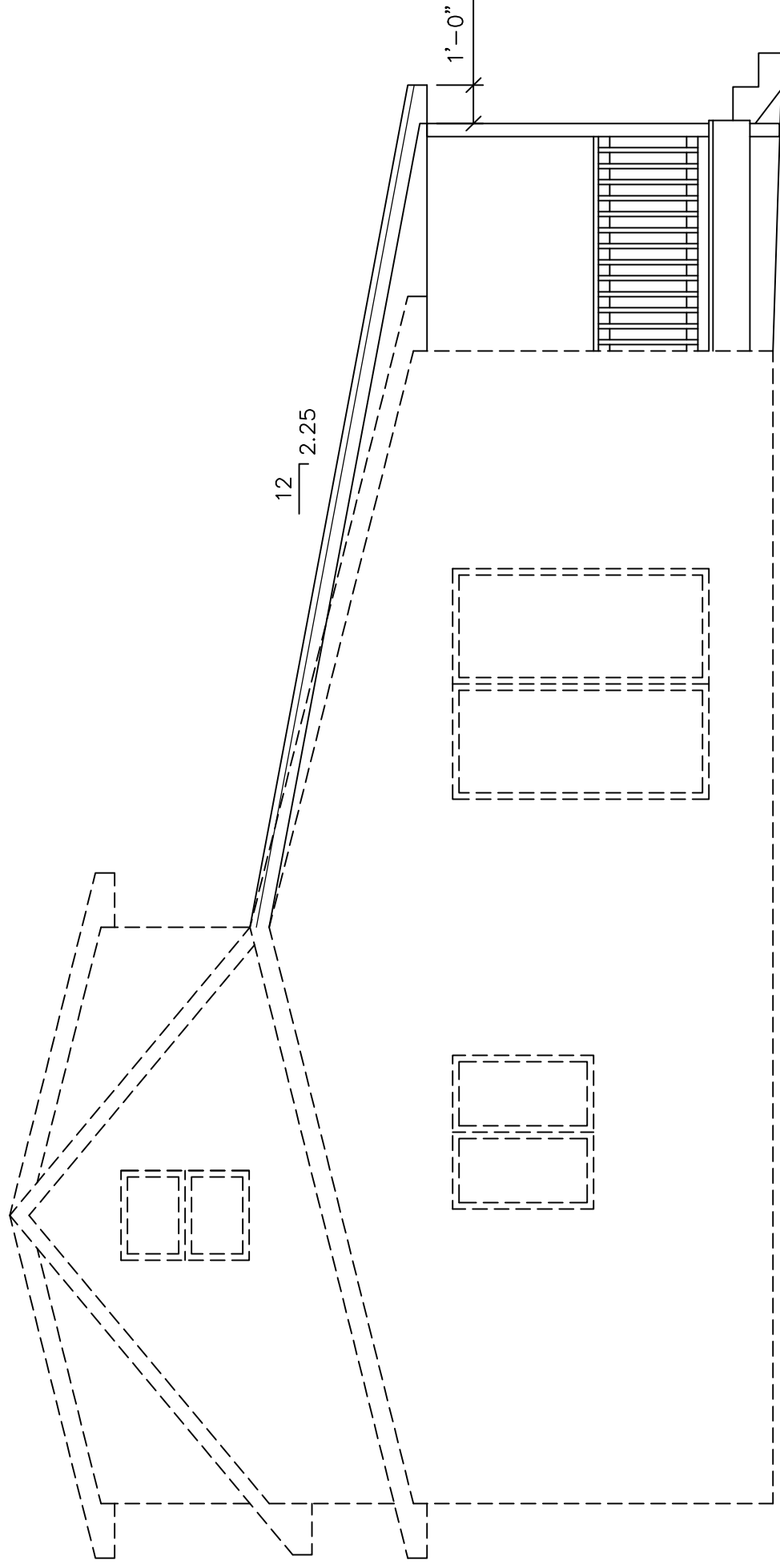
| | |
|---|---|
| <p>Parcel Information: 08-33-25-32-0008 8766 NORRIS LAKE RD NW NOWTHEN MN 55330</p> | <p>Owner Information: THOMPSON SR SHAWN 8766 NORRIS LAKE RD NW NOWTHEN MN 55330</p> |
| <p>Approx. Acres: 15.83 Plat: Commissioner: MATT LOOK</p> | <p>Date: 9/20/2023</p> |
| <p>Scale: 1:2,400</p> | |
| <p>Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.</p> | |





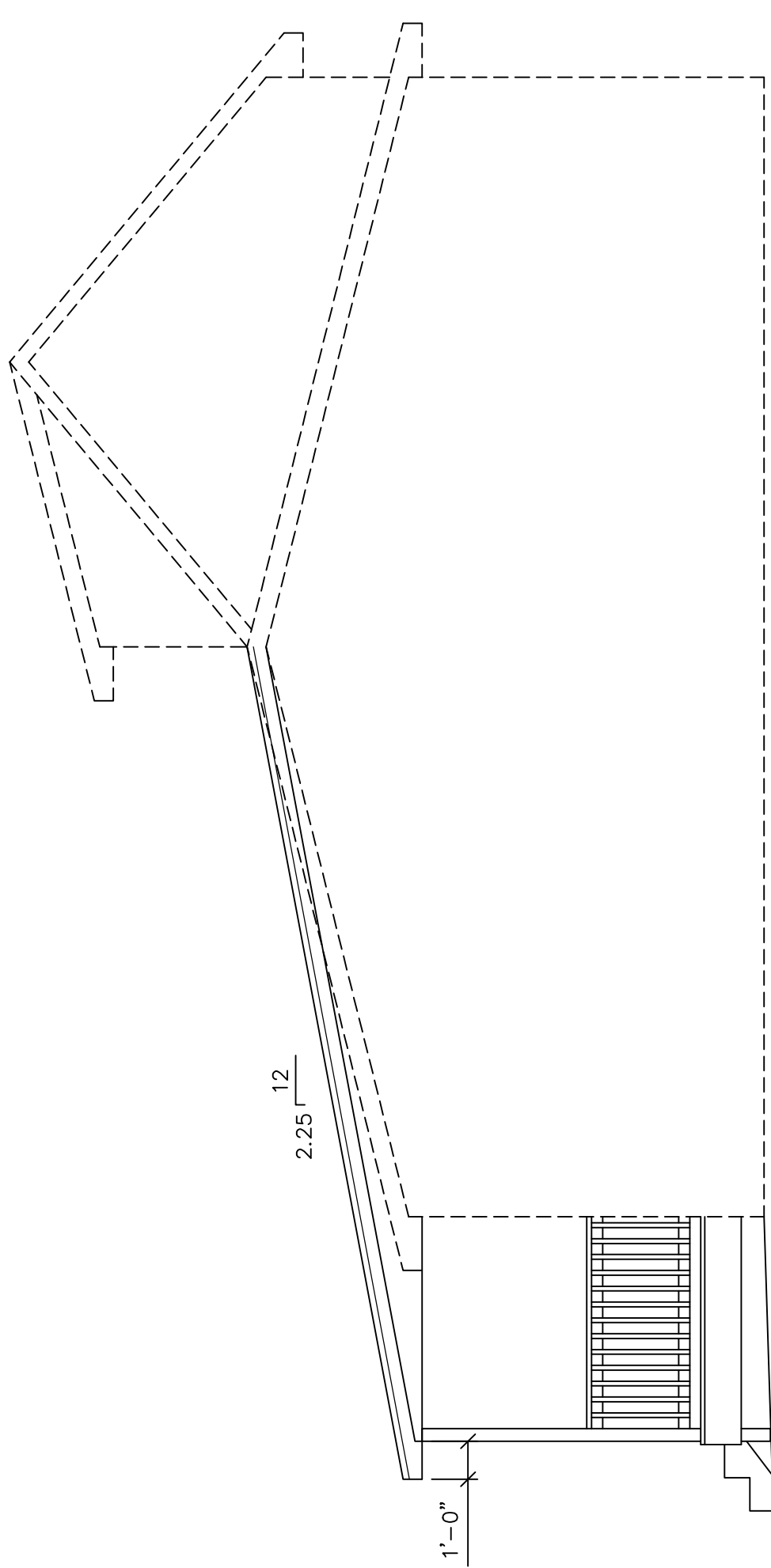
NORTH ELEVATION

SCALE: 1/4"=1'-0"



EAST ELEVATION

SCALE: 1/4"=1'-0"



WEST ELEVATION

SCALE: 1/4"=1'-0"

BUILDER/CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS IN FIELD, AND BE RESPONSIBLE FOR THE SAME. CONTRACTOR TO CONTACT DESIGNER AND/OR OWNER BEFORE ALTERING PLAN.

REVISIONS:

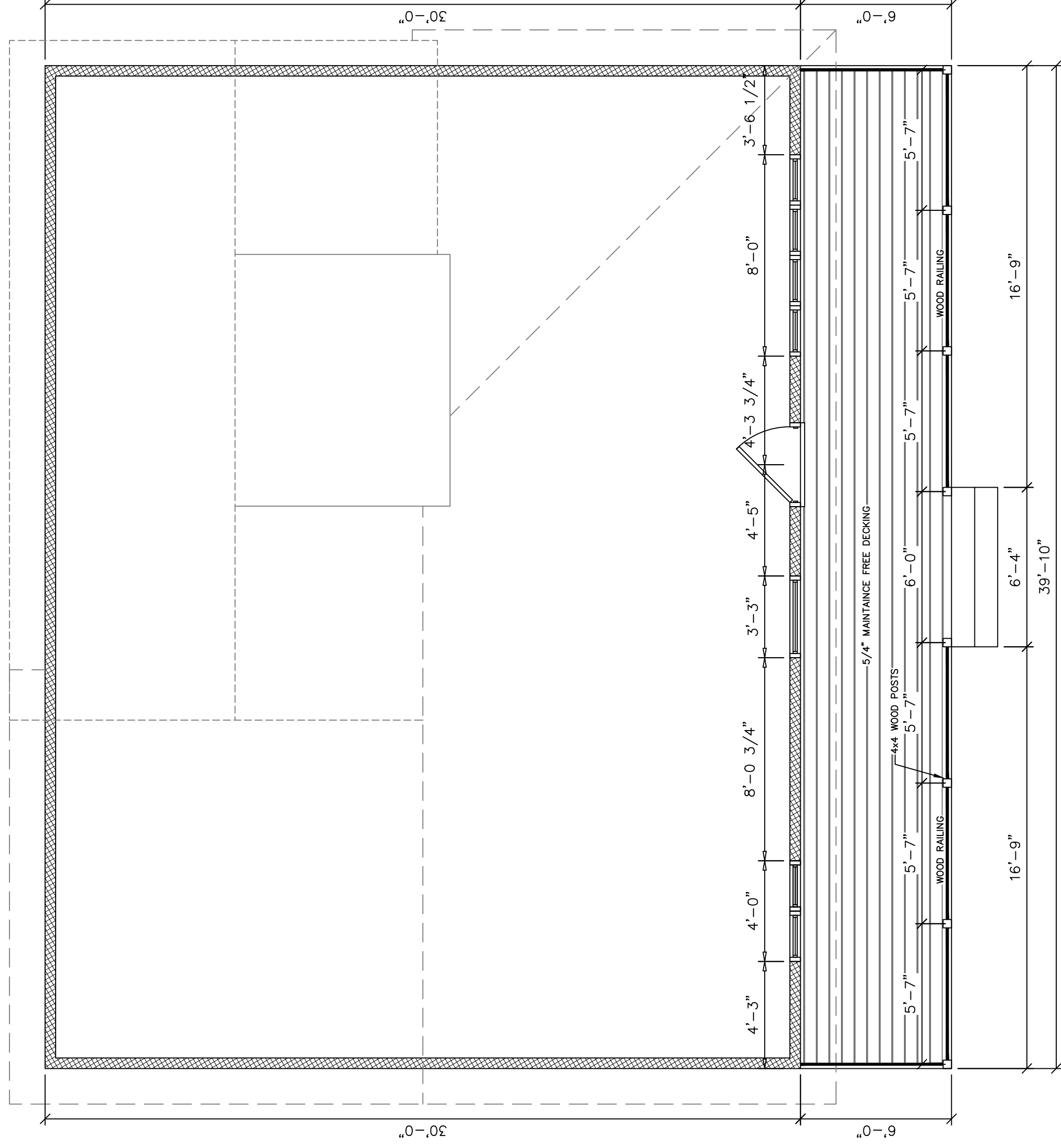
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NOTES:

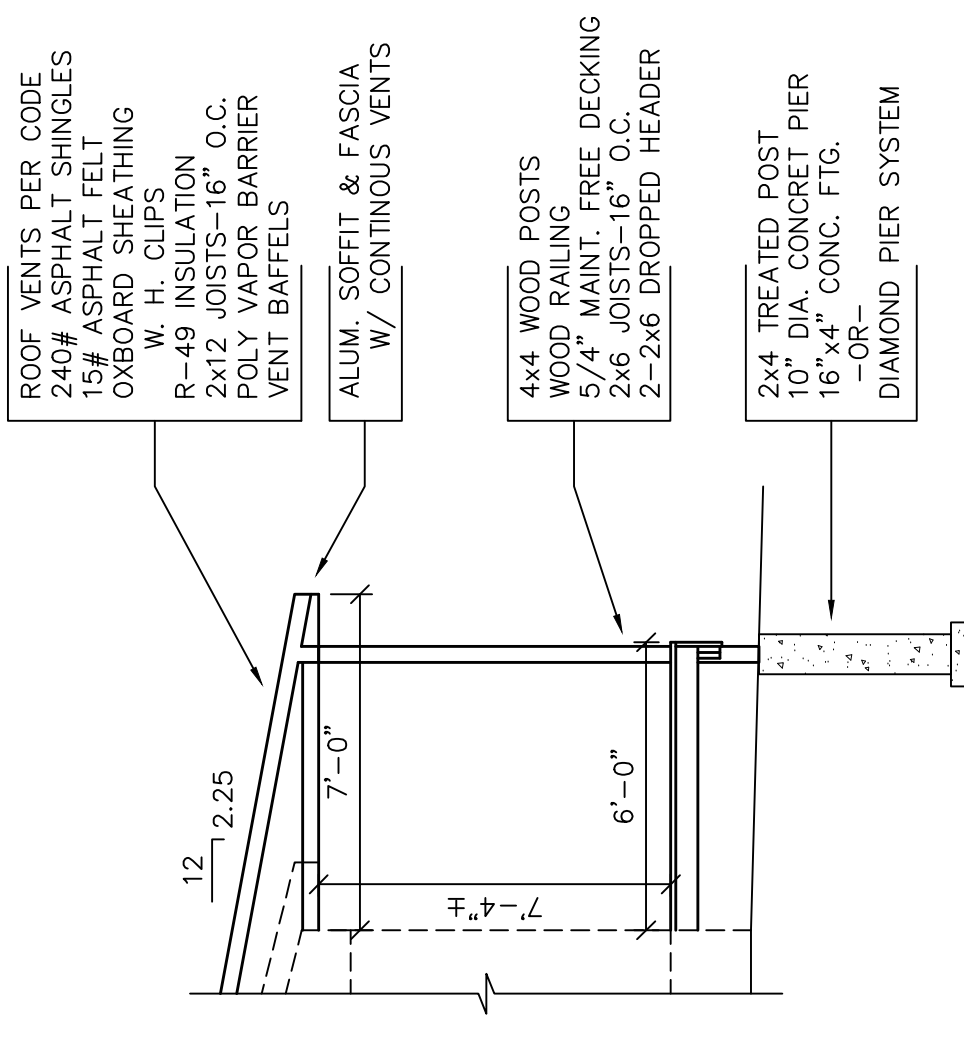
DATE: 08-11-23
SQ. FT.: 0

NAME: SHAWN THOMPSON
ADDRESS: 8766 NORRIS LAKE RD. NW
ELK RIVER, MN 55330
PLAN: ADDITION

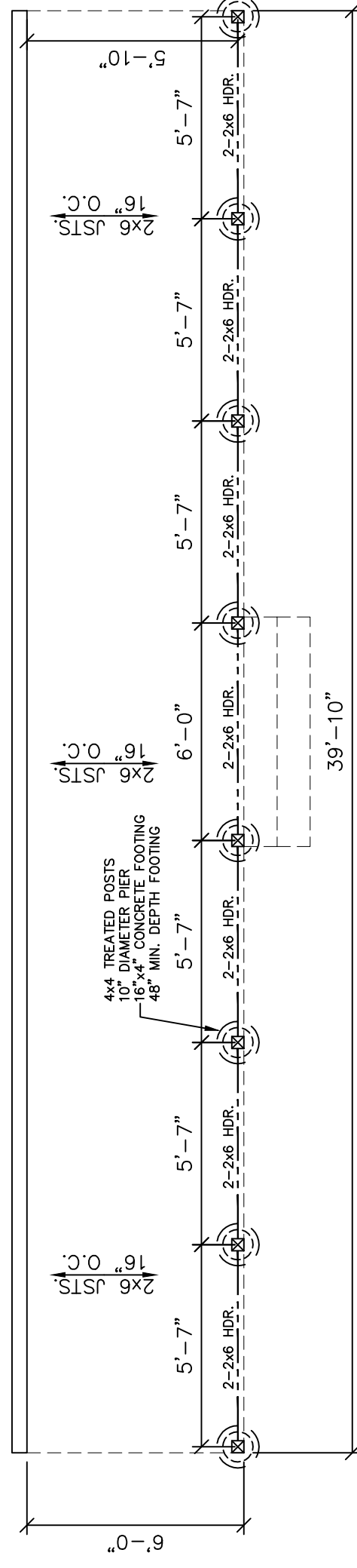
Kelly Pearo, Drafter
7500 205th Ave NW
Nowtthen, MN 55330
Cell: 612-804-7063
E: kapearo79@gmail.com



MAIN FLOOR PLAN
SCALE: 1/4" = 1'-0"



SECTION DETAIL
SCALE: 1/4" = 1'-0"



FOUNDATION PLAN
SCALE: 1/4" = 1'-0"

BUILDER/CONTRACTOR TO VERIFY ALL DIMENSIONS AND CONDITIONS IN FIELD, AND BE RESPONSIBLE FOR THE SAME. CONTRACTOR TO CONTACT DESIGNER AND/OR OWNER BEFORE ALTERING PLAN.

REVISIONS:

NOTES:
NAME: SHAWN THOMPSON
ADDRESS: 8766 NORRIS LAKE RD. NW
ELK RIVER, MN 55330
PLAN: ADDITION
DATE: 08-11-23
SQ. FT.: 0

Cell: 612-804-7063
E: kapearo79@gmail.com

Kelly Pearo, Drafter
7500 205th Ave NW
Nowtthen, MN 55330

Views from Norris Lake Road to the Thompson Residence
8766 Norris Lake Road Sept. 2023



From: [Jamie Hinton](#)
To: [Elizabeth Stockman](#)
Subject: Shawn Thompson
Date: Tuesday, September 12, 2023 4:15:55 PM

Liz.

Hobs has worked on this property in the past. As recent as their new septic system and grading yard to help with there water issues. After reviewing the proposed deck plan. With the house already suffering from water intrusion in the subsurface space, We feel that this addition would assist in relocating precipitation. The proposed overhead area would sufficiently relocate water far enough away from foundation thus solving any further intrusion.

Thank you,

Jamie Hinton



Phone: 763-241-3908
Cell: 651-332-0099
Fax: 763-241-8624

**CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA**

**PLANNING & ZONING COMMISSION
FINDINGS & RECOMMENDATION
ACCESSORY BUILDING VARIANCE**

APPLICANT: Shawn Thompson, 8766 Norris Lake Road NW, Nowthen, MN 55330
PID# 08-33-25-32-0008

APPLICATION: Request for approval of a Variance to allow construction of a covered deck addition on the front of the home which would reduce the existing 80.33 foot setback to the centerline of Norris Lake Road to 74.33 feet .

PLANNING & ZONING COMMISSION MEETING: September 26, 2023

FINDINGS: Based upon review of the application and evidence received, the Planning and Zoning Commission of the City of Nowthen now makes the following findings of fact:

1. The legal description of the property is THE E 190 FT OF N 561 FT OF NE1/4 OF SE1/4 OF SEC 07 T33 R25 (AS MEAS ALG N & E LINES THEREOF) TOG/W THAT PRT OF NW1/4 OF SW1/4 OF SEC 08 T33 R25 LYG W OF E 307.5 FT THEREOF & LYG N OF S 650 FT OF SD 1/4,1/4; EX RD; SUBJ TO EASE OF REC;
2. The subject site is guided by the Comprehensive Plan permanent rural residential land uses through the year 2040;
3. The subject site is zoned RRA, Rural Residential Agriculture;
4. The subject property encompasses 15.83 acres and contains an existing residence which was built in 1925 and is legally non-conforming in terms of the existing 80.33 foot setback to the centerline of Norris Lake Road;
5. The required setback at the present time for new structures is 150 feet from the centerline of county roads;
6. The property has drainage and basement water issues which the property owner has been working hard to resolve through foundation work, drain tile, and site regrading; the proposed covered porch will help in directing water away from the house;

7. The addition of a 240 SF porch is non-livable area and serves to improve the architectural character and aesthetic appearance of the existing home;
8. Section 11-11-2.C of the Nowthen City Code specifically addresses variances:
 - C. Review Criteria: A variance request shall not be approved unless a finding is made by the City Council that failure to grant the variance will result in practical difficulties.
 1. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter and include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
 2. The applicant for variance shall also demonstrate that the request satisfies the following criteria:
 - a. That the variance would be consistent with the Comprehensive Plan.
 - b. That the variance would be in harmony with the general purposes and intent of this Chapter.
 - c. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - d. That the purpose of the variance is not exclusively economic consideration.
 - e. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
 - f. That the requested variance is the minimum action required to eliminate the practical difficulty.
 - D. Conditions Imposed: In granting any variance, the City Council may impose conditions to ensure compliance and to protect adjacent and affected properties.
9. The Planning Report dated September 20, 2023 prepared by the City Planner, The Planning Company LLC., is incorporated herein.
10. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at their regular meeting on September 26, 2023.

RECOMMENDATION: Based on the foregoing information and applicable ordinances, the **Thompson Variance is APPROVED** subject to the following conditions:

1. The proposed covered porch addition shall not exceed a maximum of 240 SF.
2. The proposed covered porch is located no closer to Norris Lake Road than 74.33 feet to the centerline or 22.08 feet to the property line.
3. The addition meets all state and local building codes and a building permit is obtained prior to beginning construction.
4. The applicants are responsible for all costs associated with the processing of this request.

MOTION BY:

SECOND BY:

ALL IN FAVOR:

THOSE OPPOSED:

ADOPTED by the Planning & Zoning Commission of the City of Nowthen this 26th day of September 2023.

CITY OF NOWTHEN

By: _____
Dale Ames, Commission Chair

Attest: _____
Scott Lehner, City Administrator

Item 3



3601 Thurston Avenue
Anoka, MN 55303
763.231.5840
TPC@PlanningCo.com

PLANNING REPORT

TO: Nowthen Mayor and City Council
Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: September 20, 2023

RE: Nowthen – Paone/VonDelinde Interim Use Permit Request for Outdoor Storage– 7411 181st Avenue NW (PID 33-33-25-43-0011)

FILE NO: 122.02 – 23.09

BACKGROUND

Sharon Paone and John VonDelinde have requested approval of an Interim Use Permit (IUP) to allow outdoor storage from Mr. VonDelinde’s landscaping business on Ms. Paone’s 12.64 acre property located at 7411 181st Avenue NW. Mr. VonDelinde is a friend of the family who had to vacate a leased site in Blaine due to the property being sold. Ms. Paone made the assumption that leased space for storage was acceptable and allowed Mr. VonDelinde to move vehicles and equipment onto the site over the spring and summer. The City received two complaints and initiated contact through a City Code Violation Letter. TPC met with Ms. Paone and Mr. VonDelinde in August to view the site and discuss the options.

The property is zoned RRA, Rural Residential Agriculture, within which Extended Home Occupations may be permitted on single family residential properties provided:

- The business type is listed as an interim use within the RRA District regulations.
- The proposed use meets the criteria for consideration of Extended Home Businesses outlined in City Code Section 11-4-3.B.
- The proposed use meets the criteria for consideration of an Interim Use Permit contained in City Code Section 11-10-3.B.

EXHIBITS

Exhibit A – IUP Application (4 pages)
Exhibit B – Letter of Intent (3 pages)
Exhibit C - Site Location
Exhibit D – Site Plan

Exhibit E – Paone Property Vicinity Map
Exhibit F– Site Photos (4 pages)

CONSIDERATIONS & ANALYSIS

Zoning. The property is zoned RRA, Rural Residential Agriculture. The existing residence and pole shed are consistent both with the low-density residential land uses guided by the City’s Land Use Plan and with other properties in the City in similar zoning districts.

The RRA District lists the following Interim Uses as allowable through approval of a special use permit:

1. Mineral Extractions / Pond Excavation & Mining.
2. Sawmills.
3. Nurseries and greenhouses.
4. Animal boarding, of domesticated animals.
5. Extended Home Occupation
6. Limited Scale Trucking Operations meeting the requirement of Extended Home Occupations as defined in this Chapter.
7. Towers and antennas over thirty-five (35) feet in height.
8. Boat launch/rental services.
9. Outdoor club recreation as defined in this Chapter, provided that:
 - a. The property upon which the recreational use is proposed is a minimum of 40 acres.
 - b. All uses, activities, equipment and /or structures associated with the recreational use are setback a minimum of 500 feet from existing residences.
10. Foster Homes for Children and State Licensed Residential Treatment Facilities
11. Other operations determined by the Planning Commission and City Council to be equivalent to those listed above.

Extended Home Occupation Regulations.

An extended home occupation shall be reviewed as an interim use and shall be allowed in the Rural Residential Agriculture District if the business is listed as an interim use therein and if the business complies with the requirements as stated in Section 10 of the City Code.

1. Extended home occupations shall be carried on by one (1) or more members of the property owner’s family who shall reside in the dwelling unit, with not more than one (1) full-time or (2) two part-time on-site employees who are not part of the family. If the extended home occupation is on property that is fully accessed on bituminous roads, up to two (2) full-time or (4) part-time on-site employees may be permitted.

Comment: Mr. VonDelinde does not reside on site and is not a member of the Paone family. Ms. Paone is not associated with the business. The whole premise for requiring business owners to live on site is to have accountability for the day-to-day operation/management and to ensure compliance with conditions.

2. Extended home occupation may be permitted within either the principal structures or within accessory structures. The number and sizing of accessory structures shall be as defined in Section 11-4-2 of this Chapter.

Comment: The one existing pole shed on site is being used by Ms. Paone; the request is strictly for outdoor storage for a temporary period of time. The City has allowed outdoor storage associated with extended home businesses, but only when the business owner lives on the property and when associated with use of the residence or accessory building as part of the business. The City Code prohibits containers for more than six months, although the City can allow them through approval of an IUP for longer periods. The preference is for property owners to invest in permanent structures.

3. The leasing of space to another person or firm requires an Interim Use Permit and must be obtained by the property owner, not the lessee. The rental of space for the storage of boats, vehicles, etc. are considered as extended home occupations and are subject to the interim use provisions.

Comment: The leasing of space for a home business has not been allowed since the City was Burns Township. All known applications in the past have involved the leasing of building space, not outdoor storage space, although 'space' is not defined in the City Code. TPC's interpretation of the Extended Home Occupation regulations is that ALL criteria need to be met.

4. Retail sales related to extended home occupations shall be limited to minor products that are ancillary to a home occupation service. Such minor retail sales shall be similar to:
 - a. Hair care products ancillary to home beauty or hair care occupations;
 - b. Spare or replacement parts ancillary to a small engine or a small machine (motorcycle, lawn mower, snow blower or snowmobile) repair occupation.

Comment: Not applicable.

4. An extended home occupation may be identified by one sign, without lights or illumination and a maximum of twelve (12) square foot size. All signs shall be subject to review. With the exception of any such permitted sign there shall be

no exterior displays. No exterior indication of a home occupation or any variation from the residential character of the principal structure shall be permitted.

Comment: Outdoor storage is an exterior indication of a home occupation, although the site is set back from the road quite a ways. Mr. VonDelinde has offered to reduce the size of the storage area and move it further west to be 100 feet away from the east property line. As stated in the Letter of Intent, Mr. VonDelinde plans to auction off 12-13 trucks and the plowing equipment and limit storage to ¼ acre as shown on the site plan.

5. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.

Comment: No issue.

6. Access:
 - a. If the extended home occupation is conducted on property that is accessed in total or in part on a gravel or aggregate surfaced street, the home occupation shall not create vehicular traffic within the neighborhood in greater volume than would normally be expected in the zoning district. For purposes of this Section, maximum normal residential traffic consists of two (2) round trip vehicle trips per driving age family member.
 - b. If the extended home occupation is located on and has access totally from bituminous surfaced streets, the use shall not create vehicular traffic that would cause unusual damage to the road or create excessive traffic volumes with the determination of unusual damage or excessive volume totally by the City Council on a specific cost permit basis.
 - c. Limited scale trucking operations may be permitted as Extended Home Occupations only if the property is accessed from a continuous network of bituminous streets and the limitations related to the occupation are being carried on by family members and no more-than two (2) on-site employees is met.

Comment: No issue.

8. Outside storage of materials and equipment used for extended home occupations may be permitted if such storage conforms to the setback, location and maximum size requirement for accessory structures. All outside storage shall be screened from view. If such storage is within one hundred (100) feet of the property line or one hundred twenty (120) feet from any current or potential abutting property residence, it shall be screened by opaque fencing.

Comment: The proposed outdoor storage area does not include a plan for screening/fencing, although is able to meet the 100-foot setback from the east property line if relocated as shown on the site plan.

Interim Use Permit Review Criteria.

All extended home occupations shall be reviewed as an interim use and shall be periodically reviewed for compliance with such interim use permits with the review frequency as established by the City Council.

In permitting a new conditional use or interim use permit or alteration of an existing conditional use or interim use permit, the Planning Commission and/or City Council may impose, in addition to these standards and requirements specified by this Chapter, additional conditions which they consider necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the height, size, or location of buildings.
2. Controlling the location and number of vehicle access points.
3. Providing for a sufficient number of off-street parking spaces.
4. Limiting the number, size, location, or lighting of signs.
5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

Items 1 through 4 are not applicable to the current request. The Planning and Zoning Commission shall make a recommendation regarding Item 5.

SUMMARY

In granting any Interim Use Permit, the City Council may impose conditions to ensure compliance with the City Code and to protect adjacent and affected properties. In denying an Interim Use Permit, specific reasons must be provided for inclusion within the Findings. Given the current uncertainty relative to compliance with some of the Extended Home Occupation criteria, it is recommended that public comment be taken at the public hearing, the public hearing closed, and direction be provided to our office relative to drafting of the Findings. If desired, decision on the matter could be tabled to the October meeting.

The main considerations are as follows:

- The City Council must make a finding that the proposed interim use is consistent with those outlined within the RRA District regulations.
- The property owner is not associated with the business and as a lessee, Mr. VonDelinde cannot live on site and be responsible for day-to-day activities.
- The proposed use is not utilizing the house or shed as part of the business.
- Containers are typically only allowed for a period of 6 months.
- The leasing of 'space' is not defined to be interior, exterior or both/either.
- No screening/fencing has been proposed.
- Need list of exact equipment/vehicles, if permitted.
- When will the auctioned vehicles/materials be removed from the site?
- What is an appropriate end date for this permit?

C: Scott Lehner, City Administrator
Natalie Johnson, Deputy Clerk
Bob Ruppe, City Attorney
Sharon Paone
John VonDelinde



CONDITIONAL & INTERIM USE PERMITS

**8188 199TH AVENUE NW, NOWTHEN, MN 55330
(763) 441-1347**

RETURN TO: PERMITS@NOWTHENMN.NET

- CONDITIONAL USE PERMIT**
- INTERIM USE PERMIT**

Base Fee: \$200
 Escrow: \$1,000
 Public Hearing Fee: \$250
 Recording Fee: \$46
Total Amt. Due: \$1,496

Amt. Paid: \$1496.00
 CC/Check# CC (#1535.64)
trans # 454

FOR OFFICE USE ONLY *** FOR OFFICE USE ONLY

Date Application Received: 9-1-23

Date Application Complete: 9-15-23
(60-day review period starts from this date)

Public Hearing Date: 9-26-23

City Council Approval/Denial Date: 10-10-23

60-Day Review Period Ends: 11-14-23

60-Day Extension: Yes No Expires On: _____

Received By: U3 Storman

Property Information

Street Address: 7411-181st Ave NW

Property Identification Number (PIN#): 33-33-25-42-0011

Legal Description (Attach full description of Metes & Bounds if necessary):
see attached.

Type of Business or Use Requested: storage lot
(temporary - associated w/ landscape co.)

Zoning Designation: RRA

Applicant Information

Name(s): John VanDelinde

Business Name: _____

Mailing Address: 7799 York Lane N

City: Brooklyn Park State: MN Zip Code: 55443

Cell Phone: 763-222-6347 Alternate Phone: _____

e-mail: _____

Property Owner Information (If other than applicant):

Name: SHARON PAONE Business Name: _____
Mailing Address: 7411-181st Ave NW
City: Now then State: MN Zip Code: 55303
Cell Phone: 763-753-4226 Alternate Phone: _____
e-mail: None

Description of Request (attach additional sheets as necessary)

Existing Use of Property: Residential
Description of Proposed Use: 1/4 Acre storage lot
Reason(s) to Approve Request: _____

Please describe any previous applications pertaining to the subject site:

Project Name: 1996 lot split Date of Application: _____
Nature of Previous Request: _____

Existing Building Sizes:

RESIDENTIAL LOTS: House (main floor/footprint of living area): 1550 SF
Garage 1: None SF(attached/detached?) Garage 2: _____ SF(attached/detached?)
COMMERCIAL/INDUSTRIAL LOTS: Main Building(s): _____ SF _____ SF
Office Area: _____ SF; Warehouse/Storage: _____ SF; Manufacturing: _____ SF
ALL LOTS:
Accessory Buildings: (type/size) shed , 1200 SF: _____ / _____ SF
_____ / _____ SF: _____ / _____ SF; _____ / _____ SF

APPLICATION FEES AND EXPENSES: We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of \$ 1,496.⁰⁰ as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. **All fees and expenses are due whether the application is approved or denied.**

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: John Walker Date: 9-1-23
Property Owner: Sharon A. Poore Date: 9-1-23

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant: John Walker Date: 9-1-23
Signature of Property Owner: Sharon A. Poore Date: 9-1-23
Signature of Property Owner: _____ Date: _____
Signature of Property Owner: _____ Date: _____

Legal Description
7411 181st Avenue NW
Paone Property

THE N 500 FT OF E 1000 FT OF SW1/4 OF SE1/4 OF SEC 33 TWP 33 RGE 25, TOG/W THAT PRT OF E 66 FT OF SD 1/4 1/4 LYG S OF SD N 500 FT THEREOF & LYG NLY OF C/L OF CO RD NO 64 (AKA 181ST AVE NW), EX RD, SUB J TO EASE OF REC



**LETTER OF INTENT
(TO BE COMPLETED FOR ALL CUPS AND IUPS)**

**8188 199TH AVENUE NW, NOWTHEN, MN 55330
(763) 441-1347**

RETURN TO: INFO@NOWTHENMN.NET

Name of Applicant(s): Sharon Paone and John VonDelinde

Address of Property: 7411 181st Avenue NW

Home Phone No: _____ **Mobile No:** 763-222-6347

What type of business is proposed on this property? _____

storage of landscape vehicles and equipment

Is this business currently being operated on this property? Yes No

If yes, for how long? 4-5 months

Has a Conditional Use Permit or Interim Use Permit ever been approved for this business or property? If so, when? no _____ (attach a copy if you have one)

What will be the days and hours of operation: _____

We do not come and go from the site daily, the request is for temporary storage until another site can be secured and to allow time for auction of some of the vehicles and equipment.

Number of proposed employees? 0 Full time 0 Part time
(no employees come to the site)

Traffic Impacts:

- a) Do you live on a paved or _____ gravel road?
- b) How many access points/driveway entrances do you have onto the adjacent roadway(s)? one
- c) How many times during an average week will you have pickups or deliveries to or from the property? no materials are delivered or removed from the site; owner may make one or two trips to pick up equipment on weekdays

- d) Please describe the type(s) of trucks making deliveries (UPS, box truck, semi-truck, etc) and what is being transported (type of merchandise, refuse, scrap lumber, etc) _____
 wish to store 3-4 pick-up trucks, 2 flatbed trailers, 1 dump trailer, 3 containers to house 2 bobcats and other small equipment, will be auctioning plows and 12-13 vehicles no longer needed
- e) How are the trucks unloaded? (ie: pallets are removed with a fork lift, boxes are removed by hand) _____
 no mterial being handled or transported
- f) How many customers, clients or business related visitors do you expect to have in a typical week? none
- g) Is there space for trucks and cars to park and turn around on the property or is it necessary that they stop on the street? _____
 plenty of space to maneuver

Effects your business may have upon neighboring properties:

- a) Does your business generate any noises or vibrations? Yes No
- b) If yes, from what? vehicle noise and moving trailers around, coming and going
- c) Can the noise be heard from outside the building? _____
 storage is strictly exterior
- d) Does the business generate any odors, smoke, or fumes? Yes No
 If yes, please explain _____

Storage of Materials:

- a) Do you have any material(s) on site that may be classified as toxic or hazardous? Yes No
- b) Do you have material(s) on site that could be explosive? Yes No
- c) If you answered yes to either (a) or (b) above, identify the material(s): _____

d) Please list any materials or equipment that will be stored within an accessory structure on the property. *Note: The storage of business materials and equipment may not take up garage space otherwise intended for the parking of vehicles.*_____

none

e) Please list any materials or equipment that will be stored outside and where on the property it will be stored: _____

3-4 pick-up trucks, 2 flatbed trailers, 1 dump trailer, 3 containers to house two bobcats and other small equipment, will be auctioning plows and 12-13 vehic not needed

Accessory Structures:

a). What is the size of your property?

12.64 ac Acres 66 Feet of Street Frontage, if known

b). How large is the principal structure (residence)? 1,550 sf Square Feet

c). How many accessory structures exist on the property? one

d). List all accessory structures by type and size (i.e. detached garages, barns, pole buildings, sheds, free-standing decks/screen porches, etc.)

1,200 sf

Site Inspection:

a) Please list the name and phone number of someone who can be considered a contact person. A city staff member will call to arrange for a site review visit.

see application, call to schedule a time

b) Please state a convenient day and time for a site review visit.

Signs: Do you intend to place a sign on the property which identifies the business?

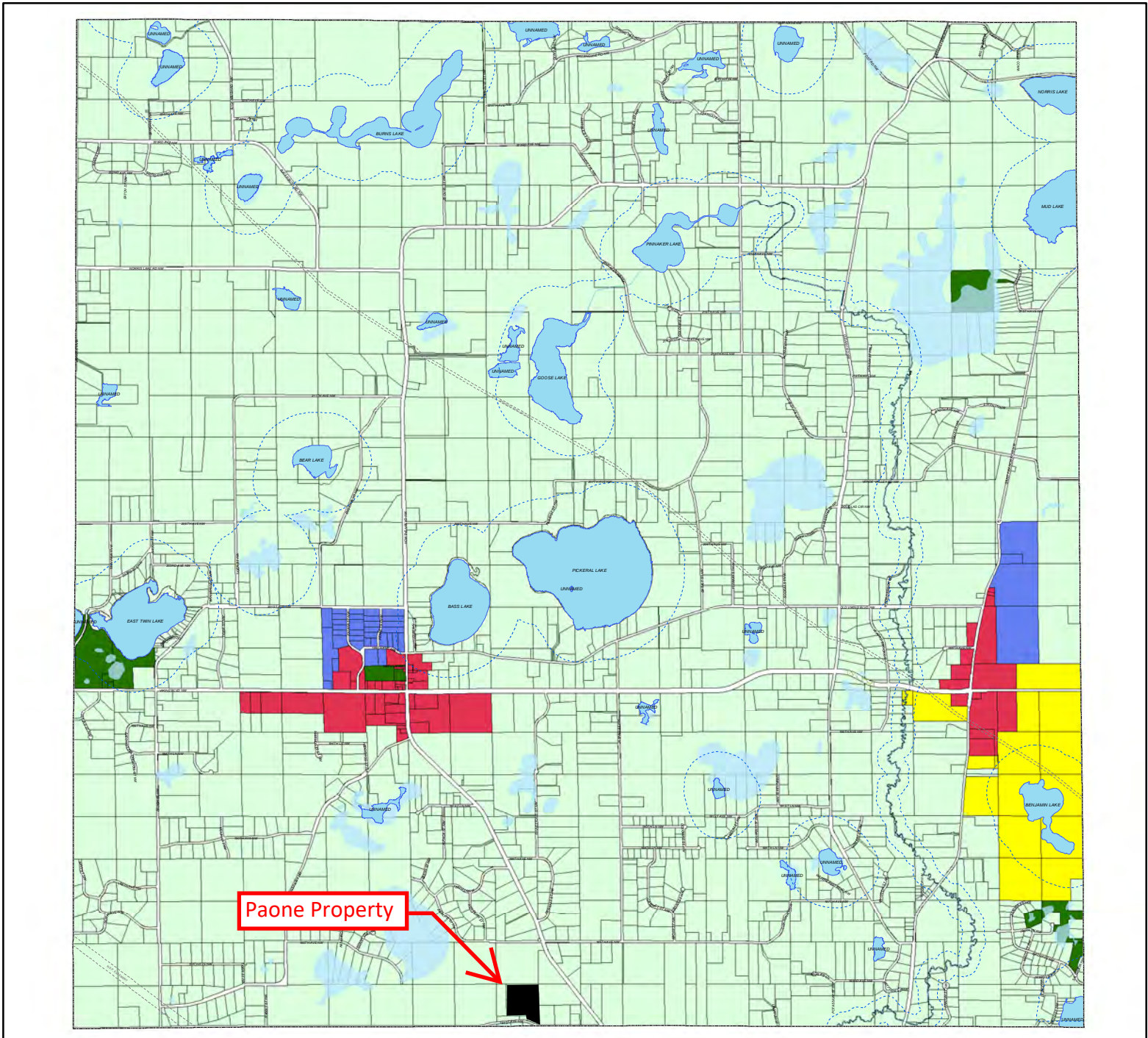
 Yes X No Commercially zoned properties should contact City Hall regarding sign regulations for specific land uses.

For residentially zoned property, you must include a colored drawing of the sign that indicates how it will be constructed and installed. The sign may not exceed twelve (12) square feet in total area (a two-sided sign is limited to six (6) square feet per side).

NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.

CITY OF NOWTHEN

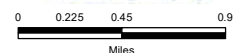
Zoning Map



ZONING

- C-1 - Commercial District (370 acres / 1.74%)
- I-1 - Industrial District (220 acres / 1.04%)
- CON - Conservancy District (156 acres / 0.74%)
- RRA - Rural Residential Agriculture (19,897 acres / 94.20%)
- RRT - Rural Residential Transition (478 acres / 2.26%)
- Shoreland Overlay District

B



SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC

Adopted: Aug 11, 2020

K:\GIS\Projects\Municipal\NT901\2019\LandUse2040

Existing Storage Area

Proposed Storage Area

100'
setback

C





Paone Property
Vicinity

300 to 500 ft?
Future
House

1500 ft.

4100 ft.

590 ft.

615 ft.

230 ft.

D



1 - views of driveway entering site



2



3



4

E



5 - views from Ms. Paone's house



6



7



8



9



10



11



13



12

Item 4

CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA

ORDINANCE NO. 2023-05

AN ORDINANCE AMENDING CHAPTERS 9 SECTION 3 OF THE CITY CODE
TO UPDATE INDIVIDUAL SEWAGE TREATMENT SYSTEM STANDARDS

The City Council for the City of Nowthen hereby ordains:

SECTION 1. City Code Section 9-3 is hereby amended to read as follows:

INDIVIDUAL SEWAGE AND WASTEWATER TREATMENT

Section:

- 9-3-1 Purpose, Applicability, and Authority
- 9-3-2 General Provisions
- 9-3-3 Standards Adopted
- 9-3-4 Permits
- 9-3-5 Violations and Penalties

9-3-1 PURPOSE, APPLICABILITY, AND AUTHORITY:

- A. Purpose. It is the purpose and intent of this Section to establish standards for the design, location, construction, operation, and maintenance of Subsurface Sewage Treatment Systems (SSTS).
- B. Applicability. This Section shall apply to those sites or facilities which are licensed, permitted, or otherwise regulated by the City Code of Ordinances. The sewer provisions of this Section shall also apply to any premises in the City of Nowthen (referred to herein as "City") that are not served by a sewage treatment system permitted by the Minnesota Pollution Control Agency.
- C. Authority. This Section is adopted pursuant to the authorization and requirements contained in Minnesota Statutes §145A.05, 115.55 and Minnesota Administrative Rules Chapter 7082.

9-3-2 DEFINITIONS

- A. The following definitions shall apply in the interpretation and enforcement of this Section:

Building Drain: The building drain is that part of the lowest piping of the drainage system which receives sewage discharge inside the walls of the building and conveys it to the building sewer beginning at least one foot outside the building footings.

Building Sewer: The building sewer is that part of the drainage system which extends from the end of the building drain and conveys its discharge to an individual sewage treatment system.

Subsurface Sewage Treatment System (SSTS): An individual sewage treatment system is the smallest type of a subsurface sewage treatment system, or part thereof, serving a dwelling or other establishment or group thereof which utilizes subsurface soil treatment and disposal. Unless otherwise indicated, the word "system" as it appears in this Section means "individual sewage treatment system."

Lot/Parcel: (existing zoning ordinance definition) A parcel or tract of land intended as a unit for transfer of ownership or for development having frontage along an improved public road, which must be of sufficient area and dimension to meet minimum zoning requirements for width and area. For parcels which are platted or abut streets which are platted, the gross area of the lot shall be measured within the lot lines. In any platted area, minor subdivision, or metes and bounds division, "new lots" shall mean the total number of lots shown.

Lot: Relative to adopted Subsurface Sewage Treatment System (SSTS) regulations, a lot means a parcel of land recorded in the office of the county recorder which has been created and conveyed using a specific legal description for a building site to be served by a SSTS. Parcels or lots which are incapable of supporting a building site via the provision/designation of two Type I SSTS areas shall not be considered lots under the City's SSTS rules.

Midsized subsurface sewage treatment system or MSTs: Midsized subsurface sewage treatment system or MSTs means a subsurface sewage treatment system, or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage design flow of greater than 5,000 gallons per day to 10,000 gallons per day. MSTs also includes sewage collection systems and associated tanks that discharge into MSTs treatment or dispersal components. MSTs does not include those components defined as plumbing under the Minnesota Plumbing Code, chapter 4714, except for a building sewer connected to a subsurface sewage treatment system.

Septage/Sewage: Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, from any industrial, agricultural or commercial establishment or any dwelling or any other structure. Domestic waste includes but is not limited to liquid waste produced by bathing, laundry, culinary operations and liquid wastes from toilets and floor drains and specifically excludes animal waste and commercial process water.

SWF: Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments, means the following three categories or systems: (A) SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland in Section 11-3-10.D of this Chapter; (B) SSTS constructed in wellhead protection areas regulated under MN Statute, Chapter 103I; and (C) SSTS serving food, beverage, and lodging establishments that are required to obtain a licenses under MN Statutes, section 157.16, subdivision 1, and includes manufactured home parks and recreational camping areas licensed according to MN Statutes, Chapter 327.

9-3-3 GENERAL PROVISIONS:

- A. Treatment Required. All sewage generated in unsewered areas shall be treated and dispersed by an approved SSTS or a system permitted by the Minnesota Pollution Control Agency.
- B. Administrative Policy and Procedures. The provisions of the Nowthen City Code, Chapter 1, Section 4 apply to the administration and enforcement of SSTS, unless otherwise expressly provided for in this Section.
- C. Administration. This Section shall be administered by the City Building Official.
- D. Compliance. No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this Section.
- E. Conditions. Violation of any condition imposed by the City on a license, permit, or variance, shall be deemed a violation of this Section and subject to the penalty provisions set forth in this Chapter.
- F. Site Evaluation, System Design, Construction, Inspection, and Servicing.
 - 1. Site evaluation, and system design, construction, inspection and system servicing shall be performed by Minnesota Pollution Control Agency licensed SSTS businesses or qualified employees of local governments or persons exempt from licensing in MN Statute 7083.0700. For lots platted after April 1, 1996, ~~a design shall evaluate and locate space for a second soil treatment area.~~ all lots shall contain a minimum of two (2) soil treatment

and dispersal areas that support Type I systems and which adequately support the use of the on-site structures.

2. At the time of subdivision, development or redevelopment, the developer of each lot shall identify two (2) sites encompassing a minimum of five thousand (5,000) square feet each, for the purpose of sewage treatment and dispersal. These sites shall be protected from all future encroachment by any improvements, construction or other activities that may result in compaction or disturbance of soil on the site, other than installation of a sewage treatment system.
3. If a homeowner or developer wishes to commence construction, building additions, accessory buildings, pools, driveways, parking areas or other improvements in an area which partially or fully encompasses the previously identified sewage treatment area(s), the homeowner/developer shall be required to prove that space on the property exists to accommodate relocation of one septic dispersal and treatment site (or both in the case of undeveloped property or where a functional and compliant SSTS does not currently exist). The developer shall submit to the City the required soil borings and all supporting information which supports relocation of the treatment area(s). This shall include a site survey or site plan, drawn to scale, as part of the building permit submittal and City review process.
4. SSTS for accessory buildings are handled like any other building; they either need to connect to the main SSTS for the principal structure or they need to have their own Type I system.

G. Inspection.

1. No part of an individual sewage treatment system shall be covered until it has been inspected and approved by the City. If any part of the system is covered before being inspected and approved as herein provided, it shall be uncovered upon the direction of the City ~~Building Official~~Septic System Inspector.
2. The City shall require such inspections as are necessary to determine compliance with this Section, outlined as follows:
 - a. Ground scarification for both at-grade and mound systems;
 - b. Installation of rock and pipes;
 - c. Installation of septic tank, manhole covers, risers, and inspection pipes;
 - d. After the SSTS is covered and final graded;

e. Other inspections or reinspections as deemed necessary.-

3. It shall be the responsibility of the permittee to notify the City that the system is ready for inspection a minimum of two (2) working days prior to the inspection. If the integrity of the system is threatened by adverse weather, if left open, and the City Building Official is unable to conduct an inspection, the permittee may, after receiving permission from the City, document compliance with this Section by photographic means that show said compliance and submit that evidence to the City Building Official prior to final approval being sought.

~~2.~~

~~3.4.~~ If upon inspection the Building Official discovers that any part of the system is not constructed in accordance with the minimum standards provided in this part of this Section, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee as set forth by Section 1-2-2 of the City Code for each reinspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

5. The licensed installer shall provide an "as built" drawing on the form supplied by the Building Official or other City staff.

H. Compliance Inspection Required. SSTS compliance inspection is required:

1. For a new or replacement SSTS, the Building Official will issue a letter stating that the system was installed in accordance with the approved plans after the final inspection has passed.

2. When altering or adding onto an existing structure ~~to add a bedroom~~, a septic system ~~may need to~~shall be expanded or upgraded in the following situations:

a. ~~t~~To accommodate ~~the additional square footage or number of the~~ addition of one or more bedrooms;

a.b. A change in use which increases water usage of any land use category (ie: addition of a home business/connection to shop or pole shed, addition of a supplementary kitchen, etc).

~~2.~~c. For non-residential uses, any addition or expansion, change in type of business, operation, addition of employees, etc.—MN Statutes 7081.0130 provides guidance on sizing for other establishments.

3. When a parcel having an existing system undergoes development, subdivision, **reconfiguration** or split.

a. Any parcel, with an existing home or septic system, that is being subdivided (reduced or increased in size) must maintain two (2) SSTS sites encompassing a minimum of 5,000 square feet each for the existing lot and each new lot.

b. Soil work is required to identify septic sites unless identified previously and documented with the City. This requires a minimum of three (3) borings for each septic site.

c. If the existing system is compliant, after having been inspected by a licensed septic system inspector or qualified inspector employed by the City, said site may be counted as the primary site (one of the two required SSTS sites) and satisfies the soil work for that site.

d. If the existing system is non-compliant, two 5,000 square foot septic sites shall be designated on the parcel containing the existing home as well as on each new lot.

4. Point-of-Sale. When property ownership is being transferred from one person(s) to another person(s).

5. Frequent Pumping. The application for a third pumping permit within a twelve (12) month period is indicative of a failing Subsurface Sewage Treatment System and requires an inspection of the system.

6. Any change in use of a structure or facility served by a subsurface sewage treatment system.

7. When deemed necessary by the City to ascertain the compliance of an existing system when reports of code violations, system leaks or imminent threats are reported.

I. ~~Imminent Public Health and Safety Threat; Failing System; and Surface Discharge~~ Compliance Criteria for Existing Systems.

1. ~~A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval. The SSTS must~~

be protective of public health and safety. A system that is not protective of ground water does not have the required two (2) to three (3) feet of separation but is not considered an imminent threat to public health or safety. At a minimum, a system that is an imminent threat to public health or safety is a system with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; systems that cause a reoccurring sewage backup into a dwelling or other establishment; systems with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance hole covers. A determination of protectiveness for other conditions must be made by a qualified inspector employed by the City or licensed inspection business.

~~1.~~a. A subsurface sewage treatment system which poses an imminent threat to public health and safety shall immediately abate the threat according to instructions by the City and be brought into compliance with this Section within forty-five (45) days or in accordance with a schedule established by the City, not exceeding six (6) months except as may be dependent upon weather conditions and with the Building Official's approval.

~~2.~~ A failing system, an SSTS that is not protective of groundwater shall be brought into compliance within twenty-four (24) months after receiving notice from the City. The SSTS must be protective of groundwater. A system that is not protective is considered non-compliant, a system failing to protect groundwater. At a minimum, a system that is failing to protect groundwater is a system that is a seepage pit, cesspool, drywell, leaching pit, or other pit; a system with less than the required vertical separation distance described in Sections 4 and 5 below; and a system not abandoned in accordance with MN Statute 7080.2500. A determination of the threat to groundwater quality for other conditions must be made by a qualified employee or licensed inspection business.

~~2.~~a. A non-compliant system, a SSTS that is not protective of groundwater shall be brought into compliance within ten (10) months after receiving notice from the City.

~~3.~~3. The SSTS must be operated, meet performance standards, and be managed according to its operating permit.

4. A new or replacement SSTS built after March 31, 1996, or in an SWF area, must have at least a three-foot vertical separation or a vertical separation in compliance with MN Statute 7080.2350, subp. 2, Table XI.

a. Vertical Separation Reduction. A fifteen (15) percent reduction of vertical separation (separation distance no less than 30.6 inches) may be

determined to be compliant for existing systems to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions.

b. Soil Loading Rates. The absorption area and mound absorption ratio must be sized according to Table IX (detailed soil descriptions) or IXa (percolation tests) contained in MN Statute 7080.2150, subp. 3.

5. A SSTS built before April 1, 1996, in areas that are not SWF areas, must have at least two feet of vertical separation.

6. The vertical separation measurement must be measured outside the area of system influence in an area of similar soil.

7. An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.

J. Conflict Resolution. For SSTS systems regulated under this Section, conflicts and other technical disputes over new construction, replacement systems, and existing systems relative to periodically saturated soils will be managed in accordance with the MN Statutes 7082.0700 Subpart 5. Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

K. Septic Tank Maintenance (MN Statutes 7080.2450).

1. All~~The~~ owner(s) of a sewage tank, or tanks, within the City shall regularly, but not less frequently than every three (3) years: ~~(unless otherwise approved by the City due to limited use),~~ have the system pumped by a licensed pumper and provide a copy of the pumping permit to the City. If the system is pumped, measurement of accumulations of sludge and scum is not needed.

2. Alternately, a property owner shall have the accumulations of scum and sludge measured by a licensed septic system pumper/maintenance contractor and provide the measurements/documentation to the City's Septic System Inspector for review.

a. Noncompliance with the MN Statutes 7080.xxxx Subpart X with regard to the maximum accumulation of solids shall require pumping.

2. ~~—~~ b. Measurement of the accumulation of sludge and scum is valid for a period of one (1) year, provided the necessary documentation has been submitted to the City. Annual reinspection is required.

3. The owner shall remove and sanitarily dispose of septage whenever the top of the sludge layer is less than twelve (12) inches below the bottom of the

outlet baffle or the bottom of the scum layer is less than three (3) inches above the bottom of the outlet baffle. Removal of septage shall include complete removal of scum and sludge.

4. If necessary, risers shall be installed to bring the manhole cover ~~to within twelve (12) inches of the~~ even with the ground surface.
5. Maintenance activities require reporting on forms provided by the City. Pumpers are to obtain pumping permits from the City prior to pumping, and are to leave a completed copy of the pumping permit with the property owner, and forward one copy back to the City for its records.
6. Fees shall be paid in accordance with the City's fee schedule adopted annually as part of Section 1-2-2.

7. Compliance Required.

a. **Reminder Postcards.** The City shall mail a reminder postcard on May 1st of every year to all residents who are due to have their septic systems pumped.

b. Inspection by City. If any property owner fails to file the required pumping or compliance reports every three (3) years, or files incomplete reports, the Zoning Administrator shall proceed as follows, within XX days of the reminder postcard being sent:

i. Initiate the Administrative Enforcement Process as regulated by Section 1-5 of the City Code by notifying the property owner via regular or certified mail that a complete pumping/maintenance report shall be filed with the City within thirty (30) days from the date of the Administrative Notice; (time period two weeks to be the same as other Notices?)

ii. In the event the owner fails to file a complete report with the City within the thirty (30) day period, the City shall issue an Administrative Citation according to the fee schedule adopted by the City, allowing an additional fourteen (14) days to file the required pumping reports and pay the Citation;

iii. The City shall issue additional Citations every fourteen (days) until compliance is attained;

iv. The City may opt to have the Building Official or other qualified Inspector perform an inspection of the Subsurface Sewage Treatment System in lieu of, or in addition to, the Citation and file the report on behalf of the owner. The time and expense required to conduct such inspection shall be the property owner's responsibility.

v. Any Citations or invoices for inspection services remaining unpaid shall be assessed to the property taxes in the form of a special assessment.

6.

L. ~~Non-Compliant Systems. Existing systems which are non-compliant, but not an imminent health or safety threat, failing, or discharging to surface, may continue to be used so long as the property use is not changed or expanded. If the property use changes or is expanded, thereby requiring a building permit or special use permit by the City, the non-conforming elements of the existing system must be brought into compliance.~~ Existing Systems - Certificates of Compliance and Noncompliance. A SSTS in compliance with applicable requirements must be issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance.

1. A SSTS not in compliance with this Section shall be considered a threat to public health under MN Statutes 145A and must be repaired or replaced within ten (10) months.

2. Systems out of compliance with other applicable requirements must be repaired or replaced according to MN Statutes 7080.1500 Subpart 4.

3. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit.

4. Existing SSTS must be checked for tank integrity, soil separation, and hydraulic and operational performance during the inspection.

5. The certificate of compliance or notice of noncompliance for existing systems must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.

M. ~~Non-Complying Work~~ New & Replacement Systems – Non-Compliance: New individual sewage treatment system construction that is non-compliant, or other work on a replacement system that is non-compliant, must be brought into compliance with this Section in accordance with a schedule established by the City ~~which schedule will not exceeding~~ seven (7) days unless the City finds extenuating circumstances.

1. The certificate of compliance for new construction and replacement must include the vertical separation distance report and the management plan.

2. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner

identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, and designations as applicable.

3. A certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the City, the owner or owner's agent no later than fifteen (15) days after any compliance inspection.
4. A certificate of compliance or notice of noncompliance must include a certified statement from the qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with this Chapter.
5. If a compliance inspection for new construction or replacement indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect and specify the reason for noncompliance.
6. Certificates of compliance for new construction or a replacement system remain valid for five (5) years from the date of issuance unless the City finds evidence of noncompliance.

N. Change In Use. A Certificate of Compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.

~~O. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City may reduce property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe on adjacent properties and with written agreement of adjacent property owners.~~

PO. Floodplain. An SSTS shall not be located in a floodway or floodplain. Location within the flood fringe is permitted provided that the design complies with this Section and all of the rules and statutes incorporated by reference. All soil treatment systems located in areas subject to excessive run-on must have a diversion constructed upslope from the system.

QP. Class V Injection Wells. All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit SSTS inventory information to the Environmental Protection Agency.

9-3-4 STANDARDS ADOPTED

A. Minnesota Rules Adopted. ~~Minnesota Rules~~ [Mn Statutes](#), Chapters 7080 and ~~7081 through 7082~~, that are in effect on the date of passage of this Section, relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this Section as if fully set forth herein.

B. ~~Rules Amended. The rules, adopted in Section 9-3-3(A) are amended as follows~~ [Setbacks Required](#):

~~1. Compliance Inspection – 15 Percent Vertical Separation Reduction. MR 7080.1500 Subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretation of soil characteristics.~~

~~2.~~ The following setbacks apply within the City of Nowthen:

~~Table 1~~—Minimum Setback Distances (Feet)

| Feature | Sewage Treatment | |
|---|---------------------|------|
| | Tank | Area |
| Water supply well less than fifty (50) ft. deep and not encountering at least ten (10) ft. of impervious materials: | 50 | 100 |
| Any other water supply well or buried water suction pipe: | 50 | 50 |
| Buildings requiring a building permit occupied and in-ground pools : | 10 | 20 |
| Buried pipe distributing water under pressure: | 10 | 10 |
| Property Lines: | 10 | 10 |
| The ordinary high water mark of lakes and streams: | 150 | 150 |
| | (Natural Environmt) | |
| | 100 | 100 |
| | (Recreational Dev) | |
| _____ Wetlands* : | 50 | 50 |

[*Measured to the distribution area; berming/backslope of the mound is fine within the setback.](#)

~~3. No experimental or alternative systems shall be allowed unless the City Council has reviewed and approved an application to permit an alternative system. The applicant must provide sufficient materials as required by the City Council to show that such an alternative system is consistent with the spirit and intent of this Section and Minnesota Rules Chapter 7080 and will not create a threat to the public health, safety and welfare of the residents of the City. *Note: There is no such thing as an experimental or alternative system per MNSpect.*~~

1. Setback Reduction. Where conditions prevent the construction, alteration, and/or repair of an individual sewage treatment system on an existing developed parcel of real property, the City Building Official, in consultation with the Zoning Administrator, may administratively vary from (reduce) property line and/or building setbacks provided said reduction does not endanger or unreasonably infringe within drainage and utility easements and upon adjacent properties and with **written agreement of adjacent property owners to the proposed deviation.**

2. Variances. If the City finds that by reason of exceptional circumstances, the strict enforcement of any provisions of this Chapter would cause practical difficulties or that strict conformity with the standards would be unreasonable, impractical, or not feasible under the circumstances, the City Council may permit modifications to this Section for individual cases based on conditions it may prescribe for prevention, control or abatement of pollution, not excluding other exceptions which may require City approval under MN Statutes adopted by reference herein.

The City will only grant Variances for existing lots of record which, at a minimum, meet non-conforming lot regulations of Section 11-4-1 of this Chapter and for replacement systems necessary to serve existing structures. The application and processing procedures of Section 11-11-1 and 2 of this Chapter shall be followed.

4C. No more than one (1) **principal use**, dwelling, commercial, institutional, or industrial unit shall be connected to the same sewage treatment system unless a multiple connection was specified in the application submitted, approved by the City Council, and provided for in the permit issued for the system.

ED. Holding Tanks. Holding tanks may be allowed for the following applications:

1. ~~;~~ ~~a~~ **As a temporary** replacement to a failing existing system
2. ~~;~~ ~~a~~ **An SSTS that poses an imminent threat to public health and safety**
3. ~~;~~ ~~or for a~~ **An existing lot in which a SSTS cannot feasibly be installed and the City finds extenuating circumstances.**

4. Holding tanks require an operating permit/-[monitoring and disposal contract signed by the owner and a licensed maintenance business unless the owner is a farmer exempt from licensing under Minnesota Statutes 115.56, subd. 2\(b\), clause \(3\).](#) The homeowner is responsible for ensuring that the contract guarantees the removal of the tank contents before overflow or any discharge.

~~which defines routine pumping and maintenance procedures to be approved by the City Building Official.~~

~~DE.~~ System Abandonment. An SSTS, or component thereof, that is no longer intended to be used must be abandoned in accordance with the adopted standards of this Section. Replacement systems which result in discontinued use of any or all components of an existing system shall initiate the requirement of pumping permits and/or abandonment procedures as may be required by the City Building Official.

9-3-5 PERMITS

A. Permit Required. ~~No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the City Building Official. No person shall construct, alter, extend, convert, or modify any structure which is or will utilize subsurface sewage treatment system without first obtaining a permit.~~

MNSpect recommendation: Consider prohibiting homeowners from installing pressurized Type I, Type III and Type IV systems. Type 1 gravity trench system is the ONLY system type that can be installed by a resident.

1. No new construction shall be allowed by the City until the permit required for the subsurface sewage treatment system has been issued.

2. No additions, enlargements, improvements, remodeling or alterations that include the addition of one or more bedrooms shall be allowed until the subsurface sewage treatment system has been determined to be both adequate and conforming or a permit for a new treatment system has first been issued. A Certificate of Compliance (COC) or a Certificate of Noncompliance (NON) shall be provided for the City's records prior to issuance of a building permit.

3. No person shall cause or allow the location, construction, alteration, extension, conversion, or modification of any subsurface sewage treatment system without first obtaining a permit for such work from the [City's Septic System Inspector](#).

- 4.4. All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees or persons exempt from licensing as specified in [MN Statute Minnesota Rules 7083.0700](#). Permit applications shall be submitted by the person doing the individual subsurface sewage treatment system construction on forms provided by the City and accompanied by required site and design data, and permit fees.
5. Permits shall only be issued to the person doing the individual sewage treatment system construction.
6. Permit applications for new and replacement SSTS shall include a management plan for the owner that includes a schedule for septic tank maintenance [in compliance with this Section](#).
7. A permit is not required for minor repairs, [including but not limited to baffles, maintenance hole covers, extensions, pumps, inspection pipes, drop boxes and other minor repairs as may be approved by the City's Septic System Inspector](#), ~~or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components or otherwise change the original system's design, layout, or function.~~
8. [Property owner installations of a SSTS to treat wastewater solely from their own dwelling or a seasonal dwelling may install their own system without a license providing the following conditions are met:](#)
- a. [The system must be designed by an individual licensed in accordance with Minnesota Rules, Chapter 7083.0700, Subp. B.](#)
 - b. [Homeowner exemption will be limited to Type I gravity trench systems only.](#)
 - b.c. ~~OPTION: Homeowner exemption will be limited to Type I systems, meaning an SSTS that follows a standard trench, bed, at-grade, or mound system design in accordance with MPCA rules.~~
 - d. [The property owner must possess an approved Building Permit issued by the City and schedule a pre-construction inspection with the City prior to installation.](#)
 - e. [A licensed designer, installer, or inspector provides oversight during installation and shall provide a written affidavit that they witnessed and confirmed the following activities:](#)
 - i. [The minimum vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock exists.](#)

ii. The inground dispersal system is excavated or interface soil is prepared for an above ground system.

iii. The plastic limit of soil is determined.

iv. The pumping levels in the pump chamber are set.

i. The as-built form is prepared, and all other required supporting documents.

f. The permit fee shall be double that established by resolution under the City's Fee Schedule.

- B. Operating Permit. An operating permit shall be required of all owners of new holding tanks, Type IV and V systems; MSTs and other SSTs that the City has determined requires operational oversight.
1. Application. Application for an operating permit shall be made on a form provided by the City.
 2. Holding Tanks. The owner of holding tanks installed after the effective date of this Chapter shall provide the City with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

9-3-6 VIOLATIONS AND PENALTIES

- A. Misdemeanor. Any person who fails to comply with the provisions of this Chapter may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore, as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- B. Injunctive Relief. In the event of a violation or a threat of violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations; and the City Attorney may institute a civil action.
- C. Civil Action. In the event of a violation of this Section, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

SECTION 2. This Ordinance shall be effective immediately upon its passage and publication.

Passed and adopted this _____ day of _____ 2023 by the City Council of the City of Nowthen.

Jeff Pilon, Mayor

ATTEST:

Scott Lehner, City Administrator

Discuss Implementation Options:

1. Publish updated ordinance in newspaper
2. Educate residents; newsletter article at a minimum, post ordinance on website
3. Educate pumping companies; letter to all pumpers serving the City
4. Grace Period for compliance; one year typical/recommended
 - a. During grace period, City could waive pumping fee to assist in getting as many systems pumped (and data base populated) as possible
5. Specify compliance date, after which Administrative Citation Process will apply:
 - a. Pumping Notice (Not required—reminder postcard is the first 'letter')
 - b. Administrative Notice
 - c. Administrative Citation
6. Send pumping notices annually on May 1st (after road restrictions are off)
7. Keep a data base of all properties in the city that currently contain a septic system or at one time contained a septic system.