



CITY HALL

207 Lafayette Street
P.O. Box 378
Winona, MN 55987-0378
FAX: 507/457-8212

October 23, 2013

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, October 28, 2013, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. **Call to Order**
2. **Minutes – October 14, 2013**
3. **Public Hearing – Zone Change/Andring Et Al**
4. **Update: Air Quality Monitoring**
5. **Other Business**
6. **Adjournment**

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Moeller".

Mark Moeller
City Planner

PLANNING COMMISSION MINUTES

DATE: October 14, 2013

TIME: 4:30 p.m.

PRESENT: Chairperson Porter, Commissioners Boettcher, Gromek, Olson, Ballard, Buelow, Davis, and Hahn

ABSENT: Commissioner English

STAFF PRESENT: City Planner, Mark Moeller; Assistant City Planner, Carlos Espinosa

The meeting was called to order at 4:30 p.m. by Chairperson Porter.

Approval of Minutes – September 23, 2013

The minutes for September 23, 2013 were approved without changes upon motion by Commissioner Davis and second by Commissioner Boettcher.

Proposed Code Amendments

City Planner Mark Moeller summarized the agenda item and stated that the proposed code amendments had not been acted on by Council. The proposed amendments included eliminating the ability to locate parking on properties up to 300 feet away from a development. Mr. Moeller stated that there were questions at Council about the impact of the proposed amendments and staff's intent with this agenda item is to create a database of impacts of the proposed amendments for review by the Planning Commission. After approval, the amendments would be forwarded to a pre-Council meeting for discussion.

Commissioner Olson asked if the "not more than 200 feet from the building they are required to serve" language could be removed from the code. Mr. Moeller stated that was a possibility.

There being no further questions, the consensus of the Commission was to proceed forward with the agenda item as proposed by staff.

Update: Air Quality Monitoring

Assistant City Planner Carlos Espinosa summarized the agenda item and stated that one or two representatives from the MPCA would be attending the next meeting to help answer questions.

Chairperson Porter asked what the \$60,000 price for air monitoring included. Mr. Espinosa responded that the \$60,000 number includes equipment and lab analysis costs, but not staffing or site preparation costs.

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There being no further questions Chairperson Porter moved to the next agenda item.

Other Business

Chairperson Porter stated that he would not be able to attend a bridge meeting on October 15th and asked if another commissioner could attend. Commissioner Hahn indicated that he may be able to attend the meeting.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 4:55 p.m.

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Public Hearing – Zone Change/Andring Et Al

PREPARED BY: Mark Moeller

DATE: October 28, 2013

BASE DATA

Petitioner: Estate of Ralph H. Andring, Michael G. Andring, Jennifer D. Nosek, and Chris C Roffler
(Petition attached as Exhibit A)

Property Owners: Estate of Ralph H. Andring, Michael G. Andring

Location: Exhibit B – 1670 West Fifth Street, generally northeast corner of West Fifth and Lenox Streets.

Area: 18,732 square feet (.43 acres).

Existing Zoning: Exhibit B - R-1(One Family Residence) and B-3 (General Commercial).

Requested Zoning: R-2 (One to Four Family Residence) - to be applied to total site.

Existing Use: The property contains a dwelling and related out buildings. Although presently vacant, the following reflects historic use since initial 1959 zoning:

- '59-'60 – Adoption of City Comprehensive Plan and Zoning Ordinance/Site used for Kwosek Grocery Store (zoned B-3 and R-1 at this time)
- '61-'65 – Grocery store use ceases
- '66-'81 – Site converted to multiple dwelling (3 apartments)
- '82-'87 – Site converted to 4 rental certified units (1 added to basement)
- '87-'92 – Certified rental-downgraded to 2 units (owner lives in one-basement unit discontinued)
- '92-'97 – Certified rental-2 units (+owner unit)
- '97-'02 – Certified rental-2 units (+owner unit)

'02-'07 – Certified rental-2 units (+owner unit)
'07 – Owner called-no longer rental – converted to owner occupied dwelling
'07-Current – Owner occupied dwelling

Surrounding Land Use/Zoning: Exhibit B

North: One Family Residential/R-1
South: West Fifth Street ROW – B-3
East: One Family Residential/R-1
West: Lenox Street ROW/R-1

Site Zoning History:

As shown on the previous site use history, present R-1/B-3 zoning classifications of the site appear to be a remnant of the 1959/60 zoning plan. Although the newly published (at the time) 1960 Comprehensive Plan did propose “low density residential” use for the site, and surrounding neighborhood (north of Fifth Street), it appears that current zoning was based upon existing on the site commercial use (grocery store) at that time. It is further noted that area zoning patterns have generally remained stable since the 1959/60 timeframe.

As noted in data supplied with the rezoning application, the property is currently subject to a Purchase Agreement between the Andrings and Jennifer Nogosek and Chris Roffler. Should the zone change be approved, their immediate intent would be to recertify the dwelling as a three family dwelling.

ANALYSIS

1. Was there an error or oversight in original zoning of the site, which would warrant rezoning?

Given previous discussion, although the 1960 Comprehensive Plan did define the neighborhood northerly of West Fifth for “low density residential”, B-3 (General Commercial) zoning was applied to a “portion” of the rezoning site in order to reflect the commercial use (a grocery store) existing on it at that time. Since neighborhood grocery stores are first permitted within B-1 (Neighborhood Business) districts, it is unclear as to why the B-3 classification was applied to the site. As the City’s “least restrictive” commercial zone, this district could facilitate

uses permitted in virtually all commercial zones (reference Exhibit C). It is conceivable that some “could” have potential negative impacts on the adjacent single family residential neighborhood.

In responding to this question, commercial zoning of the site appears to have been designed to reflect/recognize commercial use, existing in 1959/60. Although that action was logical, there is an uncertainty as to why in consideration of 1960 Comprehensive Plan recommendations, the “least restrictive” (B-3) classification was employed.

2. Has there been a change in area development patterns, since original zoning that may warrant/support rezoning?

No. Outside of limited use transitions occurring within the B-3 District southerly of West Fifth, minimal changes have occurred within the vicinity of the rezoning site (northerly of West Fifth Street).

3. Would potential uses within the requested zoning impose “undue hardship” such as noise, odors, etc., on adjacent landowners?

Permitted use provisions of the requested R-2 District are attached as Exhibit D. Since this district also permits uses permitted in “more restrictive” R-1 (One Family Residence) and R-S (Residential Suburban) Districts, use provisions of these are also included.

As noted from this Exhibit, the R-2 District is designed to facilitate one to four family structures along with certain nonresidential uses, if specific performance criteria are met. Under requested R-2 zoning and given size and shape constraints of this property, it is highly unlikely that it will be desirable/used for use other than residential. In presuming that this assumption is correct, the 18,000 square foot site could support a maximum of six dwelling units in clusters of four and two or three and three per building. Such use would be subject to required yard standards of the R-2 District and off-street parking standards (2 per unit) of the City parking ordinance.

In further presuming that site redevelopment would front, and would be accessed from, West Fifth Street, it is highly unlikely that these uses would have an “undue hardship” (from traffic, noise, etc.) on adjacent landowners. On the other side of this discussion, it could be argued that the retention of present B-3 zoning does have the potential to create unpredictable use scenarios that “could” negatively impact the neighborhood.

4. Would the public interest be better served if rezoning was done in another area?

Generally, the public interest is served when the highest and best use of land is achieved, and overall benefits of rezoning outweigh disadvantages. Although it is currently recognized that the City has a limited amount of commercially zoned land for development, the retention of B-3 Zoning at this location does not, in consideration of the immediate neighborhoods character, promote the highest and best use of the site. However, consideration of the R-2 request would promote use that more closely aligns with that found in the neighborhood.

5. Could the rezoning be construed as being spot zoning?

Spot zoning generally occurs if one of the following tests is met:

- A. The rezoning action results in a convenience only to the property owner or petitioner. Again, the property owner and petitioners have requested that this site be rezoned from B-3 and R-1 to R-2 with the “immediate” intent of reinstating the tri-plex status of the current dwelling structure. Approval of the request will certainly promote the applicants desired reuse of the site. However, down-zoning of the B-3 portion of the site, will benefit the immediate neighborhood by eliminating certain commercial use scenarios that could negatively impact it.
- B. The zoning change is arbitrary, capricious, or unreasonable. If approved, the request would replace an “outdated” commercial classification with a residential district promoting use that more closely aligns with the character of the immediate neighborhood. This change will result in a greater level of neighborhood stability than is presently offered by present B-3 Zoning.
- C. Rezoning is not consistent with goals and objectives of the City 2007 Comprehensive Plan. Pursuant to the 2007 Comprehensive Plan Map, the rezoning site is classified as a “Traditional Neighborhood (medium density)”. As described, this classification is:

“Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys, interspersed with neighborhood parks, schools, churches, and home-businesses, neighborhood commercial within walking distance. Includes many of City’s older neighborhoods, and a few newer ones that employ this pattern.”

Approval of the request would further comprehensive goals by substituting commercial zoning/use capability of the site with a residential classification (R-2) that more closely aligns with plan goals for this neighborhood.

RECOMMENDATION

In summary, the analysis has determined that:

1. No error or oversight in original zoning was made.
2. Neighborhood zoning/development patterns have remained stable since enactment of original zoning.
3. Given use and performance standard controls of the R-2 District, approval of the petitioners request is not expected to result in “undue hardships” on the adjacent neighborhood. On the flip side, retention of current B-3 Zoning “could” result in such impacts.
4. Rezoning would promote “higher and better” use scenarios than exist under present zoning thereby resulting in long term stability to the neighborhood. Such stability cannot be achieved under potential use scenarios of present B-3 Zoning.
5. Spot zoning is not evident. Requested R-2 zoning would be consistent with current long term plans for the neighborhood surrounding the rezoning site.

Given the previous concerns, staff fully supports this rezoning request.

The following options are available to the Commission:

1. Recommend approval of the applicants request to Council.
2. Recommend denial of the applicants request to Council.
3. Recommend a modification of the request.
4. Table action if additional information is needed.

Attachments

Exhibit A

Andring Zone Change Application

ZONING MAP CHANGE APPLICATION
COMMUNITY DEVELOPMENT, CITY OF WINONA, MINNESOTA 55987
P.O. BOX 378 507/457-8250 FAX: 507/457-8212

SITE ADDRESS: 1670 W. 5th Street

Property Owner:	Ralph H. Andring, deceased and Michael G. Andring	
Company/Individual		
Contact Person	<u>c/o Steven M. Pederson, Attorney</u>	E-Mail <u>smp.ppj@hbcj.com</u>
Mailing Address	<u>P.O. Box 436</u>	Office Phone <u>507-452-2388</u>
City/State/Zip	<u>Winona, MN 55987</u>	Mobile Phone _____
Applicant:	Estate of Ralph H. Andring, Michael G. Andring, Jennifer D. Nogosek and Chris C. Roffler, Jr.	
Company/Individual		
Contact Person	<u>c/o Steven M. Pederson, Attorney</u>	E-Mail <u>smp.ppj@hbcj.com</u>
Mailing Address	<u>P.O. Box 436</u>	Office Phone <u>507-452-2388</u>
City/State/Zip	<u>Winona, MN 55987</u>	Mobile Phone _____

Zoning Applications will not be processed without payment of the \$455.75 fee.

Additional Information Required for Zoning Map Change:

- Proposed zoning classification: R-2
- A map at a scale of not less than 1" = 100' showing the length and location of all property boundaries of the proposed amendment.

Estate of Ralph H. Andring

Michael G. Andring
Michael G. Andring, Co-Personal Representative

Jennifer D. Nogosek
Jennifer D. Nogosek

Chris C. Roffler Jr.
Chris C. Roffler Jr.

Signature of Applicant Michael G. Andring

Signature of Land Owner
(If different from applicant)

For Staff Use Only	Date Received: <u>10/14/13</u>	Zone Change # <u>315</u>	Receipt # <u>342-369</u>
Parcel #:	Current Zoning <u>B-3</u>	Property Size _____	
LEGAL DESCRIPTION OF PROPERTY: _____			

See attached Memorandum

MEMORANDUM

1. The legal description for the subject property is as follows:

Lot Sixteen (16) and Lot Seventeen (17), Block Six (6), Belmont Addition to the City of Winona.

Subject to easements, covenants and restrictions of record.

AND

That part of Lots Nineteen (19) and Twenty (20), Subdivision of Section Twenty (20), Township One Hundred Seven (107), Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, described as follows:

Beginning at the southeasterly corner of Lot 17, Block 6, Belmont Addition to the City of Winona, also being a point on the northerly line of Fifth Street; thence North 01 degrees 12 minutes 09 seconds East, along the easterly line of said Lot 17 and along the easterly line of Lot 15, said Block 6, a distance of 197.89 feet to the northeasterly corner of said Lot 15; thence South 88 degrees 41 minutes 07 seconds East, 47.90 feet; thence South 01 degrees 15 minutes 57 seconds West, 75.50 feet; thence South 40 degrees 41 minutes 15 seconds West, 3.76 feet; thence South 15 degrees 47 minutes 53 seconds West, 22.83 feet; thence South 10 degrees 42 minutes 05 seconds West, 27.86 feet; thence South 21 degrees 00 minutes 57 second West, 80.15 feet to said northerly line of Fifth Street; thence North 53 degrees 34 minutes 03 seconds West, along said northerly line of Fifth Street, 9.68 feet to the point of beginning.

Subject to easements, covenants and restrictions of record.

[Belmont Addition to the City of Winona and the Subdivision of Section Twenty (20), Township One Hundred Seven (107), Range Seven (7), West of the Fifth Principal Meridian are both of record and on file in the office of the County Recorder in and for said Winona County, Minnesota.]

2. Ralph H. Andring, deceased, and Michael G. Andring, individually, are the owners as tenants in common of that portion of the real property described in 1 above as follows:

Lot Sixteen (16) and Lot Seventeen (17), Block Six (6), Belmont Addition to the City of Winona.

Subject to easements, covenants and restrictions of record.

3. Ralph H. Andring, deceased, is the owner of that portion of the real property described in 1 above as follows:

That part of Lots Nineteen (19) and Twenty (20), Subdivision of Section Twenty (20), Township One Hundred Seven (107), Range Seven (7), West of the Fifth Principal Meridian, Winona County, Minnesota, described as follows:

Beginning at the southeasterly corner of Lot 17, Block 6, Belmont Addition to the City of Winona, also being a point on the northerly line of Fifth Street; thence North 01 degrees 12 minutes 09 seconds East, along the easterly line of said Lot 17 and along the easterly line of Lot 15, said Block 6, a distance of 197.89 feet to the northeasterly corner of said Lot 15; thence South 88 degrees 41 minutes 07 seconds East, 47.90 feet; thence South 01 degrees 15 minutes 57 seconds West, 75.50 feet; thence South 40 degrees 41 minutes 15 seconds West, 3.76 feet; thence South 15 degrees 47 minutes 53 seconds West, 22.83 feet; thence South 10 degrees 42 minutes 05 seconds West, 27.86 feet; thence South 21 degrees 00 minutes 57 second West, 80.15 feet to said northerly line of Fifth Street; thence North 53 degrees 34 minutes 03 seconds West, along said northerly line of Fifth Street, 9.68 feet to the point of beginning.

Subject to easements, covenants and restrictions of record.

[Belmont Addition to the City of Winona and the Subdivision of Section Twenty (20), Township One Hundred Seven (107), Range Seven (7), West of the Fifth Principal Meridian are both of record and on file in the office of the County Recorder in and for said Winona County, Minnesota.]

4. Because of "title issues" all of the real property described in 1 above is the subject of a presently pending "quiet title" action venued in District Court, Winona County, Minnesota, File No. 85-CV-13-1873.

5. Attached hereto, and labeled Exhibit A, is a "reduced copy" of Survey prepared by Blumentritt Land Surveying, P.C., signed by Tony A. Blumentritt, Land Surveyor, on August 26, 2013 with respect to the real property described in 1 above.

6. Attached hereto and labeled Exhibit B is copy "map" provided to Steven M. Pederson, Attorney for Owners and Applicants by Carlos Espinosa, Assistant City Planner, City of Winona, showing the current zoning of the subject property and adjacent properties.

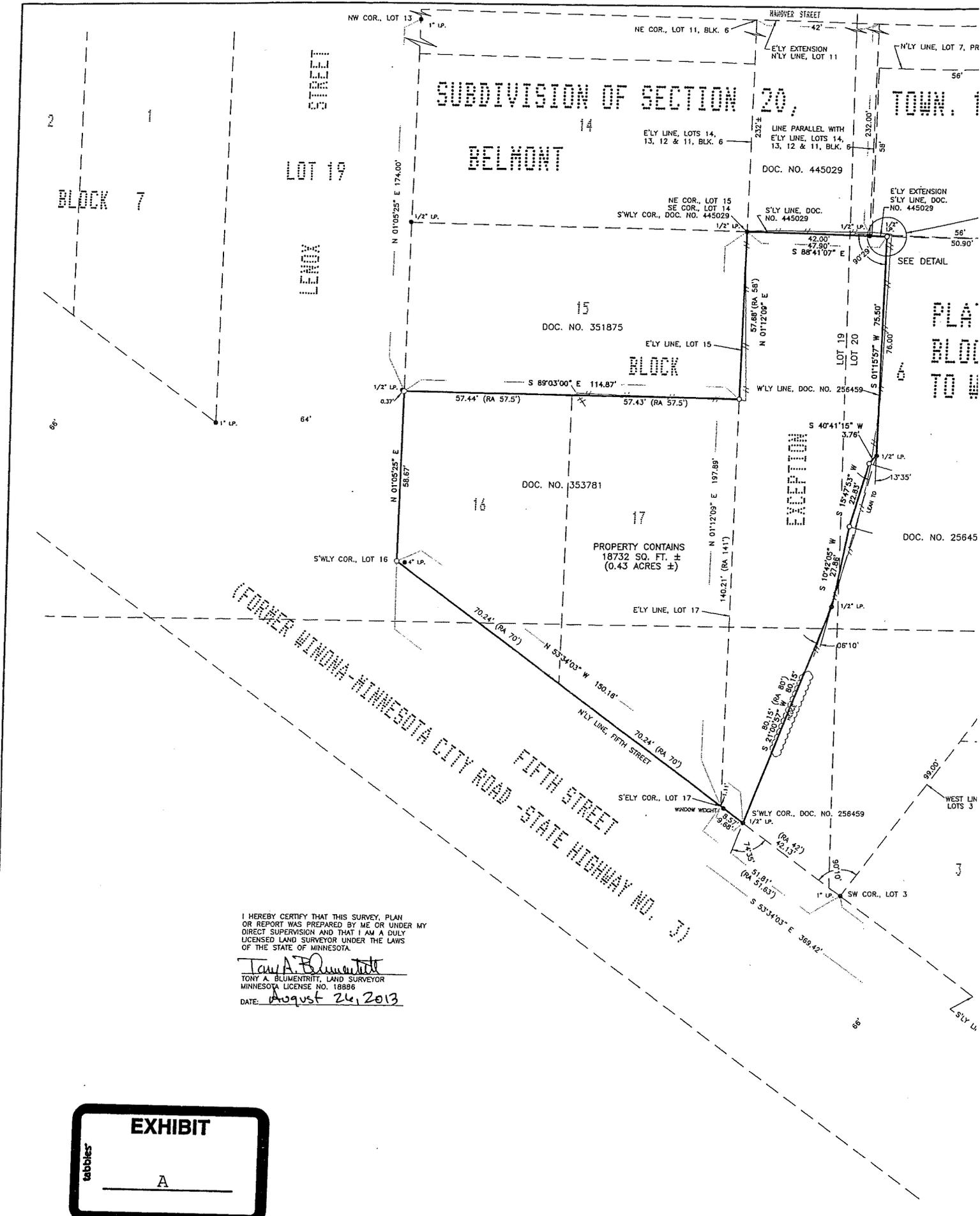
Attached hereto and labeled Exhibit C is a copy of the Blumentritt Land Surveying, P.C. Survey (i.e., Exhibit A) on which the current zoning shown on Exhibit B has been marked.

As shown on Exhibits B and C, a portion of the subject property is currently zoned B-3 while a portion of the subject property is zoned R-1.

The purpose of this Application is to obtain a single zoning classification for all of the subject property, that being that all of the subject property be zoned as R-2.

7. There is presently located on the subject property a triplex that has existed for many years, the certification for which triplex, however, lapsed in 2007.

8. That all of the real property described in 1 above is subject to a Purchase Agreement with Jennifer D. Nogosek and Chris C. Roffler, Jr. being the buyers pursuant to the Purchase Agreement.



SUBDIVISION OF SECTION 20, TOWN 1

BELMONT

BLOCK 7

LOT 14

WINDY

DOC. NO. 351875

BLOCK

DOC. NO. 353781

PROPERTY CONTAINS
18732 SQ. FT. ±
(0.43 ACRES ±)

DOC. NO. 25645

(FORMER WINDONA-MINNESOTA CITY ROAD - STATE HIGHWAY NO. 3)

FIFTH STREET

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.

Tony A. Blumentritt
TONY A. BLUMENTRITT, LAND SURVEYOR
MINNESOTA LICENSE NO. 18886

DATE: August 24, 2013

EXHIBIT

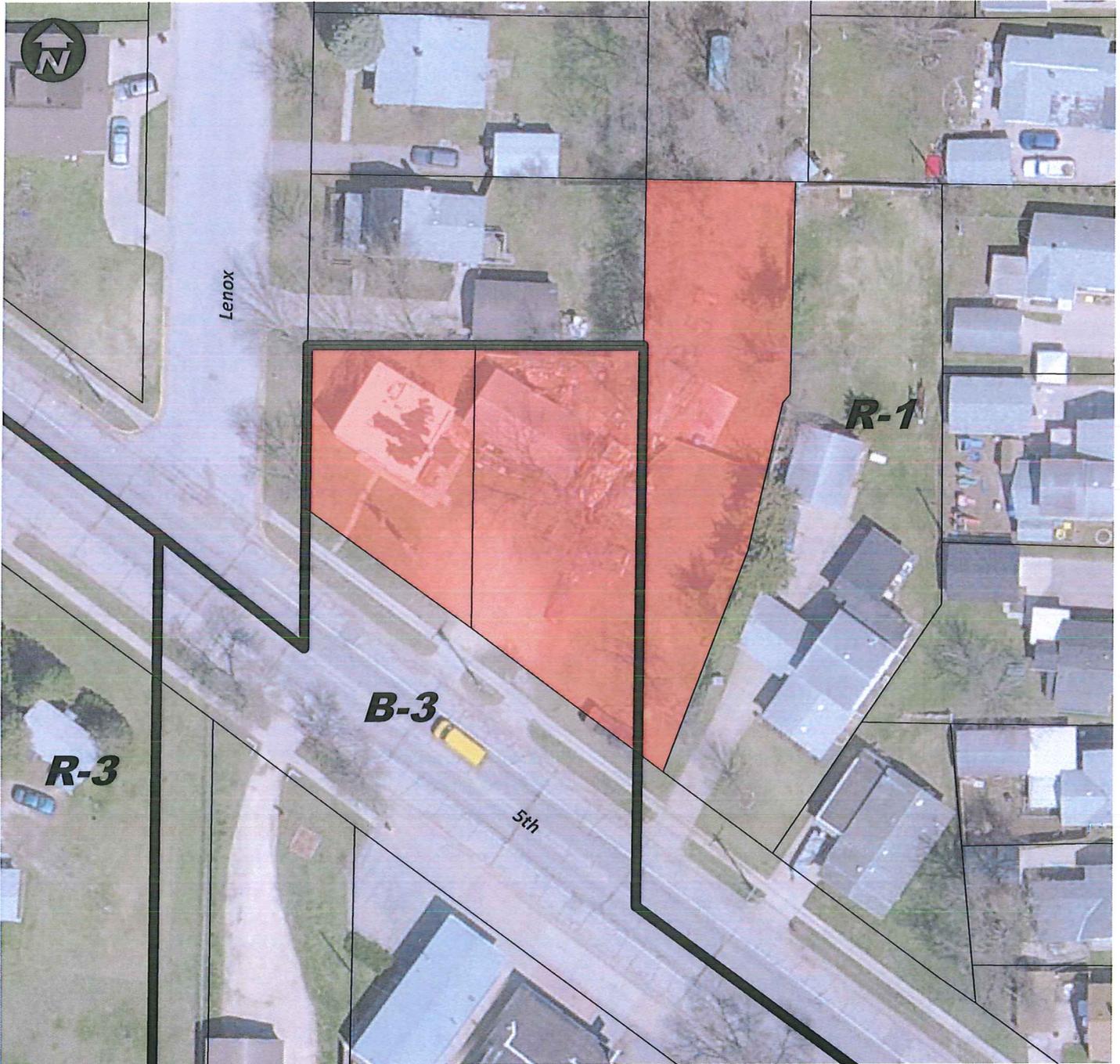
tabbles

 A

Exhibit B

Andring Zone Change Site Location Map

Proposed Rezoning Site R-1 and B-3 to R-2



This map was compiled from a variety of sources. This information is provided with the understanding that conclusions drawn from such information are solely the responsibility of the user. The GIS data is not a legal representation of any of the features depicted, and any assumptions of the legal status of this map is hereby disclaimed.

0 25 50 100 Feet

October 14, 2013

Exhibit C

**Andring – Use Provisions
of Current B-3 Zoning**

B-3

43.61 GENERAL BUSINESS DISTRICT. (a) Permitted Uses. Any use permitted and as regulated in the B-2 district shall be permitted in the B-3 district, except as hereinafter modified in the following:

↳ SEE ATTACHED FOR LISTING.

- (1) Retail and service. Laundries, clothes cleaning or dyeing establishments, used merchandise stores, funeral homes and mortuaries.
- (2) Wholesale and warehousing. Any wholesale business, storage and warehousing and commercial greenhouses.
- (3) Eating and drinking establishments. Drive-in eating and drinking places, summer gardens and roadhouses, provided that principal building is distant not less than 200 feet from any R-S or R-1 district.
- (4) Automotive services and farm implements. Automobiles, trucks, trailers, farm implements, for sale, display, hire or repair, including sales lots, used car lots, trailer lots, repair garages, body and fender shops, paint shops, but not within 50 feet of any R district.
- (5) Animal hospitals, veterinary clinics, etc. Animal hospitals, kennels, display and housing or boarding of pets and other domestic animals; provided, that any enclosures or buildings in which the animals are kept shall be at least 200 feet from any R district and at least 100 feet from any B-1 district. Exercise runs shall be enclosed on 4 sides by a sight-obscuring, unpierced fence or wall at least 5 feet in height.
- (6) Commercial recreation. Repealed. Ord. No. 04/16/90.
- (7) Building and related trades. Carpenter shops, electrical, plumbing, paint shops, heating shops, paper hanging shops, furniture, upholstery and similar enterprises, not including contractors' yards, but not within 100 feet from any R-S or R-1 district.
- (8) Printing and related trades. Publishing, job printing, lithographing, blue printing, sign painting, etc., but not within 100 feet from any R-S or R-1 district.
- (9) Bottling works and wholesale bakeries. Bottling of soft drinks and milk or distribution stations and wholesale bakeries; provided, that a building used for such processing and distribution shall be at least 200 feet from any R-S district or R-1 district and 100 feet from any R-2 or R-3 district.
- (10) Miscellaneous trades. Specialized metal working trades such as sheet metal shops, welding shops, and machine shops; provided that no use shall employ punch presses, drop hammers, or similar equipment and provided further that no part of a building occupied by such uses shall have any opening other than stationary windows or required fire exits within 100 feet of any R-S or R-1 district and within 50 feet from any R-2 or R-3 district.

- (11) Contractors' yards and related establishments. Building material yards, excluding concrete mixing, contractors' equipment storage yard or plant, or storage yard for rental of equipment commonly used by contractors; trucking or motor freight stations or terminals; retail lumber yards, including incidental millwork; storage and sales of grain, livestock feed or fuel; carting, express or hauling establishments, including storage of vehicles; provided, that such uses are conducted either wholly within a completely enclosed building, except for storage of vehicles, which building shall be distant at least 100 feet from any R district, unless such building has no openings other than stationary windows and required fire exits within such distance, but not within 50 feet of any R district in any case or when conducted within an area completely enclosed on all sides with a solid wall or uniformly painted solid board fence not less than 6 feet high, but not within 200 feet of any R district; provided further, that all storage yards related in the uses in this paragraph shall be enclosed.
 - (12) Other uses. Any other use which is determined by the board to be of the same general character as the above permitted uses, but not including any use which is first permitted in the M-1 district or which is prohibited in the M-1 district.
 - (13) Small animal hospitals, veterinary clinics, provided that: The building in which the use is located is a minimum of 50 feet from any residential district, and any building or room within a building in which animals are housed on an overnight basis shall not have openings other than stationary windows and required fire exits.
 - (14) Small Breweries, provided that no portion of any structure, which is used for the production (excluding warehousing or storage) of malt liquors, shall be located closer than 100 feet from any R District, and said uses comply with those performance standards of section 43.33.
- (b) Accessory Uses. Accessory uses and structures as permitted and as regulated in the B-2 district and such other accessory uses and structures not otherwise prohibited, customarily accessory and incidental to any of the foregoing permitted B-3 uses, shall be permitted in the B-3 district.

B-2

43.60 CENTRAL BUSINESS DISTRICT. (a) Permitted Uses. Any use permitted and as regulated in the B-1 district shall be permitted in the B-2 district, except as hereinafter modified, and the following: **↳ SEE ATTACHED FOR LISTING.**

- (1) Retail and services. Art and antique shops, artists' supplies stores, interior decorating shops, furniture and appliance stores, self-service laundries, dry cleaning shops, department stores, variety and dime stores, dry goods and apparel stores, mail-order houses and the like.
 - (2) Banks. Including drive-in banks, savings and loan associations.
 - (3) Eating and drinking places. Bars, restaurants and cocktail lounges.
 - (4) Entertainment. Night clubs, theatres, billiard parlors, pool halls, bowling alleys and similar enterprises, but not within 100 feet of any R district, subject to all applicable regulations and such permits as may be required by law.
 - (5) Trade or business schools. Provided machinery which is used for instruction purposes is not objectionable due to noise, fumes, smoke, odor or vibration.
 - (6) Commercial art studios. Including photographic studios, dancing studios, radio and telecasting studios and the like.
 - (7) Hotels. Including motels and motor hotels, subject to the provisions of Section 43.40.
 - (8) Newspapers. Printing and publishing.
 - (9) Additional Uses. Any other retail business or service establishment or use, which is determined by the board to be of the same general character as the above permitted uses, but not including any use which is first permitted or which is not permitted in the B-3 district. (08-17-59)
 - (10) Commercial recreation. Any type of commercial recreation, including baseball fields, swimming pools, skating rinks, golf driving ranges, and similar open air facilities; provided, that such establishments shall be distant at least 200 feet from any R district except city parks.
 - (11) Residential uses. Residential uses pursuant to Section 43.59(a)(6) provided that all first story residential uses located within the central business district core shall meet the requirements of Sections 43.60(b)(2) and 43.60(f)(2).
- (b) Conditional Uses. The following uses shall be permitted only if specifically authorized by the board in accordance with the provisions of this chapter and Section 22.21 of this Code:
- (1) Commercial greenhouses. Commercial greenhouses with retail sales outlets, provided that no wholesaler or bulk storage warehouse is associated with the greenhouse on the zoning lot. The use shall meet the following conditions:
 - a. The sum total of the ground area covered by all structures on the lot on which the structure(s) are located shall not exceed 60 percent.
 - b. Off-street parking spaces shall be developed in accordance with section 43.37. The ratio of parking shall be one space for each 750 square feet of gross floor area and must be sufficient to meet the parking needs generated by the occupancy and use of such building.

- c. The following minimum bulk requirements shall be observed, except as provided in Section 43.53(f) and (g): Lot areas and frontage, no requirements; front yard depth, 25 feet; side yard width, none, except when the side yard is adjoining a residential district, then not less than a distance equal to the total height of the structure; rear yard, 10 feet, except when the rear yard is adjoining residential district, then not less than required in the adjoining residential district; sign provisions, as required in Section 43.43.

The following special conditions shall apply:

1. All processing or services shall be conducted primarily within a completely enclosed building.
 2. The storage of materials essential for the day to day operation of the use shall be permitted, but shall be enclosed or screened in such a way as not be objectionable to any adjacent property.
 3. The use shall not be objectionable as outlined in Section 43.59(c)(3).
- (2) Residential. First story residential use within the central business district core; provided that the use meets the following conditions:
- a. Exclusive of required entrances, the residential use may occupy no portion of the front one-half of first story floor area. If any part of a rear building line is located within 100 feet of a public parking lot, no residential use may occupy the rear one-half of first story floor area. In the case of a corner lot having two building frontages, no rear first story residential use shall be permitted which has, other than required entrances, openings which are visible from a public street.
 - b. The Board may apply additional requirements of the applicant which it feels are necessary to protect future residents from the day to day activity of adjacent non-residential use.
- (c) Accessory Uses. Accessory uses and structures as permitted and regulated in the B-1 district and such other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any of the foregoing permitted B-2 uses shall be permitted in the B-2 district.

43.59 B-1 NEIGHBORHOOD BUSINESS DISTRICT. (a) Permitted Uses. The uses permitted in the B-1 district shall be any local retail business or service establishment supplying commodities or performing services primarily for residents of the neighborhood on a day to day basis, such as:

- (1) Retail and services. Groceries, supermarkets, fruit and vegetable stores, drugstores, garden supply stores, barbershops, beauty parlors, clothes cleaning and laundry pick-up, self-service laundries, and the like.
 - (2) Offices. Business and professional.
 - (3) Eating and drinking places. Restaurants, liquor stores, soda fountains, ice cream parlors, not including entertainment or dancing, and not including drive-in restaurants.
 - (4) Automobile Services. Automobile service stations, minor repair, commercial storage garages, and automobile sales; provided that any portion of a building used for minor repair shall be located at least 50 feet from any R district and shall have no openings adjoining the R district, other than stationary windows and fire escapes; parking lots, subject to applicable requirements of Sections 43.33 and 43.44.
 - (5) Outdoor advertising. Display signs, billboards and other outdoor advertising signs and structures subject to the provisions of Section 43.43.
 - (6) Residential uses. Any use permitted in the residential district adjoining the B-1 district. If there are adjoining 2 or more different categories of residential districts, permitted uses of the least restrictive residential district shall prevail.
 - (7) Additional uses. Any other retail business service establishment determined by the board to be of the same general character as the above permitted uses, not including those which are first permitted or are not permitted in the B-2 district unless demonstrated as necessary for normal day to day needs. (08-17-59; 06-20-60).
 - (8) Motels, motor hotels and tourist homes.
 - (9) Brewpubs and Brew on Premises Stores.
 - (10) Residential Retreat Centers provided that all such uses shall be subject to Section 43.54.5 (b), (c), (e), and (g) of this chapter.
- (b) Conditional Uses. The following uses shall be permitted only if specifically authorized by the board in accordance with the provisions of this chapter and Section 22.21 of this code.
- (1) Generally. Any conditionally permitted use as regulated in the R-3 district, except as hereinafter provided.
 - (2) Drive-in restaurants. Drive-in eating and drinking places on numbered state and federal highways.
 - (3) Neighborhood theatre. Theatres with a seating capacity of less than 450 seats. (08-17-59; 11-20-67)
 - (4) Small animal hospitals, and clinic; provided, that the following conditions are met:

Site Location: The use shall be located on premises which front only on a street officially classified as an arterial on the official thoroughfare plan.

Building Setback: The building in which the use is located shall be at least 50 feet distant from any residential district.

Building Openings: Any building or room within a building in which animals are housed on an overnight basis shall not have openings other than stationary windows and required fire exits.

Soundproofing: The Board shall be satisfied that any building or room within a building in which the animals are housed on an overnight basis shall be adequately soundproofed to minimize problems of noise on adjoining properties.

Access to Building: Unless otherwise allowed by the Board, the entrance to the building shall be located on the side which faces the arterial street.

- (c) Accessory Uses: Accessory uses and structures as permitted and regulated in the R-3 district and any other accessory uses and structures customarily accessory and incidental to of any the foregoing permitted B-1 uses shall be permitted in the B-1 zone.

Exhibit D

**Andring – Use Provisions
of Requested R-2 Zoning**

43.57 R-2 ONE TO FOUR-FAMILY RESIDENCE DISTRICT.

(a) Permitted Uses. The following uses shall be permitted in the R-2 district:

- (1) Generally. All principal uses permitted and regulated in the R-1 district, except as hereinafter specified. **SEE ATTACHED FOR LISTING**
- (2) Residential. One, two, three and four-family dwellings; dwelling groups comprised of buildings, containing not more than four families in any one building, subject to the requirements of this article and the provisions of Section 43.45.
- (3) Conversion. Conversion of a dwelling into a two, three or four-family dwelling; provided, that these conform with the lot area frontage and yard requirements prescribed for such two, three and four-family dwellings in this article and with all other applicable requirements of this chapter.
- (4) Hospitals. Hospitals for human care, sanitariums, but not including those for the care of epileptics, drug addicts, feeble-minded, insane or contagious diseases; provided, that any lot or tract of land in such use shall be not less than 15,000 square feet in area and that any buildings in which patients are housed shall be at least 50 feet distant from any lot line. (08-17-59)

(b) Conditional Uses. The following conditional uses shall be permitted only if specifically authorized by the board in accordance with the provisions of this chapter and Section 22.21 of this code.

- (1) Generally. Any conditional permitted use as regulated in the R-1 district, except as hereinafter specified.
- (2) Residential. Community development projects in accordance with the provisions of this article and the requirements of Section 43.46.
- (3) Clubs. Clubs, fraternities, lodges and meeting places for other organizations, not including any use that is customarily conducted as a gainful business; provided, that buildings in which such uses are housed shall be located at least 20 feet from any lot in any R district.
- (4) Rest homes. Rest homes or nursing homes for convalescent patients, children's nurseries, and similar uses; provided, that any such home shall be distant not less than 20 feet from any other lot in any R district.
- (5) Hospitals. Any hospital for human care; provided, that any lot or tract of land in such a use shall be not less than 20,000 square feet in area and that buildings which are used for the treatment of contagious diseases, the care of epileptics, drug addicts, the feeble-minded or insane shall be at least 75 feet distant from any lot in any R district. (08-17-59)
- (6) Bed and Breakfast and Tourist Homes. Bed and Breakfast and Tourist homes offering not more than 5 guest rooms, provided, that the facility conforms with the provisions of Section 43.54.1.

(c) Accessory Uses. Accessory uses or structures permitted and as regulated in the R-1 district and any accessory use or structure customarily incident or accessory to a principal or conditional permitted use in the R-2 district.

43.56 R-1 ONE-FAMILY RESIDENCE DISTRICT.

(a) Permitted Uses. The following uses shall be permitted in the R-1 district:

(1) Generally. All principal uses permitted and as regulated in the R-S district, except as hereinafter specified.

SEE ATTACHED FOR LISTING

(2) Residential. One-family dwellings.

(3) Institutional and cultural. Municipal, county, state and federal administrative buildings, but not including warehouses, storage yards and similar facilities. (08-17-59)

(b) Conditional Uses. The following uses shall be permitted in the R-1 district only if specifically authorized by the board in accordance with the provisions of this chapter and Section 22.21 of this code.

(1) General. Any conditional permitted use as regulated in the R-S district, except as hereinafter specified.

(2) Residential. Two-family dwellings located on a lot adjoining or within 100 feet of a less restricted district or on a lot abutting and with access to a primary or secondary thoroughfare, as defined in this chapter.

(3) Hospitals. Hospitals for human care, sanitariums, religious and charitable institutions, but not including those for the care of epileptics, drug addicts, the feebleminded, insane or for contagious diseases; provided, that any lot or tract of land in such use shall be not less than 40,000 square feet in area and that any buildings in which patients are housed shall be at least 50 feet distant from any lot line. (08-17-59)

(4) Bed and Breakfast and Tourist Homes. Bed and Breakfast and Tourist Homes offering no more than three guest rooms; provided, that the facility conforms with the provisions of Section 43.54.1.

(c) Accessory Uses. Accessory uses or structures permitted and as regulated in the R-S district and any accessory use or structure customarily incident or accessory to a principal or conditional permitted use in the R-1 district, shall be permitted in the R-1 district.

43.55 RESIDENTIAL SUBURBAN (R-S) DISTRICT.

A. Permitted Uses. The following uses shall be permitted in the R-S District:

1. Generally, all principal uses permitted and as regulated in the R-R District except as herein after specified and provided further that agricultural uses, commercial nurseries and greenhouses shall not be permitted.

B. Conditional Uses. The following uses shall be permitted in the R-S District only if specifically authorized by the Board of Adjustment in accordance with the provisions of this chapter and Section 22.21 of this code:

1. Land alterations when not incidental to construction of a permitted use and subject to the requirements of Chapter 63;
2. Regional pipelines, power transmission lines over 35 KV relay, commercial radio, television and transmission towers subject to the requirements of Section 43.21.
3. Residential Retreat Centers provided that all such uses shall be subject to Section 43.54.5 of this chapter.
4. Bed and Breakfast and Tourist Homes offering not more than two guest rooms; provided, that the number of guest rooms may be increased to three if all are located within existing habitable floor space of the principal structure. All such facilities shall conform with the provisions of Section 43.54.1."

C. Accessory Uses. Accessory uses or structures permitted and as regulated in the R-R District and any accessory use or structure customarily incidental or accessory to a principal or conditional permitted use in the R-S District, shall be permitted in the R-S District; except that the raising or keeping of fowl or farm animals shall not be permitted

PLANNING COMMISSION

AGENDA ITEM: 4. Update: Air Quality Monitoring

PREPARED BY: Carlos Espinosa

DATE: October 28, 2013

Summary

Representatives from the MPCA will be in attendance to help answer questions about air monitoring. For reference, the previously provided letter from the agency is attached.

Staff has begun discussion about a potential location for the air monitoring equipment with agency representatives. The truck route from the interstate bridge and along Riverview Drive is being reviewed. This is the route which sees the most silica sand traffic in the City.

Staff has also forwarded air monitoring questions received from the public to agency representatives.

Attachments:

- MPCA response to questions



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

October 7, 2013

Mr. Carlos Espinosa
Assistant City Planner
City of Winona
207 Lafayette Street, P. O. Box 378
Winona, MN 55987

RE: Air Monitoring Questions from City of Winona Planning Commission

Dear Mr. Espinoza,

The Minnesota Pollution Control Agency (MPCA) is providing responses to questions submitted by the City of Winona's Planning Commission regarding air monitoring for crystalline silica and diesel emissions. With this letter, and through the state silica sand technical team, the MPCA is committed to assisting Winona to understand the air quality questions arising from the transport of silica sand through the city. If desired, the MPCA will also provide a representative to attend a future Planning Commission meeting.

Questions from the Winona Planning Commission:

The MPCA's response to each question is provided in italics.

1. How is the MPCA responding to state legislation in terms of air quality regulation? How does this apply to air quality monitoring?

The MPCA has not decided on the scope of its pending rule effort for silica sand operations in Minnesota. The 2013 legislation requires the MPCA to create rules for particulate matter controls at silica sand operations. The first step of the rulemaking process involves inviting public comment on the scope of a proposed rulemaking. The MPCA recently sought public comments on the potential scope of the rules, with the comment period closing on Monday, September 30 (for further information, see the public notice at <http://www.pca.state.mn.us/d6fpakf>). At this time, the MPCA has not determined if the rule will include requirements for air quality monitoring at silica sand operations. That decision will be made following consideration of the public comments.

The 2013 legislation also calls for the establishment of a state technical assistance team. The MPCA will make air monitoring technical assistance available through the state team to address questions from local units of government. The MPCA is also prepared to provide technical assistance regarding appropriate air monitoring in cities impacted by the growth of silica sand operations.

2. What other silica sand facilities in Minnesota are conducting air monitoring? What activities are occurring, how large are the facilities, what is being measured, and how was it decided that these facilities should conduct monitoring?

There are 3 silica sand facilities in Minnesota that are conducting, or will conduct, air quality monitoring. The following paragraphs provide details about the monitoring at each facility.

Great Plains Sand

The first site, Great Plains Sand, is comprised of a mine, wet and dry processing operations, and a rail loadout. The facility is conducting monitoring for Total Suspended Particulate and PM10. The facility is also performing a subsequent laboratory analysis for silica content of every-other PM10 sample. The facility asserts that they will mine, at maximum, 1.2 million tons per year of sandstone. The facility also asserts that they have 15-20 years of reserves. The facility agreed to conduct monitoring as an outcome of the environmental review process. Scott County imposed the monitoring requirements within the Interim Use Permit, as identified here:

<http://www.co.scott.mn.us/ParksLibraryEnv/Environment/EnvReview/Pages/Great-Plains-Sands-Mining-Interim-Permit.aspx>.

Tiller – North Branch

The second site, Tiller – North Branch, is comprised of dry processing operations and a rail loadout. The Tiller facility receives sand via truck. The facility is monitoring for PM10, PM2.5, and PM4. The facility is also performing a subsequent laboratory analysis for crystalline silica content of each PM4 sample. The facility's dryer is rated at 360 tons per hour, which is (at most) 3.15 million tons per year. The facility was required to monitor as a result of an enforcement action against the facility. The requirement to monitor is contained with MPCA's air permit.

Jordan Sands – Mankato

Jordan Sands is a proposed site that is expected to start construction in late 2013 / early 2014. The site is composed of a mine, wet and dry processing operations, and a rail loadout. This facility will receive some of its sand from the Jefferson Quarry, which is approximately two miles away from the processing and rail loadout site. Jordan Sands plans to produce approximately 500,000 – 600,000 tons per year of sand. The available reserves suggest the facility can operate for 15-20 years. Jordan Sands will be monitoring for Total Suspended Particulate (TSP), PM10, PM2.5, and PM4 with subsequent analysis of the PM4 samples for crystalline silica. The facility agreed to conduct monitoring as an outcome of the environmental review process. The MPCA imposed monitoring requirements within the air permit.

3. In terms of general air quality issues and monitoring (i.e. non silica sand): When is monitoring required? How often is data analyzed? What are estimated costs and who generally pays for it? Does monitoring occur along truck routes, and if so, how is it useful?

When monitoring is required:

In general, MPCA conducts or requires air monitoring in two situations:

- 1) To characterize the air pollution levels at locations throughout the state to develop an understanding of the types and levels of pollution across communities or regions, and
- 2) To follow up on concerns associated with a permitted emission sources, primarily as a result of a compliance issue.

Determining the best location for an air monitoring site will depend upon the objective of the monitoring study. The most common monitoring objective used by the MPCA is to measure air pollution concentrations that are representative of air quality across a community or region. Community or neighborhood scale monitoring results can be used to characterize air pollution levels across a broad area. These monitors are located in areas that are not directly impacted by distinct emission sources and they are sited to measure the cumulative impact of air pollution in a community or region, to characterize typical exposures to air pollution.

A less common objective of MPCA air monitoring, because of the maturity of modern pollution control rules and permit conditions, is to measure the concentrations of air pollution in an area near air pollution emission sources, which is typically at the property boundary of the emission source. The MPCA typically only monitors at the property boundary of a permitted emission source if there is a demonstrated case of noncompliance. However, in the case of silica sand operations, the MPCA is seeking upwind and downwind monitoring at property boundaries to ensure the operations do not create emissions that would be harmful to humans.

Frequency of Data Analysis

Ambient monitoring results are evaluated quarterly for quality assurance and made available for data analysis. Compliance with ambient air quality standards are assessed upon completion of monitoring for a full calendar year. Annual compliance results for the previous year are typically available by March or April of each year. In the case of analysis of crystalline silica concentrations, the standard calls for a year's worth of data for proper comparison to the health benchmark.

The MPCA does make some data available on hourly basis, through the Air Quality Index (AQI) system. This data is not intensely reviewed for quality assurance prior to posting through the AQI system, and the intent of the system is provide citizens with real-time data to understand the air quality conditions in their area.

Who pays for air monitoring?

For community and neighborhood air monitoring the MPCA pays for the entire cost of equipment, maintenance and operation, sample analysis and staffing. The MPCA receives federal grants to conduct air monitoring to characterize air quality for compliance with federal standards. The MPCA also receives state funding to supplement the air monitoring coverage in Minnesota for locations and air pollutants not covered by federal grants.

For air monitoring at an emission source, the cost is typically borne by the owner or operator of the facility.

4. Given recommendations of Winona's CEQC in support of air quality monitoring at existing silica sand facilities and along Winona's truck routes, what are the MPCA's suggestions on options moving forward? In particular, what are thoughts on the following:

A) At this time, is air quality monitoring for crystalline silica at Winona's silica sand facilities and PM 2.5 along truck routes recommended?

Until the MPCA better understands the particulate matter and crystalline silica emissions from silica sand operations, the MPCA will require the air monitoring of particulate matter and crystalline silica at the property boundaries of new operations that require an individual air permit. If the City of Winona chooses to require air monitoring at existing silica sand facilities in its jurisdiction, then the MPCA can provide technical assistance to establish a viable air monitoring plan for each facility.

While the MPCA does not believe that there are imminent air quality issues for PM2.5 or crystalline silica along Winona's truck routes, the MPCA is willing to partner with the City of Winona on a pilot project to monitor for PM2.5 and crystalline silica at one site in the city. The pilot would provide information to the MPCA and other cities regarding the potential for elevated levels of PM2.5 and crystalline silica along truck routes.

The MPCA would ask the City of Winona to identify a location for the air monitoring and will work closely with the city to find a site that meets the relevant regulations for air monitoring. The MPCA would also ask the city to provide on-the-ground assistance for the operation of the air monitors; more specifics will be provided if the city agrees to partner with the MPCA on this effort.

The MPCA will provide the air monitoring instruments, oversight of site operation, lab analysis, data reporting, quality assurance review and data analysis for the effort. The monitoring would be planned to run for a year with a decision to continue for a longer period of time dependent upon a review of the monitoring results.

B) If the answer to letter A) is yes, what should the regulations be and how should air quality monitoring be conducted (e.g. standards, locations, type of equipment, duration, etc)? What are estimated costs associated with this type of monitoring and what third party companies do this work? If air monitoring results are higher than regulations, what actions can be taken to reduce particulates?

The MPCA will conduct the air monitoring consistent with our standard air monitoring efforts, which comply with federal rules. Through the proposed monitoring pilot project, the MPCA will provide a generalized air monitoring plan for use the state technical team.

The cost of air monitoring depends greatly upon the type of monitoring being conducted, the frequency of sample collection for crystalline silica and the requirements for site preparation or construction. The MPCA estimates that the equipment and lab analysis costs of the proposal described above is \$60,000; this estimate does not include staffing costs or any site preparation costs.

Mr. Carlos Espinosa
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The MPCA is aware of small number of environmental consultants that have conducted air monitoring in Minnesota. If the city chooses to employ a contractor for this type of work, the MPCA recommends the city investigate numerous environmental consultants to consider cost and qualifications. The MPCA can provide technical assistance to the city on reviewing an air monitoring plan proposed by an environmental consultant.

The corrective actions available if air monitoring results are above standards or health benchmarks depend significantly upon the objective of the monitor. If the monitor is on the property boundary of a silica sand operation, then fugitive dust controls and process emission controls should be instituted to minimize emissions. If the monitor is along the truck routes, then a more comprehensive analysis of the data and the potential emission sources, including the site's meteorological data, would be conducted to determine the most effective measures to reduce air pollution levels.

C) If the answer to letter A) is no, what other courses of action are recommended to protect public health?

Regardless of a decision to conduct air quality monitoring, there are actions available to minimize the possibility of exposure to crystalline silica or diesel emissions along truck routes in the city. The city could take actions to ensure that trucks carrying silica sand through the city cover their loads to minimize the potential releases during transport. To minimize diesel emissions, the city can consider adopting an anti-idling ordinance as well consider requirements for the use of Clean Diesel trucks (manufactured after 2007) or trucks with diesel engines retrofitted with pollution controls.

If you have any further questions regarding this letter, or would like to discuss an amenable time for and MPCA representative to meet with the Planning Commission, please contact me at frank.kohlasch@state.mn.us or 651-757-2500.

Sincerely,



Frank L. Kohlasch, Manager
Air Assessment Section
Environmental Analysis and Outcomes Division

FK:flk

cc: David Thornton, MPCA Assistant Commissioner
Will Seuffert, Minnesota Environmental Quality Board Executive Director
Shannon Lotthammer, MPCA
Wendy Turri, MPCA Rochester Regional Office
Rick Strassman, MPCA
Jeff Hedman, MPCA