



CITY HALL
207 Lafayette Street
P.O. Box 378
Winona, MN 55987-0378
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December 5, 2012

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, December 10, 2012, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. Call to Order
2. Minutes – November 26, 2012
3. Public Hearing – Sand Moratorium Action Items
4. Public Hearing – Final Plat-Kolter Subdivision
5. Other Business
6. Adjournment

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos Espinosa".

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION MINUTES

DATE: November 26, 2012

TIME: 4:30 p.m.

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

ABSENT: Commissioner Olson

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

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

Approval of Minutes – October 22, 2012

The minutes from the Commission's meeting of October 22, 2012 were reviewed, and upon motion and second a second were unanimously approved as submitted.

Sand Moratorium Study: Draft Final Report

Chairman Porter noted that prior to discussing this item; he would call for public comments from the City Blasting Committee. Given that there were no comments from this Committee, he next asked if a representative of the Frac Sand Industry wished to provide comment this afternoon. There being none, he then called for comments from a representative of CASM. Marie Kovesci noted that although the Commission is expected to complete its recommendations of proposed ordinance amendments this afternoon, she encouraged the Commission to ask if amendments proposed, thus far, do enough to control frac sand industry impacts. Although the City has recently experienced a lull in industry activity, she emphasized that it has not gone away and that the City, through its Planning Commission and City Council, have an opportunity to anticipate what the future of the industry is going to be. She expressed concern that this vision had not been fully defined.

In summarizing the state of the current frac sand industry within the City, she noted that one mine and a number of processing sites exist. Given these facilities, traffic impacts of commercial vehicles flowing to and from them will be significant. Generally, such impacts will include increased emissions, noise, and conflicts with private and commercial travel. Although some of these impacts will be addressed through traffic impact analyses, proposed ordinance language would not require such an analysis until such time that trucks generated from a site totaled greater than 200 vehicle trucks per day. Here, she encouraged the Commission to revisit this standard and to consider adoption of no threshold, regardless of proposed traffic generated.

Ms. Kovesci stated that CASM continues to have concerns with air quality questions and does not feel that this issue had been fully studied. Again, CASM was strongly encouraging the implementation of monitoring systems that would define air quality baselines and define changes to these as the state of the frac sand industry changes within the City. Additionally, although CASM understood that current ordinance proposals would require moisture content measurements of sand that is processed,

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stored, and shipped from the City, this standard would not go far enough in addressing fugitive dust problems from access roads and streets entering and exiting processing and shipping facilities. She encouraged the Commission to reevaluate this issue.

Ms. Kovesci stated that although an effort has been made to tie the sand industry with positive community economic impacts, CASM does not feel that these impacts outweigh potential industry negative impacts. Additionally, positive economic impacts have not been fully documented.

In concluding, Ms. Kovesci noted that she had appreciated the opportunity to work with the Commission throughout this effort but felt that there are a number of unanswered questions that need to be resolved prior to moving forward with the Commission's current proposal.

Chairperson Porter then called for comments from the general public.

Jane Cowgill, 317 Walnut Street, stated that in a recent visit to New York City, she had been asked what Winona Minnesota was like. In addition to the City's physical setting, her response included certain arts events like the Shakespeare and Beethoven Festivals. In consideration of these, the infusion of a significant sand industry presents could have negative impacts that compromise everything positive that Winona is known for. She encouraged the Commission to consider present quality of life issues, in its development and implementation of regulatory standards.

Chairman Porter then called on Carlos Espinosa, Assistant City Planner, to provide a summary of this afternoon's sand moratorium discussion. Mr. Espinosa stated that the agenda item is generally the same as that presented during the Commission's meeting of October 22nd with slight modifications referencing City bluff ordinance regulations. Given these, he was requesting that the Commission initiate hearing processes for 4 action items that are summarized in the agenda package. These items include:

1. Proposed Mining Ordinance Amendments. Mr. Espinosa explained that many of these amendments mirror those regulations that have been adopted by Winona County for its silica sand mines. As opposed to the County model, air quality monitoring would be replaced by moisture testing. Additionally, the ordinance would place no limits on the number of trucks and traffic impact analyses are only required for operations generating 200 or more truck trips per day. He noted that this standard was in alignment with Commission decisions regarding traffic impact analyses.
2. Action Item 2 would serve to modify performance standard provisions of City Code by promoting a minimal moisture level standard of 1.5% for sand that is being handled or stored during processing/shipping. Mr. Espinosa emphasized that a substitute for moisture testing would be air quality monitoring as completed in accordance with MPCA and other State regulatory standards. He further noted that the 1.5% standard was in line with MPCA recommendations.

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3. Under Action Item 3, Mr. Espinosa noted that all processing equipment and stockpiles would be required to be located a minimum of 200' from a residential property. Here, he emphasized that the 200' buffer would apply between the sand processing facility and the nearest residential use.
4. Finally, Action Item 4 would promote regulations pertaining to Transportation Impact Analysis and Road Use Agreements. In part, this new language would provide a definition for heavy commercial vehicles, defined as trucks with gross vehicle weight between 26,000 and 33,000 lbs. Amendments would also define the scope of a Transportation Impact Analysis as being a street located between the truck generating operation and the nearest truck route. Finally, a Transportation Impact Analysis and Road Use Agreement may apply to any development subject to a Conditional Use Permit or site plan application.

At this point, general discussion ensued and Mr. Espinosa suggested that the Commission act on each action item independently.

Following brief discussion, it moved by Commissioner Boettcher and seconded by Commissioner Gromek to recommend that the Commission establish a public hearing to consider proposed ordinance amendments to the City's mining ordinance, as reflected in the proposed Action Item 1. When the question was called, the vote of the Commission was as follows: ayes: Commissioners Boettcher, Gromek, Ballard, Davis, Porter; nays: Commissioner Buelow; abstaining: none.

Chairman Porter declared the motion adopted. At this point, he called for a motion on action item #2.

It was then moved by Commissioner Boettcher and seconded by Commissioner Gromek to recommend that the Planning Commission initiate the hearing process pertaining to action item #2, relating to the proposed moisture testing ordinance amendment. During discussion, Commissioner Buelow stated that he has remaining concerns that the sample testing procedures proposed were not frequent enough. Given procedures of the staff report, testing would be conducted once weekly when operating. If three consecutively weekly tests at a single location show moisture contents greater than or equal to 1%, weekly testing is no longer required until the source of sand changes. The City may still conduct random test of moisture content. Again, Commissioner Buelow stated that his primary concern here related to the test timing factor.

When the question was called, the vote of the Commission was unanimous to approve the motion.

Chairman Porter then called for a motion on action item #3 regarding the imposition of a 200' buffer between sand processing facilities and a residential land use. It was moved by Commissioner Boettcher and seconded by Commissioner Gromek to recommend that the Commission initiate the hearing process needed to consider action item #3, as

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reflected in the staff report. When the question was called, the vote of the Commission was unanimous to approve the motion.

At this point, Chairman Porter called on the Commission to provide a motion pertaining to action item #4, pertaining to the establishment of a Transportation Impact Analysis and Road Use Agreement.

It was then moved by Commissioner Boettcher and seconded by Commissioner Gromek to recommend that the Planning Commission initiate the hearing process needed to consider proposed amendments to the Zoning Ordinance requiring Transportation Impact Analyses and Road Use Agreements. Upon discussion of the motion, Commissioner Buelow stated that he felt the scope of Transportation Impact Analyses and Road Use Agreements should be applied to all truck routes between a truck generating facility and City limits. As currently presented, the scope of such studies would apply only between the truck generator and the nearest truck route. Here, Commissioner Buelow suggested that the City adopt something similar to what the County had adopted relative to traffic.

In response to a question from Commissioner Davis, Mr. Espinosa stated that truck routes will generally not change as a result of the updated bridge project. However, given plans that staff has reviewed; it was obvious that every intent is being made to promote a better transition at the Winona Fourth Street intersection than presently exists.

Commissioner Gromek provided his rationale for initially proposing the 200 truck trip limit.

When the question was called, the vote of the Commission was as follows: ayes: Commissioner Boettcher, Gromek, Ballard, Davis, Porter; naves: Commissioner Buelow; abstaining: none.

Chairman Porter then called for other business. It was noted that the Commission's next meeting would be held on December 10th at which time hearings pertaining to the 4 action items that had been reviewed this afternoon would be formally considered.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.

Mark Moeller
City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Public Hearing: Sand Moratorium Action Items

PREPARED BY: Carlos Espinosa

DATE: December 10, 2012

Summary

The sand moratorium final report is essentially the same as what Commissioners reviewed at two previous meetings. As a result, only the action items pertaining to the frac sand moratorium are attached to this agenda item. The following options are available to the Commission for each of the four action items:

- 1) Recommend approval of the item
- 2) Modify the item
- 3) Deny the item
- 4) Table a decision on the item and allow staff to answer any further questions

A full copy of the final sand moratorium report is available at:

<http://www.cityofwinona-mn.com/page/3334/article/10410>

Attachments:

- A) Action Item 1: Mining Ordinance Amendments
- B) Action Item 2: Moisture Testing Ordinance Amendment
- C) Action Item 3: Existing Sand CUP Ordinance Amendment
- D) Action Item 4: Transportation and Road Wear Ordinance Amendments

Action Item #1

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Paragraph C of Section 43.65.1 of the City Code of Winona, Minnesota, 1979, be amended as follows:

2. Extraction Pits: provided that ~~any power driven or power producing machinery or equipment shall not be operated within 1,000 feet of an R-District~~ no part of an extraction operation be located within 1,000 feet of a residential district and subject to the provisions of Section 43.48.

Section 2. That Article XII of the City Code of Winona, Minnesota, 1979, which Article addresses "Extraction Pits" be amended as follows:

43.48 EXTRACTION PITS.

- (a) General Requirements. Unless otherwise provided, the Board of Adjustment shall grant a conditional use permit for all such uses in accordance with Section 22.21, Section 43.30, the underlying zoning district, and the following conditions:
 - (1) No part of an extraction operation shall be carried on conducted closer than 500 feet to any residential or commercial structure. No extraction operation or any stock pile shall be placed closer than 50 feet to any property line, unless a greater distance is specified by the Board where such is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to 25 feet by written consent of the owner of the abutting property.
 - (2) No excavation shall occur within 200 feet of a top of bluff as defined in Article XVII Bluffland Protection.
 - (3) In the event that the site of the extraction operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 30 feet to the nearest line of such right-of-way.

- (4) Fencing shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Board, such fencing is necessary for the protection of the public safety, and shall be of a type and height specified by the Board.
- (5) All equipment and machinery shall be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads shall be maintained in dust-free condition by surfacing or other treatment, as may be specified by the Board, following consultation with the City Engineer.
- (6) ~~The crushing, washing, and refining~~ or other similar processing may be authorized by the Board as an accessory use; provided that such accessory processing shall not be in conflict with the land use regulations of the district in which the operation is located.
- (7) ~~Unless otherwise permitted by the Board, all operations which are located within 500 feet of any residential district shall be conducted between the hours of 6:00 a.m. and 9:00 p.m.~~ Hours of operation for all mines shall be 6:00 a.m. to 10:00 p.m.
- (8) All local, state or federal laws applicable to the specific extraction activity and subsequent rehabilitation must be met.
- (9) **Water Quality Monitoring.** The mine operator/owner shall install groundwater monitoring wells adjacent to the proposed mine site where the site is adjacent to residential plats or suburban development, springs, sinkholes and/or wellhead protection areas or community wells and shall provide the City with groundwater testing by an independent environmental engineer, approved by the City, at the time of commencement of disturbance activities and twice per year until 1 year after the mine has been completely reclaimed.
- (10) **Phase 1 Archeological Study.** Any land disturbance activity (e.g. excavation, construction, alteration of existing vegetation) within 1000 feet of a top of bluff as defined in Article XVII shall complete a Phase 1 Archeological Study. The study shall be prepared by a qualified professional, as defined by MS 138.31, subd. 10, or who is listed on the Minnesota State Historic Preservation Office Archeological Contractors list, and in accordance with protocols of the State Historic Preservation Office document entitled "SHPO Manual for Archeological Projects in Minnesota", July, 2005, or as amended. The scope of the study shall include all land located within 150 feet from the limits of any proposed land disturbance

activity, or at the applicant's property line, whichever is less. The study shall follow the process detailed in Article XVII.

- (11) **Prohibited Activities.** Blasting and crushing shall not be permitted at the mine site, except by specific Board of Adjustment approval with specified time limits, mitigation of airborne particulate, and in compliance with Chapter 63. Applicants intending on blasting must submit detailed information as to the frequency, duration, schedule and vibration standard/thresholds for review and approval by the Board of Adjustment.
- (12) **Project Manager/ Contact Person Required.** Owner/applicant shall at all times have an agent whose name, fax number, telephone number/cellular number and email address are on file with the City in order to respond promptly to concerns. The agent's name and contact information shall be available on site on a 2' x 3' placard or sign at the site entrance.
- (13) **Contact with Other Jurisdictions.** Mines with property and/or entrances/exits in other jurisdictions shall obtain appropriate permits from such jurisdictions and provide the permits to the City of Winona.
- (14) **Access Permit.** Owner/applicant shall obtain an access permit from the road jurisdiction where mine traffic enters or exits. Such permit shall be placed on file with the City.
- (15) **Tracking Pad Required.** The owner/applicant shall be responsible for asphalt paving the approach to adjacent roads for a minimum distance of 40 feet.
- (16) **Reporting Vehicle Weights.** Owner/Applicant shall be required to identify a method of positive controls regarding the weight of vehicles leaving the mine and method to insure vehicles do not exceed the weight limits of the roads and bridges upon which they will travel, and obtain approval by the City Engineer on the methods and frequency of inspection used. Controls such as scales and regular reporting on vehicle weights shall be implemented with weekly reporting to the City Engineer.
- (17) **Street Maintenance and Sweeping Required.** Owner/applicant shall be responsible for monitoring roadways and roadway sweeping as necessary to maintain safe conditions. All transportation routes used by the mine shall not have any accumulation of visible debris or sand from the mine site. The

owner/applicant shall take all necessary precautions to avoid spillage on roadways.

- (18) **Requirement for Secure Loads.** No vehicle shall be driven or moved on any roadway unless such vehicle has the load securely covered as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from vehicles.
- (19) **Transportation Impact Analysis.** Owner/applicant shall be responsible for the preparation of a traffic study in accordance with Article XVIII "Transportation Impact Analyses and Road Use Agreements" for operations generating 200 or more heavy commercial vehicle (over 33,000 lbs.) trips per day at maximum operating capacity. This threshold shall not prevent the City Engineer from requiring analyses for projects where heavy commercial vehicles from the operation would contribute more than 20% of the traffic on any road used to reach a truck route for which residential property makes up more than 50% of the street frontage.
- (20) **Road Use Agreement.** A road use agreement shall be required in accordance with Section 43.91 for projects subject to a Transportation Impact Analysis.
- (21) **Reclamation Plan Required.** A complete and detailed reclamation plan shall accompany all applications which meets or exceeds the requirements of paragraph (e) of this section.
- (22) **Subterranean Engineering Analysis Required.** Owner/applicant shall submit an analysis prepared by a qualified independent engineering firm of the existing geologic conditions both in the extraction area and sub-extraction area and the impacts of the mining operations, including the applicability of the reclamation plan including any potential adverse effect on area hydrology, springs or Karst formations. The City reserves the right to have this data reviewed by state geologists/hydrologists and/or SWCD staff.
- (23) **Performance Guarantees Required.** Performance bonds shall be required for the following:
- 110% of the estimated cost of reclamation for a period equal to the life of the quarry plus 2 years. Performance bonds for reclamation may only cover the areas of disturbance for the duration of mining activity and may 'roll' with disturbance activity accordingly in order to minimize financial burden on the applicant.
 - A performance surety shall be provided in the amount of \$1,000 per acre for the total proposed site disturbance. The

surety shall be used to reimburse the City for any monies, labor, or material expended to bring the operation into compliance with the conditions of the permit.

- (24) **An EAW or EIS May be Required.** Discretionary environmental review can be initiated by the Planning Commission and City Council upon review of a discretionary EAW checklist on file in the office of the City Planner. If ordered, the owner/applicant shall provide an Environmental Assessment Worksheet for the proposed site in accordance with standards determined by the City of Winona.

(b) Performance Standards. Extraction uses shall also comply with the following performance standards:

- (1) Water Resources: The extraction pit or land alteration operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operation. The work done shall not adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the mining district shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site.
- (2) Access Roads: The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance or public road in view so that any turns onto the public road can be completed with a margin of safety.
- (3) Appearance: All buildings, structures and plants used for the production of processing of sand and gravel shall be maintained in such a manner as is practical and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dangerously dilapidated.
- (4) Topsoil Management:
 - i. Removal: Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.
 - ii. Volume: The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material

as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

iii. Storage: Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(5) Driveway/Access to the commercial/industrial site shall not be located within twenty-five (25) feet of adjacent property boundaries.

~~(b)~~(c) Financial Ability of Applicant. In accepting such plan for review, the Board must be satisfied that the proponents are financially able to carry out the proposed extraction and rehabilitation operation in accordance with the plans and specifications submitted.

~~(e)~~(d) Application. An application for such operation shall set forth the following information:

(1) The name of the owner of the land from which removal is to be made.

(2) The name of the applicant making request for such a permit.

(3) The name of the person or corporation conducting the actual removal operation.

(4) A legal property description and acreage of the area to be mined.

~~(4)~~(5) A map showing contours at two foot intervals, the location, and the size of the area from which the removal is to be made. Existing land use/zoning within 300 feet of the removal site and the location of any buildings and processing equipment to be used in the activity. Maps of the entire site and all areas within one thousand (1,000) feet of the site. Such maps shall show land use, zoning, bluffland, and shoreland information. In addition, the maps described below shall be provided for the entire site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below.

Map/Document A - Existing conditions to include:

- i. Contour lines at five (5) foot intervals.
- ii. Existing vegetation.
- iii. Existing drainage & permanent water areas.
- iv. Existing structures.
- v. Existing wells.

Map/Document B – Proposed operations to include:

- i. Structures to be erected.
- ii. Location of sites to be excavated showing depth of proposed excavation.
- iii. Location of excavated deposits showing maximum height of deposits.
- iv. Location of storage of excavated materials, showing the height of storage deposits.
- v. Location of vehicle parking.
- vi. Location of storage of explosives.
- vii. Erosion and sediment control structures.

Map/Document C – Reclamation Plan to include:

- i. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
- ii. Location and non-invasive species of vegetation to be replanted.
- iii. Location and nature of any structures to be erected in relation the end use plan.
- iv. Stipulations and standards of paragraph (e) below.

~~(5)~~(6) The type of resources or materials to be removed.

~~(6)~~(7) The proposed method of removal and whether or not the use of explosives will be required.

~~(7)~~(8) A description of all equipment to be used.

~~(8)~~ A plan showing the method and timing of rehabilitation and reclamation of the extraction site.

(9) Hours of operation.

(10) A soil erosion and sediment control plan.

(11) A plan for dust and noise control.

- (12) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.
- (13) Responses to stipulations of paragraphs (a), (b), and (e) of this section.
- (14) Any other information requested by the Board of Adjustment.

~~(d)~~(e) Rehabilitation-Reclamation. To guarantee the restoration, rehabilitation, and reclamation of extraction sites, every applicant granted a permit shall furnish a performance bond running to the City in an amount of \$25,000, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall, within a reasonable time and to the satisfaction of the Board, meet the following minimum requirements: Reclamation shall be complete within one (1) calendar year after the operation ceases. A performance bond shall be required for 110% of the estimated cost of reclamation for a period equal to the life of the quarry plus 2 years. Performance bonds for reclamation may only cover the areas of disturbance for the duration of mining activity and may 'roll' with disturbance activity accordingly in order to minimize financial burden on the applicant. The plan shall specify a systematic approach to land reclamation for the mining site, including phases and schedule for reclamation. The City reserves the right to review the conditional use permit annually to enforce compliance.

Reclamation plans for sand mining sites shall include a land use/cover plan equal to the actual land use/cover types previous to mining operations. Areas intended for post-mining agricultural uses must include approval by SWCD for best management practices.

Inactivity at the mine site shall require reclamation in accordance with the terms of an NPDES permit. The NPDES permit shall be placed on file with the City of Winona before extraction/mining operations commence. Inactivity shall be defined as when an operator of a surface mining operation has curtailed production at the site/operation with the intent to resume at a date more than one year in the future.

Within a period of three (3) months after the termination of an operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a permit, all buildings, structures and plans incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.

The following standards shall apply to the reclamation plan:

- (1) ~~All excavation shall be made either to a water producing depth~~
When the post-mining land use includes a body of water, such all excavation shall be made to a water producing depth depth to be not less than 5 feet below the bow watermark. A slope no steeper than 3:1 shall be created to allow for a safe exit. or shall be

Excavation may also be graded or backfilled with non-noxious, nonflammable and noncombustible solids, to secure (a) that the excavated area shall not collect and permit to remain therein stagnant water or (b) that the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the extraction pit site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

- (2) Topsoil Redistribution for Reclamation: Topsoil or topsoil substitute material shall be redistributed in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

- ~~(2)~~(3) Vegetation shall be restored by appropriate seeding of grasses or planting of shrubs or trees in all parts of such extraction area where such area is not to be submerged under water.

- ~~(3)~~ The banks of all excavations not backfilled shall be sloped to the water line at a slope which shall not be less than three feet horizontal to one foot vertical and such bank shall be seeded.

- (4) Assessing Completion of Successful Reclamation:

- i. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan. Criteria to evaluate reclamation success shall be quantifiable.

- ii. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
 - a. On-site inspections by the City of Winona or its agent;
 - b. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the criteria in the reclamation plan have been met; or
 - c. A combination of inspections and reports. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre- mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
- iii. Re-vegetation success may be determined by:
 - a. Comparison to an appropriate reference area;
 - b. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - c. Comparison to an approved alternate technical standard.
- iv. Re-vegetation using a variety of plants indigenous to the area is encouraged.

(5) Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution.

~~(4)~~(6) In addition to the foregoing, the Board may impose such other conditions, requirements, or limitations concerning the nature, extent of the use, and operation of the extraction pit as the Board may deem necessary for the protection of adjacent properties and the public interest. The conditions shall be determined by the Board prior to issuance of the conditional use permit.

Section 2. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

Action Item #2

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Section 43.33 (e) of Article IV of the City Code of Winona, Minnesota, 1979, which article is entitled "Performance Standards" be amended as follows:

- (7) Fly ash, dust, fumes, vapors, gases, and other forms of air pollution. No emission shall be permitted which can cause any damage to health, to animals, vegetation or other forms of property, or which can cause any excessive soiling, at any point; and in no event any emission, from any chimney or otherwise, of any solid or liquid particles in concentrations exceeding 3/10 grains per cubic foot of the conveying gas at any point. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air. All activities shall comply with applicable state law, rules and local ordinances for dust and Particulate Matter generation, and any stockpiles (including sand and dirt) which product windblown dust shall be covered. A fugitive dust control plan may be required detailing dust control measures both on-site and off-site. Moisture testing of sand or other materials with the potential to produce Particulate Matter emissions may be required to ensure that moisture levels are above 1.5%. A substitute for moisture testing is air quality monitoring completed in correspondence with the MPCA and according to applicable state regulations.

Section 2. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

Action Item #3

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Section 43.63 (b)(39) of Article XIV of the City Code of Winona, Minnesota, 1979, which is entitled "M-2 General Manufacturing District" be amended as follows and re-lettered accordingly:

- e. Setback. All structures housing processing equipment and stockpiles shall be located a minimum of 200' from a residential property.

Section 2. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

Action Item #4

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Section 43.01 of Chapter 43 of the City Code of Winona, Minnesota, 1979, which Section sets forth “Definitions” of the Zoning Chapter, be amended as follows:

43.01 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Heavy Commercial Vehicle: Any vehicle with a gross vehicle weight rating over 33,000 pounds.

Road Use Agreement: An agreement between a developer or property owner and a road authority identifying the road improvements, road impacts, and impact mitigation and remediation measures necessary to preserve the condition of road infrastructure and to make such improvements as may be necessary to handle the volume, weight, size, turning radius, and other attributes of the truck traffic generated by a land use.

Section 2. That Chapter 43 of said Code, which Chapter is entitled “Zoning”, be amended by adding thereto the following Article:

ARTICLE IX. TRANSPORTATION IMPACT ANALYSES AND ROAD USE

AGREEMENTS

43.88 PURPOSE.

- (a) Purpose and Intent: The intent of this article is to provide the information necessary to allow decision-makers to assess the transportation implications of traffic associated with a proposed development in relation to safety, the existing and proposed capacity and condition of the street system, congestion, and the quality of life of neighboring residents. This article establishes requirements for the analysis and evaluation of

transportation impacts associated with proposed developments. Traffic studies should identify what improvements, if any, are needed to:

- (1) Ensure safe ingress to and egress from a site;
- (2) Maintain adequate street capacity on public streets serving the development;
- (3) Ensure safe and reasonable traffic operating conditions on streets and at intersections;
- (4) Avoid creation of or mitigate existing hazardous traffic conditions;
- (5) Minimize the impact of non-residential traffic on residential uses in the vicinity; and
- (6) Protect the public investment in the existing street system.

43.89 GENERAL PROVISIONS

- (a) When Required: A Transportation Impact Analysis and Road Use Agreement shall be required for any development subject to a site plan or CUP after 1/1/2013 which will generate 200 or more heavy commercial vehicle trips per day at maximum daily operating capacity. This threshold shall not prevent the City Engineer from requiring analyses for projects where heavy truck commercial vehicles from the operation would contribute more than 20% of the traffic on any local street for which residential property makes up more than 50% of the street frontage.
- (b) Jurisdiction: The City Engineer shall have the final authority for determining the need and adequacy of Transportation Impact Analyses and Road Use Agreements. The City Engineer may waive the requirement for a Transportation Impact Analysis and/or Road Use Agreement.
- (c) Applicability: A Transportation Impact Analysis shall apply to roads used for transporting materials in heavy commercial vehicles, extending from the site access to a truck route unless waived by the City Engineer.
- (d) Application: No development application subject to a Transportation Impact Analysis or Road Use Agreement shall be considered complete unless accompanied by an appropriate traffic study except if a waiver has been granted.
- (e) Findings: A Transportation Impact Analysis shall find the following:
 - (1) The traffic generated by the proposed use can be safely accommodated on proposed haul routes and will not need to be upgraded or improved in order to handle the additional traffic generated by the use; or

- (2) A Road Use Agreement is recommended specifying responsibility for improving and maintaining roads including remediation of damaged roads and specification of designated haul routes.

43.90 TRANSPORTATION IMPACT ANALYSES

- (a) Contents: A Transportation Impact Analysis shall contain the following information at a minimum:
 - (1) An analysis of existing traffic on road segments and intersections from site access to a truck route.
 - (2) Traffic forecasts for road segments and intersections from site access to a truck route. Such forecasts shall be based on the maximum trips per day.
 - (3) An analysis of the impact of the proposed development on residential streets in the vicinity of the site to identify any potential adverse effects of the proposed development and mitigation measures to address any impacts. Examples of possible effects include, but are not limited to, non-residential traffic impacts on residential neighborhoods, schools, pedestrian and bicyclist safety hazards (especially at points where haul routes intersect with facilities having high levels of pedestrian or bicycle traffic), traffic noise, or turning movement conflicts with other driveways or local access roads.
 - (4) An analysis of level of service for intersections from site access to a truck route.
 - (5) An analysis of intersection sight distances.
 - (6) An analysis of the road's structural ability to handle trucks extending from site access to a truck route. Such analysis shall include an analysis of existing and projected cumulative equivalent single axle loads (ESALs) using the Minnesota Local Road Research Board (LRRB) Pavement Impacts of Large Traffic Generators methodology. A structural analysis shall also be completed for any bridge or culvert along a public road used for a haul or access route if identified as at risk for structural failure due to increased ESAL loadings from the proposed use.
 - (7) A finding that traffic impacts can either be handled by the roads studied or:

- i. A list of infrastructure improvements needed to bring the route up to commonly accepted engineering design standards and access management criteria, and/or
- ii. A list of roadbed, ride surface, or drainage improvements that are needed to increase the structural stability of roads and any substructure, superstructure or deck improvements needed to increase the structural stability of bridges and culverts.

43.91 ROAD USE AGREEMENTS

- (a) A Road Use Agreement shall be prepared for developments subject to a Transportation Impact Analysis at the discretion of the City Engineer. Such agreement shall be developed in response to the findings of a Transportation Impact Analysis. The agreement may address, but is not limited to, any of the following road infrastructure matters:
 - (1) Responsibility for upgrading
 - a. Pavement sections, bridges, and culverts structural condition
 - b. Intersection signals and signage
 - c. Geometric design, including entrances, intersections, railroad and pedestrian/bicycle facility crossings, geometric design of bridges and culverts, and typical road cross-sections;
 - (2) Responsibility for exceptional maintenance attributable to the use, estimated based on Minnesota Local Road Research Board (LRRB) Pavement Impacts of Large Traffic Generators methodology;
 - (3) Responsibility for clean-up of spillage and public road dust control along haul routes;
 - (4) Establishment of financial accounts to address costs associated with upgrading and exceptional maintenance costs;
 - (5) Delineation of a haul route between site access and a truck route;
 - (6) Schedules of operation and hauling, including construction operations;
 - (7) Methods to verify and report type, number, and weight of truck loads;
 - (8) Emergency conditions creating a need for immediate road repairs or road closing;

(9) Required insurance; and

(10) Remedies and enforcement measures.

Section 3. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

PLANNING COMMISSION

AGENDA ITEM: 4. Public Hearing – Final Plat – Kolter Subdivision

PREPARED BY: Carlos Espinosa

DATE: December 10, 2012

BASE DATA

Petitioner:	Westfield Golf Club, Inc.
Location:	Northerly side of Westfield Golf Club property at 1460 West Fifth Street.
Existing Zoning:	M-2 (General Manufacturing) and R-1 (One-family Residential District - Portion)
Area:	4.65 acres
Lot Area Requirements:	None
Lot Frontage Requirements:	None
Yard Setback Requirement:	N/A
Proposed Number of Lots:	One
Proposed Lot Frontage:	N/A

DISCUSSION

This subdivision relates to Westfield Golf Club's sale of a 4.65 acre portion of land. In addition to establishing a new piece of property, the subdivision (plat) also dedicates portions of land to the City for park and street right-of-way purposes (see Attachment E). Development on the platted property is a potential rail spur serving the industrial property at 25 McConnon Drive. Importantly, this plat request is a procedural requirement for the sale of land. Additional approvals related to the final use of this parcel will occur outside of the subdivision process.

One such approval for this plat is delineation and replacement/banking for any alterations to the wetlands on-site. The applicant has completed delineation of wetlands and is in the process of replacement or banking. Such replacement or banking must be approved by the state Board of Soil and Water Resources (BWSR). All approvals must be secured prior to site disturbance.

Another approval relates to zoning. Potential expansion of the rail spur through the north end of the plat would require a variance to Section 43.63 (a) (4) of the zoning

PLANNING COMMISSION

4. PUBLIC HEARING – FINAL PLAT – KOLTER SUBDIVISION

DECEMBER 10, 2012

PAGE 2

code – which requires any part of a railroad yard or freight station be located at least 200 feet from residentially zoned property (see Attachment D). Such a variance request would be processed by the Board of Adjustment outside of this subdivision.

Development of the property for industrial or commercial uses (other than the potential rail spur) is limited by zoning regulations. In particular, access to the site from Fairfax would require traveling across a small residentially zoned area which is prohibited in code. Additionally, required structure setbacks in the M-2 zoning district and required setbacks for commercial/industrial uses (from residentially zoned property) further restrict the use of the property.

OTHER AGENCIES

The City Engineer is comfortable with this proposal. The applicant has been in communication with BWSR regarding wetlands.

RECOMMENDATION

Given the previous, the proposed plat is consistent with City zoning and subdivision ordinances.

Approval of the plat as submitted is recommended.

Attachments:

- A) Reference Map
- B) Final Plat Copy
- C) Final Plan Copy (Close-up)
- D) Zoning
- E) Park and Street Right-of-Way Dedication



Kolter Subdivision



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.

"A"

November 2012



KOLTER SUBDIVISION

SUBDIVISION OF PLAT OF SUB-DIV. OF SECTION 21 TOWNSHIP 107 NORTH RANGE 7 WEST SECOND PLAT OF SUB-DIV. OF SECT. 20, TOWN. 107 R.7 WEST

NW 1/4, NW 1/4

DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS: That Westfield Golf Club, Inc., a Minnesota corporation, owner of the following described property:

That part of the East Half of the Northeast Quarter of Section 20 and that part of the Southwest Quarter of the Northwest Quarter of Section 21, all in Township 107, Range 7, Winona County, Minnesota, described as follows:

Commencing at the northeast corner of said Section 20; thence South 00 degrees 23 minutes 48 seconds West, along the east line of the Northeast Quarter of said Section 20, a distance of 1333.12 feet to a point marked by an iron pipe monument in the northern line of the property described in Document No. 356634; thence South 75 degrees 22 minutes 27 seconds East, along the northerly line of said property described in Document No. 356634, a distance of 462.69 feet; thence South 09 degrees 06 minutes 23 seconds West, 168.81 feet; thence North 75 degrees 44 minutes 49 seconds West, 303.47 feet; thence North 68 degrees 18 minutes 01 seconds West, 487.00 feet; thence South 25 degrees 33 minutes 36 seconds West, 40.41 feet; thence South 01 degrees 58 minutes 35 seconds West, 28.94 feet to the southerly line of the property described in Document No. 339014; thence northwesterly along said southerly line, 384.14 feet along the arc of a non-tangential curve, concave northeasterly, having a radius of 5779.65 feet and a central angle of 03 degrees 48 minutes 29 seconds, the chord of said curve bears North 63 degrees 27 minutes 08 seconds West and measures 384.07 feet; thence North 61 degrees 32 minutes 53 seconds West, along said southerly line, 233.10 feet to its intersection with the southeasterly line of City of Winona Right of Way Plat No. 5; thence North 31 degrees 33 minutes 09 seconds East, along said southeasterly line, 100.15 feet to the northerly line of said property described in Document No. 339014; thence North 61 degrees 32 minutes 53 seconds West, along said northerly line of the property described in Document No. 339014, a distance of 50.20 feet to the northwesterly corner of said property described in Document No. 356634; thence easterly along said northerly line of the property described in Document No. 356634, a distance of 873.40 feet along the arc of a non-tangential curve, concave northeasterly, having a radius of 5866.10 feet and a central angle of 08 degrees 31 minutes 51 seconds, the chord of said curve bears South 71 degrees 06 minutes 32 seconds East and measures 872.60 feet to a one-half inch iron pipe monument; thence South 75 degrees 22 minutes 27 seconds East, along said northerly line of the property described in Document No. 356634, a distance of 60.70 feet to the point of beginning.

Document No. 356634, Document No. 339014, and City of Winona Right of Way Plat No. 5 are all of record and on file in the office of the County Recorder in and for said Winona County.

Have caused the same to be surveyed and platted as KOLTER SUBDIVISION and do hereby dedicate to the public for public use the public way and do hereby donate to the City of Winona the park as shown on this plat.

In witness whereof said Westfield Golf Club, Inc., a Minnesota corporation, has caused these presents to be signed by its proper officer this ____ day of _____, 20____.

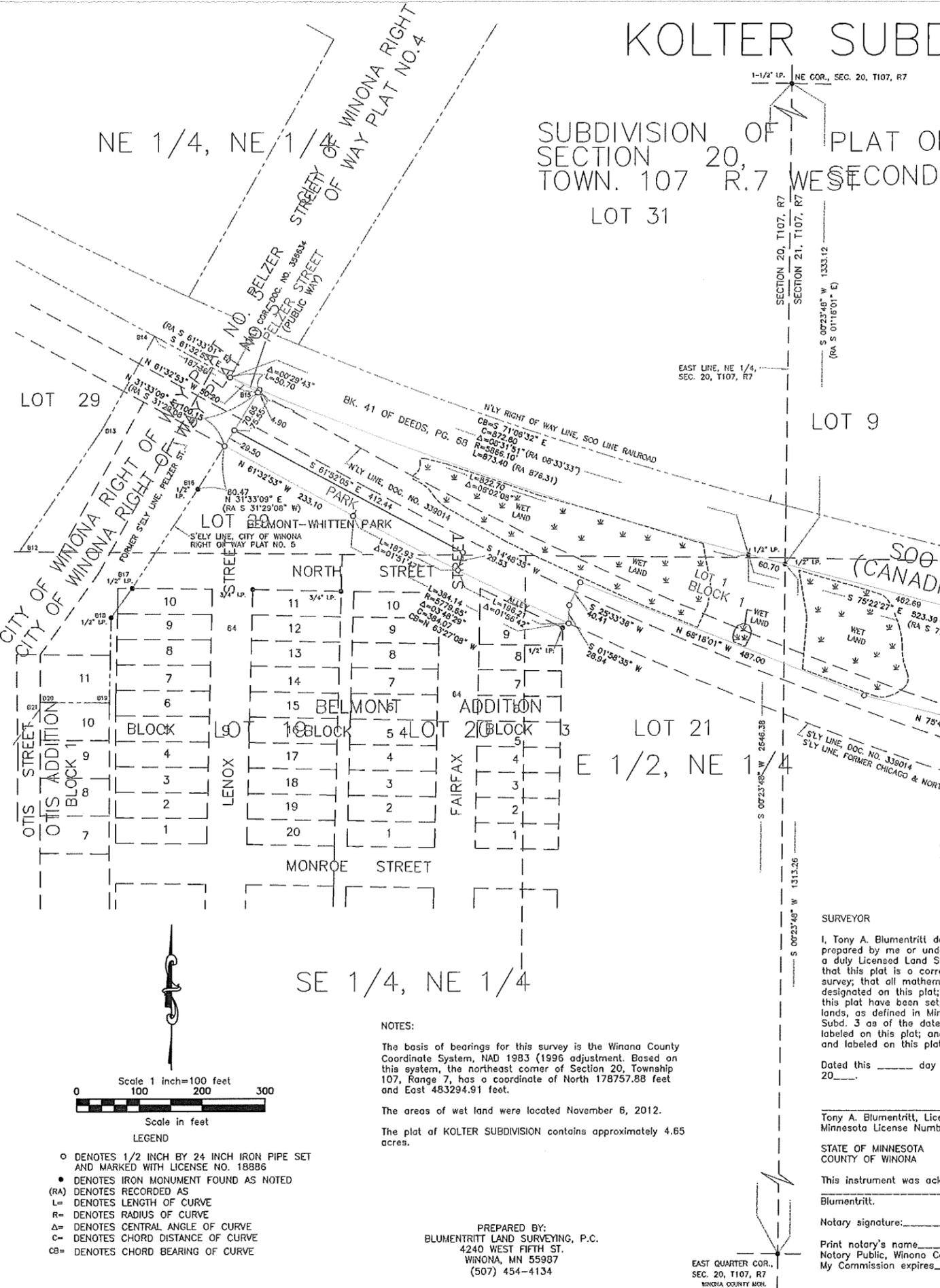
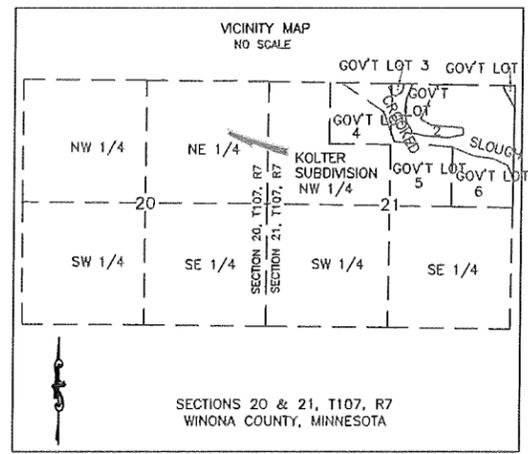
Edward L. Steele, President

STATE OF MINNESOTA
COUNTY OF WINONA

This instrument was acknowledged before me on _____, 20____, by Edward L. Steele, President of Westfield Golf Club, Inc., a Minnesota corporation, on behalf of the corporation.

Notary signature: _____

Print notary's name _____
Notary Public, Winona County, Minnesota
My Commission expires _____



NOTES:

The basis of bearings for this survey is the Winona County Coordinate System, NAD 1983 (1996 adjustment). Based on this system, the northeast corner of Section 20, Township 107, Range 7, has a coordinate of North 178757.88 feet and East 483294.91 feet.

The areas of wet land were located November 6, 2012.

The plot of KOLTER SUBDIVISION contains approximately 4.65 acres.

SURVEYOR

I, Tony A. Blumentritt do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been set; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3 as of the date of this certificate are shown and labeled on this plat; and that all public ways are shown and labeled on this plat.

Dated this ____ day of _____, 20____.

Tony A. Blumentritt, Licensed Land Surveyor
Minnesota License Number 18886

STATE OF MINNESOTA
COUNTY OF WINONA

This instrument was acknowledged before me on _____, 20____, by Tony A. Blumentritt.

Notary signature: _____

Print notary's name _____
Notary Public, Winona County, Minnesota
My Commission expires _____

CITY OF WINONA PLANNING COMMISSION

Be it known that at a meeting held on this ____ day of _____, 20____, the Planning Commission of the City of Winona, Minnesota, did hereby approve this plat of KOLTER SUBDIVISION.

Planning Commission, City of Winona, Minnesota

By _____, Chair

By _____, Secretary.

CITY COUNCIL, CITY OF WINONA, MINNESOTA

This Plat of KOLTER SUBDIVISION was approved and accepted by the City Council of the City of Winona, Minnesota at a regular meeting thereof held this ____ day of _____, 20____, and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

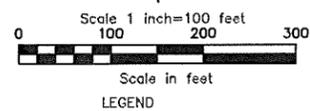
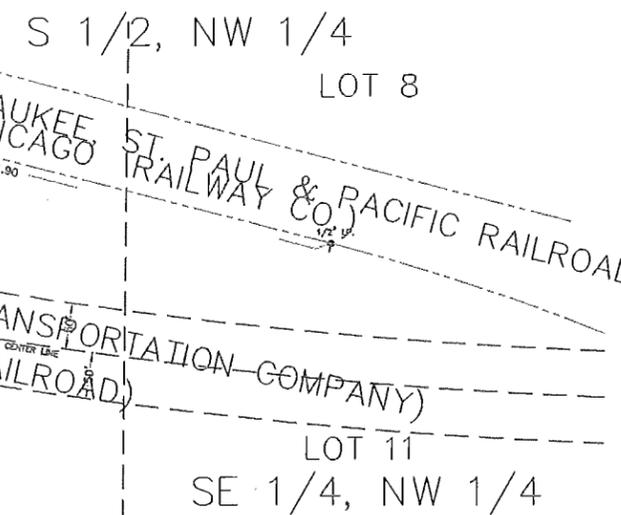
City Council, City of Winona, Minnesota

By: _____
City Clerk

WINONA COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this ____ day of _____, 20____.

Patrick D. Veraguth, Winona County Surveyor
Minnesota License No. 26396



- LEGEND
- DENOTES 1/2 INCH BY 24 INCH IRON PIPE SET AND MARKED WITH LICENSE NO. 18886
 - DENOTES IRON MONUMENT FOUND AS NOTED
 - (RA) DENOTES RECORDED AS
 - L= DENOTES LENGTH OF CURVE
 - R= DENOTES RADIUS OF CURVE
 - Δ= DENOTES CENTRAL ANGLE OF CURVE
 - C= DENOTES CHORD DISTANCE OF CURVE
 - CB= DENOTES CHORD BEARING OF CURVE

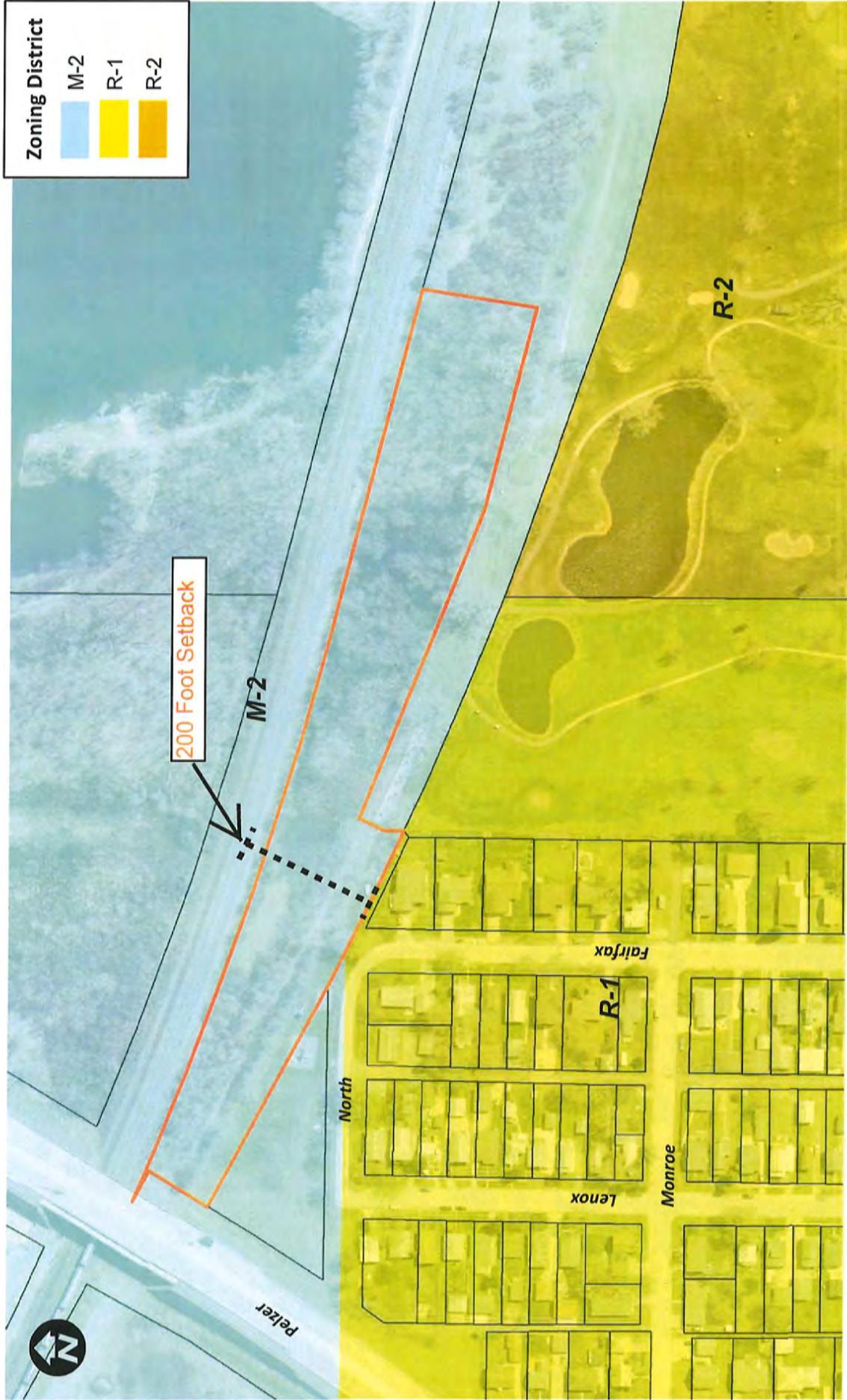
PREPARED BY:
BLUMENTRITT LAND SURVEYING, P.C.
4240 WEST FIFTH ST.
WINONA, MN 55987
(507) 454-4134

EAST QUARTER COR.,
SEC. 20, T107, R7
WINONA COUNTY, MINN.

"B"



Kolter Subdivision - Zoning

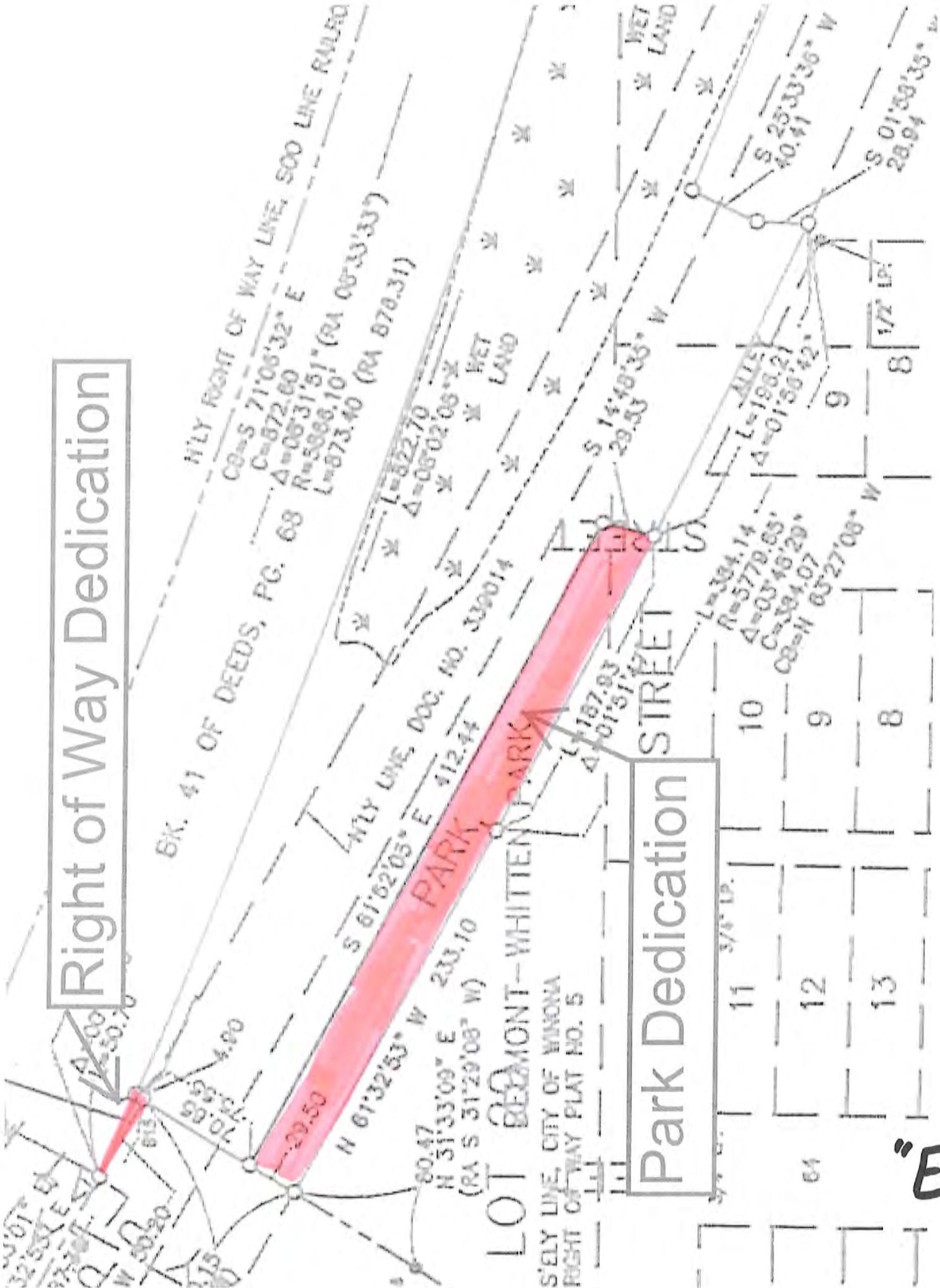


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December 2012



Right of Way Dedication



Park Dedication

E