



CITY HALL

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August 9, 2012

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, August 13, 2012, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. Call to Order
2. Approval of Minutes – July 23, 2012
3. Public Hearing – Rezoning Request R-2 to B-3 – Aerie LLC
4. Sand Moratorium Study: Environmental Review
5. Sand Moratorium Study: Miscellaneous Water Questions
6. Nonconforming Ordinance Amendment
7. Discussion – Initiation of Zoning
8. Other Business
9. Adjournment

Sincerely,

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

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION MINUTES

DATE: July 23, 2012

TIME: 4:30 p.m.

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

ABSENT: Commissioner Ballard and Briggs

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

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

Approval of Minutes – July 9, 2012

The minutes from the Commission's meeting of July 9, 2012 were reviewed, and upon motion by Commissioner Olson and second by Commissioner Gromek, were unanimously approved as submitted.

Sand Moratorium Study: Water Quality/Permitting

Chairman Porter noted that although the first formal item on this afternoon's agenda related to a discussion of water quality/permitting. This discussion would be preceded by a public comment period.

Given invitation, no one from industry or blasting categories wished to provide comments. At this point, Chairman Porter asked if a representative from the CASM group was present to provide comments.

Marie Kovesci noted that given this afternoon's pending discussion relative to water quality/permitting as related to the sand moratorium study, for most, the issues pertain to the unknown rather than the known. She emphasized that although this region in the country does have an abundance of a reliable water supply, all needed to take part in ensuring that this resource is protected and maintained. As it relates to the mining industry, CASM has a concern that once mining activities extend to certain elevations, they can compromise the quality of currently stable aquifers. Given this, CASM's position was that all efforts needed to be taken to ensure that this did not happen.

Ms. Kovesci further noted concerns relative to the use of various chemicals in the sand processing process and dewatering. Additionally, in consideration of water issues, provisions needed to be included in licensing requirements that protect shorelands and floodplains.

In addressing CASM's concerns, it was being suggested that the Commission address water use through its permit process of sand mining and processing facilities. She

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further suggested that new applications be reviewed by staff of the Soil and Water Conservation District for objective opinions.

Ms. Kovesci stated that given most recent data available to her, the number of sand mines within Wisconsin have doubled in the past couple of years. Sand from many of these mines does enter the City of Winona for processing and shipment. Again, the proper control of impacts from this activity can only occur with adequate licensing/permitting requirements.

Chairman Porter then opened the public comment period to others.

Steve Schild, 1282 West Broadway, referenced the Star and Tribune article noting that mine facilities had doubled in Wisconsin in the last year. Given this, he emphasized that the industry is growing very fast. However, not all of this industry is fully understood. He stated that although local governments can rely on State agencies to assist in the management of mining/processing affects, many of these agencies are currently understaffed and the man power does not exist to properly mitigate industry concerns.

Mr. Schild noted that during the past weekend, he and his wife had taken a drive through some of the valleys within Buffalo County and did find one large sand mining operation located along a hillside. He encouraged all present to take the same drive.

James Johnson, 802 West Broadway, noted that although he had no immediate comment relating to the water permitting discussion, he does have general concerns of the negative impacts that result from frac sand use and the slurry of various harsh chemicals that are used in the well drilling process. Given that well drilling occurs deep below the surface of the ground, it is unclear if anyone fully understands what the effect of many of these activities within an area might have. He further explained that he had similar concerns with the mining industry.

At this point, Chairman Porter noted that the next item on the agenda for this afternoon included discussion of water quality/permitting relative to the sand moratorium study. With that, he called upon Carlos Espinosa, Assistant City Planner, to provide a summary of this item.

Mr. Espinosa explained that potential impacts to water resources from frac (fractured) sand operations are covered by a number of state and local regulations. Pursuant to MPCA requirements, "Based on our current understanding of frac sand mining operations, we do not anticipate specific or unique environmental or health risks that are not already addressed though the current water permitting processes". As such, staff is not recommending any changes to City Code regarding water other than the amendments already recommended for the extraction ordinance (discussed at a previous Planning Commission meeting).

At this point, Mr. Espinosa summarized the various permits that are required for frac sand facilities and including wells, water withdrawal, wetlands, general construction, storm water/water runoff, dewatering, and the use of flocculants/polyacrylamides. He

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further noted that no matter what type of operation is involved, some version of a water permit is likely required. Given this, staff has ensured that all sand operations previously reviewed (CD Corp, Biesanz, and 1280-1330 Frontenac Drive) have the necessary water permits and will do the same for other operations in the City as part of the site by site analysis.

Given the previous, Mr. Espinosa stated that Commissioners may make recommendations regarding water quality after hearing input from those present at the meeting. Although a speaker from the MPCA was not able to attend this meeting, that agency has reviewed this afternoon's agenda for accuracy. He further directed the Commission's attention to a number of PowerPoint slides included in the agenda. He noted that those had evolved from the meeting which was held at the Winona Middle School.

Commissioner Eyden stated that although she understood that none of the frac sand operations located within the City of Winona use flocculants or other chemicals, she asked if there was some way that those could simply be prohibited completely. Mr. Espinosa responded that he was not sure but would check with the MPCA on this. Commissioner Eyden further clarified that even if the MPCA does not regulate this item, it may be conceivable that the City, through its permitting process could simply prohibit it.

Marie Kovesci noted concerns of this issue and questioned whether chemicals are used in processing mine sand in Winona.

In following up on Ms. Kovesci's question, Chairman Porter stated that it was his understanding that current processing facilities within the City used closed loop systems and that the systems do not require the use of flocculants or other chemicals.

Tony Wasinger, representing Winona Aggregate, generally explained the closed loop sand processing process that his company uses. Generally, the process employs three settling ponds that remove fines from sand over a period of time. No chemicals are used in this process and it is time which is the settling factor.

In response to a question from Commissioner Gromek, Mr. Espinosa responded that the sand processing operation at Goodview Road and Highway 14 operates in the same way.

Pete Schwab, representing Biesanz Stone, noted that the Commission's agenda package does highlight the fact that most water quality issues related to sand mining and processing are regulated through the MPCA. He did not see any reason to include significant standards over and above those required by this State agency.

In response to a question from Commissioner Buelow, Mr. Wasinger again noted that after sand has been processed in the third and final pool, fines have completely settled.

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Commissioner Buelow suggested that if flocculants or other chemicals are used in the sand processing process, they should be properly addressed in the Conditional Use Permit.

In response to a question from Chairman Porter, Mr. Espinosa noted that, pursuant to information provided by the State DNR, no issues with karst topography exist within the Biesanz Stone area.

Chairman Porter asked where stormwater evolving from mines located at bluff tops drains. Mr. Espinosa responded that he would return during the Commission's next meeting with answers to this and other questions raised this afternoon.

At this point, Chairman Porter asked if there were additional comments from those in attendance this afternoon.

Marie Kovesci noted that in addressing the water quality issue, she still has severe concerns related to the potential use of flocculants or other chemicals in the sand processing process. She emphasized that although such chemicals are not being used at this time, it is conceivable that they could be in the future. With this, the City needs to be prepared for this scenario under its permitting process.

Steve Schild noted that if a particular process will employ flocculants and other chemicals, the public has a right to know this. As such, permitting requirements should reference this.

There being no further public comment, Chairperson Porter closed this portion of the Commission's agenda.

Bicycle Friendly Community Presentation

Chairman Porter called on Mr. Espinosa to provide a summary of this item. Mr. Espinosa noted that in late 2011, staff completed an application to Mn/DOT for enhanced benefits related to the Mississippi River Trail (MRT) project. The MRT is a bike trail that runs along the Mississippi from the river's headwaters to New Orleans. The trail goes right through the center of the City on Huff Street and Mn/DOT's MRT project is an effort to establish the trail in Minnesota through route designation, promotion, and signage.

The enhanced benefits awarded to Winona included expert bicycling planning assistance. The planning assistance was completed by the Bicycle Alliance of Minnesota. During early 2012, the Bicycle Alliance completed an assessment of Winona's Bicycle Friendly Community characteristics. Dorian Grilley, Executive Director of the Alliance, has agreed to give a presentation this afternoon on the assessment for informational purposes. The intent of the assessment is to help guide efforts to make Winona friendlier to bicyclists.

At this point, Chairman Porter introduced Mr. Grilley who provided a summary of the document entitled "Bicycle Friendly Community" City of Winona Assessment Report

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published April 3, 2012. He noted that a copy of the report had been included in the Commission's agenda package.

In his summary, Mr. Grilley commended the City of Winona for the work it has undertaken relative to promoting sustainable bicycle facilities within the City. Given this, it is moving towards becoming a nationally recognized bicycle friendly community. Mr. Grilley noted that some of the best practice initiatives that had been implemented by the City and included the preparation of bike route maps for different types of users and a model bicycle boulevard that rivals or exceeds those done elsewhere in Minnesota. He also commended Mr. Espinosa for his leadership and coordination in these efforts.

Although successes have occurred, he encouraged Winona to continue investing and building upon what had been started and on Winona's strengths of being a vibrant bikeable livable City that attracts new residents, businesses, and visitors. In rounding out its programs, Mr. Grilley recommended that the City begin expanding connections and investing in its own plans. He suggested a greater level of staff time combined with a well balanced advisory group and firm priorities for bicycle projects would be beneficial.

Again, in implementing these recommendations, it was suggested that the City implement the "Five E's" in order to be considered a bicycle friendly community. Generally these E's relate to encouragement, education, evaluation/planning, engineering, and enforcement. Examples of this philosophy include the establishment of open street events. The establishments of various biking activities as a club sport the development of a bike education curriculum through Mn/DOT, and a complete street policy. With the later, he felt that Winona, with its wide boulevards, would be an excellent candidate.

Mr. Grilley emphasized that if desirable biking facilities exist, people will come to use them. He noted that City's such as Rochester and Mankato are heavily promoting bike facilities. Again, Winona has made great strides in this area and he encouraged all to keep up the good work.

Commissioner Eyden referenced "Prairie Island Road" and noted concerns with present river trail markings.

Chairman Porter thanked Mr. Grilley for his presentation and as a biker himself he is very interested in promoting this issue.

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 – Rezoning Request R-2 to B-3 – Aerie LLC

PREPARED BY: Mark Moeller

DATE: August 13, 2012

BASE DATA

Petitioner: Aerie LLC.

Property Owner: Peter Zehren.

Location: Exhibit A. 702 Mankato Avenue.

Area: Approximately 12,894 square feet (0.296 Acres).

Existing Zoning: R-2 (One to Four Family Residential), which provides for single family detached residential use at a minimum lot area standard of 6,000 square feet and multi-family housing at lot areas between 8,000 and 10,000 square foot lot area minimum.

Existing Use: Although the site is presently vacant, it was previously (post 1960 to mid 2012) occupied by a single family dwelling.

Requested Zoning: B-3 (General Business), which allows for any residential or business use with no lot size minimum for business use.

Surrounding Land Use/Zoning:
North: Office Building/B-3
South: Single Family Residential/R-2.
East: Storage Garages/B-3 and M-2.
West: Mankato Avenue Right-Of-Way/R-2

Zoning History: This property has been zoned R-2 since inception of the City's 1960 Comprehensive Plan. In part, this plan called for a strip of land, adjacent to Mankato Avenue on the east, to be

used for medium density residential purposes. This residential strip was designed to serve as a buffer between Mankato Avenue, and a planned “industrial reserve” (now Riverbend).

Access/Utilities:

The site has existing access to Mankato Avenue, and to adequate City sewer and water utilities. Given that this section of Mankato Avenue is part of the State Hwy 43 system, any redevelopment of the site will be subject to MnDOT review/comment occurring during site plan review.

Environmental:

The site is level with no known environmental constraints that would inhibit its reasonable development.

ANALYSIS

1. Was there an error or oversight in approval of original zoning of the site?

No, current R-2 zoning was applied to the site in accordance with original (1960) Comprehensive and Zoning Master Plans, as well as state and local zoning enabling laws, existing at that time.

2. Have there been changes in area development patterns, since original zoning, to warrant rezoning?

Yes. Since original zoning, the sites immediate neighborhood has transitioned from its original residential/industrial plan, and towards Commercial Redevelopment activity. Completed activities supporting this statement include:

- 11/05/02 – R-2/M-2 to B-3 (Walgreen’s site)
- 11/19/02 – R-2/M-2 to B-3 (Mugby Junction Coffee)
- 03/09/05 – R-2/B-3 (Expansion of mini warehouse storage use to east of site – although the bulk of this use is zoned M-2, it is permitted under B-3 Zoning).
- 03/08/06 – R-2 to B-3 (State Farm/Wohletz Law office building)

Should approval of this request occur, the adjoining property south of the site would continue to carry the only remaining remnant of original R-2 zoning located between Shives Road and Frontenac Drive.

3. Would potential uses of requested B-3 zoning impose “undue hardship” (relating to noise, odors, etc.) on neighboring properties?

A listing of uses, permitted under B-3 zoning, may be found under Exhibit B. As shown, given the “cumulative” nature of the zoning ordinance, this classification (also) allows uses permitted under B-1 (Neighborhood Commercial) and B-2 (Central Business District) classifications.

Again, requested B-3 zoning of the site would not be inconsistent with rights-of-way to the west, or commercially (B-3) zoned land to the north and east. This question, therefore, relates to potential impacts on the present single family property located southerly of the site. It could be argued that this property “may”, at some future point, be redeveloped for commercial purposes. However, at present, it is residential and potential “undue” impacts need to be considered.

As noted from Exhibit B, along with “typical” retail and service uses, the B-3 district does permit certain uses of a more intensive nature. Examples of these include animal hospitals, bottling works, contractors, storage yards, etc. In recognizing that many of these uses “could” have negative influences on residential uses, “most” are subject to specific setback requirements which are designed to minimize impacts. For example, sheet metal and welding shops (permitted under B-3 zoning) are subject to 50-foot setback requirements from R-2 or R-3 districts. Given the dimensional size of the rezoning site, this setback requirement would (without the need for variances) prohibit use of the site for these purposes.

In addition to the previous, impacts associated with typical retail/service uses could, to a certain extent, be “minimized” through parking lot screening, lighting, and other performance standards of the zoning ordinance. Given this, it is highly unlikely that these would impose “undue” hardships on current residential use.

4. Would the public interest be better served if rezoning was considered within another area?

In part, the purpose of zoning is to achieve the highest and best use of land. If this can be accomplished without compromising neighborhood lands and values, overall positive values (needed land and tax base) result. In this case, we have a parcel of land which is located within a “transitional” (residential/industrial to commercial) neighborhood. Given that this transition is supported by the City’s 2007 Comprehensive Plan, It is appropriate to consider rezoning at this location. It could further be argued that the “highest and best” use of the site would be achieved through requested commercial rather than current residential/industrial zoning.

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

Spot zoning occurs if one of the following tests are met:

- A. The rezoning action results in benefits, which are only enjoyed by the petitioner.
Although the petitioner will benefit from approval of the request, this action will facilitate additional (needed) commercial land in accordance with the community's long-term "vision" for this area.
- B. The rezoning is considered to be arbitrary, capricious, or unreasonable.
Again, the site is located within an area which is experiencing significant change, and which ultimately, will be impacted by this change. Given this, it is felt that the "highest and best" use of the site would be achieved through approval of the request. It is felt that this classification would result in use which would not unduly compromise neighborhood values.
- C. Rezoning is not consistent with goals and objectives of the Comprehensive Plan.
The City's 2007 Comprehensive Plan has "recommended" general commercial use for all properties located easterly of/adjacent to Mankato Avenue, southerly of Shives Road, and northerly of Highway 61. Approval of the request would be consistent with this recommendation.

RECOMMENDATION

In summary, the analysis has concluded that:

1. No error or oversight was made in the original (1960) zoning.
2. Since original zoning, approved modifications to neighborhood land use and zoning patterns have occurred, resulting in a transition to commercial use.
3. Rezoning is not anticipated to result in "undue impacts" on adjacent neighboring properties.
4. Rezoning would promote an appropriate "higher use" of the site than could be achieved under current zoning. This higher use can be achieved without compromising existing neighborhood use or recommendations of the 2007 Comprehensive Plan.
5. Spot zoning is not evident.

Although the previous would appear to support approval of the request, the following options are available to the Commission:

- A. Approve the request, as submitted.
- B. Deny the request, as submitted.
- C. Modify the request. Under this scenario, the Commission "could" consider the application of a "more restrictive" (i.e. B-1 or B-2) classification to the site.

Attachments



Re-Zone Request Aerie LLC R-2 to B-3

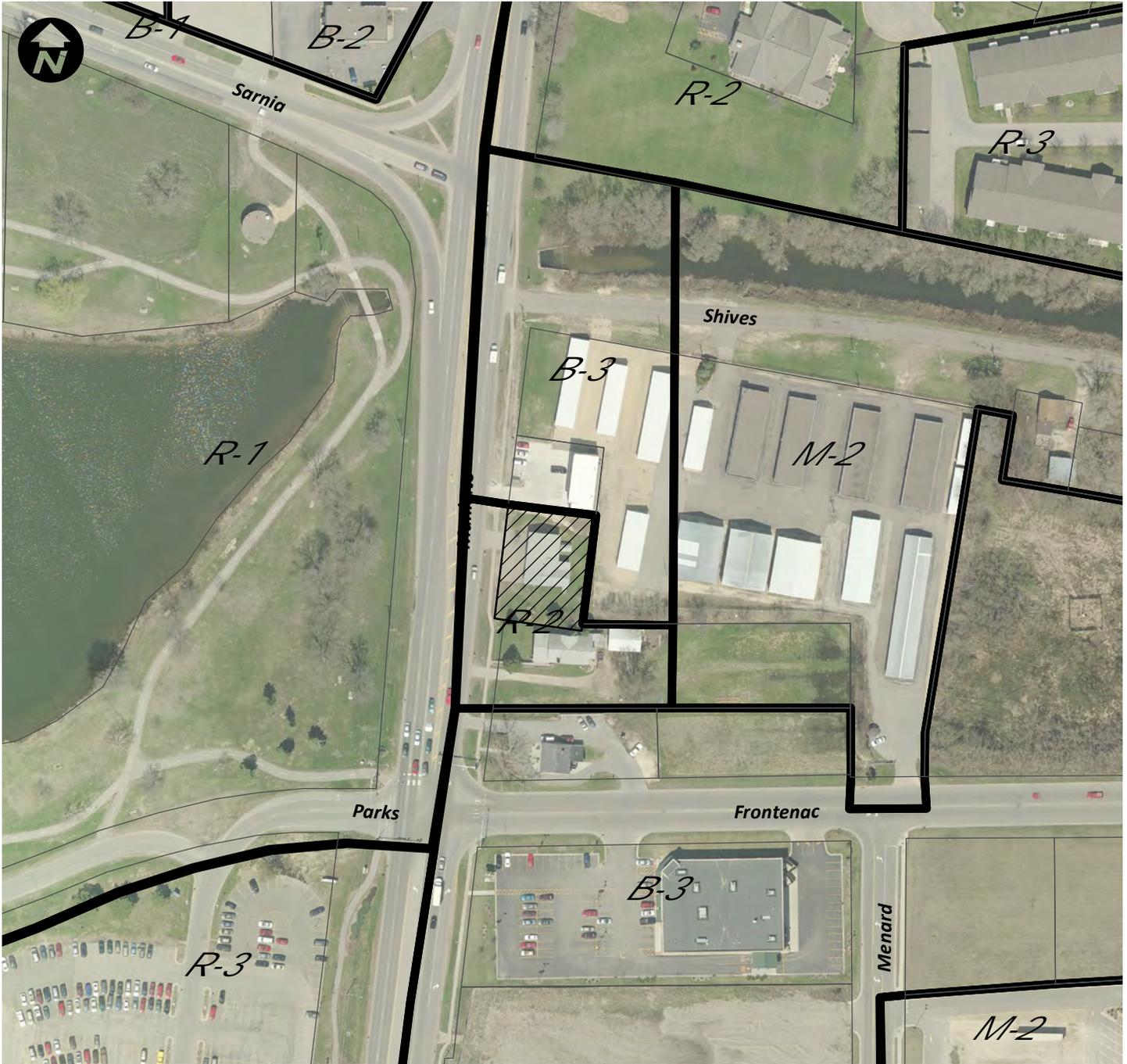
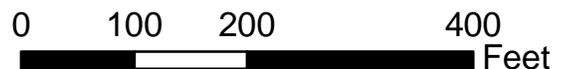


EXHIBIT A



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.

July 2012

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.
- (d) Required Conditions:
- (1) Business in enclosed buildings. All business, services, or processing shall be conducted wholly within a completely enclosed building, except for the sale of automotive fuel, lubricants and fluids at service stations, and such outdoor display or storage of vehicles, materials and equipment as hereinbefore specifically authorized or as may be authorized by the board, including drive-in restaurant services.
 - (2) Production for sale at retail. All products produced on the premises, whether primary or incidental, shall be sold at retail primarily on the premises where produced.
 - (3) Use must be nonobjectionable. Processes and equipment employed in goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water carried waste.
 - (4) New merchandise. Goods for sale shall consist primarily of new merchandise.
- (e) Height Regulations. No principal structure shall exceed 2-1/2 stories or 30 feet in height. No accessory structure shall exceed one story or 15 feet in height, except as provided in Section 43.21.
- (f) Lot Area, Frontage and Yard Requirements. The following minimum requirements shall be observed, except as provided in Section 43.53(f) and (g):
- (1) Commercial uses.
Lot area - none.
Frontage - none.
Front yard depth - 25 feet.

Side yard width - none, except when a side lot line coincides with a residential district line, then not less than required for one-family dwellings in the adjoining residential district.

Rear yard depth - 10 feet, except when a rear lot line coincides with a residential district line, then not less than required for one-family dwellings in the adjoining residential district.

(2) Residential Uses. Same as required for the least restrictive residential district adjoining the B-1 district.

Ord. No. 2333 04/19/76
Ord. No. 2507 10/01/79
Ord. No. 3115 01/21/92
Ord. No. 3194 12/20/93
Ord. No. 3759 01/07/08
Ord. No. 3786 03/02/09

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:

- (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.
- (d) Required Conditions. The required conditions for the B-2 district shall be the same as those specified for the B-1 district in Section 43.59(c), except paragraph (4), and except those activities permitted under paragraph (11) in Section 43.60(a).
- (e) Height Restrictions. No principal structure shall exceed 6 stories or 75 feet in height except when any lot line coincides with a residential district line, then not more than 4 stories or 45 feet in height. The foregoing shall not apply if Section 43.21 applies.
- (f) Lot Area, Frontage and Yard Requirements.
 - (1) Commercial uses.
 - Lot area - none.
 - Frontage - none.
 - Front yard depth - none, except when either side lot line coincides with a residential district line, then not less than 25 feet.
 - Side yard width - same as B-1.
 - Rear yard depth - none, except when the rear lot line coincides with a residential district line, then not less than required for one family dwellings in the adjoining residential district.
 - (2) Residential uses. Same as in the R-3 district unless located within the central business district core, then none.

Ord. No. 2474 12/18/78
Ord. No. 2434 01/16/78
Ord. No. 2474 12/18/78
Ord. No. 2522 01/07/80
Ord. No. 3014 04/16/90
Ord. No. 3014 04/16/90
Ord. No. 3115 01/21/92
Ord. No. 3115 01/21/92

43.60.1 MIXED-USE BUSINESS DISTRICT. (a) Permitted Uses. Any use permitted and as regulated in the B-2 district shall be permitted in the B-2.5 district, except as hereinafter modified in the following:

- (1) Residential uses. Residential uses as permitted in the R-3 district provided that all first story residential uses located within the central business district core shall meet the requirements of Section 43.60 (b)(2).
- (b) Conditional Uses. Any conditional use as regulated in the B-2 district shall be permitted only if specifically authorized by the board in accordance with the provisions of Section 43.60 and Section 22.21 of this code.

- (c) 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 forgoing permitted B-2.5 uses, shall be permitted in the B-2.5 district.
- (d) Required Conditions. The required conditions for the B-2.5 district shall be the same as those specified in Section 43.59 (d), except paragraph (4).
- (e) Prohibited Uses.
 - (1) Generally. Any use which is first permitted in the B-3, M-1, and M-2 districts; provided however, than any such uses legally existing at the time of adoption of this chapter or any amendment thereto, shall not be classified as a nonconforming use subject to the provisions of Section 43.32.
- (f) Height Restrictions. No principal structure shall exceed 6 stories or 75 feet in height except when any lot line coincides with a residential district line, then not more than 4 stories or 45 feet in height. The foregoing shall not apply if Section 43.21 applies.
- (g) Lot Area, Frontage and Yard Requirements.
 - (1) Lot area – none.
 - Frontage – none.
 - Front yard depth – none, except when either side lot line coincides with a residential district line, then not less than 25 feet.
 - Side yard width - none, except when either side lot line coincides with a residential district line, then not less than required for one family dwellings in the adjoining residential district.
 - Rear yard depth - none, except when either side lot line coincides with a residential district line, then not less than required for one family dwellings in the adjoining residential district.

Ord. No. 3788 4/6/09

B-3 (Requested by Aerie LLC)

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:

- (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.
- (c) Required Conditions. Processes and equipment employed and goods processed or sold in the B-3 district shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried waste and must comply with the performance standards in Section 43.33.
 - (1) Enclosed buildings. All businesses, services or processing shall be conducted wholly within a completely enclosed building, except for incidental display of merchandise, the sale of automobile fuel, lubricants and fluids at service stations, loading and unloading operations, parking, the outdoor display or storage of vehicles, materials and equipment and the uses specified in paragraph (11) Section 43.61(a).
 - (2) Night operation. No building customarily used for night operation, such as a bakery or milk bottling and distribution station, shall have any opening, other than stationary windows or required fire exits, within 200 feet of any R-S or R-1 district and 100 feet from any R-2 or R-3 district. Any space used for loading or unloading commercial vehicles in connection with such an operation shall not be within 100 feet of any R district.
- (d) Height Regulations. No principal or accessory structures shall exceed 3 stories or 40 feet in height, except as provided in Section 43.21.
- (e) Lot Area, Frontage and Yard Requirements. Lot area and frontage and yard requirements in the B-3 district shall be the same as in the B-2 district. (08-17-59)

Ord. No. 2507 10/01/79
Ord. No. 3158 12/21/92
Ord. No. 3759 01/07/08

PLANNING COMMISSION

AGENDA ITEM: 4. Sand Moratorium Study: Environmental Review

PREPARED BY: Carlos Espinosa

DATE: August 13, 2012

Summary

Potential issues with silica sand mining and processing have prompted questions about environmental review. Environmental review through an EAW (Environmental Assessment Worksheet) is either mandatory, exempt, or up to the discretion of the local government. In terms of silica sand, environmental review is only mandatory for new mines that are 40 acres or more and have an average depth of at least 10 feet. An EIS (Environmental Impact Statement) is mandatory if the mine will be 160 acres or more with an average depth of 10 feet. Mining associated activities exempt from environmental review are those that don't result in a permanent alteration of the environment (e.g. mapping, aerial surveying, etc.). Beyond these requirements, it is up to the discretion of the local government to complete environmental review. Winona County has adopted a discretionary EAW guidance "checklist" for silica sand mining applications to help determine if a discretionary EAW should be required (see Attachment A). The same checklist is recommended to be used when the City reviews new mining proposals. However, the same checklist is not recommended for processing and transportation operations because there is minimal disturbance to land cover relative to mining activities (i.e. there is no resource "extraction" involved), and the existing CUP and site plan review process already addresses the items involved in an EAW (see next page).

Mining Application Checklist

If an EAW checklist is to be used, staff will review it for new mining proposals as part of pre-application review. If a proposed mine triggers one or more of the criteria, the proposal and checklist will be brought to Planning Commission and potentially the City Council. If the City Council determines that the project will have a significant environmental impacts, it can order that an EAW be completed. Results from the EAW would be forwarded to the Board of Adjustment for their information during review of the mining Conditional Use Permit or used to declare the need for an EIS (Environmental Impact Statement). To enact the checklist requirement, the following language is recommended to be added to the proposed mining ordinance amendments:

An EAW or EIS May be Required Before CUP Application Acceptance.

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.

Analysis of Sand Processing and Transportation Review Process

Below is a listing of the topics reviewed in an EAW (see Attachment B for an example of a completed EAW). Next to each of the topics is the existing review process that would address each topic. Although use of a “checklist” is not recommended to be added to the City Code for sand processing and transportation operations, this does not mean an EAW cannot still be ordered if a project has significant environmental impacts.

EAW Topic		Review Process and/or Regulatory Agency
1-5	Title, Proposer, RGU, Reason, Location	CUP
6	Description	CUP
7	Project Magnitude	CUP
8	Permits and Approvals Required	CUP
9	Land Use	CUP, Site Plan
10	Land Cover Types	Site Plan
11	Fish, Wildlife, Ecological Sensitive Areas	Site Plan, DNR, or N/A
12	Physical Impacts on Water Resources	CUP, MPCA, DNR, Dept. of Health
13	Water Use	CUP, Site Plan, Dept. of Health, DNR
14	Water-related Land Use Management Districts (e.g. Shoreland zoning district)	Site Plan
15	Water Surface Use (i.e. watercraft use)	N/A
16	Erosion and Sedimentation	Site Plan, MPCA
17	Water Quality: Surface Water Runoff	Site Plan, MPCA
18	Water Quality: Wastewater	CUP, MPCA
19	Geologic Hazards (e.g. Soils)	Site Plan or N/A
20	Solid waste, Hazardous waste, storage tanks	CUP, MPCA or N/A
21	Traffic	CUP
22	Vehicle-Related Air Emissions	CUP, MPCA
23	Stationary Source Air Emissions (e.g. from boilers, dryers, etc.)	CUP, MPCA
24	Odors, Noise and Dust	CUP
25	Nearby Resources (e.g. archaeological, historical resources, prime farmland, etc.)	CUP, Site Plan, or N/A

26	Visual Impacts	CUP, Site Plan
27	Compatibility with Plans and Land Use Regulations	CUP, Site Plan
28	Infrastructure and Public Services	Site Plan
29	Cumulative Impacts	CUP
30	Other Impacts	CUP or N/A
31	Summary	N/A

Citizen Petition for Environmental Review

In addition to mandatory review or discretionary review determined by the City, an EAW for a specific project may also be initiated through citizen petition. The petition must provide the following:

- A description of the proposed project.
- Identification of the project proposer. (*Note: petitioners must also notify the proposer in writing that they have filed a petition with the EQB*)
- Identification of a representative for petitioners, including mailing address and telephone number.
- A brief description of the project's potential environmental effects, including an explanation of how unusual or unique characteristics of the project or its location create a need for an EAW even though no mandatory threshold is exceeded.
- Material evidence of potential for significant environmental effects because of the project's nature or location.
- Signatures of at least 25 individuals, with no restriction on location of residence, age or any other factor. *Signers must provide a complete mailing address.*

The petition must then be filed with the Environmental Quality Board and it is up to the City of Winona to determine the need for an EAW. Any aggrieved party may appeal the decision in district court within 30 days of the decision date.

Next Steps

Staff requests the Planning Commission review the recommendations as proposed in this report. If the Commission concurs, a motion to add the proposed language to the mining ordinance amendments would be in order.

Attachments:

- A) EAW Checklist for Silica Sand Mines
- B) Example Completed EAW

DISCRETIONARY EAW GUIDANCE

The following checklist provides a realm of potential environmental concerns that if present or perceived may be used as justification for an EAW requirement. Discretionary EIS's are subject to the findings of an EAW and require City Council consideration.

For an EAW to be required, one or more of the following conditions may be present:	Staff Review	Planning Commission Review
1. Nearby vulnerable populations such as nursing homes, day care centers, residential areas, urban development and schools.		
2. Project may have adverse impacts on hydrology including the quality or quantity of groundwater or surface water resources, public water supplies, wellhead protection areas, groundwater recharge areas, adjacent wells, springs, seeps, or wetlands.		
3. Prevalent land cover includes a floodplain, shoreland, or protected bluff/ steep slope area as defined in City Code.		
4. Prevalent land cover includes rare plant or animal communities or other sensitive ecological resources included in the List of Endangered, Threatened, and Special Concern Species as codified as Minnesota Rules, Chapter 6134.		
5. Project may involve a point or non-point discharge of storm water or wastewater to a stream or river		
6. Project has the potential for creating substantial erosion.		
7. Project is located in an area susceptible to sinkhole formation or other geologic hazards.		
8. Project involves hazardous wastes and/or storage tanks.		
9. Project increases traffic intensity beyond the access and roadway capacity.		
10. Project involves air emission concerns related to high levels of dust such as with blasting, crushing and milling operations.		
11. Project has the potential for high levels of odors or noise.		
12. Site or nearby areas contain archaeological or historic resources.		
13. Site contains prime farmland (soil types as defined in local ordinances) or is part of an agricultural preserve program.		
14. Site impacts designated trails, parks, recreation areas.		
15. Intended disturbance of the Jordan or Wonewoc (Ironton, Galesville Sandstone) geologic formation.		

ENVIRONMENTAL ASSESSMENT WORKSHEET

Note to reviewers: The Environmental Assessment Worksheet (EAW) provides information about a project that may have the potential for significant environmental effects. This EAW was prepared by the Minnesota Pollution Control Agency (MPCA), acting as the Responsible Governmental Unit (RGU), to determine whether an Environmental Impact Statement (EIS) should be prepared. The project proposer supplied reasonably accessible data for, but did not complete the final worksheet. Comments on the EAW must be submitted to the MPCA during the 30-day comment period which begins with notice of the availability of the EAW in the *Minnesota Environmental Quality Board (EQB) Monitor*. Comments on the EAW should address the accuracy and completeness of information, potential impacts that are reasonably expected to occur that warrant further investigation, and the need for an EIS. A copy of the EAW may be obtained from the MPCA by calling (651) 296-7398. An electronic version of the completed EAW is available at the MPCA Web site <http://www.pca.state.mn.us/news/eaw/index.html#open-eaw>.

1. Project Title: <u>Monticello Southeast Interceptor/Bondhus Segment Trunk Sewer Extension</u>				
2. Proposer: <u>City of Monticello</u>	3. RGU: <u>Minnesota Pollution Control Agency</u>			
Contact Person <u>Jeff O'Neill</u>	Contact Person <u>Barbara Jean Conti</u>			
and Title <u>Deputy Administrator</u>	and Title <u>Project Manager</u>			
Address <u>505 Walnut Street – Suite 1</u>	Address <u>520 Lafayette Road North</u>			
<u>Monticello, Minnesota 55362</u>	<u>St. Paul, Minnesota 55155</u>			
Phone <u>(763) 295-2711</u>	Phone <u>(651) 296-6703</u>			
Fax <u>(763) 295-4404</u>	Fax <u>(651) 296-7782</u>			
4. Reason for EAW Preparation:				
EIS Scoping <input type="checkbox"/>	Mandatory EAW <input checked="" type="checkbox"/>	Citizen Petition <input type="checkbox"/>	RGU Discretion <input type="checkbox"/>	Proposer Volunteered <input type="checkbox"/>
If EAW or EIS is mandatory give EQB rule category subpart number and name:		<u>4410.4300 subp.18.A – Wastewater Systems</u>		
5. Project Location:		County <u>Wright</u>	City/Twp <u>Monticello</u>	
<u>NW 1/4</u>	<u>1/4</u>	Section <u>13</u>	Township <u>121N</u>	Range <u>25W</u>
<u>SW 1/4</u>	<u>1/4</u>	Section <u>12</u>	Township <u>121N</u>	Range <u>25W</u>

Attachments to the EAW:

- Figure 1. County map showing the general location of the project;
- Figure 2. United States Geological Survey 7.5 minute, 1:24,000 scale map indicating project boundaries;
- Figure 3. Map showing proposed alignment;
- Figure 4. Aerial photo of potential future service area;
- Figure 5. Minnesota Department of Natural Resources (DNR) Natural Heritage Database Review letter;
- Figure 6. State Historical Preservation Office (SHPO) report; and
- Figure 7. Soils Map.

6. Description:

- a. Provide a project summary of 50 words or less to be published in the *EQB Monitor*.

The city of Monticello (City) is proposing to construct the Southeast Interceptor/Bondhus Segment trunk sanitary sewer. This sewer will replace the Reservoir Lift Station located near Fallon Avenue and Chelsea Road and extend to the north under Interstate-94 (I-94) and connect to the existing sewer at County State Aid Highway (CSAH) 75 to serve growth in this area. The proposed average daily flow in the pipe is estimated at approximately 3.1 million gallons per day (MGD).

- b. Give a complete description of the proposed project and related new construction. Attach additional sheets as necessary. Emphasize construction, operation methods and features that will cause physical manipulation of the environment or will produce wastes. Include modifications to existing equipment or industrial processes and significant demolition, removal or remodeling of existing structures. Indicate the timing and duration of construction activities.

Background

The City proposes to construct the Bondhus Segment of the Southeast Interceptor trunk sanitary sewer. This new trunk system will initially convey flows currently handled by the Reservoir Lift Station and serve a 1,095-acre area. Upon full construction of the interceptor in the future, the sewer will serve 6,760 acres, including a significant portion of recently annexed areas.

Proposed Project

The Bondhus Segment will be a 36-inch gravity sewer that will connect into the existing sewer near Fallon Avenue and Chelsea Road. The existing 21-inch forcemain and lift station that are currently located west of the new proposed trunk sewer will be removed. A gravity system will replace it to serve the existing businesses in this location. The Bondhus Segment will extend to the north to I-94, extend east for approximately 1,400 feet, then north under I-94 and connect to the existing 36-inch stub at CSAH 75 (see Figures 2-3).

The Southeast Interceptor/Bondhus Segment is approximately 4,430 feet in length. The ultimate average daily flow upon ultimate development is estimated to be 3,120,480 gallons per day (GPD). It will be constructed with a 36-inch cast fiberglass reinforced pipe with numerous manholes. The system has been designed to be a gravity system and no forcemains or lift stations are proposed with the construction.

The new interceptor will direct wastewater to the City's Wastewater Treatment Facility (WWTF). The average daily capacity of the WWTF is 2.36 MGD. The treatment plant is currently operating at an average daily flow of 1.1 MGD. The WWTF is designed to allow for expansions up to a maximum daily capacity of 5 MGD. Since the Bondhus Segment will accommodate flows that are currently being conveyed to the WWTF, initially there will be no significant change in the amount of flows directed to the WWTF. However, as the City continues to develop and the interceptor is extended to the south, the eventual flows will exceed the WWTF's current capacity. Therefore, the City is anticipating upgrades to the WWTF dependent on future development in the interceptor's service area. The future ultimate service area is shown in Figure 4.

The sanitary sewer will be located within permanent easements ranging from 40 to 60 feet. The City is working with the property owners to obtain these easements. Construction methods will include trench excavation and jacking. Jacking is a technique where pipe is installed as an underground pipeline without digging a trench from the ground surface. The sewer will be jacked in a 48-inch casing at the I-94 and the BNSF Railroad crossings. The depth of the pipe will range from 20 to 45 feet. The excavated soil material will be stockpiled on-site and used to back fill the trenches. It is anticipated that temporary construction dewatering will occur and permits for this work will be obtained. This

dewatering is not anticipated to impact any wells nor will it disrupt the City's existing underground water reservoir located west of the proposed interceptor.

The project will disturb eight acres of land. The majority of the areas that will be disturbed for the construction of the interceptor are agricultural fields, commercial areas, or landscaped areas. The disturbed areas will be restored to the original ground elevation and seeded.

Construction is anticipated to start in May 2005 and be completed by October 2005.

- c. Explain the project purpose; if the project will be carried out by a governmental unit, explain the need for the project and identify its beneficiaries.

The purpose of this project is to replace the existing Reservoir Lift Station and forcemain and construct a trunk sewer to provide service to the Southeast Service area in Monticello for existing and future development. The beneficiaries of the project are the owners of existing residences, the property owners who will be enabled to develop property, the business interests that will finance and develop those properties, and the future owners of residences and other properties in the community.

- d. Are future stages of this development including development on any outlots planned or likely to happen?
 Yes No
 If yes, briefly describe future stages, relationship to present project, timeline and plans for environmental review.

The construction of the Bondhus Segment of the interceptor is the subject of this EAW. However, it is anticipated that the interceptor will eventually be extended to the south to serve the areas to be annexed by the City. The Bondhus Segment is being constructed with this future growth anticipated. Phases of the future interceptor extension are anticipated to occur over the next 5 to 25 years, depending on development in the area. The City has indicated that environmental review, as required, will be undertaken as future phases are proposed.

Additionally, the construction of the interceptor itself will likely trigger development in the next 5 to 25 years. Private development that occurs in this area may require separate environmental review. Additionally, this growth is being addressed in the update to the City's Comprehensive Plan. Potential cumulative impacts are discussed in Item 29.

- e. Is this project a subsequent stage of an earlier project? Yes No
 If yes, briefly describe the past development, timeline and any past environmental review.

7. Project Magnitude Data

Total Project Area (acres)	<u>8.0 acres</u>	or Length	<u>4,430 feet</u>
Number of Residential Units:	Unattached <u> </u>	Attached <u> </u>	maximum units per building <u> </u>
Commercial/Industrial/Institutional Building Area (gross floor space):	total square feet <u> </u>		
Indicate area of specific uses (in square feet):			
Office <u> </u>	Manufacturing <u> </u>		
Retail <u> </u>	Other Industrial <u> </u>		
Warehouse <u> </u>	Institutional <u> </u>		
Light Industrial <u> </u>	Agricultural <u> </u>		
Other Commercial (specify) <u> </u>			
Building height <u> </u>	If over 2 stories, compare to heights of nearby buildings <u> </u>		

8. Permits and approvals required. List all known local, state and federal permits, approvals and financial

assistance for the project. Include modifications of any existing permits, governmental review of plans, and all direct and indirect forms of public financial assistance including bond guarantees, Tax Increment Financing and infrastructure.

Unit of Government	Type of Application	Status
MPCA	National Pollutant Discharge Elimination System (NPDES) – General Stormwater Construction Permit	To be obtained
MPCA	Sanitary Sewer Extension	To be obtained
DNR	Temporary Water Appropriation	To be obtained
Minnesota Department of Transportation (MnDOT)	Work in Right-of-Way	To be obtained
MnDOT	Utility Crossing Permit	To be obtained
BNSF Railroad	Utility Crossing Permit	To be obtained

9. Land use. Describe current and recent past land use and development on the site and on adjacent lands. Discuss project compatibility with adjacent and nearby land uses. Indicate whether any potential conflicts involve environmental matters. Identify any potential environmental hazards due to past site uses, such as soil contamination or abandoned storage tanks, or proximity to nearby hazardous liquid or gas pipelines.

Land use in this area has been agricultural, light industrial, institutional (church) and road and railroad right-of-way. The BNSF Railroad, I-94, and CSAH 75 are within the project corridor. The trunk sewer project is compatible with the uses in this area.

Based on information from the MPCA’s database, there are no known occurrences of potential soil or ground-water contamination in this area. The Monticello Retail Site (located between I-94 and the railroad tracks) contains a small area of petroleum contaminated soil and some underground storage tanks; however, these areas are not anticipated to be within the sewer easement. If any environmental hazards are encountered during construction, they will be addressed in conformance with State requirements.

10. Cover Types. Estimate the acreage of the site with each of the following cover types before and after development:

	Before	After		Before	After
Types 1-8 wetlands	0	0	Lawn/landscaping	5.95	7.85
Wooded/forest	0.4	0	Impervious Surfaces	0.15	0.15
Brush/grassland	0	0	Other (describe)	0	0
Cropland	1.5	0			
			TOTAL	8	8

There is a wooded area located between the BNSF Railroad and CSAH 75. Approximately 0.4 acres of trees will be removed as part of this project.

11. Fish, Wildlife, and Ecologically Sensitive Resources.

- a. Identify fish and wildlife resources and habitats on or near the site and describe how they would be affected by the project. Describe any measures to be taken to minimize or avoid impacts.

The area within the project corridor consists of light industrial, right-of-way, institutional, and agricultural uses. The vegetated areas are frequently impacted by mowing or tilling. In general, these areas do not offer significant areas of habitat for wildlife. A patch of wooded area does exist between the railroad and CSAH 75. The species within the wooded area consist of Bur Oak and Basswood with a thick understory of Buckthorn. This wooded area is fragmented, does not function as a significant ecological corridor for wildlife, and likely offers habitat for species adapted to human presence.

While the Mississippi River is located approximately 1,500-2,500 feet to the north of the site, based on the land cover present, surrounding land uses, and the proximity of the railroad and I-94, this site is not anticipated to provide significant habitat or greenway corridors for wildlife. Therefore, no significant impact to wildlife is anticipated by this project.

- b. Are any state (endangered or threatened) species, rare plant communities or other sensitive ecological resources such as native prairie habitat, colonial waterbird nesting colonies or regionally rare plant communities on or near the site? Yes No

If yes, describe the resource and how it would be affected by the project. Indicate if a site survey of the resources has been conducted and describe the results. If the DNR Natural Heritage and Nongame Research program has been contacted give the correspondence reference number. 20050521

Describe measures to minimize or avoid adverse impacts.

Based on the DNR Natural Heritage Database, there is one known occurrence of a natural community within a one-mile radius of the project. However, based on the nature and location of the proposed project, effects on any known occurrences of rare features are not expected from this project. The letter from the DNR is Figure 5.

- 12. Physical Impacts on Water Resources.** Will the project involve the physical or hydrologic alteration (dredging, filling, stream diversion, outfall structure, diking, and impoundment) of any surface waters such as a lake, pond, wetland, stream or drainage ditch? Yes No

If yes, identify water resource affected. Describe alternatives considered and proposed mitigation measures to minimize impacts. Give the DNR Protected Waters Inventory (PWI) number(s) if the water resources affected are on the PWI.

No wetlands are located within the project corridor. A cooling water discharge area for an adjacent business discharges to this area. This project will temporarily disturb this area, but no permanent impacts are expected.

- 13. Water Use.** Will the project involve installation or abandonment of any water wells, connection to or changes in any public water supply or appropriation of any ground or surface water (including dewatering)? Yes No

If yes, as applicable, give location and purpose of any new wells; public supply affected, changes to be made, and water quantities to be used; the source, duration, quantity and purpose of any appropriations; and unique well numbers and DNR appropriation permit numbers, if known. Identify any existing and new wells on the site map. If there are no wells known on site, explain methodology used to determine.

Temporary groundwater appropriation is anticipated to be necessary during construction to install the trunk sewer line. A permit from the DNR will be obtained for this work. This water is anticipated to be

clean and discharge into the City's storm sewer system. If water contains sediment, it will be treated prior to discharge in conformation with NPDES regulations.

14. Water-related land use management districts. Does any part of the project involve a shoreland zoning district, a delineated 100-year flood plain, or a state or federally designated wild or scenic river land use district? Yes No
If yes, identify the district and discuss project compatibility with district land use restrictions.

This site does not fall within the Federal Emergency Management Agency 100-year floodplain, the Shoreland Zoning District, or Wild and Scenic District of the Mississippi River.

15. Water Surface Use. Will the project change the number or type of watercraft on any water body? Yes No
If yes, indicate the current and projected watercraft usage and discuss any potential overcrowding or conflicts with other uses.

16. Erosion and Sedimentation. Give the acreage to be graded or excavated and the cubic yards of soil to be moved: 8 acres; 331,980 cubic yards. Describe any steep slopes or highly erodible soils and identify them on the site map. Describe any erosion and sedimentation control measures to be used during and after project construction.

The project will disturb eight acres of land. The majority of the areas that will be disturbed for the construction of the interceptor are agricultural fields, commercial areas, or landscaped areas. The disturbed areas will be restored to the original ground elevation and seeded.

This project will require a NPDES General Stormwater Permit for construction activity since the project will disturb more than one acre of land. This permit will require temporary and permanent erosion and sediment control measures to reduce and eliminate erosion and keep sediments on-site during and after construction. A Stormwater Pollution Prevention Plan (SWPPP) will also be required. The SWPPP will address erosion and sediment control within the project site prior to construction until final stabilization or turf is established on the site.

The Soil Survey of Wright County indicates that Soil 1377E: Dorset-Two Inlet Complex is a Highly Erodible Soil (see soils map, Figure 7). This soil is located near the railroad tracks and is in a small portion of this site. In this location, jacking the pipe will be the primary means of installing the pipe, thereby reducing the chances for erosion.

17. Water Quality – Surface-water Runoff.
a. Compare the quantity and quality of site runoff before and after the project. Describe permanent controls to manage or treat runoff. Describe any stormwater pollution prevention plans.

The construction of the sewer extension will not result in the addition of impervious surface, nor will it change existing runoff rates or patterns. Therefore, no change in the quality or quantity of runoff from the site is anticipated from the interceptor project. During construction, the disturbance of the soil will increase the chances of erosion and sedimentation. However, the project will comply with the City's erosion control requirements and the NPDES Construction Permit. The disturbed areas will be seeded and mulched as necessary to prevent erosion and sedimentation.

The construction of the interceptor will ultimately lead to additional development within the service area. The stormwater impacts associated with future development will need to be addressed by those future developments. The City has indicated that it is updating its Comprehensive Stormwater

Management Plan to address the future annexation area. The stormwater management policies within the Plan will address stormwater impacts from development in the area.

- b. Identify routes and receiving water bodies for runoff from the site; include major downstream water bodies as well as the immediate receiving waters. Estimate impact runoff on the quality of receiving waters.

Stormwater in this area is generally directed to the Mississippi River via overland flow, storm ponds, and the City's storm sewer system. Stormwater runoff from the interceptor project will not have any significant impact on downstream waters as the disturbance to the area will be temporary in nature and not increase the amount or rate of runoff. Temporary erosion control measures will be used during construction to reduce erosion and the disturbed areas will be permanently stabilized upon completion of the project.

18. Water Quality – Wastewater.

- a. Describe sources, composition and quantities of all sanitary, municipal, and industrial wastewater produced or treated at the site.

The new interceptor will convey wastewater to the City's WWTF, where it will be treated. The interceptor will have an ultimate average daily design flow of 3,120,480 GPD. The wastewater is anticipated to consist of normal domestic sewage, as well as, the sewage from the light industrial and commercial areas proposed in this location. These compositions are anticipated to be within the restrictions of the WWTF. The WWTF monitors its discharge for Total Suspended Solids and Biochemical Oxygen Demand (BOD) and is within the discharge composition limits allowed for the Mississippi River in this area, which is managed as an outstanding water resource. For uses that anticipate discharging wastewater that do not meet the restrictions of the WWTF, the discharges will be reviewed on a case-by-case basis to determine if they can be accepted.

- b. Describe waste treatment methods or pollution prevention efforts and give estimates of composition after treatment. Identify receiving waters, including major downstream water bodies, and estimate the discharge impact on the quality of receiving waters. If the project involves on-site sewage systems, discuss the suitability of site conditions for such systems.

N/A.

- c. If wastes will be discharged into a publicly owned treatment facility, identify the facility, describe any pretreatment provisions and discuss the facility's ability to handle the volume and composition of wastes, identifying any improvements necessary.

The sewage will be treated by Monticello's WWTF. The WWTF can be expanded to accommodate a maximum extended daily capacity of 5 MGD. The average daily capacity of the WWTF is currently 2.36 MGD. The treatment plant is currently operating at an average daily flow of 1.1 MGD. Since the Bondhus Segment will accommodate existing flows being conveyed to the WWTF, there will be no significant change in the amount of flows directed to the WWTF from the proposed

project. However, future extensions of the interceptor to the south and its future service area will eventually exceed the WWTF capacity. Therefore, the City is updating its Comprehensive Sanitary Sewer Plan and planning for upgrades to the WWTF that will be necessary in the future to accommodate the anticipated development.

- d. If the project requires disposal of liquid animal manure, describe disposal technique and location and discuss capacity to handle the volume and composition of manure. Identify any improvements necessary. Describe any required setbacks for land disposal systems.

N/A.

19. Geologic hazards and soil conditions.

- a. Approximate depth (in feet) to Ground water: 10+ minimum; 30-50 average.
Bedrock: 100 minimum; 200 average.
- Describe any of the following geologic site hazards to ground water and also identify them on the site map: sinkholes, shallow limestone formations or karst conditions. Describe measures to avoid or minimize environmental problems due to any of these hazards.

Information was obtained from the Wright County Soil Survey and the Wright County Local Water Management Plan.

There are no known sink holes, shallow limestone formations, or karst conditions within the site.

- b. Describe the soils on the site, giving SCS classifications, if known. Discuss soil granularity and potential for groundwater contamination from wastes or chemicals spread or spilled onto the soils. Discuss any mitigation measures to prevent such contamination.

Information from the Wright County Soil Survey indicates the following soil is present in the corridor: 260: Duelm loamy sand, 406: Dorset sandy loam, 1110: Isan sandy loam, 1377B and E: Dorset-Two Inlets Complex (Figure 7).

The soils located on this site are generally well drained. This area is rated as having a high susceptibility to groundwater contamination. The construction of the sanitary sewer in this location is not anticipated to generate chemicals or wastes that would contaminate groundwater. The sewer will be constructed using Hobas pipe. This type of pipe is resistant to corrosion and is leak proof, which will prevent introduction of sewage material into the surrounding ground as the pipe ages. During construction, machinery containing fuel will be present on the site. The contractor will be responsible for maintaining the equipment, providing a suitable area for fueling, and cleaning up any spills that occur on the site during construction.

20. Solid Wastes, Hazardous Wastes, Storage Tanks.

- a. Describe types, amounts and compositions of solid or hazardous wastes, including solid animal manure, sludge and ash, produced during construction and operation. Identify method and location of disposal. For projects generating municipal solid waste, indicate if there is a source separation plan; describe how the project will be modified for recycling. If hazardous waste is generated, indicate if there is a hazardous waste minimization plan and routine hazardous waste reduction assessments.

No hazardous wastes are anticipated to be generated by the construction of the Bondhus Segment trunk sewer. Construction debris, including the removal of the existing lift station and sewer, will be disposed of properly.

- b. Identify any toxic or hazardous materials to be used or present at the site and identify measures to be used to prevent them from contaminating groundwater. If the use of toxic or hazardous materials will lead to a regulated waste, discharge or emission, discuss any alternatives considered to minimize or eliminate the waste, discharge or emission.

During construction, machinery containing fuel will be present on the site. The contractor will be responsible for maintaining the equipment, providing a suitable area for fueling, and cleaning up any spills that may occur on the site during construction.

- c. Indicate the number, location, size and use of any above or below ground tanks to store petroleum products or other materials, except water. Describe any emergency response containment plans.

This project will not involve the addition of above or below ground storage tanks. There are no known existing tanks within the corridor. Some tanks exist within the Monticello Retail Site to the east, but are not expected to be near the sewer project.

- 21. Traffic.** Parking spaces added: N/A Existing spaces (if project involves expansion): N/A
Estimated total average daily traffic generated: _____ Estimated maximum peak hour traffic generated (if known) and its timing: _____ Provide an estimate of the impact on traffic congestion affected roads and describe any traffic improvements necessary. If the project is within the Twin Cities metropolitan area, discuss its impact on the regional transportation system.

Construction of the interceptor at I-94 and the railroad will be done by jacking. Therefore, no temporary detours or road disturbance will be necessary to complete this work.

During construction, construction vehicles will use local roads. The only permanent increase in traffic resulting directly from the project may be infrequent trips necessary for inspection of the interceptor and structures. Such trips typically do not impact traffic congestion or require traffic improvements.

In the future, traffic in the vicinity of the project will likely increase with urbanized development. Residential, commercial, and other types of development may be enabled as a result of the project. It is the purpose of the project to provide wastewater collection and conveyance for the project service area. As a result of development of these areas in the future, vehicular traffic would increase. It will be necessary for MnDOT, Wright County, Monticello, and surrounding communities to plan and provide roadway improvements to mitigate traffic congestion.

- 22. Vehicle-related Air Emissions.** Estimate the effect of the project's traffic generation on air quality, including carbon monoxide levels. Discuss the effect of traffic improvements or other mitigation measures on air quality impacts. Note: If the project involves 500 or more parking spaces, consult *EAW Guidelines* about whether a detailed air quality analysis is needed.

Vehicle emissions associated with the project will not have a significant effect on air quality. However, residential and other development enabled by the construction of wastewater conveyance capacity may result in measurable but not significant impacts. If traffic increases result locally in future deterioration of levels of service and/or air quality violations, mitigative measures are available. These include roadway improvements, signal installation, and provision of alternative transportation choices.

23. Stationary Source Air Emissions. Describe the type, sources, quantities and compositions of any emissions from stationary sources of air emissions such as boilers, exhaust stacks or fugitive dust sources. Include any hazardous air pollutants (consult *EAW Guidelines* for a listing), any greenhouse gases (such as carbon dioxide, methane, and nitrous oxides), and ozone-depleting chemicals (chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons or sulfur hexafluoride). Also describe any proposed pollution prevention techniques and proposed air pollution control devices. Describe the impacts on air quality.

The project will not generate stationary source air emissions.

24. Odors, noise and dust. Will the project generate odors, noise or dust during construction or during operation? Yes No
If yes, describe sources, characteristics, duration, quantities or intensity and any proposed measures to mitigate adverse impacts. Also identify locations of nearby sensitive receptors and estimate impacts on them. Discuss potential impacts on human health or quality of life. (Note: fugitive dust generated by operations may be discussed at item 23 instead of here.)

Noise

Noise from construction activity would be temporary. The hours of construction will be in conformance with the City's ordinances.

Dust

During construction, particulate emissions will temporarily increase due to the generation of fugitive dust. The following dust control measures will be undertaken as necessary:

- Minimize the period and extent of areas being exposed or graded at any one time.
- Spraying construction areas and haul roads with water, especially during periods of high wind or high levels of construction activity.
- Minimize the use of vehicles on unpaved surfaces.
- Covering or spraying material piles and truck loads.

Odors

The construction and/or operation of this project is not anticipated to involve any processes or materials that would generate any odors.

25. Nearby resources. Are any of the following resources on or in proximity to the site?

- a. Archaeological, historical, or architectural resources? Yes No
- b. Prime or unique farmlands or land within an agricultural preserve? Yes No
- c. Designated parks, recreation areas, or trails? Yes No
- d. Scenic views and vistas? Yes No
- e. Other unique resources? Yes No

If yes, describe the resource and identify any project-related impacts on the resources. Describe any measures to minimize or avoid adverse impacts.

- a. Based on a review the SHPO database, there are no recorded historical, archaeological, or architectural resources within this site. Based on the current land use, it is anticipated that these resources would not exist at this site. However, if these resources are encountered as part of construction activity, work will be stopped until the area can be investigated. The information from SHPO is included as Figure 6.

b. Farmland: Information from the National Resource Conservation Service indicates that the soils on the site are not prime farmland soils.

26. Visual impacts. Will the project create adverse visual impacts during construction or operation? Such as glare from intense lights, lights visible in wilderness areas and large visible plumes from cooling towers or exhaust stacks? Yes No
If yes, explain.

None identified.

27. Compatibility with plans and land use regulations. Is the project subject to an adopted local comprehensive plan, land use plan or regulation, or other applicable land use, water, or resource management plan of a local, regional, state or federal agency? Yes No
If yes, describe the plan, discuss its compatibility with the project and explain how any conflicts will be resolved. If no, explain.

This project is subject to the City's Comprehensive Sanitary Sewer Plan (Comprehensive Plan). The Reservoir Lift Station and forcemain have been in need of repair and/or replacement. This work will be accomplished as part of the Bondhus Segment sewer project. Additionally, the Bondhus Segment will be sized to accommodate the future growth anticipated in the annexation area. The City is updating this Comprehensive Plan to accommodate the annexation area and address upgrades that will be needed for the WWTF.

28. Impact on infrastructure and public services. Will new or expanded utilities, roads, other infrastructure or public services be required to serve the project? Yes No
If yes, describe the new or additional infrastructure or services needed. (Note: any infrastructure that is a connected action with respect to the project must be assessed in the EAW; see *EAW Guidelines* for details.)

The Bondhus Segment trunk sewer project is a public utility project. Based on the future planned expansion of the interceptor to the south, the WWTF will need upgrades to accommodate the additional flow. The City is currently analyzing the WWTF upgrade needs.

There are no other public utilities that need to be expanded to complete this project. However, the construction of this project is anticipated to lead to additional development within the 6,760-acre area that eventually will be served by the future interceptor extension. This development will require additional infrastructure that will need to be addressed as part of future environmental and plan reviews. The City has anticipated this type of growth in its Comprehensive Plan.

29. Cumulative impacts. Minn. R. 4410.1700, subp. 7, item B requires that the RGU consider the "cumulative potential effects of related or anticipated future projects" when determining the need for an environmental impact statement. Identify any past, present or reasonably foreseeable future projects that may interact with the project described in this EAW in such a way as to cause cumulative impacts. Describe the nature of the cumulative impacts and summarize any other available information relevant to determining whether there is potential for significant environmental effects due to cumulative impacts (or discuss each cumulative impact under appropriate item(s) elsewhere on this form).

Short Term

The Southeast Interceptor/Bondhus Segment will initially collect the flows currently going to the Reservoir Lift Station. The Reservoir Lift Station serves an area of approximately 1,095 acres.

Additionally, the proposed Monticello Retail Development and the existing Dahlheimer Distribution warehouse will connect to the Southeast Interceptor. The Monticello Retail Development site was reviewed under a separate EAW in 2004.

The City is currently in the process of planning and designing an interchange modification for the existing CSAH 75 interchange with I-94, which is near the interceptor. The proposed interchange modification is planned for completion in 2007. This interchange work is being completed to address the projected traffic needs in this area. The cumulative impacts of the interchange will result in mitigated traffic for the area and region.

Long Term

It is anticipated that the Southeast Interceptor will be extended to the south in the future. The future extension will serve the areas proposed to be annexed by the City and serve a 6,760-acre area (see Figure 4). This extension is anticipated to occur in the next 5 to 25 years, depending on development in this area. The future development in this area may require a separate environmental assessment, either by site-by-site or via an Alternative Urban Areawide Review.

Impacts associated with general development in the area include increased stormwater runoff, increased water use and sanitary sewer flows, and conversion of mostly agricultural and fallow land to developed area. The increased sanitary sewer flows will be addressed by the extension of the interceptor, as well as future anticipated upgrades to the WWTF. To address these impacts, the City is updating its Comprehensive Plans to address planning issues in the annexation areas.

30. Other Potential Environmental Impacts. If the project may cause any adverse environmental impacts not addressed by items 1 to 28, identify and discuss them here, along with any proposed mitigation.

None identified.

31. Summary of issues. List any impacts and issues identified above that may require further investigation before the project is begun. Discuss any alternatives or mitigative measures that have been or may be considered for these impacts and issues, including those that have been or may be ordered as permit conditions.

RGU CERTIFICATION.

I hereby certify that:

- The information contained in this document is accurate and complete to the best of my knowledge.
- The EAW describes the complete project; there are no other projects, stages or components other than those described in this document, which are related to the project as connected actions or phased actions, as defined at Minn. R. 4410.0200, subps. 9b and 60, respectively.
- Copies of this EAW are being sent to the entire EQB distribution list.

Name and Title of Signer:

**Beth G. Lockwood, Supervisor, Environmental Review Unit
Environmental Review and Operations Section
Regional Division**

Date:

The format of the Environmental Assessment Worksheet was prepared by the staff of the Environmental Quality Board at Minnesota Planning. For additional information, worksheets or for *EAW Guidelines*, contact: Environmental Quality Board, 658 Cedar St., St. Paul, MN 55155, 651-296-8253, or at their Web site <http://www.eqb.state.mn.us/review.html>.

PLANNING COMMISSION

AGENDA ITEM: 5. Sand Moratorium Study: Miscellaneous Water Questions

PREPARED BY: Carlos Espinosa

DATE: August 13, 2012

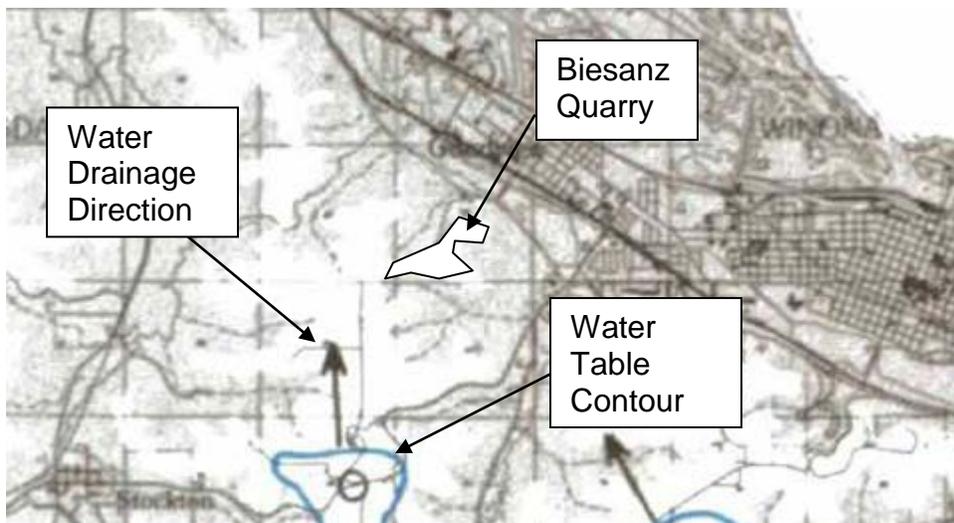
At the last Commission meeting there were a couple water-related questions from Commissioners.

Water Drainage/Water Table at Biesanz and Bluff Areas in Winona

Quoting from a letter received from the DNR (Attachment A):

The Biesanz Quarry is located on a remnant bedrock highland that is flanked by steep valley walls and capped by Prairie du Chein Group's Oneota Dolomite. The Jordan sandstone is located immediately below the Oneota Dolomite. The Geologic Atlas' water table contour map for the Prairie du Chein/Jordan Sandstone suggests that the formations are drained by the steep valleys. While the Jordan Sandstone is an important aquifer in much of Winona County, it is likely that it is essentially dry in the vicinity of the Quarry. The County Well Index records indicate that the majority of wells in the vicinity draw water from aquifers below the Jordan Sandstone.

The "water table contour map" referenced above is shown on the map below. The blue line shown indicates presence of the water table at an elevation of 900'.



North and northeast of the contour line (towards Winona) the elevation of the water table drops off in a manner similar to the diagram below:

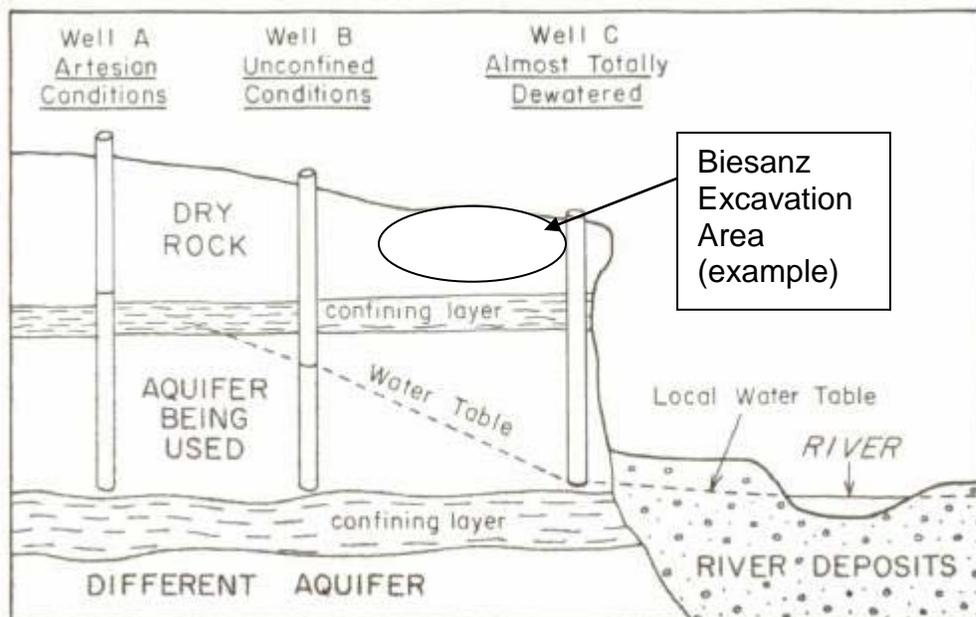


Figure 3.—Variability in aquifer conditions due to discharge into valleys.

An example location of Biesanz Quarry excavation is shown in the diagram. This shows why mining in the Jordan formation is different for Biesanz's location versus the rest of the County where mining would be significantly closer to groundwater resources.

Prohibiting Flocculants

Correspondence with the City Attorney has determined that the City's ability to ban flocculants or polyacrylamide is unlikely without solid reasoning. Such solid reasoning may be hard to establish given that polyacrylamide is used in a number of applications such as wastewater treatment, paper mills, and agriculture (used in irrigation water to improve soil texture). Also, staff has spoken with a representative from the water quality division at the MPCA – the representative indicated he was not aware of other jurisdictions in Minnesota which have banned the use of flocculants. Although not currently part of Winona's frac sand processing facilities, written permission from the MPCA would be required before a flocculent such as polyacrylamide is used. The agency will also be providing additional comments on the use and regulation of flocculants. Staff will forward that information to the Commission asap.

Attachment:

- DNR Letter

Minnesota Department of Natural Resources

Division of Ecological and Water Resources
1801 South Oak Street
Lake City, Minnesota 55041
651/345-5601 ext. 245



June 26, 2012

Mayor Jerry Miller
265 West Broadway Street
Winona, Minnesota 55987

Dear Mayor Miller:

Thank you for your recent phone call regarding the Jordan Aquifer in the vicinity of the Biesanz Quarry. As we discussed on the phone, it is my understanding that your local constituents have expressed concerns to you regarding potential dewatering and pollution of groundwater associated with mining operations at Biesanz Quarry.

At your request, I have reviewed the readily available geologic and hydrogeologic information for the area. This included a review of the Winona County Geologic Atlas, County Well Index, State Water Use Data System, and various Geographic Information System (GIS) data themes available through the DNR.

The Biesanz Quarry is located on a remnant bedrock highland that is flanked by steep valley walls and capped by Prairie du Chien Group's Oneota Dolomite. The Jordan sandstone is located immediately below the Oneota Dolomite. The Geologic Atlas' water table contour map for the Prairie du Chien/Jordan Sandstone suggests that the formations are drained by the steep valleys. While the Jordan Sandstone is an important aquifer in much of Winona County, it is likely that it is essentially dry in the vicinity of the Quarry. The County Well Index records indicate that the majority of wells in the vicinity draw water from aquifers below the Jordan Sandstone.

As you are aware, the DNR administers the Public Waters Appropriation Permit program. The DNR has no information to suggest that the Biesanz Quarry uses more than 10,000 gallons per day or more than 1 million gallons a year so no Public Waters Appropriation Permit has been required. If there is specific information that suggests a violation of Public Waters rules has occurred, please contact Conservation Officer Tom Hemker directly at 507/452-1945. He will investigate and coordinate with the appropriate DNR staff for further action to enforce water law.

If there are specific concerns regarding pollution, discharge of water, spill prevention, best management practices or stormwater management, please contact the Pollution Control Agency's Rochester Office directly at 507/285-7343. Should additional technical information become available, I would be glad to reevaluate the Biesanz Quarry's hydrogeologic setting. Please call should you have additional technical groundwater questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Scot Johnson". The signature is written in a cursive style with a long, sweeping underline.

Scot Johnson, MS LPG
Southeast Minnesota Groundwater Specialist

cc. Jeanette Leete, Groundwater Unit Supervisor
Bill Huber, Area Hydrologist
Tom Hemker, Conservation Officer

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PLANNING COMMISSION

AGENDA ITEM: 6. Nonconforming Ordinance Amendment

PREPARED BY: Carlos Espinosa

DATE: August 13, 2012

According to the state's nonconformity statute, "A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety." This is the key provision which would enable the City to enter into the previously discussed nonconformity agreement with Biesanz Stone Company. However, there must be a specific ordinance in City Code which allows the city to impose "reasonable regulations." Currently, there is no such ordinance in City Code. The attached draft nonconformity amendments would establish such an ordinance:

(f) Reasonable Regulations or Conditions. Pursuant to Minnesota Statutes, Section 462.357, Subd. 1e, the City may impose upon any nonconformity reasonable regulations or conditions to prevent and abate nuisances and to protect the public health, safety or welfare. Reasonable regulations or conditions may be imposed by the City on a nonconformity through a recordable instrument approved by the City Council, including a nonconformity agreement, or otherwise by permit or order of the City Council.

The draft amendments also propose other changes to the nonconforming section of the City Code. The first significant change is defining how nonconformities can expand:

Nonconformities may be expanded as follows:

- (1) Nonconforming uses may expand upon issuance of a conditional use permit only when listed as a conditional use within the applicable zoning district.
- (2) Nonconforming uses not listed as a conditional use may only expand if changed to a conforming use.
- (3) Nonconforming lots, structures or site characteristics may expand only upon approval of a variance.

These amendments would prevent non-conforming uses not listed as a conditional use (i.e. business uses in a residential zone) from expanding at all, while allowing conditionally permitted uses (i.e. bed and breakfasts in a residential zone) to expand through a CUP. The amendments would also allow other types of nonconformities to expand through variance.

The second significant change is definition of expansion:

For purposes of this section, expansion of a nonconformity shall include:

- (1) An increase in: structure dimension(s), size, area, height, width, number of units, usable floor area, and/or the land area of use;
- (2) Addition of a structure or part thereof;
- (3) Addition of equipment. This shall not apply to new equipment which constitutes merely an improvement over the previous method and does not constitute a change in the nature and purpose of the original use of a property.
- (4) Relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;

These amendments are important because state statute does not define expansion of a nonconformity. This definition would help determine when nonconformity needs a CUP or variance to expand.

Other changes to the ordinance include eliminating unused or redundant sections of the ordinance and adding appropriate definitions to the definition section of the zoning ordinance.

Next Steps

Staff requests that the Planning Commission review the proposed amendments. If the Commission concurs with proposed changes, a motion to forward the amendments to a public hearing at the next meeting would be appropriate.

Attachment:

- Proposed Ordinance Amendments

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:

~~Nonconforming Use:— A building, structure or premises legally existing and/or used at the time of original adoption of the regulations of this chapter or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure or premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.~~

Nonconformity: Any land use, structure, lot, or site characteristic, which existed lawfully at the effective date of a zoning ordinance or subdivision ordinance, has been continued since that time, but which would not have been permitted to become established under the terms of the City Code as now written.

Nonconforming use: A use that was legally conforming at the time it was established but which does not comply with the current City Code.

Nonconforming structure: A structure that was legally conforming at the time it was constructed but which does not comply with the current City Code.

Nonconforming lot: A lot lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements for lot area, and/or width, depth, lot frontage, or other requirement of the existing City Code.

Nonconforming site characteristic: A site characteristic lawfully established prior to the effective date of the City Code, or subsequent amendments to it, which fails to meet requirements of the existing City Code. For the purposes of nonconformities, "site characteristics" are physical improvements to the site beyond structures, and may include but are not limited to: impervious surface coverage, storm water facilities, parking and parking lots, driveway surfaces,

screening, fences, landscaping, sidewalks, patios, man-made water features such as ponds or swimming pools, and similar features.

Nonconformity Agreement. A recordable agreement between the City and the property owner of a nonconformity, which imposes reasonable regulations or conditions upon nonconformities to prevent and abate nuisances and to protect the public health, safety, or welfare. Such agreement may only be approved by the City Council.

Nonconformity, legal: A nonconformity that was legally conforming at the time it was established and received all required approvals.

Nonconformity, illegal: A nonconformity that was not legal at the time it was established or did not receive all required approvals.

Section 2. That Section 43.32 of Article III of the City Code of Winona, Minnesota, 1979, which article is entitled "Nonconforming Uses and Buildings" be amended as follows:

ARTICLE III. ~~NONCONFORMITIES~~ ~~USES AND BUILDINGS~~

43.32 ~~NONCONFORMITIES~~ ~~USES AND BUILDINGS~~.

(a) **Purpose and Intent.** It is the purpose and intent of this section to:

- (1) allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;
- (2) encourage such nonconformities to be brought into compliance when reasonable to do so;
- (3) establish the requirements under which nonconformities may be operated and maintained;
- (4) diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities; and
- (5) comply with Minnesota Statutes Section 462.357, Subd. 1e, as amended from time to time.

(ab) **Continuation Rights of Existing Uses.** Pursuant to Minnesota Statutes Section 462.357, Subd. 1e~~Except as hereinafter specified, any legal nonconformity, including, the lawful use or occupation of land or premises existing at the time a City Code amendment created the nonconformity, of a building or premises existing at the time of the original adoption or amendment of the regulations of this chapter may be continued with any necessary approvals, including through repair, structural alteration,~~

replacement, restoration, maintenance, and improvement, but not including expansion, unless authorized by this Section. unless:

(c) Termination of rights. A legal nonconforming use must not resume where:

- (1) The nonconformity or occupancy is discontinued for a period of more than one year. Further, there shall be a showing of intent to abandon the use or premises including some overt act expressing that intent shall be made.
- (2) A structural alteration increases usable floor area.
- (3) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. The assessed market value (including buildings and land) must be determined by the most recent valuation of the County Assessor.

Where any right to continue the nonconformity is terminated, any future use of land must comply fully with the City Code.

~~The use of a structure containing 2 or more dwelling units, or rooming units, which use does not provide sufficient off-street parking spaces and which use is being made of the structure on April 19, 1972, is declared to be a nonconforming use, but the use may continue even though the requirements for off-street parking spaces have not been met; provided, that:~~

- ~~(1) The owner of the structure registers it with the city within 120 days after April 19, 1972, in such a manner and on such form as the city prescribes, and~~
- ~~(2) The owner of the structure (if the structure is not already certified) applies to the city for a certificate of occupancy within 120 days after April 19, 1972.~~

~~Provided further, that such nonconforming use shall continue only so long as the use is not changed so as to render the certificate of occupancy invalid.~~

~~(08-17-59; 04-17-72)~~

(d) **Substitution.** Nonconforming uses may be substituted for another not more objectionable nonconforming use when authorized by the board in accordance with Section 43.30.

~~(b)(e)~~ **Enlargement, Substitution of Uses.** No existing building or premises devoted to a use not permitted by this chapter in the district in which such building or premises is located, except when required to do so by law or order, shall be expanded, enlarged, or extended, or substituted, unless the use thereof is changed to a use permitted in the district in which such building or premises is located, and except as follows:**Expansion.** Nonconformities may not be expanded, unless expressly permitted as discussed below. For purposes of this section, expansion of a nonconformity shall include:

- (1) An increase in: structure dimension(s), size, area, height, width, number of units, usable floor area, and/or the land area of use;
- (2) Addition of a structure or part thereof;
- (3) Addition of equipment. This shall not apply to new equipment which constitutes merely an improvement over the previous method and does not constitute a change in the nature and purpose of the original use of a property.
- (4) Relocation of operations to a new location on the property not previously used unless the relocation reduces or eliminates the nonconformity;

Nonconformities may be expanded as follows:

- (1) Nonconforming uses may expand upon issuance of a conditional use permit only when listed as a conditional use within the applicable zoning district.
- (2) Nonconforming uses not listed as a conditional use may only expand if changed to a conforming use.
- (3) Nonconforming lots, structures or site characteristics may expand only upon approval of a variance.

(f) **Reasonable Regulations or Conditions.** Pursuant to Minnesota Statutes, Section 462.357, Subd. 1e, the City may impose upon any nonconformity reasonable regulations or conditions to prevent and abate nuisances and to protect the public health, safety or welfare. Reasonable regulations or conditions may be imposed by the City on a nonconformity through a recordable instrument approved by the City Council, including a nonconformity agreement, or otherwise by permit or order of the City Council.

- ~~(1) Substitution. When authorized by the board, in accordance with the provisions of Section 43.30, the substitution for a nonconforming use of another not more objectionable nonconforming use.~~
- ~~(2) Nonconforming uses which have been made to conform. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. (08-17-59)~~

Section 3. That Section 43.32.1 of Article III of the City Code of Winona, Minnesota, 1979, which article is entitled "Nonconforming Uses and Buildings" be amended as follows:

~~43.32.1 NONCONFORMING BUILDINGS~~

- ~~(a) Any legal nonconforming building may be repaired, structurally altered, replaced, restored, maintained, and/or improved. However, no such building or structure may be expanded unless all parts of it fully conform with the standards of the underlying zoning. For purposes of this section, the term expanded shall include, but not be limited to, an increase in usable floor area.~~

Section 4. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

PLANNING COMMISSION

AGENDA ITEM: 7. Initiation of Zoning

PREPARED BY: Mark Moeller

DATE: August 13, 2012

In May 2005, Wilson Township and the City entered into a joint agreement designating approximately 1700 acres of Township land for future orderly annexation. For reference, a copy of a map (Exhibit A), showing the location of orderly annexation lands, is attached. Pursuant to terms of the agreement, any property owner within the designated area may request/petition annexation of his/her property into the City. Following a 30 day review/comment period by the Township, Council enacts an approving resolution that is then submitted to the State Office of Administrative Hearings for final approval.

Exclusive of annexations for Phillips and Sweetwater, a total of eighteen properties have been annexed under the previous process since 2005. Maps reflecting the locations of these properties are attached as Exhibits B & C. Of these, all but one (a one acre vacant site on County Road 17 (Pleasant Valley Road), have involved "developed" parcels and, of these, all but one (Winona Golf and Dining) accommodated single family home structures. In terms of distribution, eight properties were located in Pinecrest (south of Homer Road), seven within the Pleasant Valley Terrace Subdivision (adjacent to Bridges Golf Course) and three adjacent to County Road 17.

Pursuant to City Code Section 43.07 (e), newly annexed lands do not bear a zoning classification until such a classification is given according to zoning amendment procedures of Section 43.31. Under this section, amendments may be "initiated" in one of three ways, including:

1. By petition of a property owner (requiring application, fees, etc.)
2. By Planning Commission.
3. By City Council.

Given that zoning should be applied to these properties, staff suggests that the exercise of Option 2 would promote the most efficient, user friendly, approach to addressing this issue. Under it, rather than considering a zoning "request" for each property on a case by case basis, it would be possible to consolidate/group requests by common theme (zone classification), geographical area, etc. thereby minimizing required hearings, and notification/publication costs, for all concerned. Additionally, since City zoning will be extended to areas where it presently does not exist, this option would allow the

PLANNING COMMISSION AGENDA
7. INITIATION OF ZONING
AUGUST 13, 2012
PAGE 2

Commission to establish zone classification precedent within them, in accordance with goals/recommendations of the City's present Comprehensive Plan.

For Commission information, letters, explaining the issue, and including "initial" zoning to be considered, have been sent to all property owners. Given current property, and property neighborhood characteristics, along with 2007 Comprehensive Plan recommendations for these neighborhoods, R-1 (one family residence) zoning is "proposed", by staff, for (15) parcels located within the Pinecrest and Valley View Terrace Subdivision areas, R-S (Residential-Suburban) zoning for two parcels located along County Road 15, and AG (Agricultural) zoning for annexed portions of the Golf Course area. Once initiated, it is envisioned that the total number of parcels will be consolidated into two to three general "groups" (applications) for formal zoning consideration.

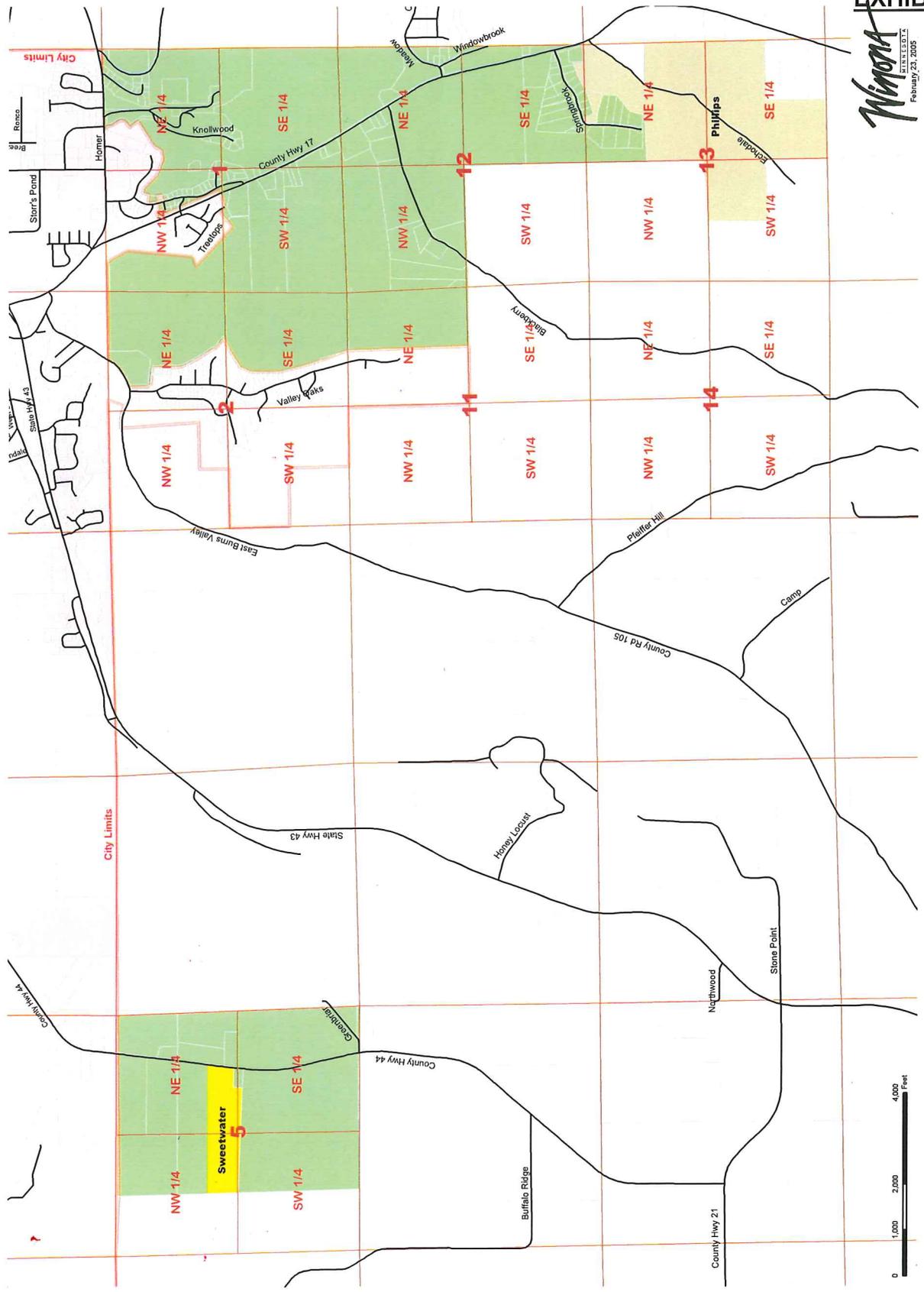
Should the Commission determine that it is appropriate for it to initiate the zoning of annexed parcels referenced on Exhibits B and C, the City Attorney recommends adoption of a motion (directing staff to draft, and bring back to the Planning Commission, ordinances effecting zoning of those annexed lands reflected on Exhibits B and C of the staff report, and to properly notice the same for public hearing and consideration by the Commission).

Again, adoption of this motion will simply move the issue to the formal hearing level.

Attachments

EXHIBIT A

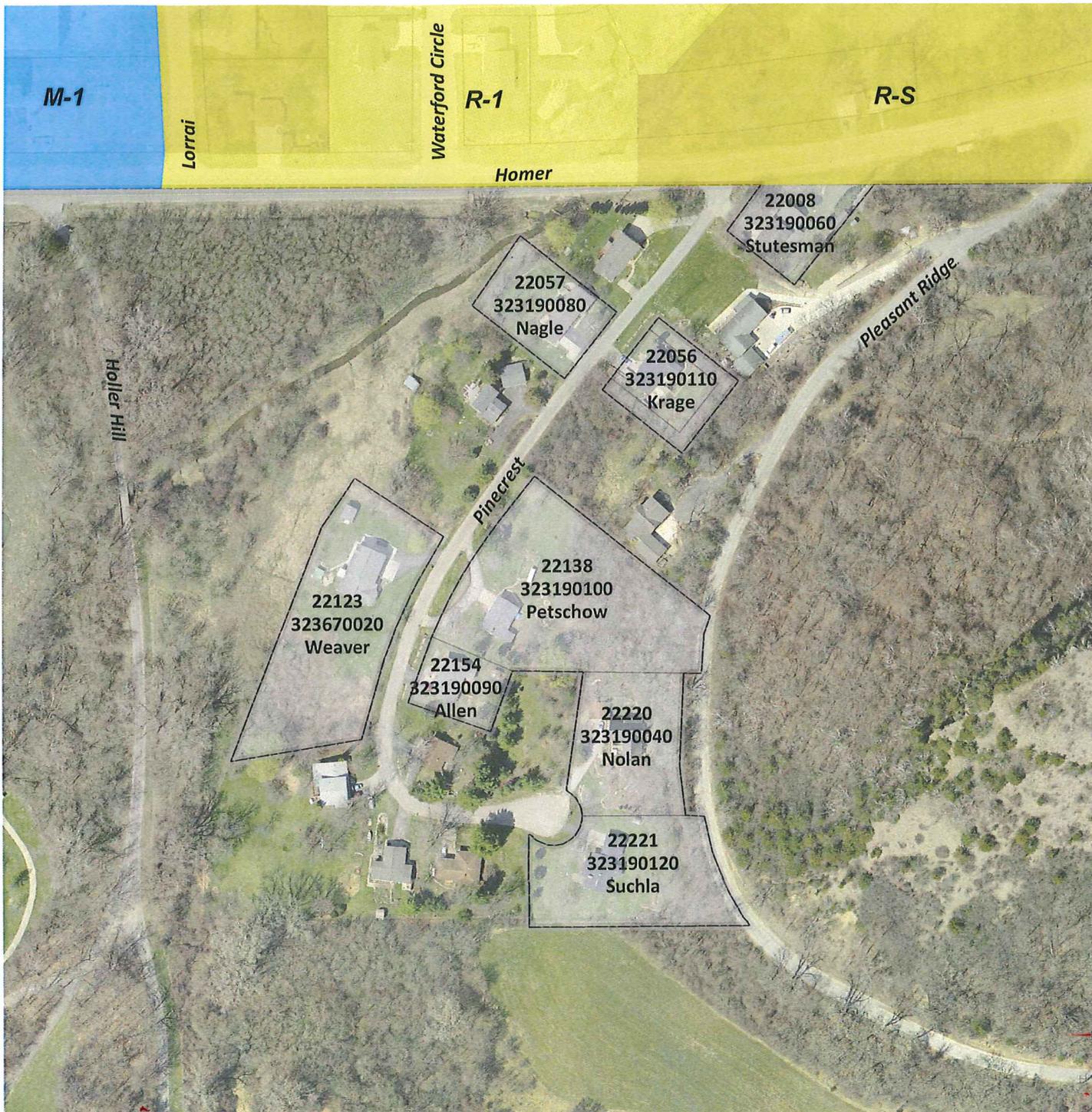
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 February 23, 2005



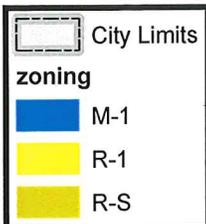
	Roads
	Orderly Annexation Area
	Parcels
	Existing City Limits
	Sweetwater Property
	Phillips Property
	Sections



Recent Annexation Pinecrest Road

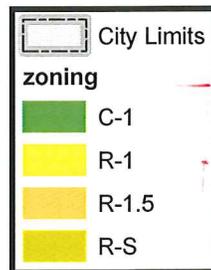
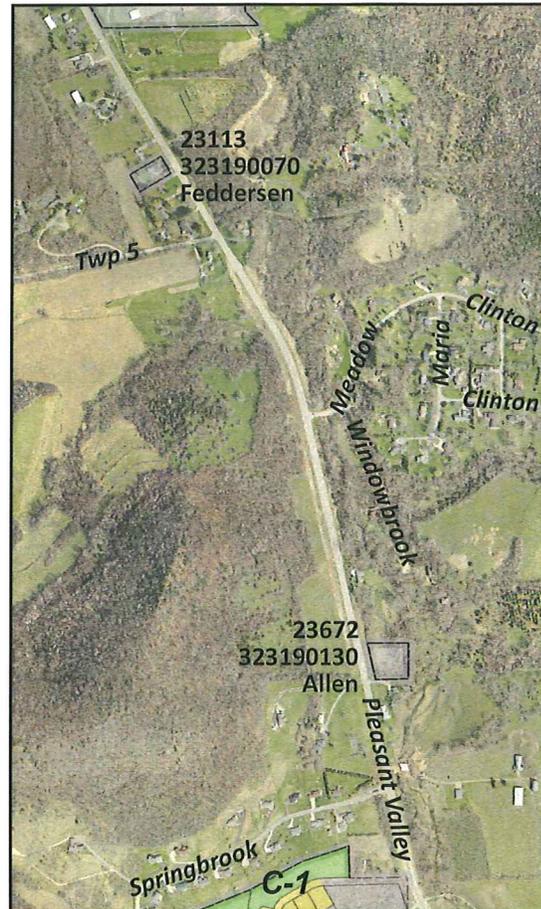
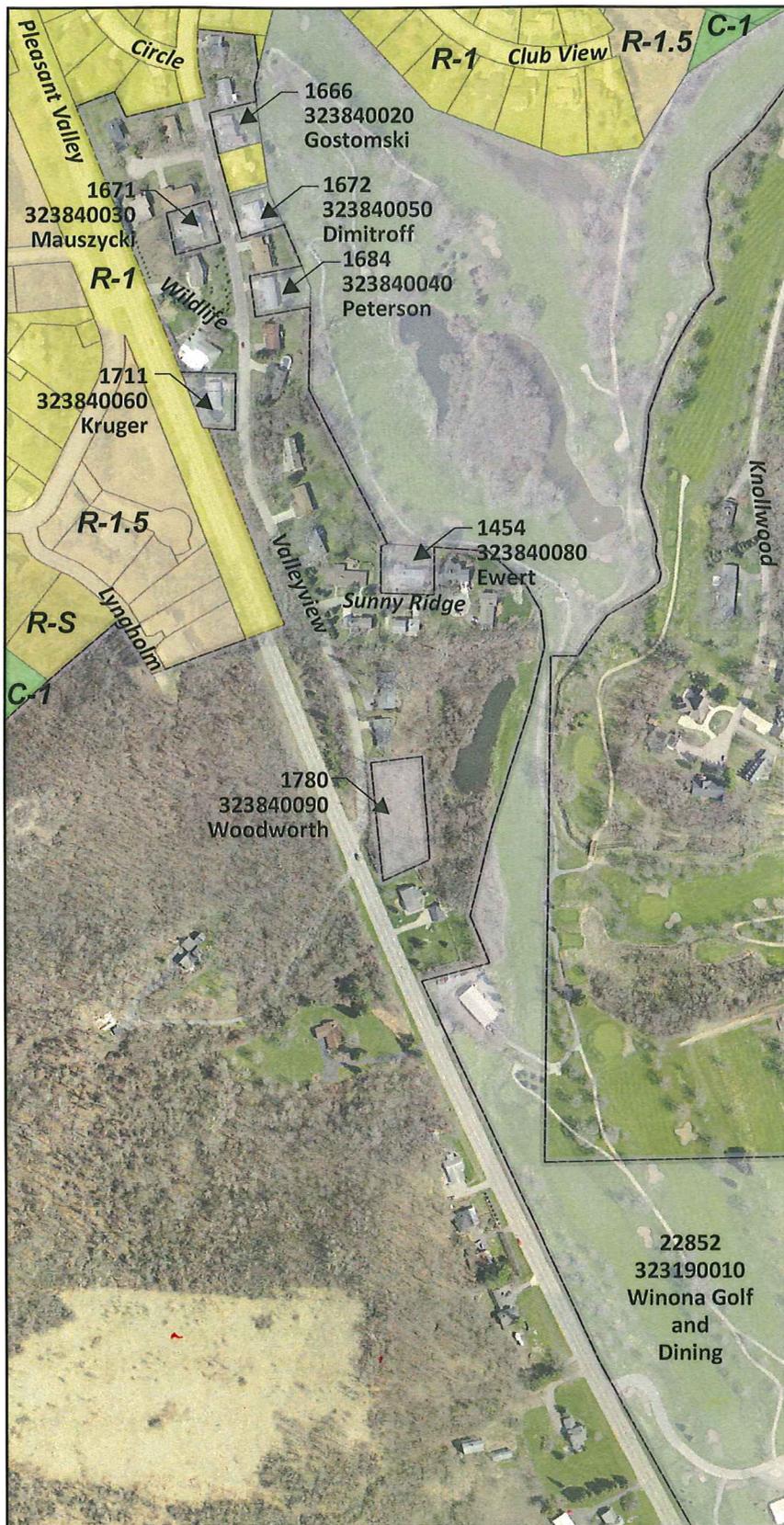


July 2012



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.

Recent Annexation Pleasant Valley



July 2012

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