

City of Afton

3033 St. Croix Trl, P.O. Box 219

Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
 From: Ron Moorse, City Administrator
 Date: September 10, 2018
 Re: Application by Eric and Kaya Cook and Ken and Linda Johnson for a Minor Subdivision for a Lot Line Rearrangement at 3787 St. Croix Trail and 3752 River Road – **Resolution 2018-41**

Eric and Kaya Cook and Ken and Linda Johnson have applied for a minor subdivision for a lot line rearrangement to transfer 1.8 acres of property from 3787 St. Croix Trail, to be combined with the property at 3752 River Road to make the 3752 River Road parcel conforming to the minimum 5-acre lot size. The application does not create any additional lots. The application is for a minor subdivision vs. a simple subdivision because the existing parcels are nonconforming. The 3752 River Road parcel is currently nonconforming regarding lot size. The 3787 St. Croix Trail parcel is nonconforming due to its access being provided through a private easement driveway through the 3752 River Road Parcel rather than directly from its frontage on St. Croix Trail. Access from St. Croix Trail is not possible due to very steep slopes.

The current and proposed lot sizes are as follows:

	<u>Current Lot Size</u>	<u>Proposed Lot Size</u>
3787 St. Croix Trail	18.4 Acres	16.6 Acres
3752 River Road	3.3 acres	5.1 acres

A survey showing the current and proposed parcels is attached.

Scenic Easements

The minor subdivision regulations require that all areas with slope of 12% or greater be placed into a scenic easement. Attached is a sketch showing the areas on the property with steep slopes. The surveyor is in the process of adding these steep slope areas to the survey. As indicated above, the parcel at 3787 St. Croix Trail is accessed through the 3752 River Road parcel with a private easement driveway. Portions of this driveway cross areas with slopes of 12% or greater. The existing driveway area should be exempted from the scenic easement restriction regarding driveways.

Structures on 3787 St. Croix Trail

The owners of the 3787 St. Croix Trail parcel are not yet living at the property. The property includes two structures that were each used in the past as dwelling units. The larger house is currently being remodeled. Per a settlement agreement between the City, the former owner of the property and the current owner of the property, the kitchen and shower are required to be removed from the smaller house so that it cannot be used as a dwelling unit. This work has yet to be completed.

Planning Commission Recommendation

The Planning Commission, on a vote of 7-0-0 recommended approval of the subdivision based on the following findings and with the following conditions.

Findings

1. The two parcels in the proposed subdivision are zoned Rural Residential

2. The land to the south, west and east of the subdivision is zoned Rural Residential and the land to the north is zoned VHS-R.
3. The proposed minor subdivision does not create any additional lots.
4. The proposed subdivision adds 1.8 acres to the 3752 River Road parcel, which is currently nonconforming with a lot area of 3.3 acres vs. the required minimum lot area of 5.0 acres.
5. The parcel at 3787 St. Croix Trail obtains its access from a private driveway easement through the 3752 River Road parcel.
6. The parcels include areas with slopes of 12% and greater.

Conditions

1. Scenic easements shall be placed on all areas with slopes of 12% or greater.
2. The area of the existing driveway serving the 3787 St. Croix Trail parcel shall be exempted from the scenic easement restriction regarding driveways.
3. The property owners shall each execute a scenic easement agreement and shall record the scenic easement concurrent with the subdivision
4. Before the subdivision can be recorded, the shower and kitchen shall be removed from the small structure on the bluff so that it cannot be used as a dwelling unit.

Resolutions

Attached is a resolution of approval reflecting the Planning Commission's recommendation and a resolution of denial.

COUNCIL ACTION REQUESTED:

Motion regarding the adoption of a resolution regarding the application by Eric and Kaya Cook and Ken and Linda Johnson for a minor subdivision for a lot line rearrangement at 3787 St. Croix Trail and 3752 River Road.

RESOLUTION 2018-41

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING THE ERIC AND KAYA COOK AND KEN AND LINDA JOHNSON APPLICATION FOR A MINOR SUBDIVISION FOR A LOT LINE REARRANGEMENT AT 3787 ST. CROIX TRAIL AND 3752 RIVER ROAD

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Eric and Kaya Cook and Ken and Linda Johnson have applied for a minor subdivision at 3787 St. Croix Trail and 3752 River Road; and
- WHEREAS,** the application proposes a lot line rearrangement to transfer 1.8 acres of property from the 3787 St. Croix Trail parcel to the 3752 River Road parcel; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the legal descriptions of the property are attached as Exhibit A, and
- WHEREAS,** the Planning Commission held a public hearing on the application at its regular meeting of September 10, 2018 and recommended APPROVAL of the minor subdivision on a vote of 7-0-0; and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission and Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby APPROVE the Eric and Kaya Cook and Ken and Linda Johnson application for a Minor Subdivision at 3787 St. Croix Trail and 3752 River Road , based on the findings listed below and subject to the conditions listed below.

Findings

1. The two parcels in the proposed subdivision are zoned Rural Residential
2. The land to the south, west and east of the subdivision is zoned Rural Residential and the land to the north is zoned VHS-R.
3. The proposed minor subdivision does not create any additional lots.
4. The proposed subdivision adds 1.8 acres to the 3752 River Road parcel, which is currently nonconforming with a lot area of 3.3 acres vs. the required minimum lot area of 5.0 acres.
5. The parcel at 3787 St. Croix Trail obtains its access from a private driveway easement through the 3752 River Road parcel.
6. The parcels include areas with slopes of 12% and greater.

Conditions

1. Scenic easements shall be placed on all areas with slopes of 12% or greater.

RESOLUTION 2018-41

2. The area of the existing driveway serving the 3787 St. Croix Trail parcel shall be exempted from the scenic easement restriction regarding driveways.
3. The property owners shall each execute a scenic easement agreement and shall record the scenic easement concurrent with the subdivision
4. The subdivision shall not be recorded until the kitchen and shower are removed from the small house on the 3787 St. Croix Trail parcel

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moore, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

RESOLUTION 2018-41XX

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION DENYING THE ERIC AND KAYA COOK AND KEN AND LINDA JOHNSON APPLICATION FOR A MINOR SUBDIVISION FOR A LOT LINE REARRANGEMENT AT 3787 ST. CROIX TRAIL AND 3752 RIVER ROAD

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Eric and Kaya Cook and Ken and Linda Johnson have applied for a minor subdivision at 3787 St. Croix Trail and 3752 River Road; and
- WHEREAS,** the application proposes a lot line rearrangement to transfer 1.8 acres of property from the 3787 St. Croix Trail parcel to the 3752 River Road parcel; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the legal descriptions of the property are attached as Exhibit A, and
- WHEREAS,** the Planning Commission held a public hearing on the application at its regular meeting of September 10, 2018 and recommended APPROVAL of the minor subdivision on a vote of 7-0-0; and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission and Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby DENY the Eric and Kaya Cook and Ken and Linda Johnson application for a Minor Subdivision at 3787 St. Croix Trail and 3752 River Road , based on the findings listed below

Findings

1. The two parcels in the proposed subdivision are zoned Rural Residential
2. The land to the south, west and east of the subdivision is zoned Rural Residential and the land to the north is zoned VHS-R.
3. The proposed minor subdivision does not create any additional lots.
4. The proposed subdivision adds 1.8 acres to the 3752 River Road parcel, which is currently nonconforming with a lot area of 3.3 acres vs. the required minimum lot area of 5.0 acres.
5. Both parcels are irregularly shaped and the land to be added to the 3752 River Road parcel is irregularly shaped.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

RESOLUTION 2018-41XX

Richard Bend, Mayor

ATTEST:

Ronald J. Moore, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

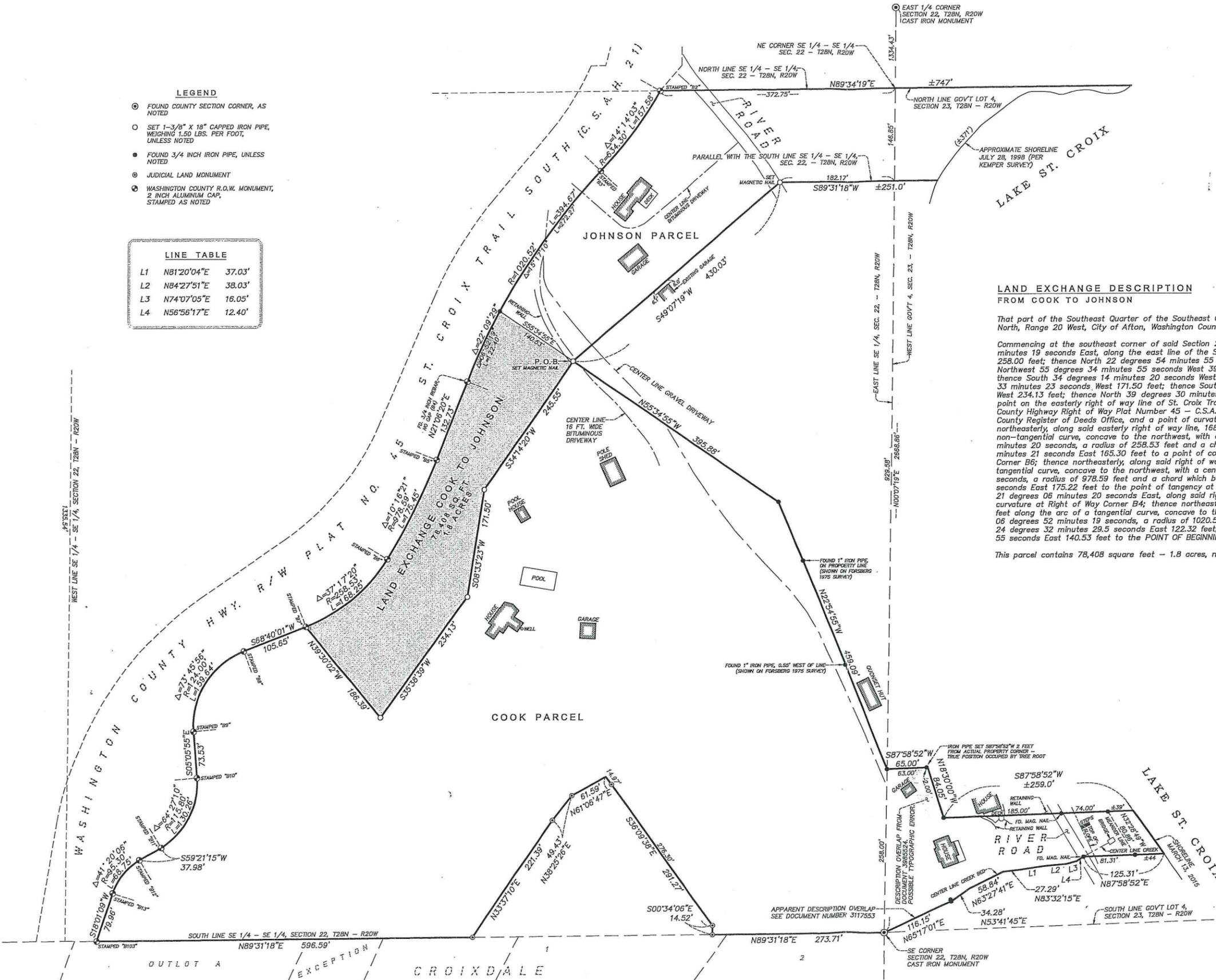
Bend:

EXHIBIT OF LAND EXCHANGE BETWEEN COOK AND JOHNSON

Located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 28 North, Range 20 West and part of Government Lot 4 of Section 23, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota.

- LEGEND**
- FOUND COUNTY SECTION CORNER, AS NOTED
 - SET 1-3/8" X 18" CAPPED IRON PIPE, WEIGHING 1.50 LBS. PER FOOT, UNLESS NOTED
 - FOUND 3/4" INCH IRON PIPE, UNLESS NOTED
 - JUDICIAL LAND MONUMENT
 - WASHINGTON COUNTY R.O.W. MONUMENT, 2 INCH ALUMINUM CAP, STAMPED AS NOTED

LINE TABLE	
L1	N81°20'04"E 37.03'
L2	N84°27'51"E 38.03'
L3	N74°07'05"E 16.05'
L4	N56°56'17"E 12.40'



LAND EXCHANGE DESCRIPTION FROM COOK TO JOHNSON

That part of the Southeast Quarter of the Southeast Quarter of Section 22, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota described as follows:

Commencing at the southeast corner of said Section 22; thence North 00 degrees 07 minutes 19 seconds East, along the east line of the Southeast Quarter of said section, 258.00 feet; thence North 22 degrees 54 minutes 55 seconds West 459.09 feet; thence Northwest 55 degrees 34 minutes 55 seconds West 395.88 feet to the POINT OF BEGINNING; thence South 34 degrees 14 minutes 20 seconds West 245.55 feet; thence South 08 degrees 33 minutes 23 seconds West 171.50 feet; thence South 35 degrees 38 minutes 39 seconds West 234.13 feet; thence North 39 degrees 30 minutes 02 seconds West 186.39 feet to a point on the easterly right of way line of St. Croix Trail South as shown on Washington County Highway Right of Way Plat Number 45 - C.S.A.H. 21, on record at the Washington County Register of Deeds Office, and a point of curvature at Right of Way Corner B7; thence northeasterly, along said easterly right of way line, 168.25 feet along the arc of a non-tangential curve, concave to the northwest, with a central angle of 37 degrees 17 minutes 20 seconds, a radius of 258.53 feet and a chord which bears North 50 degrees 01 minutes 21 seconds East 165.30 feet to a point of compound curvature at Right of Way Corner B6; thence northeasterly, along said right of way line, 175.45 feet along the arc of a tangential curve, concave to the northwest, with a central angle of 10 degrees 16 minutes 21 seconds, a radius of 978.59 feet and a chord which bears North 26 degrees 14 minutes 30.5 seconds East 175.22 feet to the point of tangency at Right of Way Corner B5; thence North 21 degrees 08 minutes 20 seconds East, along said right of way, 132.73 feet to a point of curvature at Right of Way Corner B4; thence northeasterly, along said right of way, 122.40 feet along the arc of a tangential curve, concave to the southeast, with a central angle of 08 degrees 52 minutes 19 seconds, a radius of 1020.52 feet and a chord which bears North 24 degrees 32 minutes 29.5 seconds East 122.32 feet; thence South 55 degrees 34 minutes 55 seconds East 140.53 feet to the POINT OF BEGINNING.

This parcel contains 78,408 square feet - 1.8 acres, more or less.

RECEIVED
AUG 23 2018
CITY OF AFTON

718-24

CITY OF AFTON
MINOR SUBDIVISION PERMIT APPLICATION

Owner	Address	City	State	Zip	Phone
Eric & Keya Cook	3787 St. Croix Trail S	Afton	MN	55001	612-805-3598
Applicant (if different than owner)	Address	City	State	Zip	Phone
Eric & Keya Cook	3787 St. Croix Trail S	Afton	MN	55001	612-805-3598

Project Address
 3787 St. Croix Trail S (Eric & Keya Cook)/3752 River Road S (Ken & Linda Johnson) **AFTON MN 55001**

Zoning Classification	Existing Use of Property	PID# or Legal Description
RR	Residential	22.028.20.44.0017/22.028.20.44.0002

Description of Request Applicant requests approval for a transfer of 1.8 acres from 3787 and combining it with an adjoining property located at 3752 River Road. Applicant further requests approval for driveway easements. 1.8 acres and easements are referenced on Survey.

By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.


 Signature of Owner/Applicant Eric D. Cook Date August 20, 2018

Make checks payable to **City of Afton:**

FEES:	Escrow:			
Minor Subdivision	\$250.00	Minor Subdivision	\$1,500.00	TOTAL: \$1,750.00
				DATE PAID: 8-23-18
				CHECK #: 100
				RECVD. BY: 

ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION

EASEMENT A

That part of the Southeast Quarter of the Southeast Quarter of Section 22, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota described as follows:

Commencing at the southeast corner of said Section 22; thence North 00 degrees 07 minutes 19 seconds East, along the east line of the Southeast Quarter of said section, 258.00 feet; thence North 22 degrees 54 minutes 55 seconds West 459.09 feet; thence Northwest 55 degrees 34 minutes 55 seconds West 395.88 feet to the POINT OF BEGINNING; thence North 55 degrees 34 minutes 55 seconds West 140.53 feet to a point on the easterly right of way line of St. Croix Trail South as shown on Washington County Highway Right of Way Plat Number 45 - C.S.A.H. 21, on record at the Washington County Register of Deeds Office, and a point of curvature; thence northeasterly, along said easterly right of way line, 151.55 feet along the arc of a non-tangential curve, concave to the southeast, with a central angle of 08 degrees 30 minutes 31 seconds, a radius of 1020.52 feet and a chord which bears North 32 degrees 13 minutes 54.5 seconds East 151.41 feet; thence South 00 degrees 31 minutes 46 seconds East 85.48 feet, thence South 37 degrees 58 minutes 36 seconds East 114.92 feet; thence South 49 degrees 07 minutes 19 seconds West 48.05 feet to the POINT OF BEGINNING.

This easement contains 12,251 square feet - 0.281 acres, more or less.

EASEMENT B

That part of the Southeast Quarter of the Southeast Quarter of Section 22, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota described as follows:

Commencing at the southeast corner of said Section 22; thence North 00 degrees 07 minutes 19 seconds East, along the east line of the Southeast Quarter of said section, 258.00 feet; thence North 22 degrees 54 minutes 55 seconds West 459.09 feet; thence Northwest 55 degrees 34 minutes 55 seconds West 395.88 feet to the POINT OF BEGINNING; thence North 49 degrees 07 minutes 19 seconds East 48.05 feet; thence South 43 degrees 11 minutes 39 seconds East 216.65 feet; thence North 55 degrees 34 minutes 55 seconds West 223.80 feet to the POINT OF BEGINNING.

This easement contains 5,201 square feet - 0.119 acres, more or less.

Receipt:# 402979

WAR	\$46.00
CONV	\$5.00
SDT	\$1699.50
Transferred Entered	
CRV Filed	
No Delinquent Taxes	

Return to:
SOLUTIONSTAR/TITLE365 -
PENN
ATTN: RACHEL ROHBECK
345 ROUSER ROAD, SUITE
300
CORAOPOLIS PA 15108

4161085



Certified Filed and/or recorded on:

7/17/2018 1:55 PM

4161085

Office of the County Recorder
Washington County, Minnesota
Jennifer Wagenius, County Recorder
Kevin Corbid, Auditor Treasurer

File Number: DS7110-18000472

eCRV Number: 828011

Deed Tax Due: \$ 11699.50

After Recording Return to:
Title365
345 Rouser Road, Bldg 5, Ste 101
Coraopolis, PA 15108

TAX MAILING ADDRESS: Eric D. Cook and Keya M. Cook, 2098 Cottage Grove Drive,
Woodbury, MN 55129

PROPERTY APPRAISAL (TAX/APN) PARCEL IDENTIFICATION NUMBER

~~22-028-20-44-0017~~ 22.028.20.44.0017

SPECIAL WARRANTY DEED

Nationstar Mortgage LLC, hereinafter grantor, whose tax-mailing address is **8950 Cypress Waters Blvd., Coppell, TX 75019**, for \$515,000.00 (Five Hundred Fifteen Thousand Dollars and Zero Cents) in consideration paid, grants with covenants of special warranty to **Eric D. Cook and Keya M. Cook**, hereinafter grantees, whose tax mailing address is **2098 Cottage Grove Drive, Woodbury, MN 55129**, the following real property:

The land hereinafter referred to is situated in the City of Afton, County of Washington, State of MN, and is described as follows:

Lying and being in the County of Washington, and legally described as follows:

Parcel 1:

That part of SE ¼ of the SE ¼ of Section 22, Township 28, Range 20, described as follows: Beginning at the SE corner of said Section 22; thence North 0 degrees, 31 minutes along the East line of said Section 22 for a distance of 258 feet; thence North 22 degrees 30 minutes 42 seconds West for 463.5 feet; thence North 55 degrees 10 minutes 42 seconds West for 145 feet; thence South 26 degrees 13 minutes 49 seconds West for 514.51 feet; thence South 60

degrees, 35 minutes, 41 seconds West for 40 feet to the intersection with a line run 300 feet North of as measured at right angles and parallel to the South line of the said SE quarter of said SE quarter of said Section 22; thence South 89 degrees 51 minutes 44 seconds West along said parallel line for 570.63 feet to the center line of St. Croix Trail; thence South 2 degrees 41 minutes 40 seconds East along said centerline for 73.08 feet; thence South 43 degrees 17 minutes West along said center line for 181.35 feet; thence South 19 degrees 56 minutes 28 seconds West along said center line for 101.44 feet to the South line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 22; thence North 89 degrees 51 minutes 44 seconds East along said South line for 1285.42 feet to the point of beginning except that part of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 22, Township 28, Range 20 described as follows:

Beginning at a point of the South line of said Section 22 distant 273.92 feet West of the SE corner of said Section; thence South 88 degrees 42 minutes 44 seconds West (assumed bearing) along said South line 378.85 feet; thence North 32 degrees 49 minutes 29 seconds East 220.94 feet; thence North 37 degrees 20 minutes 56 seconds East, 49.50 feet; thence North 60 degrees 02 minutes 56 seconds East, 61.60 feet; thence South 36 degrees 59 minutes 36 seconds East, 291.27 feet to an iron pipe; thence South 1 degree 17 minutes 16 seconds East, 14.62 feet to the point of beginning.

Parcel 2:

All that part of the Southeast Quarter of the Southeast Quarter of Section 22, Township 28, Range 20, Washington County, Minnesota that is described as follows: Commencing at the Southeast corner of said Section 22; thence North 0°0'31" East, along the East line of said Section 22, for 258.0 feet; thence North 22°30'42" West for 463.5 feet; thence North 55°10'42" West for 145.00 feet to the point of beginning; thence continuing North 55°10'42" West for 412.92 feet to the centerline of St. Croix Trail (Coulee Road); thence South 27°59'07" West along said centerline, for 481.64 feet; thence South 57°25'56" West, along said centerline for 323.78 feet; thence South 2°42'20" East, along said centerline, for 107.27 feet to the intersection with a line run 300.00 North of, as measured at right angles, and parallel to the South line of the Southeast Quarter Southeast Quarter of said Section 22; thence North 89°51'44" East, along said parallel line for 570.63 feet; thence North 60°35'41" East for 40.00 feet; thence North 26°13'49" East for 514.51 feet to the point of beginning.

Parcel 3:

All that part of Government Lot 4, Section 23, Township 28, Range 20, lying South of a line described as follows: Commencing at a point on the west line of said Government Lot, 258 feet North of the Southwest corner of said lot; thence Easterly and parallel with the South line of said Lot, 35 feet to a point (hereinafter called "Point A"); thence Easterly and parallel with the South line of said lot, 30 feet to a point; thence South 18 degrees 30 minutes East 84.05 feet to a point; thence East and parallel with the South line of said lot to the West Shore of Lake St. Croix and there terminating. Except that part of said Government Lot 4 lying South of the following described line: Commencing at the Southwest corner of said Government Lot 4; thence Northeasterly to a point which is 222 feet Southeasterly of Point A on a line running South 18 degrees 30 minutes East from said Point A, at the intersection

of said line with the center of creek; thence Northeasterly along the center line of said creek to its intersection with the River Road as now located and traveled, said intersection being 90 feet, more or less, north of the south line of said Government Lot 4, thence east and parallel with said South line of said lot to the West Shore of Lake St. Croix and there terminating.

APN: 22-028-20-44-0017

The real property described above is conveyed subject to the following: All easements, covenants, conditions and restrictions of record; All legal highways; Zoning, building and other laws, ordinances and regulations; Real estate taxes and assessments not yet due and payable; Rights of tenants in possession.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title interest, lien equity and claim whatsoever of the said grantor, either in law or equity, to the only proper use, benefit and behalf of the grantees forever.

Grantor covenants to and agrees with Grantee, that Grantor will warrant and defend the property conveyed unto the Grantee, its successors and assigns, forever, against the lawful claims and demands of all persons claiming by, through, from, or under the Grantor and no others whatsoever.

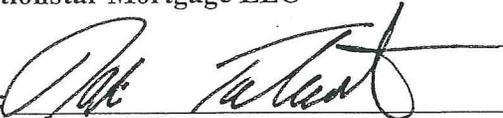
The seller(s)/grantor(s) certify that he/she/they do not know of any wells on the described real property.

 If a well does exist on the property, a well disclosure certificate accompanies this document.

 The seller(s)/grantor(s) are familiar with the property described in this instrument and he/she/they certify that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate.

Executed by the undersigned on May 8, 2018:

Nationstar Mortgage LLC

By: 

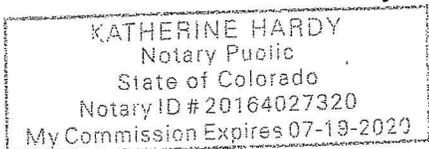
Printed Name: Noemi Talamantes

Its: Assistant Secretary

STATE OF Colorado

COUNTY OF Douglas

The foregoing instrument was acknowledged before me on May 8, 2018 by Noemi Talamantes its Assistant Secretary on behalf of **Nationstar Mortgage LLC**, who has produced Assistant Secretary Cert as identification, and furthermore, the aforementioned person has acknowledged that his/her signature was his/her free and voluntary act for the purposes set forth in this instrument.




Notary Public

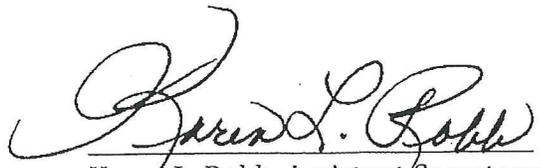
This instrument prepared by:

Jay A. Rosenberg, Esq., Minnesota Bar Number 0397875; Rosenberg LPA, Attorneys At Law,
3805 Edwards Road, Suite 550, Cincinnati, Ohio 45209 (513) 247-9605 Fax: (866) 611-0170.

Exhibit
Assistant Secretary's Certificate

I, Karen L. Robb, the duly elected, qualified and acting Assistant Secretary of Nationstar Mortgage LLC, a limited liability company duly organized and existing under the laws of the State of Delaware (the "Company"), hereby certify that I have access to the records and minutes of the proceedings of the Board of Managers of the Company, that pursuant to resolutions of the Board of Managers of the Company, each of the individuals on the attached Exhibit A has been duly delegated to the position set opposite his or her name with authority to execute the types of documents set forth beside his or her name, effective as of the dates set forth, and that such appointments have not in any way been rescinded, modified or revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company on May 3, 2017.


Karen L. Robb, Assistant Secretary



Nicole Lugar	Assistant Secretary	n/a	Lien Releases, Endorsements, Affidavits, Allonges, Assignments, Transfer Documents, Certifications, any other similar (Document)	01/14/15
Nicole Veney	Assistant Secretary	n/a	Lien Releases, Endorsements, Allonges, Affidavits, Assignments, Transfer Documents, Certifications, any other similar (Documents)	06/25/15
Nisha Patel	Limited Vice President	n/a	Reconveyance, Satisfaction of Mortgage, MERS Documents, GNMA Documents, Assignments, Lien Releases, Instruments of Conveyance and other similar (Documents)	08/08/16
Nita Patel	Assistant Secretary	n/a	Foreclosure Documents, Assignments, Affidavits, Deeds, Instruments of Conveyance, any other similar (Document)	07/17/12
Noah Heldt	Assistant Secretary	n/a	Assignments, REO Property Sales Contract (Document), HUD-1 or Similar Form (Document), Deeds, Instruments of Conveyance, any other similar (Document)	07/01/11
Noemi Talamantes	Assistant Secretary	n/a	REO Property Sales Contract (Document), HUD or Similar Form (Document), Deeds, Assignments, Affidavits, Instruments of Conveyance, Other Similar (Document)	04/13/17
Norse Lockhart	Assistant Secretary	n/a	Foreclosure Documents, Assignments, Affidavits, Deeds, Instruments of Conveyance, any other similar (Documents), MERS Documents, GNMA Documents	06/18/15
Omar Basped	Assistant Secretary	n/a	Allonges, Loan Mods Agreements, MERS Documents, Assignments, Lien Releases, GNMA Documents, Instruments of Conveyance and other similar documents	08/19/16
Paige Baudin	Assistant Secretary	n/a	Loan Modification Agreements, Affidavits, Intake Sheets, Tax Information, Certificate of Residence, Form FP 7/C, MERS Documents, GNMA Documents, HUD Subordinate Documents, 258A Affidavits, Assumption Agreements	11/17/15
Paige Cornuau	Assistant Secretary	n/a	Allonges, Loan Mods Agreements, MERS Documents, Assignments, Lien Releases, GNMA Documents, Instruments of Conveyance and other similar documents	08/19/16
Parivash Amini	Assistant Secretary	n/a	Endorsements, Allonges, Assignments, MERS Documents	07/17/12
Patricia Brown	Assistant Secretary	Foreclosure Specialist	Foreclosure Documents, Assignments, Affidavits, Deeds, Instruments of Conveyance, any other similar (Document)	10/24/13
Patricia McCutchen	Assistant Secretary	n/a	REO Property Sales Contract (Document), HUD or Similar Form (Document), Deeds, Assignments, Affidavits, Instruments of Conveyance, Other Similar (Document)	08/14/15
Patricia White	Assistant Secretary	Assistant Vice President	Allonges, Loan Mods Agreements, Assignments, Lien Releases, GNMA Documents, Instruments of Conveyance and other similar (Documents)	10/03/16
Patrick Michael De Jesus	Assistant Secretary	n/a	Foreclosure Documents, Assignments, Affidavits, Deeds, Instruments of Conveyance, any other similar (Document), MERS Documents	04/08/14
Patrick Odimula	Assistant Secretary	n/a	Loan Modification Agreements, Affidavits, Intake Sheets, Tax Information, Certificate of Residence, Form FP 7/C, MERS Documents, GNMA Documents, HUD Subordinate Documents, 258A Affidavits, Assumption Agreements	08/13/15
Patrick Struck	Assistant Secretary	n/a	Affidavits	11/18/10
Patrick Valliere	Assistant Secretary	n/a	Foreclosure Documents, Bankruptcy Documents, Proofs of Claim, Reaffirmation Agreements, Assignments, Affidavits, Deeds, Instruments of Conveyance, any other similar (Document)	01/25/16

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moore, City Administrator
Date: September 10, 2018
Re: Application by Ken and Linda Johnson for a Variance at 3752 River Road – **Resolution 2018-42**

Ken and Linda Johnson have applied for a variance at 3752 River Road to allow an addition to their existing house that would have a setback of 121 feet from the centerline of St. Croix Trail vs. the required setback of 150 feet. The existing house, which was built in 1875, has a legally nonconforming setback of 100 feet from the centerline of St. Croix Trail. The proposed addition is on the side of the house facing away from St. Croix Trail, but also extends south of the existing house at a setback of 121 feet from the centerline of CR 21 vs. the required 150 foot setback, which causes the need for the setback variance (see the attached site plan).

The proposed addition extends to the south of the existing house to avoid the need to relocate the existing well and to avoid eliminating the only remaining window facing east from the kitchen and family room. The existing driveway that accesses the property along the south side of the house from St. Croix Trail would be eliminated. The proposed addition is a non-rental guest apartment that would enable the Johnsons to remain in the house under the care of one of their two children at such time as that would become necessary.

Planning Commission Recommendation

The Planning Commission, on a vote of 7-0-0 recommended approval of the Ken and Linda Johnson variance application with the following findings and conditions.

Findings

1. The subject property is zoned Rural Residential, as are the properties to the south, east and west. The property to the north is zoned VHS-R. A portion of the property is bounded on the east by the St. Croix River.
2. The existing house was built in 1875, prior to the existence of St. Croix Trail.
3. The existing house is located 100 feet from the centerline of St. Croix Trail vs. the required setback of 150 feet.
4. The proposed addition is located 121 feet from the centerline of St. Croix Trail.
5. The existing house has a kitchen that faces east located in the southeastern portion of the house.
6. If the addition was to be located completely to the east of the existing house, the existing well would need to be relocated and the only window facing east from the kitchen and the family room would be eliminated.

Conditions

1. The existing bituminous driveway located directly to the south of the existing house shall be completely removed and revegetated.

Resolutions

Attached are a resolution of approval reflecting the Planning Commission's recommendation and a resolution of denial for the Council's consideration.

Council Action Requested:

Motion regarding the adoption of a resolution regarding the Ken and Linda Johnson application for a variance at 3752 River Road.

RESOLUTION 2018-42

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING THE KEN AND LINDA JOHNSON APPLICATION FOR A VARIANCE AT 3752 RIVER ROAD

WHEREAS, the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and

WHEREAS, Ken and Linda Johnson have applied for a variance at 3752 River Road; and

WHEREAS, the application proposes to construct an addition to the existing house with a setback from St. Croix Trail of 121 feet rather than the required 150 feet; and

WHEREAS, City staff reviewed the request and drafted a report for consideration; and

WHEREAS, the legal description of the property is attached as Exhibit A, and

WHEREAS, the Planning Commission held a public hearing on the application at its regular meeting of September 10, 2018 and recommended APPROVAL of the variance on a vote of 7-0-0; and

WHEREAS, the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission and Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby APPROVE the Ken and Linda Johnson application for a variance at 3752 River Road, based on the findings listed below and subject to the conditions listed below.

Findings

1. The subject property is zoned Rural Residential, as are the properties to the south, east and west. The property to the north is zoned VHS-R. A portion of the property is bounded on the east by the St. Croix River.
2. The existing house was built in 1875, prior to the existence of St. Croix Trail.
3. The existing house is located 100 feet from the centerline of St. Croix Trail vs. the required setback of 150 feet.
4. The proposed addition is located 121 feet from the centerline of St. Croix Trail.
5. If the addition was to be located completely to the east of the existing house, the existing well would need to be relocated and the only window facing east from the kitchen and the family room would be eliminated.

Conditions

1. The existing bituminous driveway located directly to the south of the existing house shall be completely removed and revegetated.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

RESOLUTION 2018-42

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorese, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

Bend:

RESOLUTION 2018-42XX

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION DENYING THE KEN AND LINDA JOHNSON APPLICATION FOR A
VARIANCE AT 3752 RIVER ROAD**

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Ken and Linda Johnson have applied for a variance at 3752 River Road; and
- WHEREAS,** the application proposes to construct an addition to the existing house with a setback from St. Croix Trail of 121 feet rather than the required 150 feet; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the legal description of the property is attached as Exhibit A, and
- WHEREAS,** the Planning Commission held a public hearing on the application at its regular meeting of September 10, 2018 and recommended APPROVAL of the variance on a vote of 7-0-0; and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission and Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby DENY the Ken and Linda Johnson application for a variance at 3752 River Road, based on the findings listed below.

Findings

1. The subject property is zoned Rural Residential, as are the properties to the south, east and west. The property to the north is zoned VHS-R. A portion of the property is bounded on the east by the St. Croix River.
2. The existing house is located 100 feet from the centerline of St. Croix Trail vs. the required setback of 150 feet.
3. The proposed addition is located 121 feet from the centerline of St. Croix Trail vs. the required setback of 150 feet.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

RESOLUTION 2018-42XX

Ronald J. Moorse, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

Bend:

Criteria #6 Yes, and as the proposed apartment would be 121' from the County road center line the request is for a less than a 30' variance.

Criteria #7 No, our request would not be detrimental to the ordinance or to properties in the same zone. The drawings show the proposed building would have the same windows, siding, roof line and color, railings and decking as the current building. It would enhance the property not detract from it or the surrounding neighbor's homes.

Criteria #8 No, or only in the sense that we wish to be able to remain on our property under the care of our children in the future.

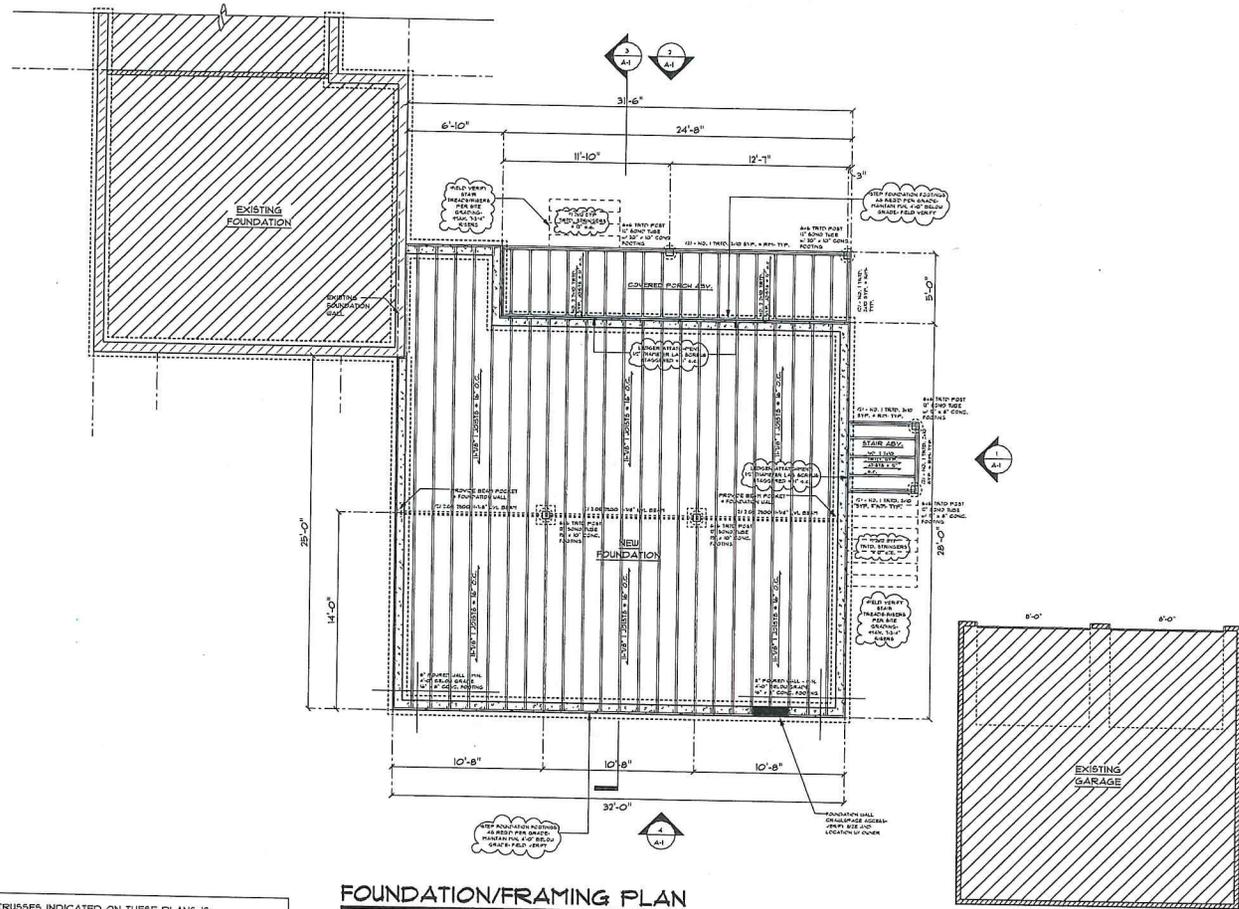
Criteria #9 No

Criteria #10 No

FLOOR & ROOF LOADING		ABC Arrow	
ROOM LOADING	LOAD TYPE	ROOM LOADING	LOAD TYPE
ROOF LOADING	LOAD TYPE	ROOF LOADING	LOAD TYPE
WIND LOAD	WIND SPEED	WIND LOAD	WIND SPEED
SEISMIC LOAD	SEISMIC ZONE	SEISMIC LOAD	SEISMIC ZONE
WIND LOAD	WIND SPEED	WIND LOAD	WIND SPEED
SEISMIC LOAD	SEISMIC ZONE	SEISMIC LOAD	SEISMIC ZONE

ABC Arrow
 BUILDING CENTER
 815 COUNTY ROAD 10
 HOUSTON, TX 77058
 PH: 281-266-2378
 FAX: 281-266-2504

BID SET
 PREPARED BY:
 8.15.2018
 CHECK SET DATE:
 CHECK SET DATE:
 FINAL CHECK SET DATE:
 REVISION DATE:
 REVISION DATE:



FOUNDATION/FRAMING PLAN
 1/4" = 1'-0"

PRELIMINARY
 PROPERTY OF ARROW BUILDING CENTER

ALL WOOD JOIST FRAMING, HEADERS, WOOD LVL OR STEEL BEAMS AND ROOF TRUSSES INDICATED ON THESE PLANS IS CONCEPTUAL ONLY AND ARE TO BE DESIGNED BY THE MANUFACTURER. VERIFY ALL POINT LOAD AND BEARING CONDITIONS AND COORDINATE POSTS AND BEARING REQUIREMENTS WITH THE BUILDER. FOLLOW MANUFACTURERS RECOMMENDATIONS AND REQUIREMENTS FOR AND FURNISH ALL BLOCKING, STIFFENERS, BRACING, FASTENERS, HARDWARE, ETC. NECESSARY FOR INSTALLATION.

DESIGN AND FURNISH HEADERS AS REQUIRED AT ALL BEARING WALL AND NON-BEARING WALL CONDITIONS. SIZE AS REQUIRED TO CARRY ANY POINT LOAD CONDITIONS FROM ABOVE.

WHERE WOOD FRAMING SIZES ARE INDICATED, MANUFACTURER TO VERIFY SIZE AND SPACING REQUIRED TO MAINTAIN MINIMUM L/480 DEFLECTION.

CONCRETE CONTRACTOR TO VERIFY SLAB SIZE AND REINFORCING REQUIREMENTS PER CODE.

MAINTAIN MIN. 3" CLEAR COVER TO REINFORCING.

SLAB DESIGN BASED ON AN ALLOWABLE SOIL BEARING PRESSURE OF 2000' PSF. THIS VALUE TO BE VERIFIED BY CONTRACTOR. NOTIFY OWNER IF QUESTIONABLE SOILS ENCOUNTERED.

GENERAL NOTES

MAIN LEVEL (ADDITION):
 863 TOTAL SQ. FT.
 FIELD VERIFY ALL PLATE HEIGHTS

MARVIN WINDOWS- VERIFY WITH OWNER

ALL HEADERS TO BE (2) 2X10'S UNLESS OTHERWISE NOTED.

ALL HEADERS 6'-0" WIDE AND LARGER TO HAVE MINIMUM OF 2 TRIMMERS UNDER EACH END UNLESS OTHERWISE NOTED.

BUILDER NAME
JOHNSON HOME ADDITION
 3182 SOUTH RIVER ROAD, AFTON, TN 38001

DATE: 8/15/2018
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 PROJECT NO: [Number]
 REVISION DATE:
 REVISION DATE:
 A-2

RECEIVED

AUG 23 2018

CITY OF AFTON

718-23

CITY OF AFTON
VARIANCE APPLICATION

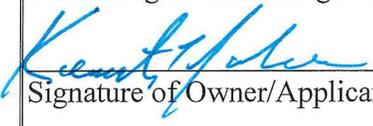
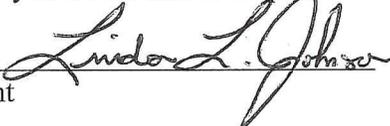
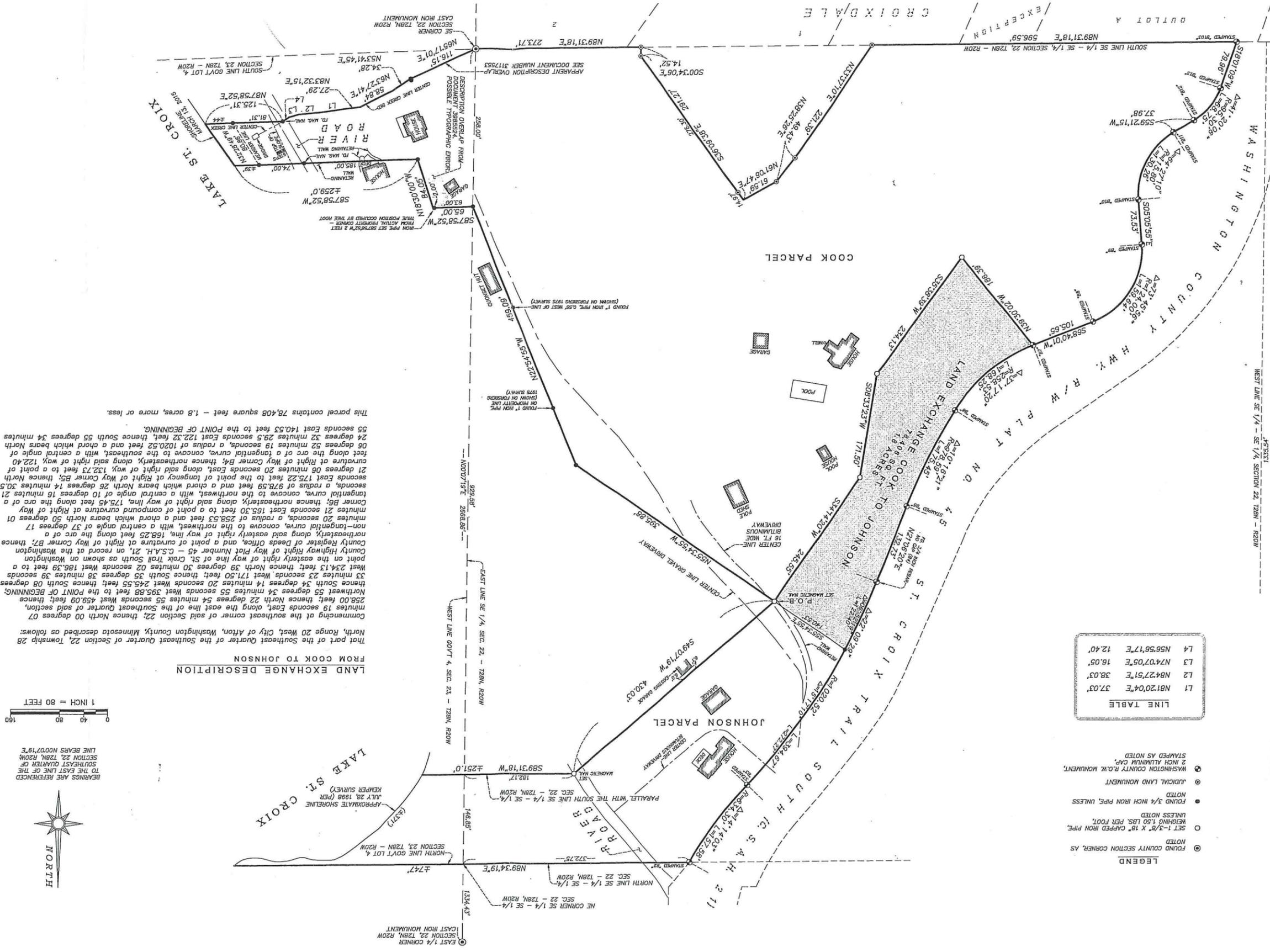
Owner	Address	City	State	Zip	Phone
	Kenneth & Linda Johnson	3752-River Road So.	AFTON, MN	55001	651-436-1107
Applicant (if different than owner)	Address	City	State	Zip	Phone
Project Address					
3752-River Road So.		AFTON	MN	55001	
Zoning Classification	Existing Use of Property	PID# or Legal Description			
RR	RESIDENTIAL	22.028.20.44.0002			
Please list the section(s) of the code from which the variance(s) are requested.					
SET BACK FROM COUNTY ROAD					
Description of Request					
REQUEST TO BUILD AN ATTACHED MOTHER-IN-LAW SPACE TO OUR EXISTING HOME.					
By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.					
 Signature of Owner/Applicant				 Date	
Make checks payable to: City of Afton					
If multiple variances are necessary from the applicant only <u>one</u> fee is required. However, the deposit fee must be multiplied by the number of variances sought.					
FEES:		DEPOSITS:			
Variance	\$250	\$600	TOTAL: \$850.00		
Renewal/Extension	\$250	\$350	DATE PAID: 8-20-18		
			CHECK #: 18442679		
			RECVD BY: 		
ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION					

EXHIBIT OF LAND EXCHANGE BETWEEN COOK AND JOHNSON

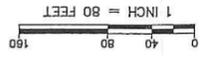
Located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 28 North, Range 20 West and part of Government Lot 4 of Section 23, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota.



LINE TABLE

L4	N56°56'17"E	12.40'
L3	N74°07'05"E	16.05'
L2	N84°27'51"E	38.03'
L1	N81°20'04"E	37.03'

- LEGEND
- FOUND COUNTY SECTION CORNER, AS NOTED
 - SET 1-3/8" X 18" CAPPED IRON PIPE, UNLESS NOTED
 - FOUND 3/4" IRON PIPE, UNLESS NOTED
 - JUDICIAL LAND MONUMENT
 - WASHINGTON COUNTY R.O.W. MONUMENT, 2 INCH ALUMINUM CAP, STAMPED AS NOTED



LAND EXCHANGE DESCRIPTION

FROM COOK TO JOHNSON

That part of the Southeast Quarter of Section 22, Township 28 North, Range 20 West, City of Afton, Washington County, Minnesota described as follows:

Commencing at the southeast corner of said Section 22, thence North 00 degrees 07 minutes 19 seconds East, along the east line of the Southeast Quarter of said section, 258.00 feet; thence North 22 degrees 54 minutes 55 seconds West 459.08 feet; thence Northwest 55 degrees 54 minutes 55 seconds West 395.85 feet to the POINT OF BEGINNING, thence South 34 degrees 14 minutes 20 seconds West 245.55 feet; thence South 08 degrees 39 minutes 23 seconds West 171.50 feet; thence South 35 degrees 38 minutes 39 seconds West 234.13 feet; thence North 39 degrees 30 minutes 02 seconds West 188.39 feet to a point on the easterly right of way line of St. Croix Trail South as shown on Washington County Highway Right of Way Plat Number 45 - C.S.A.H. 21, on record at the Washington County Register of Deeds Office, and a point of curvature at Right of Way Corner B7, thence northwesterly, along said easterly right of way line, 168.25 feet along the arc of a non-tangential curve, concave to the northwest, with a central angle of 37 degrees 17 minutes 20 seconds, a radius of 258.53 feet and a chord of compound curvature at Right of Way Corner B6; thence northwesterly, along said right of way line, 175.45 feet along the arc of a tangential curve, concave to the northwest, with a central angle of 10 degrees 16 minutes 21 seconds, a radius of 978.59 feet and a chord which bears North 26 degrees 14 minutes 30.5 seconds East to the point of tangency at Right of Way Corner B5; thence North 21 degrees 08 minutes 20 seconds East, along said right of way line, 132.73 feet to a point of curvature at Right of Way Corner B4; thence northwesterly, along said right of way line, 122.40 feet along the arc of a tangential curve, concave to the southeast, with a central angle of 08 degrees 52 minutes 19 seconds, a radius of 1020.52 feet and a chord which bears North 55 seconds East 140.53 feet to the POINT OF BEGINNING.

This parcel contains 78.408 square feet - 1.8 acres, more or less.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
 From: Ron Moore, City Administrator
 Date: September 10, 2018
 Re: Application by Roger Mireau at 12225 Hudson Road Requesting a Substantially Similar Use Determination - **Resolution 2018-43**

Roger Mireau, the owner of the property at 12225 Hudson Road, would like to enable a heavy equipment rental business to operate on the 12225 Hudson Road property. The list of uses allowed in the I-1A zoning district does not include heavy equipment rental. Mr. Mireau has requested a determination that a heavy equipment rental use is substantially similar to the current use operating on the property at 12225 Hudson Road through a Conditional Use Permit (CUP). The request is based on the "Determination of Similar Uses" process set out in Sec. 12-133 of the Zoning Code below. Attached is a letter from Roger Mireau, owner of the property, describing the current use on the property as well as the use proposed as a substantially similar use. Also attached are photos of the current use, photos of the proposed use and invoices and a spreadsheet regarding the rental of pieces of heavy equipment that were stored on the property.

Sec. 12-133 Zoning district map

D. Determination of similar uses. Any landowner may request a determination that a use not included in any district of this article is substantially similar to a use classified as permitted, conditionally permitted or other specially permitted in the zoning district in which the property is located. An application for such a determination shall be filed with the City Administrator who shall refer it to the Planning Commission. The Planning Commission shall review the application in accordance with this article and the comprehensive plan and forward a recommendation of approval or denial to the City Council along with an explanation for taking such action. If the City Council determines the use is substantially similar to a use included in these regulations, such use shall thereafter be an allowable use whenever the similar listed use is authorized.

Comparison of Current Use to Proposed Use

The current use on the property is a construction contracting use that was approved through a CUP in 2005. (See the attached approval resolution). The CUP is for a warehousing use with office space and exterior storage of equipment and materials, subject to screening of the exterior storage.

The definition of Warehousing is as follows:

Warehousing means the storage of materials or equipment within an enclosed building as a principal use, including packing and crating.

The definition of Exterior Storage is as follows:

Exterior storage (includes open storage) means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

The definition of Office Uses is as follows:

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired. These include: banks, general offices, governmental office, insurance office, real estate office,

travel agency or transportation ticket office, telephone exchange, utility office, radio broadcasting, and similar uses.

Mr. Mireau has indicated the existing use has involved the exterior storage of heavy equipment and office uses, and the rental of heavy equipment when it is not needed for the construction operation.

The warehousing definition does not include heavy equipment rentals, and the CUP did not specifically allow heavy equipment rentals. The zoning code does not allow the rental of cars, trailers, campers, trucks and similar equipment, but is silent regarding the rental of heavy equipment.

Heavy Equipment Rental Use

The applicant explained that the heavy equipment rental use is a business-to-business use and does not involve retail rentals. The rental use involves five to ten transactions per day. The traffic generated generally occurs in the early morning as the equipment leaves for the work site or evening when the equipment is returned. Much of the equipment is rented for multiple days.

Planning Commission Discussion and Recommendation

The Planning Commission discussed the need for a clearer definition of the heavy equipment rental use so that the parameters for the use could be well-delineated.

The Planning Commission, on a vote of 7-0-0, recommended that the request for a determination that the heavy equipment rental use is substantially similar to the current use operating on the property be denied, and that the City Council be asked whether they would be open to an ordinance amendment to add the heavy equipment rental use to the list of allowed uses in the I1-A zone, subject to the development of a clear definition of the heavy equipment rental use.

Findings

The following is a recommended set of findings. The Council may revise the findings as desired.

1. The subject property is zoned I-1A Industrial
2. The subject property currently has a construction contracting business allowed by a CUP for warehousing, office uses and exterior storage
3. The construction contracting business has involved the exterior storage and periodic rental of unused heavy equipment
4. The heavy equipment rental use involves the exterior storage of heavy equipment
5. The warehousing definition does not include heavy equipment rentals, and the CUP does not specifically allow heavy equipment rentals.

Resolutions

Attached is a resolution of denial reflecting the Planning Commission's recommendation and a resolution of approval for the Council's consideration.

Council Action Requested

Motion regarding the adoption of a resolution concerning the request from Roger Mireau at 12225 Hudson Road for a determination that a heavy equipment rental use is substantially similar to the current warehousing/office/exterior storage use operating on the property through a Conditional Use Permit (CUP).

RESOLUTION 2018-43

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION DENYING THE ROGER MIREAU REQUEST FOR A DETERMINATION THAT A HEAVY EQUIPMENT RENTAL USE IS SUBSTANTIALLY SIMILAR TO THE CURRENT WAREHOUSE/EXTERIOR STORAGE/OFFICE USE AT 12225 HUDSON ROAD

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Roger Mireau has requested a determination that a heavy equipment rental use is substantially similar to the current warehouse/exterior storage/office use at 12225 Hudson Road; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the Planning Commission heard the request at its regular meeting of September 10, 2018 and recommended denial of the request with a vote of 7-0-0; and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission, the Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby DENY the Roger Mireau request for a determination that a heavy equipment rental use is substantially similar to the current warehouse/exterior storage/office use at 12225 Hudson Road based on the findings listed below.

Findings

1. The subject property is zoned I-1A Industrial
2. The subject property currently has a construction contracting business allowed by a CUP for warehousing, office uses and exterior storage
3. The heavy equipment rental use involves the exterior storage of heavy equipment
4. The warehousing definition does not include heavy equipment rentals, and the CUP does not specifically allow heavy equipment rentals.
5. The recently adopted ordinance amendment regarding industrial uses has added restrictions regarding exterior storage.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

RESOLUTION 2018-43

Ronald J. Moore, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

Bend:

RESOLUTION 2018-43XX

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING THE ROGER MIREAU REQUEST FOR A DETERMINATION THAT A HEAVY EQUIPMENT RENTAL USE IS SUBSTANTIALLY SIMILAR TO THE CURRENT WAREHOUSE/EXTERIOR STORAGE/OFFICE USE AT 12225 HUDSON ROAD

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Roger Mireau has requested a determination that a heavy equipment rental use is substantially similar to the current warehouse/exterior storage/office use at 12225 Hudson Road; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the Planning Commission heard the request at its regular meeting of September 10, 2018 and recommended denial of the request with a vote of 7-0-0; and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Planning Commission, the Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby APPROVE the Roger Mireau request for a determination that a heavy equipment rental use is substantially similar to the current warehouse/exterior storage/office use at 12225 Hudson Road based on the findings listed below.

Findings

1. The subject property is zoned I-1A Industrial
2. The subject property currently has a construction contracting business allowed by a CUP for warehousing, office uses and exterior storage
3. The construction contracting business has involved the exterior storage and periodic rental of unused heavy equipment
4. The heavy equipment rental use involves the exterior storage of heavy equipment

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

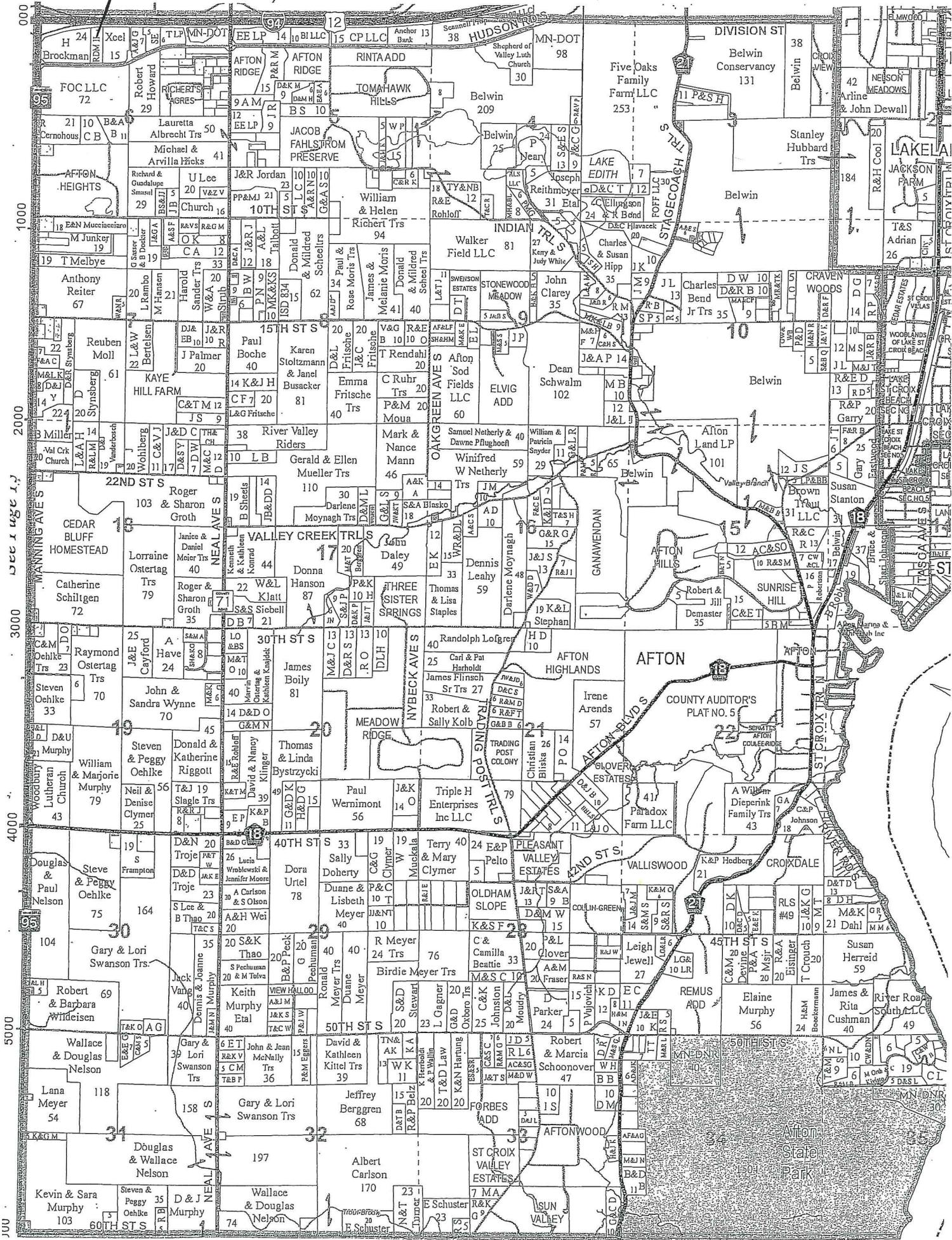
ATTEST:

Ronald J. Moorse, City Administrator

RESOLUTION 2018-43XX

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

subject property



RESOLUTION 2005 –34

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT AS REQUESTED BY
ROGER MIREAU, FOR CKC CONTRACTING.**

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** CKC Contracting have made application to the City of Afton for a Conditional Use Permit to operate a contracting firm in the Industrial District; and
- WHEREAS,** the Afton Planning Commission and Afton City Council reaffirmed the use as being permitted in the Industrial Zoning District as a warehouse, being the principal use of the premise is intended for the storage and transportation of materials; and
- WHEREAS,** the Afton Planning Commission had conducted a public hearing on July 11, 2005 and recommend approval of a Conditional Use Permit that same night; and
- WHEREAS,** the City Council has reviewed the record of the public hearing and the recommendations of the Planning Commission at it's July 19, 2005 meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Afton hereby grants a Conditional Use Permit to Roger Mireau, for CKC Contracting to operate a contracting firm located at 12175 Hudson Road South, Afton, Minnesota; subject to the following conditions;

1. The applicant must recalculate the site coverage/impervious surface in a manner that includes all gravel coverage. Should the site coverage exceed 25 percent, the applicant must demonstrate to the City Engineer that all requirements of Section 12-132 (b)(12) have been met.
2. An eight foot high screened security fence shall enclose and screen all areas designed for exterior storage and trees shall be planted along the exterior to shield.
3. The applicant shall submit to the City a specific list of materials that may be stored outside of the building. Exterior storage shall not include hazardous waste, oils, gas or other equipment not associated specifically with the principal use.
4. The design review committee must review and approve the building design and materials
5. Landscape plan shall be revised to include additional landscaping around the perimeter of the site with a landscaped buffer area to along the northern berm to screen the site from the interstate.
6. The source of all lighting must be hooded or controlled so as not to light adjacent property or public right-of-way.
7. The applicant shall submit a detailed signage plan for the proposed monument sign that is consistent with Section 12-210 of the Zoning Ordinance.

RESOLUTION 2005-34

8. The applicant shall adhere to Section 12-132(c) (1-5) and enter into a development agreement with the city, as well as post a cash escrow deposit or an irrevocable letter of credit, equal to 150 percent of the City Engineer's estimate to satisfy any conditions agreed to in the development agreement.
9. No equipment, vehicles or machinery is allowed to be stored outside of the enclosed fenced in area
10. Compliance with conditions of this permit shall be monitored on a periodic basis
11. Non-compliance with the conditions of this permit shall be considered a violation; and, may result in revocation of the permit
12. An amended conditional use permit shall be required for any future expansions or alterations.
13. Obtain a Valley Branch Watershed District permit

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 19th DAY OF JULY, 2005.

SIGNED:

Dave Engstrom, Mayor

ATTEST:

Mitchell Berg, City Administrator

MOTION by Meyer	Mucciacciaro
Seconded by Nelson	Meyer
Mucciacciaro:	Yes
Nelson:	Yes
Meyer:	Yes
Nolz:	Yes
Engstrom:	Yes



July 24, 2018

Attention Mr. Ron Moore
City Administrator

This letter is in regards to 12225 Hudson Road, Afton, which is currently owned and occupied by CKC Contracting, Incorporated. A buyer for the above-mentioned property has submitted an offer and we believe the business wanting to occupy the property is the same or at least substantially similar to CKC Contracting, Inc. We are requesting, via this letter, a determination for same or similar business under the current CUP associated with this property.

Since 2005, CKC Contracting Inc has operated a construction company at this address and used the building and fenced area for storage of heavy equipment, parts and materials for the job they are hired to complete. The building also houses his employees, maintains, cleans and repairs all heavy equipment. Over the years the company has also rented heavy equipment; attached is a spreadsheet outlining some of those transactions as well as the invoices associated with those rentals.

The business that would be going in to the property is the same or similar in that they would maintain, repair and clean the heavy equipment before sending it out to a job site. 85% of their equipment is on the job sites, leaving only 15% of the equipment at the property in question. Their goal is to have the equipment out on the job site or that piece of equipment is not making them money. Below please see some marketing of these types of companies. I have also attached some photos of one of their current properties, as you can see the lot is pretty bare, again the only equipment that is on site would be that equipment that needs maintenance or waiting to be rented. I have also attached pictures of CKC's fenced area, which you can see has a lot more materials and equipment then the prospective buyers tenant. Please notice the "FRONT VIEW" picture of CKC that shows you can see very little from the road. You also have the pictures of the yard to see how much is really in the fenced area. You cannot see anything from interstate 94.

Photos of the property at 12225 Hudson Road
with the current construction contracting use























Photos of a property with the
heavy equipment rental use





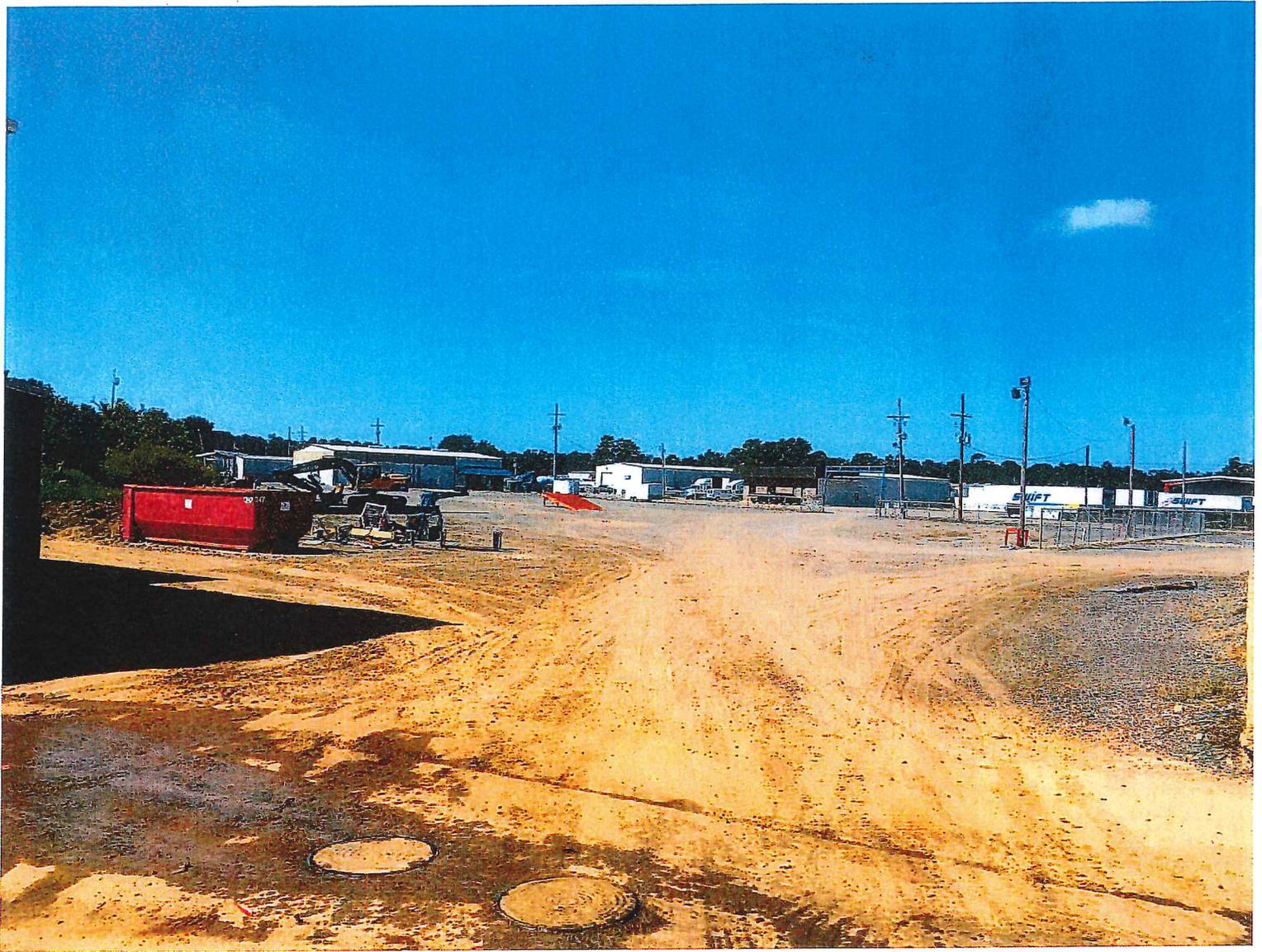












12225 Hudson Road
Heavy equipment rental
spreadsheet and invoices

PCL Construction Services, Inc.
 12200 Nicollet Ave. So.
 Burnsville, MN 55337

INVOICE # PR # 29
 PAGE: 2 of 2

PROJECT: So. Mpls. Regional Service Center

DATE: 11/10/16

SUBJECT: PR #29

Revised Per City Requirements 4" & 6" Water Service Fed from 22nd Ave South

PCL PCL # CKC Project # 15-573

Item	DESCRIPTION	UNIT	QUANTITY	Unit Cost	LABOR	Equipment Cost	MATERIAL	Subcontractor	TOTAL
	Foreman/Operator	hrs	40.00	70.31	2,812.40				\$ 2,812.40
	Laborers	hrs	120.00	63.80	7,656.00				7,656.00
	Truck Driver/Operator	hrs	8.00	65.68	525.44				525.44
Equipment									
	Truck, Tools, Fuel	hr	40.00	33.00		1,320.00			1,320.00
	Quad	hr	8.00	77.00		616.00			616.00
	228 Komatsu	hr	24.00	116.00		2,784.00			2,784.00
	Sheepsfoot	hr	10.00	45.00		450.00			450.00
	190 John Deere	hr	6.00	137.00		822.00			822.00
	Turtle Tamper	day	2.00	170.00		340.00			340.00
1	20' Trench Box	wk	1	1,172.00		1,172.00			1,172.00
6	Plates 6x20	wk	1	244.00		1,464.00			1,464.00
	Mobilization 5% Fuel, Maintance, PM Vehicles, Misc					549.69			549.69
Materials and General Services									
	Materials						14,258.00		14,258.00
							0.00		0.00
							0.00		0.00
Subcontractors									
	Subcontractors							\$ 2,083	2,083.00
	City Permits							4,632.44	4,632.44
	City Paving							5,250.00	5,250.00
SUBTOTAL									
					10,993.84	9,517.69	14,258.00	11,965.44	46,734.97
	OH & P (10%) 5% Equipment & Materials				1,099.38	475.88	712.90		2,288.16
	Subcontractor (5 %)							598.27	598.27
TOTAL CHANGE ORDER REQUEST					12,093.22	9,993.58	14,970.90	12,563.7	49,621.40

Clarifications:



12225 Hudson Road South • Afton, MN 55001 • PHONE: (651) 436-4160 FAX: (651) 436-4161

Affirmative Action / Equal Opportunity Employer

Adolfson & Peterson
6701 West 23rd St.
Minneapolis, MN 55426

Invoice #
10/23/2015

Project: U of M Walkways
Rental of Walkways

CKC Project #6182 A&P Project Number 006649

Breakdown for

Labor				
Truck Drvr/Opr.	13.00 Hours @	71.61		930.93
Equipment				
Semi/Trailer	13.00 Hours @	90.00		1,170.00
5 6 x 20 Cross Walks	1.00 Month	2,480.00		12,400.00
4 6 x 20 Cross Walks	1.00 Month	2,480.00		9,920.00
				\$24,420.93
			10%	<u>2,442.09</u>
				\$26,863.02

CKC Contracting, Inc.
 12225 Hudson Road South; Afion, MN
 55001 Phone: 651-436-4160

Subcontract #
 Change Orders Requested and Billed
 Invoice #5515

Horwitz, Inc.
 4401 Quebec Ave. N.
 New Hope, MN 55428

Customer ID: Horwitz, Inc.
 Date: December 9, 2016

(This is a request for the following Change Orders and RFI's For the Work Deescribed herein
 in accordance with our subcontract Documents.)

Project Manager	Job	
Roger Mireau	CKC 16598 Horwitz, #1686 1018	The Contractor agrees to perform the work and has Performed the work herein in accordance with the Subcontract Documents.

C.O.	Description	Total
1	Digging for Plumbers-Operators and Equipment	\$ 76,130.26
	Equipment 75 John Deere 19 Hrs Rental	
	78 Komatsu 230 Hrs Rental	
	128 Komatsu 117 Hrs Rental	
	Sheepsfoot 18 Hrs Rental	
	Bobcat 28 Hrs Rental	
	Truck and Tools 35 Hrs Rental	
	Turtle Tamper rented for 35 Days	
	Total Invoice #5515	changes to Contract \$ 76,130.26
	The Original Contract Amount	185,868.00
	The Net changes Authorized by previous Change Orders	
	The Total Contract Sum Prior to the Change Order	185,868.00
	The Contract Sum Will be Increased (Decreased) By this Change Order	76,130.26
	New Contract Including Change Order Total	\$ 261,998.26 \$ 261,998.26

CKC Contracting, Inc.
 12225 Hudson Road So.
 Afion, MN 55001

Accepted by the Mechanical Contractor
 Horwitz, Inc.
 4401 Quebec Ave. N., MN 55428

RequestedBy: _____

BY: _____

Date: _____

Date: _____

This is a change to the Project for the owner and Horwitz Inc.

RDM III LLC

12225 Hudson Rd S
Afton, MN 55001

Invoice

Date	Invoice #
7/17/2018	2513

Bill To
Dispatch Trucking Inc. 1974 Pond View Drive S.E. Lonsdale, MN 55046

Ship To
U of M Project #18634

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
18634			7/17/2018			
Quantity	Item Code	Description			Price Each	Amount
8.75	Trucking	Quintaxel Trucking/Hauling 7-11-2018 Ticket #1319 Dispatch #118144			102.00	892.50
10.75	Trucking	Quintaxel Trucking/Hauling 7-12-2018 Ticket #1320 Dispatch #118145			102.00	1,096.50
12	Trucking	Quintaxel Trucking/Hauling 7-13-2018 Ticket #1321 Dispatch #118146			102.00	1,224.00
12.75	Trucking	Quintaxel Trucking/Hauling 7-16-2018 Ticket#1322 Dispatch #118147			102.00	1,300.50
					Total	\$4,513.50

RDM III LLC

12225 Hudson Rd S
Afton, MN 55001

Invoice

Date	Invoice #
7/3/2018	2509

Bill To
Miller Excavating 3636 Stagecoach Trail N. Stillwater MN 55082

Ship To
Hardrives

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			7/3/2018			
Quantity	Item Code	Description			Price Each	Amount
1	Trucking	Quintaxel Trucking/Hauling 6-26-2018 Ticket #1309 Miller #51520			103.00	103.00
1	Trucking	Quintaxel Trucking/Hauling 6-26-2018 Ticket #1309 Miller #52005			103.00	103.00
					Total	\$206.00

RDM III LLC

12225 Hudson Rd S
Afton, MN 55001

Invoice

Date	Invoice #
7/9/2018	2511

Bill To
Miller Excavating 3636 Stagecoach Trail N. Stillwater MN 55082

Ship To
Hardrives North Port

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			7/9/2018			
Quantity	Item Code	Description			Price Each	Amount
9.5	Trucking	Quintaxel Trucking/Hauling 7-2-2018 Ticket #1314 Miller#52006			103.00	978.50
10.25	Trucking	Quintaxel Trucking/Hauling 7-3-2018 Ticket #1315 Miller#52153			103.00	1,055.75
8.75	Trucking	Quintaxel Trucking/Hauling 7-5-2018 Ticket #0841 Miller#52158			103.00	901.25
7	Trucking	Quintaxel Trucking/Hauling 7-6-2018 Ticket #1317 Miller#52156			103.00	721.00
					Total	\$3,656.50

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
 From: Ron Moorse, City Administrator
 Date: September 10, 2018
 Re: Ordinance Amendment to Allow a Swimming Pool Auto Cover to be Used as an Alternative to the Current Requirement of Fencing to Completely Enclose Swimming Pools – **Ordinance 03-2018**

The City Code currently requires a fence enclosing a pool to prevent entry to the pool accidentally or without proper supervision. Several residents have recently inquired about using an auto cover as an alternative to a fence enclosure. While aesthetics and the difficulty of working a fence into existing patio and backyard layouts are some primary reasons, the quality auto covers can also provide a high level of safety and security.

An auto cover is attached to the pool to fully cover the pool to prevent entry. Auto covers are not rigid, but can support the weight of several adults. The proposed ordinance language requires the auto cover to be able to support a minimum of 500 pounds. Auto covers can open and close electronically, and can be connected to a key pad so that they can only be opened with a code. The ordinance language also requires the auto cover to meet the American Society for Testing and Materials (ASTM) Standard F1346-91 for auto covers and to be UL listed.

Approximately 60 cities and counties in the metro area now allow auto covers as an alternative to fence enclosures for pools. The list of cities and counties is attached.

Because the fence requirement for pools is in the zoning code, a change to allow auto covers requires an ordinance amendment with a public hearing. The proposed ordinance amendment is attached. Also attached are ordinances from the Cities of Scandia and Inver Grove Heights that allow pool auto covers as an alternative to fence enclosures for swimming pools.

Planning Commission Hearing and Discussion

The Planning Commission, at its August 6, 2018 meeting, held a public hearing regarding the attached ordinance amendment to allow a swimming pool auto cover as an alternative to a fence enclosure, and discussed the proposed ordinance amendment. The Planning Commission had a number of questions and concerns regarding the safety and security of the auto cover vs. a fence enclosure, and continued its consideration of the ordinance amendment to its September 10 meeting.

Answers to Questions Raised by the Planning Commission

The following are answers to the questions raised by the Planning Commission at its August 6 meeting.

1. The City of Scandia ordinance regarding auto covers allows auto covers or other protective devices so long as the degree of protection afforded by the substituted device or structures is not less than the protection afforded by the enclosure, gate and latch described above for fences. The Planning Commission asked what standards are used by the City to make the determination that an auto cover provides at least the same level of protection as a fence with an auto-locking gate. The City of Scandia does not have a set of specific standards for making that determination. They rely on the ordinance requirements that the device complies with the American Society for Testing and

Materials (ASTM) Standard F1346-91 (2003) or most recent ASTM standard; and is sufficient to support the weight of 500 pounds minimum and completely covers or encloses the pool.

2. Because most of the cities that allow auto covers as an alternative to a fence enclosure are small and rural, the Planning Commission requested staff to contact a larger city regarding its view of auto covers vs. fence enclosures. Staff contacted the City of Woodbury regarding auto covers. The Woodbury building official indicated that the City has not allowed auto covers as an alternative to fences because they believe a fence provides a greater level of protection. Even if the gate of a fence is unlocked, the fence is still a barrier, at least visually. If an auto cover is left open, there is no barrier.
3. The Planning Commission questioned whether the City would have any liability related to allowing auto covers vs. fences. Both the City Attorney and the League of Minnesota Cities Insurance Trust (who is the City's liability insurance carrier) have advised that the City would not take on liability by allowing the auto cover vs. a fence.

The Planning Commission discussed the responsibility of the pool owner to maintain the auto cover in good repair and working order and to use the cover in a way that provides a similar level of protection as that afforded by a fence.

The Planning Commission also discussed that the rural area of the City has large lot sizes and large setbacks which enable large spaces between pools and neighboring homes. This area is a better fit for the auto covers than the Downtown Village area with its small lot sizes and small setbacks to adjacent homes and streets.

Planning Commission Recommendation

The Planning Commission, on a vote of 4-3-0, recommended approval of the ordinance amendment with the following additions to the ordinance language. The additional language has been added to the ordinance as subparagraphs a and b to paragraph 12.

Additions to Ordinance Language

1. The pool auto cover as an alternative to a fence is only allowed in the Rural Residential and Agricultural zones
2. The pool auto cover must be kept in good repair and the auto cover must be designed, installed and used so that the degree of protection provided by the auto cover is similar to that afforded by a fence.

Council Action Requested:

- A. Motion regarding the adoption of an ordinance amendment to allow a pool auto cover to be used as an alternative to the current requirement of fencing to completely enclose swimming pools.**
- B. Motion regarding the adoption of summary ordinance 03-2018 for publication.**

ORDINANCE 03-2018

COUNTY OF WASHINGTON
CITY OF AFTON

AN ORDINANCE AMENDING CHAPTER 12 REGARDING AUTO COVERS FOR SWIMMING POOLS

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language and deleting the ~~strike-through~~ language.

Sec. 12-219. Swimming pools.

A. A pool is defined as any swimming pool, outdoor hot tub, or other pool of any type with a capacity of over 3,000 gallons or with a depth of over 3½ feet of water.

B. In all zoning districts where single- and two-family dwelling units are permitted uses, the following standards apply:

1. An Administrative Permit shall be required for any pool.
2. Any swimming pool requiring an Administrative Permit shall also be required to obtain a building permit.
3. An application for an Administrative Permit shall include a site plan showing:
 - a. The type and size of pool;
 - b. Location of pool;
 - c. Location of house, garage, fencing and other improvements on the lot;
 - d. Location of structures on all adjacent lots;
 - e. Location of filter unit, pump and writing indicating the type of such units;
 - f. Location of back-flush and drainage outlets;
 - g. Grading plan, finished elevations and final treatment (decking, landscaping, etc.,) around the pool;
 - h. Location of existing overhead and underground wiring, utility easements, trees and similar features; and location of any water heating unit.
4. Pools shall not be located within 20 feet of any septic tank, drainfield or line nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front, side or rear yards.
5. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
6. Pools shall not be located within any private or public utility, walkway, drainage or other easement.

ORDINANCE 03-2018

7. The necessary precautions shall be taken during construction to:

a. Avoid damage, hazards or inconvenience to adjacent or nearby property; and

b. Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.

8. All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.

9. To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land.

10. The filter unit, pump, heating unit and any other noise making mechanical equipment shall be located at least 50 feet from any neighboring residential structure and not closer than ten feet to any lot line.

11. Lighting for the pool shall be directed toward the pool and not toward adjacent property.

12. ~~Fencing at least five feet in height shall completely enclose all pools.~~ **A safety fence of a non-climbable type at least five (5) feet in height, with a self-closing and latching gate, shall completely enclose the pool, or a pool auto cover approved by the City shall be an acceptable enclosure so long as the degree of protection afforded by the pool auto cover is similar to that afforded by the enclosure, gate and latch described above for fences; the pool auto cover complies with the American Society for Testing and Materials (ASTM) Standard F1346-91 (2003) or most recent ASTM standard and is UL listed; and is sufficient to support the weight of 500 pounds minimum and completely covers or encloses the pool; and subject to the requirements listed in a and b below. The applicant shall submit documentation verifying that the proposed cover meets the required standard. The substitution with such a pool auto cover shall be done by the issuance of a Building Permit.**

a. **The pool auto cover as an alternative to a fence is only allowed in the Rural Residential and Agricultural zones.**

b. **The pool auto cover must be kept in good repair and the auto cover must be designed, installed and used so that the degree of protection provided by the auto cover is similar to that afforded by a fence.**

13. Required structure or fencing shall be completely installed within three weeks following the installation of the pool and before any water is allowed in the pool. A financial guarantee shall be required to assure erection of the structure or fence.

14. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the appointed health officer.

15. All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.

16. Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

ORDINANCE 03-2018

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS ____ DAY OF ____, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

SUMMARY ORDINANCE 03-2018

**CITY OF AFTON, MINNESOTA
WASHINGTON COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING CHAPTER 12 REGARDING ALLOWING SWIMMING
POOL AUTO COVERS AS AN ALTERNATIVE TO FENCE ENCLOSURES FOR
RESIDENTIAL SWIMMING POOLS**

NOTICE IS HEREBY GIVEN that on September 18, 2018, Ordinance 03-2018 was adopted by the City Council of the City of Afton, Minnesota.

NOTICE IS FURTHER GIVEN that, because of the lengthy nature of Ordinance 03-2018, the following summary of the ordinance has been prepared for publication.

NOTICE IS FURTHER GIVEN that the ordinance adopted by the City Council amends Chapter 12, Land Use, to allow a swimming pool auto cover to be used as an alternative to the current requirement of fencing to completely enclose residential swimming pools. A printed copy of the entire ordinance is available for inspection by any person during the City's regular office hours, or on the City website.

This ordinance shall take effect upon publication of this ordinance.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER,
2018.**

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

List of communities and townships that will allow an Auto-Cover in Lieu of a fence.

Bayport R-2 , Belgrade, Buffalo, Blaine, Cedar Lake, Credit River, Corcoran, Dahlgren Township, Deephaven, Dover, Elk River, Elko, Empire Township, Elko New Market, Faribault, Foley, Empire, Gillman, Grant, Greenfield, Hanover, Holdingford, Independence, Inver Grove Heights, Jackson Township, Laketown Township, Linwood Township, Louisville, May, Medina, Minnetonka Beach, Minnetrista, New Market Township, Northfield, Orono, Randolph, Rice, Rockford, Rochester, Rockford, Rogers, Royalton, Sartell, Scandia, Spring Lake Township, St. Agusta, St. Croix Falls, St. Lawrence Township , Stillwater Township , West Lakeland Township Scott County Sherburne County

City of Inver Grove Heights

10-15-22: PRIVATE SWIMMING POOLS, HOT TUBS AND SPAS:  

Private swimming pools, hot tubs, spas, and inflatable pools are permitted accessory uses in all residential districts under the following conditions:

A. Definition: For purposes of this section, a "swimming pool" means any structure intended for swimming or recreational bathing that contains water over thirty inches (30") deep or with a capacity of over one thousand (1,000) gallons. This includes inground, aboveground, and onground swimming pools, hot tubs and spas³.

B. Permit Requirements: The applicant for a building permit for swimming pools, hot tubs, spas, and inflatable pools shall submit all information as deemed necessary by the building official.

C. Fencing:

1. A minimum four foot (4') nonclimbable fence, restricting access, shall be erected around outdoor swimming pools, hot tubs, spas, and inflatable pools or around the tract of land where said pool, hot tub, spa, or inflatable pool is located. **The exceptions to this requirement are:**
 - a. Hot tubs and spas equipped with latching covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Hot Tubs And Spas⁴".
 - b. Inflatable pools with a surface area of fourteen (14) or less feet in diameter, and less than thirty inches (30") in depth from the deepest point to the spill level, and erected between Memorial Day and Labor Day.
 - c. **Pool covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Spas, And Hot Tubs".**
2. The building official shall approve the plans and specifications for said fence prior to construction. If said fence is equipped with doors or gates, then the doors or gates shall be self-closing, latching and childproof.
3. Where a suitable railing or other approved barrier restricting access to the pool is constructed, the above requirement for a fence may be waived by the building official, provided the building official determines compliance with approved ordinances and standards.
4. In instances where the hot tub or spa contains a latching cover or the pool contains a cover or the fence has a door or gate, then the property owner must keep the cover closed and the door and gate closed unless a resident of the property is present outdoors and within twenty five feet (25') of the hot tub, spa or pool.

City of Scandia

A structure or safety fence of a non-climbable type at least 4 feet in height, with a self-closing and latching gate shall completely enclose the pool, but shall not be located within any required yard areas; or **A pool cover or other protective device approved by the City shall be an acceptable enclosure so long as the degree of protection afforded by the substituted device or structures is not less than the protection afforded by the enclosure, gate and latch described above for fences; the device complies with the American Society for Testing and Materials (ASTM) Standard F1346-91 (2003) or most recent ASTM standard; and is sufficient to support the weight of 500 pounds minimum and completely covers or encloses the pool. The applicant shall submit documentation verifying that the proposed cover meets the required standard. The substitution with such a pool cover or other protective device shall be done by the issuance of a Building Permit.**







City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 13, 2018
Re: Comprehensive Plan Update – **Resolution 2018-33**

The Planning Commission has held a public hearing regarding the updated Comprehensive Plan and has recommended approval of the Comprehensive Plan. The Comprehensive Plan recommended for approval includes a number of edits provided to the Planning Commission by Mayor Bend, but does not include all of the edits. The Council has previously received a redlined version of the Plan that shows all of the edits, including all of the edits recommended by Mayor Bend shown in blue. As part of finalizing the Plan, the Council needs to determine whether the edits recommended by Mayor Bend are to be included in the Plan. Also attached for the Council's consideration is a resolution that documents the approval of the updated Comprehensive Plan.

Council Action Requested:

Motion regarding the adoption of resolution 2018-33 approving the updated Comprehensive Plan

RESOLUTION 2018-33

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING THE UPDATED COMPREHENSIVE PLAN

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and,
- WHEREAS,** the City Council of the City of Afton has adopted a Comprehensive Plan to guide land use and development in the City; and,
- WHEREAS,** the City is required to update the Comprehensive Plan every ten years; and,
- WHEREAS,** the City has, through the Planning Commission, reviewed and updated the Comprehensive Plan through a process that included opportunity for public input, and,
- WHEREAS,** the City Council has reviewed the Planning Commission's recommended updates to the Comprehensive Plan and has made a number of edits to put the Plan into a final form for approval.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby APPROVE the updated Comprehensive Plan.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moore, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moore, City Administrator
Date: September 10, 2018
Re: Nathan Landucci Application for a Simple Subdivision for the Creation of a Private Driveway Easement on the Parcel on Neal Avenue with Parcel Identification Number (PID#)
17.028.20.21.0002 – **RESOLUTION 2018-44**

The Council, at its August 21, 2018 regular meeting, approved a variance to allow a driveway on a private driveway easement through the Landucci property on Neal Avenue with PID # 17.028.20.21.0002, with the condition that Mr. Landucci would apply for a simple subdivision for the creation of the private driveway easement. Mr. Landucci has applied for the simple subdivision. A survey showing the private driveway easement, with a width of 22 feet as it was approved by the Council, is attached. Also attached is a resolution approving the simple subdivision for the Council's consideration.

Council Action Requested:

Motion regarding the adoption of a resolution regarding the Nathan Landucci application for a simple subdivision for a private driveway easement on the parcel with PID # 17.028.20.21.0002

RESOLUTION 2018-44

**CITY OF AFTON
WASHINGTON COUNTY, MINNESOTA**

A RESOLUTION APPROVING THE NATHAN LANDUCCI APPLICATION FOR A SIMPLE SUBDIVISION FOR A PRIVATE DRIVEWAY EASEMENT AT THE PROPERTY ON NEAL AVENUE WITH PID# 17.028.20.21.0002

- WHEREAS,** the City of Afton is a municipal corporation organized and existing under the laws of the State of Minnesota; and
- WHEREAS,** the City Council of the City of Afton has adopted zoning, subdivision, and building regulations as part of the Afton Code of Ordinances, to promote the orderly, economic, and safe development and utilization of land within the City; and
- WHEREAS,** Nathan Landucci has applied for a simple subdivision at the property with PID# 17.028.20.21.0002; and
- WHEREAS,** the application proposes to create a private driveway easement to provide vehicular access to an adjacent property; and
- WHEREAS,** City staff reviewed the request and drafted a report for consideration; and
- WHEREAS,** the legal description of the property is attached as Exhibit A, and
- WHEREAS,** the City Council heard the request at its regular meeting on September 18, 2018, at which it considered all of the comments, concerns and recommendations of the Zoning Administrator and the applicant;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Afton does hereby APPROVE the Landucci application for a simple subdivision for a private driveway easement at the property with PID# 17.028.20.21.0002 based on the findings listed below.

Findings

1. The subject property is zoned Agriculture, as are the surrounding properties.
2. The Council has approved a variance to allow a driveway on a private driveway easement on the subject property.
3. A simple subdivision is required for the creation of a private driveway easement.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

RESOLUTION 2018-44

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

CITY OF AFTON SIMPLE SUBDIVISION PERMIT APPLICATION

<u>Nathan Landucci</u>	<u>13230 20th St Ct N</u>	<u>Stillwater</u>	<u>MN 55082 (651) 894-2582</u>
Owner	Address	City	State Zip Phone

<u>Steve & Jennifer Knuth</u>	<u>887 Highlander Trail</u>	<u>Hudson</u>	<u>WI 54016 612-313-2620</u>
Applicant	Address	City	State Zip Phone
(if different than owner)			

22XX Neal Avenue South Afton MN 55001
Project Address

<u>Agriculture</u>	<u>Farmed</u>	<u>17.028.20.21.0002</u>
Zoning Classification	Existing Use of Property	PID# or Legal Description

Description of Request:

Easement for access to 40 acre parcel

By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.

	<u>Nathan Landucci / Landucci Homes, Inc</u>
Signature of Owner/Applicant	Date <u>9/12/18</u>

Make checks payable to: **City of Afton**

FEES:

ESCROW:

Subdivision-Simple	\$250.00	Subdivision-Simple	\$ 600.00	TOTAL: _____
				DATE PAID: _____
				CHECK #: _____
				RECVD. BY: _____

ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION

PEPETUAL DRIVEWAY EASEMENT DESCRIPTION
KNUTH – LANDUCCI
AFTON, MINNESOTA

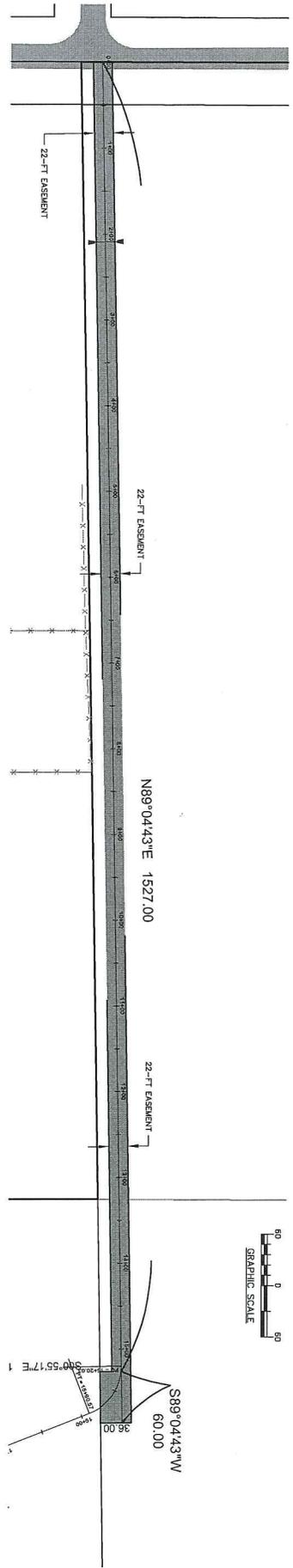
A 22.00 foot perpetual easement for roadway and drainage purposes over, under and across the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, WASHINGTON COUNTY, MINNESOTA. The center line of said easement is described as follows:

Commencing at the Southwest corner of the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, WASHINGTON COUNTY, MINNESOTA; thence northerly along the west line of said Section 17, Township 28 North, Range 20 West, a distance of 25 feet to the beginning of the of the center line to be described; thence easterly parallel with the south line of the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, a distance of 1527.00 feet and said centerline there terminating.

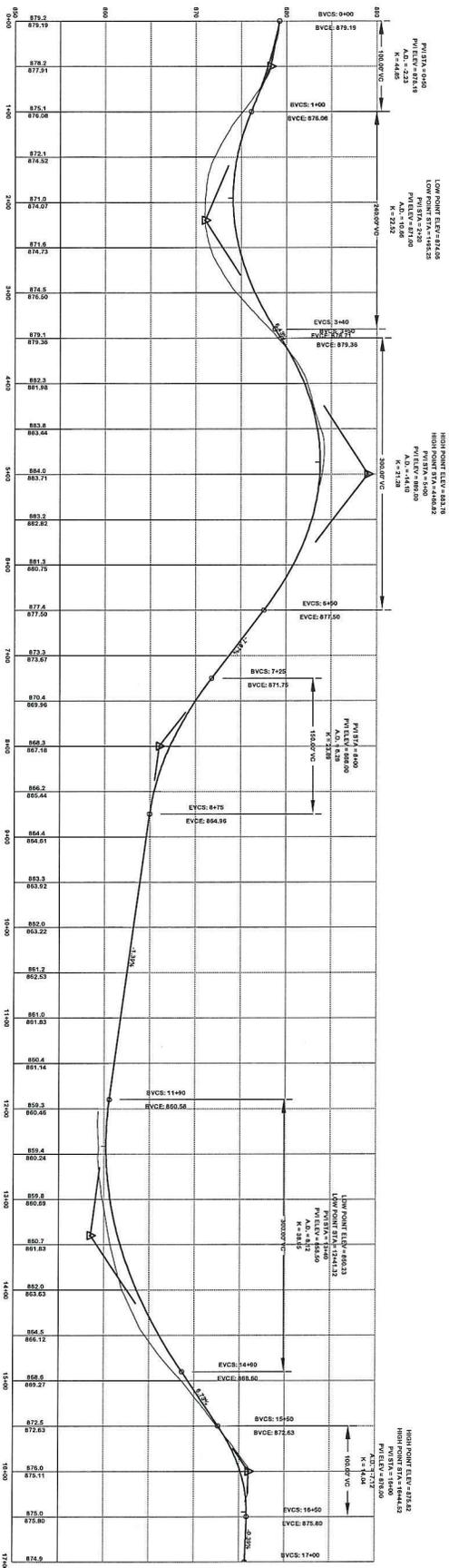
Together with a perpetual easement for roadway and drainage purposes over, under and across the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, WASHINGTON COUNTY, MINNESOTA. With said perpetual easement being 11.00 feet to the left and 25.00 feet to the right of the center line of said easement is described as follows:

Commencing at the Southwest corner of the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, WASHINGTON COUNTY, MINNESOTA; thence northerly along the west line of Said Section 17, Township 28 North, Range 20 West, a distance of 25 feet; thence easterly parallel with the south line of the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, a distance of 1527.00 feet to the beginning of the centerline to be described; thence easterly parallel with the south line of the South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West, a distance of 60.00 feet and said centerline there terminating. The side lines of said easement shall be prolonged or shortened to terminate at the said south line of South Half of the North Half of the Northwest Quarter, Section 17, Township 28 North, Range 20 West.

DRIVEWAY PLAN



DRIVEWAY PROFILE



BRICKSON CIVIL 221 North Main Street, Suite 201 Mason, MN 55950 www.bricksoncivil.com	DRIVING PHASE OWNER REVIEW ✓ AGENCY REVIEW ✓ BIDDING/CONTRACT ✓ POST CONSTRUCTION ✓ AS-BUILT DOCUMENTS ✓	TODAY'S ERIKSON: PE 40418 LICENSE NO. 02/12/2018	OWNER/DEVELOPER KNUTH FAMILY AFTON, MINNESOTA	PROJECT TITLE DRIVEWAY CONSTRUCTION PLAN AFTON, MINNESOTA	NO. 18-111	REVISION DESCRIPTION 18-111	DATE 18-111	SHEET NO. C1	SHEET TOTAL 1 OF 1
					DATE 18-111	DATE 18-111	DATE 18-111		

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 10, 2018
Re: Jon and Elizabeth Kroschel Request for Waiver of Noise Ordinance for Fundraiser at 15106 50th Street

Jon and Elizabeth Kroschel, who live at 15106 50th St. S., are requesting the City Council consider waiving noise ordinance enforcement on Friday, October 12, 2018 for an event they are hosting as a fundraiser for a local food shelf that will include a live band playing outdoors until 11:00 p.m. This is the same type of event they have held in previous years. The City has not received complaints regarding these events.

COUNCIL ACTION REQUESTED:

Motion regarding the request to waive noise ordinance enforcement for a special event at 15106 50th St. S on October 12, 2018 until 11:00 p.m.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 12, 2018
Re: Request to Rename Rinta Park

Attached is a letter from Pat Snyder requesting that Rinta Park be renamed as Barbara J. Ronningen Community Gardens. Another option suggested by staff, and which Pat Snyder has indicated would also work, would be to retain Rinta Park as the name of the park, and to name the community gardens within the park the Barbara J. Ronningen Community Gardens. The City does not currently have a policy regarding the naming of parks, but the Parks Committee has been discussing such a policy.

Council Action Requested:

Motion regarding the request to rename Rinta Park.

TO: AFTON CITY COUNCIL

Date: September 10, 2018

Dear Council:

I would like to propose that the "Rinta" park be renamed to the "Barbara J. Ronningen Community Gardens". I feel it is only fitting as she has been its main support and guiding force from the beginning. Not only did she propose its use as gardens, but she found the funding for it, designed it, and has managed it for the past six years. She is a skilled master gardener and continues to advise and share her knowledge with the gardeners there.

In addition to Barbara's work with the gardens, she has also been an active city volunteer for more than twenty years. She has served many years on the Natural Resources and Groundwater Commission and the Planning Commission, as well as many other committees, projects and activities. A long-time resident of Afton, she has given much to the community as a whole.

The name "Rinta" is the name of the people that subdivided along the frontage road and provided the park dedication as a condition thereof. I was on the Council then and believe that the name was just assigned to identify it to that plat, and that no further consideration was given to its name. The park went unused and undeveloped until the community gardens went in.

Often times, people have to die in order to be awarded a monument or plaque in recognition of their achievements in life. I'd like to suggest that we not do that, and instead offer our gratitude to Barbara now.

Thank you for your consideration.

Pat Snyder

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moore, City Administrator
Date: September 12, 2018
Re: Rental of Stagecoach Trail Public Works Garage Stalls to Tri County for Liquid Salt System

Tri County would like to use liquid salt for ice control on the roads this winter. This requires an indoor facility to mix and store the liquid salt. There are two stalls available in the Stagecoach Trail Public Works Garage. Tri County would like to lease the two stalls. Ken Johnson, Public Works Supervisor, has surveyed the rental rates for indoor storage facilities, and has indicated the cost is about \$250 per month per stall. Tri County is agreeable to a rental rate of \$500 per month for two stalls.

Tri County would like to enter into a multi-year lease agreement. The City's current agreement with Tri County for snow and ice control expires in April of 2019. A multi-year lease agreement would need to be contingent on an extension of the contract. If the Council is supportive of the rental and the rental rate, staff will prepare a lease agreement for the Council's review.

Council Action Requested:

Motion regarding the rental of two stalls in the Stagecoach Trail Public Works Garage to Tri County at a rental rate of \$500 per month

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 10, 2018
Re: Ordinance Requiring the Use of Compostable or Recyclable Single-Use Food Service Ware by Food Service Businesses, and Requiring the Use of Compostable Bags Except as May be Required by Law – **Ordinance 04-2018**

At the July 17, 2018 Council meeting, Council member Palmquist requested staff to provide information and examples regarding ordinances that require compostable or recyclable single-use food service ware vs. plastic straws, plastic plates and plastic utensils. At the August 21, 2018 Council meeting, staff provided informational materials related to an ordinance in Seattle Washington that requires alternatives to the use of plastic straws and plastic utensils at restaurants and bars, as well as an article regarding Seattle's ordinance. The Council directed staff to prepare an ordinance for the Council's consideration at its September 18, 2018 meeting.

In drafting the ordinance, staff was advised that there is a state statute that pre-empts the enacting of local ordinances that require the use of compostable bags vs. plastic bags. Therefore, the proposed ordinance includes language that requires the use of compostable bags except as may be required by law. Attached is an ordinance for the Council's consideration.

COUNCIL ACTION REQUESTED:

- A. **Motion regarding ordinance 04-2018 requiring the use of compostable or recyclable single-use food service ware by food service businesses and requiring the use of compostable bags except as may be required by law.**
- B. **Motion regarding the adoption of summary ordinance 04-2018 for publication.**

ORDINANCE 04-2018

COUNTY OF WASHINGTON CITY OF AFTON

AN ORDINANCE AMENDING CHAPTER 10 ENVIRONMENT TO REQUIRE THE USE OF COMPOSTABLE OR RECYCLABLE SINGLE-USE FOOD SERVICE WARE BY FOOD SERVICE BUSINESSES AND REQUIRING THE USE OF COMPOSTABLE BAGS EXCEPT AS MAY BE REQUIRED BY LAW

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following language shall be added as Article VIII of Chapter 10 of the Afton Code of Ordinances

Article VIII. Require the use of compostable or recyclable single-use food service ware by food service businesses, and require the use of compostable bags except as required by law.

Section 10-140. Purpose

The council finds that discarded plastic single-use food service ware constitutes a portion of the waste stream in Afton, some of which becomes litter and reaches the St. Croix River. Compostable straws, utensils and packaging would eliminate plastic from this element of the waste stream.

The council therefore finds that the minimization of nonreusable, nonrecyclable and noncompostable food service ware originating at retail food establishments and at events providing food and/or beverages within the city of Afton is necessary and desirable in order to minimize the amount of plastic in the city's waste stream and its effects on the St. Croix River and to maximize recycling so as to reduce the volume of plastics reaching the St. Croix River, and to make our city and neighboring communities more environmentally sound places to live.

Sec. 10-141. Definitions

For purposes of this article, the following definitions shall apply.

1. "Single-use food service ware" includes, but is not limited to straws, utensils, cocktail picks, customer food containers (to-go containers) cups and plates.
2. "Compostable" means made solely of organic substances that break down into a stable product due to the action of bacteria in a controlled, aerobic commercial process that results in a material safe and desirable as a soil amendment meeting the compost quality standards found under WAC 173-350-220 for metals, physical parameters, pathogens, manufactured inert material and other testing parameters set by the local Health Department.
3. "Disposable plastic food service ware" means non-recyclable containers, plates, "clamshells," serving trays, meat and vegetable trays, hot and cold beverage cups, and utensils that are made of plastic or plastic-coated paper and intended only for onetime use (including so-called biodegradable products where any portion is not compostable).

ORDINANCE 04-2018

4.. "Food service businesses" means full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts, business or institutional cafeterias, and other businesses, selling or providing food within the City of Afton for consumption on or off the premises.

5. "Recyclable" means made solely of materials that are capable of being separated from a waste stream by a food service business and made available for collection and delivery to a processor for reuse or remanufacture into the same or other products.

Sec. 10-142. Compostable or recyclable single-use food service ware required

1. Effective October 1, 2019, food service businesses shall be required to use compostable or recyclable food service ware when selling or providing food for consumption on or off the premises, rather than using single-use plastic food service ware. (Bendable straws which are non-compostable or non-recyclable may be available for persons requiring such items due to physical limitations by request.)

2. All items covered under this ordinance must display a clear marking indicating they are made from fully compostable or recyclable materials.

3. The use of compostable bags is required in all commercial activities, including vendors during any fairs, shows, or other events in the city, except as may be required by law.

Sec. 10-143. Penalties for violation of this ordinance

1. When a violation of this ordinance has occurred, the food establishment shall be subject to the penalties set forth below.

A. A violation of this ordinance is a misdemeanor.

B. Violations of this ordinance shall result in the following penalties:

(1). A warning notice in writing for the first violation;

(2). A fine of \$100 for the second violation;

(3). Repeat subsequent violations within 24 months will incur a fine double the amount of the fine imposed for the previous violation, up to a maximum of \$2,000. For example, if there were four occurrences of a violation that carried a \$100 fine: first is \$0 (warning); second is \$100, third is \$200, fourth is \$400.

C. At the time a violation occurs, the food establishment will be given 14 calendar days to take corrective action before a subsequent fine is issued.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS ____ DAY OF ____, 2018.

SIGNED:

Richard Bend, Mayor

ORDINANCE 04-2018

ATTEST:

Ronald J. Moore, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

Bend:

SUMMARY ORDINANCE 04-2018

**CITY OF AFTON, MINNESOTA
WASHINGTON COUNTY, MINNESOTA**

AN ORDINANCE AMENDING CHAPTER 10 REGARDING REQUIRING THE USE OF COMPOSTABLE OR RECYCLABLE FOOD SERVICE WARE, AND REQUIRING THE USE OF COMPOSTABLE BAGS EXCEPT WHERE REQUIRED BY LAW.

NOTICE IS HEREBY GIVEN that on September 18, 2018, Ordinance 04-2018 was adopted by the City Council of the City of Afton, Minnesota.

NOTICE IS FURTHER GIVEN that, because of the lengthy nature of Ordinance 04-2018, the following summary of the ordinance has been prepared for publication.

NOTICE IS FURTHER GIVEN that the ordinance adopted by the City Council amends Chapter 10, Environment to require the use of compostable or recyclable food service ware by food service businesses and to require the use of compostable bags in all commercial activities, except as may be required by law. A printed copy of the entire ordinance is available for inspection by any person during the City's regular office hours, or on the City website.

This ordinance shall take effect on October 1, 2019 upon publication of this ordinance.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 18TH DAY OF SEPTEMBER, 2018.

SIGNED:

Richard Bend, Mayor

ATTEST:

Ronald J. Moorse, City Administrator

Motion by:
Second by:
Palmquist:
Richter:
Ross:
Nelson:
Bend:

plasticpollutioncoalition

September 4, 2018

Dear Afton City Council,

Over a billion plastic straws are used around the world daily. In just the last few decades, people have come to expect plastic straws in every drink, an example of extreme waste generated for minimal convenience. These “tools” are quickly dropped into waste bins with little further thought, instantly becoming a growing source of plastic pollution.

The continued use of this unnecessary disposable plastic additionally perpetuates our dependence on fossil fuels and exacerbates climate change, as nearly all plastic straws are made from petroleum. As Washington County moves towards sustainability in so many of its municipal waste management systems, true fossil fuel divestment requires eliminating our reliance on single use plastics, like straws.

We envision a world free of plastic straw pollution. The Last Plastic Straw project and Plastic Pollution Coalition are reinforcing momentum around a worldwide movement, so plastic straws eventually become part of our community’s history. In the short term, we encourage eateries to no longer automatically give plastic straws, we educate individuals to refuse plastic straws and spread the “straw free” message, and we work to change local regulation to prohibit such an unnecessary piece of plastic pollution. In the long run, this engagement around the “gateway” issue of plastic straws will meaningfully shift the way individuals and businesses think about plastic pollution - and about our society’s disposable culture on a larger scale.

We fully support and stand behind a ban on non-compostable or non-recyclable food service items and plastic bags, and in requiring businesses to only give out straws upon request. (With exemptions for suitable alternatives for those who need straws.)

We also support a countywide and statewide policy to do the same. The communities upstream and bordering the St. Croix river are the last line of defense to plastic pollution in your water way. In providing upstream solutions to plastic pollution, Afton would be living up to the town’s namesake poem *Flow gently, sweet Afton, by Robert Burns*, by showing stewardship of your surrounding natural landscape, visited by many and provide protection to the various other flora and fauna of Afton and the St. Croix river’s pristine riverbanks. It is time to make the health of our communities, our environment, and our climate the top priority. These positive actions will be a model for other cities and communities to follow suit.

Sincerely,



Jackie Nuñez, Founder | The Last Plastic Straw
Project Manager | Plastic Pollution Coalition



City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 10, 2018
Re: City Representative and Alternate on the Government and 3M Working Group

Todd Hubmer and Greg Johnson, of WSB, have been representing Afton on the 3M Settlement working groups. Most cities have designated their City Administrator as their representative on the Government and 3M Working Group. The Council discussed this topic at its September 13, 2018 work session, but could not take formal action regarding the designation of City representatives at the work session. The Council may take formal action at this time.

Council Action Requested:

Motion regarding designating the City's representative and alternate on the Government and 3M Working Group.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moore, City Administrator
Date: September 12, 2018
Re: Pay Voucher No. 16 from Geislinger and Sons for the Downtown Village Improvement Project

Attached is Pay Voucher No. 16 from Geislinger and Sons, Inc. for the Downtown Village Improvement Project in the amount of \$162,517.26. This pay voucher will be provided to the PFA and the DNR for reimbursement of portions of these costs. Tom Niedzwiecki, in his monthly report, will provide an explanation of the sources of funding for this payment request.

Council Action Requested:

Motion regarding the payment of Pay Voucher No. 16 from Geislinger and Sons, Inc. for the Downtown Village Improvement Project in the amount of \$162,517.26.



September 11, 2018

Mr. Ron Moose
City of Afton
3033 St. Croix Trail South
Afton, MN 55001

Mr. Kevin Peterson
Washington County
14949 62nd Street North
Stillwater, MN 55082

Re: Construction Pay Voucher No. 16
Downtown Village Improvement Project
City of Afton / Washington County
WSB Project No. 1856-52

Dear Mr. Moose and Mr. Peterson:

Please find enclosed Construction Pay Voucher No. 16 for the above referenced project in the amount of \$162,517.26. The quantities completed to date have been reviewed and agreed upon by the contractor, and we hereby recommend that the City of Afton and Washington County approve Construction Pay Voucher No. 16 for Geislinger and Sons, Inc.

The amount indicated above reflects work certified to date through August 31, 2018, with a 5% retainage applied. Please include one executed copy of the signed voucher with the payment to Geislinger and Sons, Inc. and return one executed copy to our office for our file. If you have any questions or comments regarding this voucher, please contact me at (651) 286-8453. Thank you.

Sincerely,

WSB & Associates, Inc.

A handwritten signature in black ink, appearing to read "Nick Guilliams", with a horizontal line extending to the right.

Nick Guilliams, PE
Project Manager

Enclosures

kkp



CITY OF AFTON

3033 Saint Croix Trail
Afton, MN 55001

Project 01856-52 - AFTON - Downtown Village Improvement Project
Pay Voucher No. 16

Contractor: Geislinger and Sons, Inc.
511 Central Avenue South
Watkins, MN 55389

Contract No.
Vendor No.
For Period: 8/1/2018 - 8/31/2018
Warrant # _____ Date _____

Contract Amounts

Original Contract	\$12,542,476.71
Contract Changes	\$324,564.88
Revised Contract	\$12,867,041.59

Work Certified To Date

Base Bid Items	\$10,985,132.20
Backsheet	(\$1,000.00)
Change Order	\$323,227.22
Supplemental Agreement	\$0.00
Work Order	\$0.00
Material On Hand	\$0.00
Total	\$11,307,359.42

Funds Encumbered

Original	\$12,542,476.71
Additional	N/A
Total	\$12,542,476.71

	Work Certified This Pay Voucher	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Pay Voucher	Total Amount Paid To Date
01856-52	\$171,070.80	\$11,307,359.42	\$565,367.97	\$10,579,474.19	\$162,517.26	\$10,741,991.45
			Percent Retained: 5.0000%		Percent Complete: 87.8785%	
Amount Paid This Pay Voucher					\$162,517.26	

This is to certify that the items of work shown in this certificate of Pay Voucher have been actually furnished for the work comprising the above mentioned projects in accordance with the plans and specifications heretofore approved.

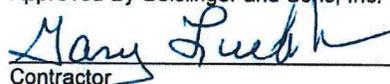
Approved By


Project Engineer

September 11, 2018

Date

Approved By Geislinger and Sons, Inc.


Contractor

9/11/2018

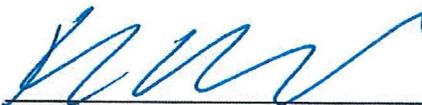
Date

Approved By

City of Afton

Date

Approved By


Washington County

9-11-18
Date

CITY OF AFTON
3033 Saint Croix Trail
Afton, MN 55001
Project No. 01856-52
Pay Voucher No. 16

01856-52 Payment Summary

No.	From Date	To Date	Work Certified Per Pay Voucher	Amount Retained Per Pay Voucher	Amount Paid Per Pay Voucher
1	03/13/2017	04/30/2017	\$1,202,028.58	\$60,101.43	\$1,141,927.15
2	05/01/2017	05/31/2017	\$1,594,172.45	\$79,708.62	\$1,514,463.83
3	06/01/2017	06/30/2017	\$1,481,064.15	\$74,053.21	\$1,407,010.94
4	07/01/2017	07/31/2017	\$896,312.39	\$44,815.62	\$851,496.77
5	08/01/2017	08/31/2017	\$731,355.04	\$36,567.75	\$694,787.29
6	09/01/2017	09/30/2017	\$1,032,908.44	\$51,645.42	\$981,263.02
7	10/01/2017	10/31/2017	\$969,692.31	\$48,484.62	\$921,207.69
8	11/01/2017	11/30/2017	\$1,444,172.22	\$72,208.61	\$1,371,963.61
9	12/01/2017	12/31/2017	\$758,242.86	\$37,912.14	\$720,330.72
10	01/01/2018	01/31/2018	\$134,158.51	\$6,707.93	\$127,450.58
11	02/01/2018	04/12/2018	\$370,239.64	\$18,511.98	\$351,727.66
12	04/13/2018	05/07/2018	\$13,679.40	\$683.97	\$12,995.43
13	05/08/2018	06/12/2018	\$56,510.61	\$2,825.53	\$53,685.08
14	06/13/2018	06/30/2018	\$116,775.44	\$5,838.77	\$110,936.67
15	07/01/2018	07/31/2018	\$334,976.58	\$16,748.83	\$318,227.75
16	08/01/2018	08/31/2018	\$171,070.80	\$8,553.54	\$162,517.26

Totals: \$11,307,359.42 \$565,367.97 \$10,741,991.45

01856-52 Funding Category Report

Funding Category No.	Work Certified To Date	Less Amount Retained	Less Previous Payments	Amount Paid This Pay Voucher	Total Amount Paid To Date
001	1,236,233.58	61,811.68	1,168,841.29	5,580.61	1,174,421.90
002	660,074.64	33,003.73	627,070.91	0.00	627,070.91
003	250,538.97	12,526.95	230,426.27	7,585.75	238,012.02
004	2,497,154.93	124,857.75	2,372,297.18	0.00	2,372,297.18
005	2,097,456.53	104,872.83	1,907,805.70	84,778.00	1,992,583.70
006	310,579.16	15,528.96	279,582.46	15,467.74	295,050.20
007	2,216,441.96	110,822.10	2,071,735.48	33,884.39	2,105,619.86
008	911,327.18	45,566.36	865,760.82	0.00	865,760.82
009	373,335.68	18,666.78	354,668.90	0.00	354,668.90
010	243,759.78	12,187.99	223,986.04	7,585.75	231,571.79
011	384,043.06	19,202.15	357,205.88	7,635.04	364,840.91
012	126,413.95	6,320.70	120,093.25	0.00	120,093.25

Totals: \$11,307,359.40 \$565,367.98 \$10,579,474.16 \$162,517.26 \$10,741,991.42

01856-52 Funding Source Report

Accounting No.	Funding Source	Amount Paid This Pay Voucher	Revised Contract Amount	Funds Encumbered To Date	Paid To Contractor To Date
01	Local	97,944.37	7,695,918.96	7,312,999.47	6,404,385.71
02	State	56,937.87	4,530,049.67	4,604,328.44	3,852,671.57
03	State	7,635.04	641,072.96	625,148.80	484,934.16

Totals: \$162,517.27 \$12,867,041.59 \$12,542,476.71 \$10,741,991.43

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 13, 2018
Re: Schedule Special Council Meeting and Work Session

The Preliminary 2019 property tax levy must be submitted to the County by September 30. A Special Council Meeting is needed to enable the Council to take action on the levy prior to September 30. In addition, the Council has directed staff to schedule a work session to discuss clarifications and revisions to the Preservation and Land Conservation Development (PLCD) ordinance. Both of these meetings could be held on the same evening during the week of September 24.

Council Action Requested:

Motion regarding scheduling a Special Council Meeting and a work session during the week of September 24.

City of Afton
3033 St. Croix Trl, P.O. Box 219
Afton, MN 55001

Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 13, 2018
Re: Sale of Flood Pump

The Council, at its July 17, 2018 meeting, authorized staff to explore the sale of one of the City's smaller portable flood pumps, in response to interest from the City of Lake St. Croix Beach. Ken Johnson has researched the history of the flood pump that is owned by the DNR, but the City has used for many years. When the City obtained the pump, the City added a number of items to it. Attached is a list of the items that were added to the pump for a total cost of \$14,193.70. The DNR has indicated the City may recover the costs of these items if it decides it no longer needs the pump. Staff is requesting direction from the Council regarding the sale of the flood pump.

Council Action Requested:

Motion regarding the sale of the flood pump that is owned by the DNR.

Ron Moore

From: publicworks
Sent: Wednesday, August 01, 2018 12:02 PM
To: Ron Moore
Subject: Barnes DNR flood pump improvement cost by Afton

- 1) Built twin axel trailer to house pump.
 - 2) Modified pump with electric starter.
 - 3) Added alternator.
 - 4) Painted entire unit with Dupont Imron paint.
 - 5) New gas tank.
(Built in 2000) Cost \$ 11000.00

 - 6) 66 feet of 10" Kana Flex flood pump hose. Cost \$ 2358.84
(Current price \$35.74 per foot)

 - 7) Aluminum fittings for 10" hose. Cost \$ 834.86
(Current price per pair)
- Total \$ 14193.70

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Meeting Date Sept. 18, 2018

Council Action Memo

To: Mayor Bend and Members of the City Council
From: Ron Moorse, City Administrator
Date: September 13, 2018
Re: Installation of Bollards on Pike Street

While the southern end of Pike Street narrows from a street to a bike trail, vehicles still tend to use that portion of the street. The Council had authorized staff to determine how best to keep vehicles off the trail. Staff has worked with Council member Ross and Tri County regarding a plan to place three bollards across the bike trail at the north and south ends of the narrowed portion of Pike Street. The bollards would consist of metal sleeves and plastic posts to be installed by Tri County. The total cost is the not-to-exceed amount of \$1,500.

Council Action Requested:

Motion regarding authorizing Tri County to provide and install six bollards on Pike Street at a cost not to exceed \$1,500.