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**DATE** : June 28, 2022  
**TIME STARTED** : 7:00 p.m.  
**TIME ENDED** : 8:38 p.m.  
**MEMBERS PRESENT** : Councilmember Carr, Rog, Giefer, Schafer and Mayor Huber  
**MEMBERS ABSENT** : None

Staff members present: City Attorney, Dave Snyder; City Planner, Jennifer Swanson; City Treasurer Sharon Schwarze and Administrator/Clerk, Kim Points

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m.

**PUBLIC INPUT**

There was no public input.

**PLEDGE OF ALLEGIANCE**

**SETTING THE AGENDA**

**Council Member Schafer moved to approve the agenda, as presented. Council Member Giefer seconded the motion. Motion carried unanimously with a roll call vote.**

**CONSENT AGENDA**

May 3, 2022 City Council Meeting Minutes	Approved
June 2022 Bill List, \$55,253.17	Approved
Kline Bros. Excavating, Road Work, \$29,456.25	Approved
City of Stillwater, 2 <sup>nd</sup> Half Fire Contract \$80,180.00	Approved

**Council Member Giefer moved to approve the consent agenda, as presented. Council Member Schafer seconded the motion. Motion carried unanimously with a roll call vote.**

**STAFF AGENDA ITEMS**

**City Engineer, Brad Reifsteck**

1 **Consideration of Gravel Road Maintenance Quotes** – City Engineer Reifsteck advised the current  
2 gravel road maintenance agreement with Kline Bros, Inc. expired. Kline Brothers has agreed to  
3 continue providing these services under the current agreement until the City awards a new contract.

4  
5 The services provided include routine maintenance of the City’s gravel roadways, including  
6 graveling, hauling, and grading. The contractor is responsible for furnishing all personnel and  
7 equipment.

8  
9 The current agreement is attached for reference and includes pricing by the hour based upon activity  
10 performed. The agreement also includes a fuel escalation clause.

11  
12 City staff is recommending slight changes to the fuel escalation clause by adding two dollars to each  
13 category as shown in Section II Cost and Payment of the current agreement, otherwise no other  
14 changes are recommended.

15  
16 **Council Member Giefer moved to approve and authorize Staff to receive quotes for the 2022**  
17 **Pavement Management Project. Council Member Rog seconded the motion. Motion carried**  
18 **unanimously with a roll call vote.**

19  
20 **Consideration of 2022 Pavement Management Quotes** – City Engineer Reifsteck advised  
21 the following streets have been identified in the City’s Capital Improvement Plan for roadway  
22 maintenance work in 2022:

- 23
- |                 |                 |
|-----------------|-----------------|
| 110th Street    | 117th Street    |
| 118th Street    | Keystone Avenue |
| Kimbrow Avenue  | Lansing Avenue  |
| Manning Avenue  |                 |
| Ct              | Irish Avenue    |
| Ironwood Avenue |                 |

24  
25 Staff is also recommending including the 2018 Street Improvement areas which include the Justen  
26 Trail neighborhood, and the Woodland Acres neighborhood as shown on the attached map. These  
27 roadways are just starting to show thermal cracking and its important to be timely with sealing  
28 them to prevent water damage.

29  
30 As in year’s past, invitations to the various neighborhoods will be sent out to residents to offer the  
31 opportunity to use maintenance dollars towards a major street reconstruction project.

32  
33 This year’s project will include a combination of crack repair and fog seal. Quotes will be  
34 received July 21, 2022 at 10:00 am. The total budget for the 2022 Pavement Management Project  
35 is \$70,040.

36  
37 **Council Member Giefer moved to approve and authorize Staff to receive quotes for 2022**  
38 **Pavement Management Project. Council Member Rog seconded the motion. Motion carried**  
39 **unanimously with a roll call vote.**

1 **Consideration of 2022 Special Road Projects, Guard Rail Repair and Installation** – City  
2 Engineer Reifsteck advised each year the city funds a special roads project. Projects in year’s past  
3 have included roadway patching, mitigating roadway flooding, installing guardrails, roadway  
4 stripping & signing, etc.

5  
6 This year’s special project will include replacing an existing guardrail and installing new guard rail as  
7 recommended below:

- 8
- 9 • City staff has received several resident complaints about damaged guardrail along 118<sup>th</sup> Street  
10 near Kimbro Avenue. The damage was inspected by the City Engineer and includes a bent  
11 plate beam and misaligned posts. The estimated cost to replace the 50-foot section of guardrail  
12 is \$3,750.00.
- 13
- 14 • Over the last several years the city has placed guardrail along Ironwood Avenue between  
15 114<sup>th</sup> Street and 120<sup>th</sup> Street but sections of this roadway remain in need of guardrail. City  
16 staff is recommending completing the guardrail along Ironwood Avenue as shown in the  
17 attached map. The length of the guardrail is approximately 1200 lineal feet and is estimated to  
18 cost \$60,000.00
- 19

20 The special roads budget is approximately \$70,000.

21  
22 **Council Member Giefer moved to approve and authorize Staff to receive quotes for the special**  
23 **road’s projects, as presented. Council Member Rog seconded the motion. Motion carried with**  
24 **Council Member Schafer voting nay with a roll call vote.**

25  
26 **City Planner, Jennifer Swanson**

27  
28 **Consideration of Resolution No. 2022-07, Application for Minor Subdivision, 9250 Dellwood**  
29 **Road N** – City Planner Swanson stated the Applicant, Sam Scott, is requesting a minor subdivision  
30 and rearrangement of the two existing parcels located at 9250 Dellwood Road N., into three lots (two  
31 new). In late 2021 and early 2022 the Applicant met with staff to discuss the potential minor  
32 subdivision of the subject property. The applicant indicated their desire to subdivide the property to  
33 create two new rural residential lots consistent with the City’s ordinance requirements.

34  
35 City staff indicated that all created and resulting parcels must comply with the City’s ordinances,  
36 including the necessity to amend the existing Conditional Use Permit (CUP) for the horse boarding  
37 and indoor riding arena operations. In conjunction with this request for Minor Subdivision, the  
38 applicant has requested an amendment to the CUP and the staff report is provided under separate  
39 cover.

40  
41 A duly noticed public hearing was held on June 8, 2022, and property owners within 1,320-feet were  
42 notified of the subject application. Several members of the public provided testimony regarding the  
43 proposed Minor Subdivision. A summary of the concerns and comments is provided (detailed  
44 comments are documented in the official minutes of the public hearing):

- 45 • Most public testimony indicated opposition to the proposed Minor Subdivision.

- Several members of the public indicated that they did not believe further subdivision of this parcel was possible and they were told no density was available to the site for further subdivision since it was part of the Victoria Station subdivisions/plats. The confusion was also due to the existing condition within the CUP for the property for use as a horse boarding operation and indoor riding arena that prohibits subdivision if the CUP remains in place without an approved amendment.
- Concerns regarding increased density and setting precedent for further subdivision were stated.
- Several members of the public indicated continued support of using the property for a horse boarding facility and indoor riding arena as opposed to permitting the further subdivision of the property for rural residential uses.

After the public hearing concluded the Planning Commission discussed the subject application. After hearing public testimony and staff’s presentation the Planning Commission unanimously recommended denial of the application for minor subdivision.

The following staff report is generally as presented at the Planning Commission meeting but has been updated to reflect the Planning Commission’s recommendation to deny the proposed minor subdivision.

**Application Summary**

<b>Applicant &amp; Owner:</b> Sam Scott	<b>Site Size:</b> ~59.42 Acres (Gross)
<b>Zoning:</b> A-2, Agricultural Small Scale <b>Land Use:</b> Rural Residential/Agricultural	<b>Request:</b> Minor subdivision to rearrange and subdivide two existing parcels. The proposed minor subdivision creates two lots west of Justen Trail N, and one lot east of Justen Trail N.
<b>Address:</b> 9250 Dellwood Road Grant, MN	<b>Location Description and PIDs:</b> PIDs – 1503021310001 and 1503021130002

**Existing Lot/Parcel Configuration**

Lot/Parcel	Acres	Notes
9250 Dellwood Road N. (PID 1503021310001)	49.5 Acres	This Parcel was not platted as part of any of the Victoria Station subdivisions. The existing farmstead and all existing accessory structures, including the gatehouse, are located on this parcel. The parcel is included in the existing CUP for horse boarding operations and indoor riding facilities.
Outlot A Victoria Station No. 3	~9.8 Acres	This parcel was platted as part of the Victoria Station No. 3 subdivision. The parcel is included in the existing CUP for horse boarding operations and indoor riding facilities.

**The proposed Minor Subdivision will result in the following:**

Lot/Parcel	Acres	Notes
Parcel A	42.28 Acres	The created lot includes Outlot A of the Victoria Station No. 3 subdivision and that portion of the existing 9250 Dellwood Road parcel lying east of the west Justen Trail N., roadway easement. (The full Justen Trail Roadway is located on this parcel)
Parcel B	7.84 Acres	The created lot is located west of the Justen Trail N., roadway. The proposed lot frontage, home and driveway are from Justen Trail N.
Parcel C	9.30 Acres	The created lot is located west of the Justen Trail N., roadway. The proposed lot frontage, home and driveway are from Justen Trail N.

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Section 30-9 Minor Subdivisions  
Section 30-130 Street Design

City Planner Swanson stated the subject property is bordered by Dellwood Road N. (Hwy 96) on the south, Jamaca Ave N (CSAH 9) to the west, and Justen Trail N., runs north-to-south through the property. The existing principal structure and all accessory buildings, including an indoor riding arena, are located east of Justen Trail N. There is a large existing pond and/or wetland area located along the eastern edge of the property that extends north onto the area described as Outlot A of the Victoria Station No. 3 Subdivision, and a small wetland area located on the northwest corner of the property adjacent to the CSAH 9 right-of way. The majority of the subject property was not platted as part of the Victoria Station subdivision, and only that portion associated with Outlot A was part of any previous subdivision.

The Minor Subdivision exhibit is provided as Attachment B to this Staff Report. As shown the proposed subdivision will rearrange two existing lots into three lots. The following ordinance sections are provided as reference.

Section 30-1 Definitions, states that “*Minor Subdivision* means any subdivision containing not more than two lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the master plan, official map, chapter 32, or these regulations.

Section 30-9 (a)(3) states that, “The newly created parcels shall meet all requirements of chapter 32 pertaining to zoning....”

Section 30-9 (a)4) states that, “Prior to approval of a minor subdivision, the city council reserves the right to require the dedication of streets, utility easement.”

Section 30-130 (a) Minimum widths of street design require local streets to be dedicated with 66-feet of right of way. Section 30-130(b) Widening existing streets states that “Where a

1 subdivision abuts or contains an existing street of inadequate width, sufficient additional  
2 width shall be provided to meet the standards of subsection (a)...”  
3

4 The proposed Minor Subdivision creates two new rural residential lots that are proposed to be  
5 accessed from Justen Trail North (Parcel B and Parcel C). As shown on the Minor Subdivision  
6 exhibit Justen Trail N. is a roadway that runs north-south through the subject property and connects  
7 the Victoria Station subdivisions adjacent/adjoining the subject property with Dellwood Road North  
8 (Hwy 96). The roadway segment on the subject property has been the subject of litigation with the  
9 City and the Applicant has contested their responsibility to maintain/manage this segment of road. It  
10 is staff’s understanding, that they have further indicated that they believe the segment of Justen Trail  
11 N. on their property is only a limited and restricted grant of easement (shown as Roadway Easement  
12 on the Minor Subdivision exhibit, and further described in the City Attorney’s memo) and that it does  
13 not represent a full dedicated public right-of-way. Further, per the definition of Minor Subdivision,  
14 the Minor Subdivision may “not adversely affect the remainder of the parcel or adjoining property,  
15 and not in conflict with any provisions or portions of the master plan, official map, chapter 32, or  
16 these regulations.”  
17

18 The segment of Justen Trail North that crosses the subject property is the main roadway connection to  
19 the adjacent Victoria Station subdivisions, and its maintenance and management responsibilities has a  
20 direct impact on adjacent lots and parcels that use the roadway. The City uses a road assessment  
21 policy to maintain and manage its roads as described in the City Engineer’s memo. When a minor  
22 subdivision is granted, the City requires the full right-of-way to be dedicated to the City, if it has not  
23 been already. The intent of Section 30-9(a)(4) is to ensure that the road is publicly dedicated and that  
24 it is subject to the City’s associated policies regarding proper upkeep and management so that all  
25 properties that rely on it for access can reasonably be assured that it will be maintained.  
26

27 Since the road segment is the subject of continuing litigation and the Applicant recently filed an  
28 appeal, the debate regarding this segment of road and its rights and responsibilities remains at issue.  
29 Staff cannot confirm whether the minor subdivision will adversely impact adjoining or nearby  
30 properties, since the issue of responsibility remains undecided.  
31

32 The issue is further impacted by the new lot configuration that proposes access from Justen Trail N.,  
33 but does not dedicate nor acknowledge the road as public right-of-way and instead refers to it as the  
34 “Roadway Easement.” Since the Applicant is contesting their responsibility to maintain and manage  
35 the roadway through objection of paying the City’s assessment it is unclear how, and what,  
36 responsibilities the Applicant as the subdivider of the two new lots would have in the maintenance  
37 and management of the roadway. Further, Section 30-9(a)(3) expressly requires newly created lots to  
38 meet the requirements of Chapter 32, which requires all lots to provide minimum frontage on a street  
39 but it is unclear if this condition is met given the current litigation and appeal.  
40

41 Finally, as shown on the Minor Subdivision exhibit the “Roadway Easement” depicted for Justen  
42 Trail North does not align with the roadway traveled surface and does not appear to be of adequate  
43 size to accommodate the City’s required right-of-way width of 66-feet. The Minor Subdivision does  
44 not meet the City’s requirements for road design as required in section 30-130(a) and 3-130(c) that  
45 suggests when roadways are of inadequate width abutting a subdivision that the plat (subdivision)  
46 shall dedicate additional width to meet the City’s road design standards.

1 The City Engineer and City Attorney have provided memos that are attached to this staff report for  
2 your review and consideration.

3  
4 City Planner Swanson noted the Planning Commission unanimously recommended denial of the  
5 proposed Minor Subdivision with the findings as noted in the attached resolution.

6  
7 **Council Member Schafer moved to adopt Resolution No. 2022-07, as presented. Council**  
8 **Member Rog seconded the motion. Motion carried unanimously with a roll call vote.**

9  
10 **Consideration of Resolution No. 2022-08, Application for Amended Conditional Use Permit for**  
11 **Victoria Station Boarding Stable and Indoor Riding Arena, 9250 Dellwood Road N – City**  
12 City Planner Swanson advised the Applicant, Sam Scott, is requesting an Amendment to the existing  
13 Conditional Use Permit (CUP) to allow for the subdivision of the subject property. The existing CUP  
14 was granted in 1993 to construct and operate a horse boarding stable and indoor riding arena. The  
15 CUP was recorded on approximately 55-acres of the Applicant's property that includes the primary  
16 parcel with the principal structure and accessory buildings, and Outlot A of the Victoria Station No. 3  
17 subdivision. The existing CUP clearly states that no subdivision of the parcel is permitted for the  
18 CUP to remain valid because the operations, including number of permitted horses, was based on the  
19 full acreage.

20  
21 In late 2021 the Applicant met with City Staff in a pre-application meeting to discuss the potential  
22 minor subdivision of the property and the impact that a subdivision would have on the existing CUP.  
23 During the meeting, staff indicated that the CUP would either 1) need to be successfully amended; or  
24 2) would become invalid and must be vacated to allow for the subdivision. During the meeting the  
25 Applicant indicated that he currently lives on the property and would like to continue horse boarding  
26 activities on that portion of the property that he would retain after a minor subdivision. Given the  
27 Applicant's desire to continue operating the horse boarding facilities, the Applicant is seeking an  
28 amendment to the CUP to reduce the intensity of the operations and to amend the legal description to  
29 except out that area west of Justen Trail that would include new rural residential uses if the minor  
30 subdivision were to be approved.

31  
32 A duly noticed public hearing was held on June 8, 2022, and several members of the public provided  
33 public testimony regarding the proposed amendment. A summary of the comments is provided (full  
34 record of the public hearing is provided in the minutes):

- 35 • Neighbors reiterated their support for the horse boarding and riding arena operations and  
36 restated their objection to the minor subdivision of the property.
- 37 • Concerns regarding the eventual loss of the operation were stated, and generally the public  
38 would like to see the horse operations remain viable and operational.

39  
40 After the public hearing was closed, the Planning Commission discussed the proposed amendment.  
41 The planning commission restated their objection to the minor subdivision, but acknowledged that it  
42 is important to address the Applicant's request to amend the CUP since it is a separate application.  
43 After significant debate and discussion, the planning commission unanimously recommended to  
44 approve the amended CUP with conditions, and emphasized that their approval is contingent on the  
45 minor subdivision being approved.

1 **Application Summary**  
2

<b>Applicant &amp; Owner:</b> Sam Scott	<b>Site Size:</b> ~59.42 Acres (Gross)
<b>Zoning:</b> A-2, Agricultural Small Scale Land Use: Rural Residential	<b>Request:</b> Amended Conditional Use Permit (CUP)
<b>Address:</b> 9250 Dellwood Road Grant, MN	<b>Location Description and PIDs:</b> PIDs – 1503021310001 and 1503021130002

3  
4 City Planner Swanson advised the Applicant is requesting an amendment to the Conditional Use  
5 Permit (CUP) to allow for the minor subdivision of the subject property. Based on the submitted  
6 Minor Subdivision Exhibit, the proposed amendment would except out approximately 17.14-acres of  
7 the subject property lying west of Justen Trail, leaving approximately 42.28 acres subject to the CUP.  
8 As shown on the Minor Subdivision exhibit, there is approximately 59.42 gross acres with  
9 approximately 5.04 acres of existing roadway easement area (Note, the existing 1993 CUP is  
10 associated with approximately 55-acres which is the area exclusive of the roadway easement area).  
11

12 The Applicant’s proposed amendment to the 1993 CUP is to:

- 13 • Amend the legal description to remove the area west of Justen Trail North (shown and  
14 proposed Parcel B and Parcel C on the Attached Minor Subdivision exhibit).
- 15 • Amend Condition Number 2 to state that “The 42.28-acre parcel shall not be further  
16 subdivided.”
- 17 • Amend Condition Number 16 regarding the permitted number of horses proportionately to the  
18 ratio established. The existing CUP permitted approximately 1.1 horses per gross acre  
19 exclusive of roadway easement area, so the total number of horses permitted based on the  
20 amended area on site would be 39 horses (this is a reduction from the 60 horses permitted in  
21 the current permit).  
22

23 All other conditions of the 1993 CUP would remain valid and are not proposed to be amended as part  
24 of this application.  
25

26 City Planner Swansons stated the City Code addresses amendments to existing CUPs in Section 32-  
27 152 that states, “An amended conditional use permit application may be administered in a manner  
28 similar to that required for a new conditional use permit...” As such, the Application to amend the  
29 CUP is processed accordingly, and the requested amendment is to consider only those portions of the  
30 operations and/or facility that are proposed to change. The City Code states the following for  
31 consideration when reviewing a Conditional Use Permit (32-141):  
32

33 “(d) In determining whether or not a conditional use may be allowed, the City will consider the  
34 nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on  
35 adjoining roads, and all other relevant factors as the City shall deem reasonable prerequisite of  
36 consideration in determining the effect of the use on the general welfare, public health and safety.”

37 (e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use  
38 permit, and a periodic review of said permit may be required.”  
39



1 The purpose of this amendment is not to consider the use of the property as a horse boarding and  
 2 indoor riding arena facility since the determination that the use is consistent with the City’s  
 3 regulations was approved in 1993. This amendment relates specifically to allowing for an amendment  
 4 to the legal description to reduce the total area associated with the CUP to approximately 42 acres,  
 5 and to reduce the number of horses permitted on site proportionately to the reduction in acreage.

6  
 7 The subject property is bordered by Dellwood Road N. (Hwy 96) on the south, Jamaca Ave N (CSAH  
 8 9) to the west, and Justen Trail N., runs north-to-south through the property. The existing principal  
 9 structure and all accessory buildings, including an indoor riding arena, are located east of Justen Trail  
 10 N. There is a large existing pond and/or wetland area located along the eastern edge of the property  
 11 that extends north onto the area described as Outlot A of the Victoria Station No. 3 Subdivision, and a  
 12 small wetland area located on the northwest corner of the property adjacent to the CSAH 9 right-of  
 13 way. The majority of the subject property was not platted as part of the Victoria Station subdivision,  
 14 and only that portion associated with Outlot A was part of any previous subdivision.

15  
 16 The site is guided RR/AG – Rural Residential Agricultural in the City’s adopted Comprehensive  
 17 Plan. Land within the RR/AG land use designation is generally described as supporting rural  
 18 residential uses with limited commercial and institutional uses as identified and allowed within the  
 19 City’s zoning ordinance. The proposed amendment does not change the use of the site for a Horse  
 20 Boarding and Indoor Riding Arena facility, which is identified as a compatible use within the City’s  
 21 Comprehensive Plan and supporting Zoning Ordinance.

22  
 23 The Applicant included the Minor Subdivision exhibit as part of the application to demonstrate the  
 24 proposed area of the subject amendment. As shown on the exhibit, Parcel B and Parcel C would be  
 25 excepted or removed from the CUP, and Parcel A would be the only remaining area subject to the  
 26 CUP. Since the area associated with the permit is reduced, a full review of the dimensional standards  
 27 based on the reduced area is necessary to ensure that the proposed amendment would not create any  
 28 new non-conformities.

29  
 30 The following site and zoning requirements in the A-2 district for Horse Boarding facilities is  
 31 provided. The following review is conducted focusing on Parcel A, which is the area that would be  
 32 subject to the Amended CUP.

33

Dimension	Standard	Proposed Lot Configuration
Minimum Lot Area (requires minimum of 5 acres for horses on property)	5 Acres	~42.28 Acres
Frontage on Improved Public Street	300’	~1,630’
Front Yard Setback (arterials)	150’	~106.6 (existing home)
Side Yard Setback (from street in case of corner lot)	65’	~92’
Side Yard Setback (from interior lot lines)	20’	~1,180’
Rear Yard Setback	50’	~215’

Height of Structure	35'	NA
Accessory Buildings (# and Total SF)	No limit based on acres	5 Existing Buildings + Principal Structure
Wetland Setback Structure (Buffer)	75' (50')	No Change
Impervious surface coverage	50%	5%
Grazable Acres* See discussion below	1 horse per 2 grazable acres, or CUP is required – existing CUP permits 60 horses which is 1 horse per 1.4 grazable	39 (1.4 horses per 1 grazable acre see analysis below)

1

**Lot Area and Accessory Building Standards**

The amended CUP is proposed to include an area approximately 42.28 acres, where the horse boarding and indoor riding operations are currently operating. *As amended, the proposed lot area meets the City’s ordinance requirements for minimum lot size.*

All of the improvements, including principal structure, gate house and accessory structures are located on the subject parcel. Section 32-313 establishes that lots containing more than 20 acres do not have a limit on the number of permitted accessory buildings or square footage. *The proposed amended area for the CUP meets the City’s requirements for accessory buildings.*

**Setbacks**

The request to amend the legal description changes the lot configuration and moves the western property boundary from the Jamaca Avenue right-of-way to the west side of the Justen Trail N., roadway easement area. This request corresponds to the requested minor subdivision (see staff report under separate cover for minor subdivision review). As shown on the Minor Subdivision exhibit, the proposed modification of the westerly property line creates a new side yard setbacks for the structures located on the subject parcel since the existing farmstead and its buildings are accessed from the primary frontage on Dellwood Road North (Hwy 96). The side yard setback of a structure from a street when a corner lot is 65’. As referenced in the minor subdivision, the Applicant has proposed a new westerly lot line that is on the west side of roadway easement, which would encompass the full roadway on the subject property. Regardless of the proposed lot line, which is reviewed within the Minor Subdivision staff report, the side yard setback of structures on a corner is 65-feet from the street right-of-way or easement. The existing indoor riding arena is the closest structure to Justen Trail and is setback approximately 80-feet from Justen Trail.

There are two existing habitable structures on the property – one is the principal structure, and the second is a permitted gatehouse. It is assumed that the gatehouse is the southernmost structure on the subject property and is approximately 1,800 square feet. As shown on the Minor Subdivision exhibit the structure is located within the front yard setback

and does not meet the City's code. The encroachment of this structure is an existing condition, and the proposed amendment does not impact or increase the encroachment. Further review regarding this structure is provided in the Minor Subdivision report, but for purposes of this CUP Amendment there is no impact to the existing encroachment.

No new structures or improvements are proposed as part of this request to amend the CUP. ***All existing structures meet the required setbacks from the proposed westerly boundary, and no further encroachments into required yard setbacks is proposed.***

### Grazable Acres

The City Code requires 2 acres of grazable land for each horse, and an increase in density is permitted with a CUP. The 1993 CUP permitted a maximum of 60-horse which corresponding to approximately 1.4 horses per 1 acre of grazable land. The proposed amended reduces the acreage of the site by approximately 17.14 acres. If the ratio of horse to grazable acres is maintained then the number of permitted horses must be amended to correspond to the reduced area.

To determine the grazable acres the total parcel area (Parcel A) is adjusted to except the roadway easement areas, the building footprints, and wetland areas. Based on this analysis the total grazable area remaining is approximately 27.67 acres. Using the approved horse ratio from the 1993 CUP, the number of permitted horses on site would be

$$(1.4 \text{ Horses per grazable acre}) \times (27.67 \text{ grazable acres}) = 39 \text{ Horses}$$

The Planning Commission discussed this analysis since only a general area calculation could be performed for the wetlands since a formal delineation was not completed. Generally, the Planning Commission was supportive of using the established ratio, but recommended that a condition be added to the amended permit that a wetland delineation must be completed so that the number of horses permitted is accurately determined based on the delineation.

***Based on the revised area, staff recommends that Condition #16 would be reduced from a maximum of 60 horses to 39 horses, consistent with the methodology performed in the 1993 CUP. This condition should also reference that a final number of horses will be determined after the completion of a wetland delineation.***

- 1 The City Engineer did not have any comments regarding the proposed amendment since the request
- 2 to amend is based on the intensity of use, and there are no site or physical improvements proposed.
- 3
- 4 The proposed amendment reduces the area associated with the CUP and no other alterations are
- 5 proposed that represent an expansion of the use. Therefore, no other agencies are required to review
- 6 the request. However, it should be noted that the conditions as established by the 1993 would remain
- 7 valid, including, but not limited to, maintaining proper approval and licenses from MPCA,
- 8 Washington County, etc., related to the operation of the boarding facility.

1 The Planning Commission unanimously recommended approval of the request to amend the  
2 Conditional Use Permit with the conditions as noted. A draft Amendment to the CUP and Resolution  
3 is provided for your review and consideration.

- 4 • The legal description must be updated to reflect that the CUP is only recorded against the  
5 approved Parcel A configuration. (Note that the subdivision review is provided under separate  
6 cover.)
- 7 • The Minor Subdivision must be approved, and the accurate legal description provided, for this  
8 Amendment to be valid.
- 9 • Condition #2 is modified to reflect the approved acreage of Parcel A, depicted as 42.28 acres  
10 on the Minor Subdivision exhibit as 42.28, which may be modified based on the  
11 recommendation of the Minor Subdivision.
- 12 • Condition #16 is modified to permit a maximum of 39 horse.
- 13 • Add a condition that any modification or intensification of the proposed use shall require an  
14 amendment to the CUP.
- 15 • All other conditions noted in the 1993 CUP remain valid and in full force.

16  
17 City Attorney Snyder recommend denial of the amended CUP application.

18  
19 **Council Member Giefer moved to deny Resolution No. 2022-08, as presented. Council Member**  
20 **Rog seconded the motion. Motion carried unanimously with a roll call vote.**

21  
22 **Consideration of Resolution No. 2022-09, Application for Conditional Use Permit to Process**  
23 **Firewood, 10151 75<sup>th</sup> Avenue N** – City Planner Swanson advised the Applicant, Pete Mogren,  
24 Mogren’s Firewood, is requesting a Conditional Use Permit (CUP) on the subject property to allow  
25 for the processing and selling of firewood. The use includes cutting and processing firewood that is  
26 dried using a large kiln on site. The Site Plan shows the location of the existing building on the  
27 property, the stockpile locations for the processing operations and the location of the kiln.

28  
29 A duly noticed public hearing was held on June 8, 2022, and property owners within 1,320-feet were  
30 notified of the subject application. No members of the public were in attendance to provide testimony  
31 regarding the proposed CUP. The Planning Commission closed the public hearing and discussed the  
32 application. The planning commission’s discussion mostly focused on two issues, 1) is the proposed  
33 use/operation similar to other uses in the City and on the Table of Uses; and 2) what are the hours of  
34 operation and potential adverse impacts of the use to adjacent neighbors. After discussion, the  
35 Planning Commission determined that the use is similar to other businesses in the City that include  
36 landscape supply/hardscape/nursery/agricultural types of operations and that such existing businesses  
37 in the City operate with a Conditional Use Permit; and that provided the conditions are met, there  
38 should be minimal or no adverse impacts to the surrounding neighborhood and residential properties.  
39 The Planning Commission recommended approval (5-2) of the proposed Conditional Use Permit with  
40 the conditions as noted in the draft permit.

41  
42 The following staff report has been updated to reflect the discussion and presentation at the Planning  
43 Commission but is generally as presented by staff at the meeting.

1

<p><b>Applicant:</b> Pete Mogren, Mogren’s Firewood  <b>Owner:</b> Mike Regan</p>	<p><b>Site Size:</b> 101.5 Acres</p>
<p><b>Land Use:</b> RR-AG  <b>Zoning:</b> A2 – Agricultural Small Scale</p>	<p><b>Request:</b> Conditional Use Permit (CUP)</p>
<p><b>Address:</b>          10151 75<sup>th</sup> Street North          Grant, MN 55082</p>	<p><b>Location Description and PIDs:</b>          PID 26.030.21.33.0001, subject property generally located southeast of Keats Ave. N. and 75<sup>th</sup> St. N. (CSAH 12)</p>

2

3 The Applicant is requesting a CUP on the subject property for the Firewood processing operation. A  
 4 summary of the proposed use is as follows:

5

- 6 • Cutting and processing the firewood
- 7 • Loading and operation of a kiln dryer
- 8 • Delivery of firewood
- 9 • Occasional customer pick-up
- 10 • Year-round operation, with Spring/Summer being the slow season
- 11 • Operating hours as detailed below

12

13 In the applicant’s narrative they describe the operations as being similar to a landscape supply and  
 14 agricultural use. As described, the operations would occur on site between two and five days a week,  
 15 with average time per day between six and seven hours. The applicant has indicated that the variation  
 16 in hours will occur based on whether it is the busy or slow season. (E.g., there is higher demand for  
 17 firewood during the cold season). In the applicant’s narrative, they have indicated that they have  
 18 purchased an electric processor to replace the current processor to reduce the noise associated with  
 19 the operations. The new electric processor will be quieter than the current processor and is scheduled  
 20 to arrive in June 2022.

21

22 During the presentation at the Planning Commission the Applicant indicated that no work will be  
 23 conducted on the weekends, and they are comfortable with only operating Monday through Friday  
 24 with the stated hours of operation on weekdays only. Further, they indicated that they are comfortable  
 25 with no retail operations on the site, which is a recommended condition for inclusion within the draft  
 26 Permit.

27

28 City Planner Swanson advised the City Code states the following for consideration when reviewing a  
 29 Conditional Use Permit (32-141):

30

31 “(d) In determining whether or not a conditional use may be allowed, the City will consider the  
 32 nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on  
 33 adjoining roads, and all other relevant factors as the City shall deem reasonable prerequisite of  
 34 consideration in determining the effect of the use on the general welfare, public health and safety.”

1 (e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use  
 2 permit, and a periodic review of said permit may be required.”  
 3

4 Section 32-245 Table of Uses establishes the list of permitted and conditionally permitted uses in the  
 5 City. Subsection (b) states, “Uses shall be allowed according to the use table in subsection (c) of this  
 6 section. When a specific use is not listed, the closest similar listed use shall determine the restrictions  
 7 and conditions which apply.”  
 8

9 The parcel is generally located southeast of Keats Ave. N. and 75<sup>th</sup> St. N. (CSAH 12) and is bordered  
 10 by rural residential parcels on the westerly border of the site, and large lot/agricultural uses border the  
 11 south and easterly property lines. The area is generally developed with a mix of agriculture, rural  
 12 residential and golf course uses.  
 13

14 **10151 75<sup>th</sup> Avenue North, PID 26.030.21.33.0001**

15 The parcel is described as being in the Southwest Quarter of Section 26, Township 30 North, Range  
 16 21 West. The parcel is approximately 101.5 acres, is fairly regular in shape, and is bordered by 75<sup>th</sup>  
 17 Street North on the north. The majority of the site is wooded with a large agricultural field in the  
 18 central portion of the property. The perimeter of the site is heavily vegetated and the proposed use  
 19 will be located within the area cleared of large trees and vegetation.  
 20

21 The site is guided RR/AG – Rural Residential/Agricultural in the City’s adopted Comprehensive  
 22 Plan. Land within the RR/AG land use designation is generally described as supporting rural  
 23 residential and agricultural uses with limited non-residential uses that require a CUP. The proposed  
 24 firewood processing operation is similar to other agricultural and nursery/landscape supply businesses  
 25 in the City that operate with a CUP. Depending on the conditions established for the firewood  
 26 processing operations and provided a CUP is obtained, the proposed firewood processing operation  
 27 could be consistent with the adopted comprehensive plan.  
 28

29 The Applicant submitted a Site Plan for the proposed amendment (See attached Exhibit). The  
 30 following dimensional review is provided for review and consideration.  
 31

32 The following site and zoning requirements in the A-2 district related to the proposed application.  
 33 The following review is conducted focusing on the submitted site plan.  
 34

<b>Dimension</b>	<b>Standard</b>
Minimum Lot Area per non-residential structure (Sec. 32-313(b))	5 Acres, or as per permit
Frontage on an Improved Public Road	300’
Front Yard Setback along Arterials	150’
Side Yard Setback (from street in case of corner lot)	65’
Side Yard Setback (from interior lot lines)	20’
Rear Yard Setback	50’
Height of Structure	35’
Accessory Buildings (# and Total SF)	No limit

Impervious surface coverage	50%
Floor Area Ratio	30%

1

**Proposed Use**

The Applicant’s narrative describes the proposed use as a firewood processing operation. Section 32-245 Table of uses does not specifically identify firewood processing operations as a use. As indicated previously, subsection (b) of the Table of Uses states that if a use is not expressly identified on the table, then the most similar use should be considered. The Applicant’s narrative suggests that the most similar type of use is an agricultural and landscape supply type of business. The proposed use has similarities with both; however, a landscape supply use is also not on the City’s table of uses. The proposed use is most similar to the nursery/landscape/hardscape businesses that are currently in operation in the City. All businesses of this type (e.g., Hegberg, Buberl, etc.) operate with a Conditional Use Permit in the A-1 or A-2 zoning districts. As such, staff believes that a CUP is the appropriate permit. The Planning Commission determined (5-2) that the proposed use is similar to the other businesses noted, and thus a CUP is required. The City Council may either agree, or disagree, with the Planning commission and must determine that the use is similar to other uses permitted in the City and on the Table of Uses.

**Lot Area and Accessory Building Standards**

The subject property is approximately 101.5 acres and is used for a non-residential structure. Section 32-313(b) states that the maximum building size is established for a CUP based on the lot size. As identified, there is no limit on maximum total square footage on lots larger than 20 acres.

There is no limit on number of accessory buildings allowed. For non-accessory, non-dwelling structures, the limit is determined as per the Permit (CUP).

**Setbacks**

As shown on the Site Plan, the operation is located in the northwest portion of the property. The kiln is located approximately 300’ from the westerly property line and 450’ from the northerly property line and 75<sup>th</sup> Street North frontage. The identified processing area is approximately 345’ from the eastern property line and 495’ from the northerly property line and road frontage.

The existing building on the site is setback approximately 370’ from the eastern property line and 540’ from the northerly property line.

The identified operations area (with the kiln, stockpiles, loading and processing area and the existing building) is setback approximately 300’ from the easterly property line, 360’ from the northerly property line and more than 1,500’ from both the westerly and southerly property line. The setback area north and west of the proposed operation are heavily vegetated and mitigate any current view of the operations. *As proposed, the area designated for operations meets the City’s ordinance.*

**Operations**

The hours of operation given in the narrative are as follows:

- Running the wood processor: 8:30 am – 3:00 pm, 1 – 2 days a week
- Loading truck for delivery: Between 8:30 am – 3 pm, 1 – 3 days a week. This includes delivery of firewood so the delivery truck would be loaded 3 – 4 days onsite between these hours.
- The kiln runs consecutively for 36 hours when no one is present onsite.

The Applicant indicated during the Planning Commission meeting that they are comfortable limiting the operations to Monday through Friday, with no weekend operations. The modified hours are identified in the attached CUP for your review and consideration.

The Planning Commission agreed with the City Staff that no client pick-up or retail sales are permitted on site. The intent is that this business has a low impact on the site, the roads and the surrounding neighborhood. A condition is included within the attached CUP that no on-site client pick-up is permitted, and no retail sales are permitted under this CUP. Any proposed changes may require an amendment to the Permit, due to the increase in traffic, signage, etc., which were not evaluated as part of this process.

**Noise**

The subject operations were brought to the attention of the City due to a concerned neighbor regarding the noise generated on the Site. The staff investigated the complaint and determined that the operations required a Permit to operate, and thus the Applicant applied for this CUP. The City’s noise standards are established consistent with the MPCA’s noise regulations, and all operations must demonstrate compliance with the standards. The applicant has indicated that the new electric processor will be significant quieter than the current processor, however, it is unknown what the noise and/or decibel levels area associated with the operation and if they comply with the noise standards.

Staff has included a condition in the attached CUP that all operations on site must comply with the MPCA’s noise standards that set regulations for duration, decibel levels and time of day. It is the Applicant’s responsibility to ensure that all equipment used and purchased to support the operation will comply with the established standards.

- 1
- 2 There are no new buildings or landscaping being proposed as part of this application.
- 3
- 4 The property is within the Brown’s Creek Watershed District, and the Applicant must obtain any
- 5 necessary permits from the Watershed.
- 6



1 The Planning Commission recommended 5-2 to approve the Conditional Use Permit with the  
2 conditions as noted. A draft of the CUP and the resolution are attached for your review and  
3 consideration.

4  
5 City Planner Swanson explained the Interim Use Permit process noting that means of permitting  
6 could apply. The Interim Use permit would not run with the land like a CUP. Conditions of approval  
7 could be added relating to the DNR and logs being transported to the property.

8  
9 **Council Member Rog moved to table Resolution No. 2022-09, as presented. Council Member**  
10 **Carr seconded the motion. Motion carried unanimously with a roll call vote.**

11  
12 **City Attorney, Dave Snyder (no action items)**

13 **NEW BUSINESS**

14  
15 **Consideration of In-Person Meetings** – Staff advised the City of Grant City Council has been  
16 conducting City meeting via zoom since April, 2020 due to a pandemic. Many cities have in fact  
17 resumed in person meetings for quite some time as they have the space to be outfitted for safety  
18 equipment such as partitions, social distancing, etc. The City of Grant has limited space at Town Hall  
19 to provide the same. A small percentage of cities are continuing meetings via zoom indefinitely.

20  
21 With the installation of Wi-Fi at Town Hall, the City will be able to accommodate a hybrid approach  
22 for those that are not comfortable to attend but would still like to participate. Consultants will  
23 continue to attend meetings virtually unless staff determines an agenda item would require in person  
24 attendance. The Planning Commission will continue to monitor the situation but continue with zoom  
25 meetings until further notice.

26  
27 I will note that no residents have complained about conducting meetings via zoom. A couple of  
28 Council Members and Planning Commissioners have encouraged getting back to in-person meetings  
29 as soon as possible.

30  
31 **Mayor Huber moved to resume in-person meeting when the infrastructure has been completed**  
32 **at Town Hall. Council Member Carr seconded the motion. Motion carried with Council**  
33 **Member Rog voting nay with a roll call vote.**

34  
35 **Accept 2021 Audit** – Staff advised the 2021 Audit was completed and will be filed with the State.  
36 The Council needs to formally accept the Audit.

37  
38 **Council Member Giefer moved to accept the 2021 Audit, as presented. Council Member**  
39 **Schafer seconded the motion. Motion carried unanimously with a roll call vote.**

40  
41 **Consideration of Resolution No. 2022-10, Primary and General Election Judges** – Staff advised  
42 Resolution No. 2022-10 provides for a list of election judges to be utilized in the 2022 primary and  
43 general election.

44  
45 **Council Member Giefer moved to adopt Resolution No. 2022-10, as presented. Council**  
46 **Member Schafer seconded the motion. Motion carried unanimously with a roll call vote.**

1 **Consideration of Scanner/Filing Work, City Office** – Staff requested the City Council authorize  
2 the recently retired Dellwood City Clerk provide scanning and permit input at a rate of \$20.00 per  
3 hour not to exceed 30 hours over the next couple of months. An invoice with dates and times will be  
4 submitted and paid per that month’s bill list.

5  
6 **Council Member Carr made a motion to approve Scanner/Filing work, as presented. Council**  
7 **Member Schafer seconded the motion. Motion carried unanimously with a roll call vote.**

8  
9 **Set 2023 Budget Work Session** – Staff requested the Council schedule a 2023 Budget Work Session.  
10  
11 A 2023 Budget Work Session was scheduled on Tuesday, August 2, 2022 at 6:00 p.m.

12  
13 **UNFINISHED BUSINESS**

14 There was no unfinished business.

15 **DISCUSSION ITEMS** (no action taken)

16 **Staff Updates** (updates from Staff, no action taken)

17 **City Council Reports/Future Agenda Items**

18  
19 **COMMUNITY CALENDAR JULY 1 THROUGH JULY 31, 2022:**

20 **Mahtomedi Public Schools Board Meeting, Thursday, July 14<sup>th</sup> and July 28<sup>th</sup>, Mahtomedi**  
21 **District Education Center, 7:00 p.m.**

22 **Stillwater Public Schools Board Meeting, Thursday, July 14<sup>th</sup>, Stillwater City Hall, 7:00 p.m.**

23 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**

24  
25 **ADJOURNMENT**

26 **Council Member Giefer moved to adjourn the meeting at 8:38p.m. Council Member Rog**  
27 **seconded the motion. Motion carried unanimously with a roll call vote.**

28  
29 These minutes were considered and approved at the regular Council Meeting August 2, 2022.

30  
31  
32  
33  
34 \_\_\_\_\_  
35 Kim Points, Administrator/Clerk

34 \_\_\_\_\_  
35 Jeff Huber, Mayor