City of Nowthen
PLANNING & ZONING COMMISSION MEETING
TUESDAY, JUNE 25, 2019
AGENDA
7 PM

Called to Order
- Pledge of Allegiance
- Roll Call
- Approve/Amend tonight’s meeting agenda of June 25, 2019.
- Approve the Meeting minutes of April 23, 2019.

1. PUBLIC HEARING CONTINUED – A REQUEST by John Wegner/Windsor Holdings LLC (PID 21-33-25-33-0015) at 7900 Old Viking Boulevard for the following two applications:

   - A REZONING REQUEST (MAP AMENDMENT) to change the existing C-1, Commercial zoning to I-1, Industrial zoning in compliance with Section 11-12 of the City Code.

   - An INTERIM USE PERMIT to allow outdoor storage in association with Municipal Builders (general contractor business) on this +/- 6-acre property, in compliance with Sections 11-3-9.D.4 and Section 11-10 of the City Code.

2. PUBLIC HEARING – A REQUEST by Steve Madson, 8480 Norris Lake Road (PIDs 08-33-25-31-0003, 08-33-25-32-0003) for the following four actions:

   - An INTERIM USE PERMIT to allow the operation of an extended home business per Section 11-4-3.B of the City Code for a septic system business.

   - An INTERIM USE PERMIT to allow the operation of an extended home business per Section 11-4-3.B of the City Code for a garage door business.

   - An INTERIM USE PERMIT to allow the operation of an extended home business per Section 11-4-3.B of the City Code for a black dirt/compost/excavating business.

   - REVOCATION of a CONDITIONAL USE PERMIT issued on December 14, 1993.

3. PUBLIC HEARING – Ordinance Amendment 2019-02 to City Code Section 11-5-3 to add artificial brick or concrete masonry units having a brick-like appearance as a Grade A building material.

4. DISCUSSION – A REQUEST by Lance Nelson of Homeward Bound USA Inc. to consider a CONCEPT PLAN for an 8-lot single family residential subdivision at 7300 Pinnaker Road (PID 09-33-25-14-0001).

Motion to Adjourn
1. PUBLIC HEARING – A REQUEST by John Wegner/Windsor Holdings LLC (PID 21-33-25-33-0015) at 7900 Old Viking Boulevard for the following two applications:

A REZONING REQUEST (MAP AMENDMENT) to change the existing C-1, Commercial zoning to I-1, Industrial zoning in compliance with Section 11-12 of the City Code.
An INTERIM USE PERMIT to allow outdoor storage in association with Municipal Builders (general contractor business) on this +/- 6-acre property, in compliance with Sections 11-3-9.D.4 and Section 11-10 of the City Code.

Planner Stockman summarized the planning report and said that the applicant was in the audience if there were any questions. Applicant’s land is on the east side of the C-1 area of the City.

- Commercial zone does not allow for warehouse uses. It could be split zoned, between C-1 and I-1.
- Proposed fence is like Perkins fence
- Setbacks allow for ponding and landscaping
- TPC recommended landscaping and screening as required
- Suggesting a variance to 100 ft. buffer because of the amount of land required for screening with the shape of the lot. The lot existed prior to the buffer ordinance and limits usable area for any business use. Going above and beyond to make it look nice.
- Anoka County trail plan calls for trail along west side of Nowthen Blvd and south side of Old Viking, but the county has no plans to pursue acquisition of land at the present time.
- Proposed possible split zoning
- Page 9 of the report presents a list of items that need to be addressed.

John Wegner, Andover, applicant said that the 100 ft. buffer was not a factor he had known until recently. Swapped acreage with A&B Welding owner years ago. Landscaping plan will be developed, and John has always had the intention to spend the money on the 2 street sides to make things attractive to enhance the looks of the corner.

Chairman Ames opened the floor for Public Comments
Kelly Melhorn of 19949 Sparre Rd NW sent a letter, which Deputy Clerk Lendt read aloud.

To the Nowthen Planning & Zoning Committee:

I am writing with concerns of rezoning 7900 Old Viking Blvd from a Commercial Zone to an Industrial Zone and with having an Interim Use permit allowing outdoor storage with municipal builders on that site.

My family, which includes young children, lives off of Sparre Road. We moved from the sprawling, congested suburbs to our current five-acre home in Nowthen three years ago. We love the proximity to stores and restaurants, but most of all, we love the “country fell” that Nowthen brings.
By having a zoned Industrial Area located both across Nowthen Blvd and across Old Viking Blvd makes that "country feeling" we love, begin to disappear. Nowthen is home to numerous bird and mammal species. I am a Biology Major and my husband is an Ecology Major. We have a lot of respect for wildlife and nature and we want to continue seeing deer, fox, coyote, birds of prey, cranes, waterfowl, raccoons, opossum, and otters come through our property. We want to continue to hear the beautiful sounds of the song birds that nest on our property. What will happen when an industrial area goes in next to a residential area? My guess is these species will find a quieter spot to live. Our kids will miss out on the opportunity to watch these animals pass through their property. They will lose the "country feel" of Nowthen and instead grow up listening to more trucks go by, more workers shouting, more "city" noises which we thought we moved away from. Why would another area need to be Zoned Industrial when there are still open lots in the Industrial Park of Nowthen?

In addition to having concerns about the wildlife, we have concerns with the infrastructure and safety of our dirt road. Over the past three years that we have lived here we have seen an increase in the amount of traffic our road gets from non-residents. If an entrance to an industrial area is across Sparre Road, how will that affect the dirt road? It only gets graded once a year, and we continually have potholes which we fill with our own dirt frequently. How will traffic be deterred from using the convenience our road will offer? I will not feel safe having my kids ride their bikes on the road or stop to look in the ponds for waterfowl or pick wildflowers on the roadside – again losing the "country feel."

Finally, besides our concerns with wildlife and the safety of our road, we are concerned about our property value. With no two industrial areas less than a block from our house, what will happen to our property value if/when we decide to sell? How can we sell the "country feel" with added noise and air pollution only steps away?

We understand the allure of Nowthen, but we do not understand why an industrial zone needs to be placed so close to a residential area when there is already an industrial area within city limits. Please decline the request by John Wegner/Windsor Holdings LLC to help maintain the "country feel" that so many of us have fallen in love with.

Sincerely, Kelly Melhorn

Chelsea Junge of 19931 Sparre Rd NW – letter; traffic

Dear Nowthen City Council,

As a resident near 7900 Old Viking Blvd. I request you do not rezone this land. This is a residential area where families are being raised. Approving the request to add a business to our residential area will only further diminish the quaint feel of our town. Already the lights in the industrial area of Nowthen interfere with our ability to enjoy our property. Increasing the number of businesses operating will further diminish the appeal of Nowthen.

I have two small children who like to take bike rides and walks around the roads near our house, including on Old Viking. If Old Viking Boulevard becomes a business road it will create an unsafe neighborhood for our children. We purchased our property because it is separate from the business district. There are plenty of non-residential areas to build business, do not rezone current residential roads.

In addition to creating traffic, another storage business in the area will diminish the look of our town. This land is near the city park and would be the first thing many people see when they come to our community. Rezoning a residential space to have outdoor storage will make our city feel and look like a storage yard, not the country setting promised in our city’s slogan.

There are many animals living in the fields surrounding Nowthen. In this particular area we have seen an abundance of pheasants. Keeping the feel of Nowthen country relies on space for wildlife to flourish. Creating exceptions to our land use regulations over time will diminish the appeal of our town. One approval is the gateway for many.

Please deny this development request and do your job to preserve our town so it still feels like country. We elected you to ensure our community is a thriving place for our citizens and our families, denying this request is the right thing for your neighbors. Thank you for your service.

Your neighbor,
Chelsea Doriott Junge

Ray Junge of 19931 Sparre Rd NW –
Dear Nowthen City Council,

I request you deny the land use request at 7900 Old Viking Blvd. This development would negatively impact our community.

- The increased light pollution from the industrial area is diminishing the night sky view.
- Storage units are abundant in Nowthen, we do not need another.
- Outdoor storage is unsightly, this request is incredibly visible for Nowthen, it is not an appropriate place for this type of operation.
- Old Viking Blvd is a residential area. My children and wife take walks and ride bikes on that road. We do not need more traffic where our children play, protect our family space and preserve the country feel so our children can grow up in a small community.
- Wildlife need open space to life. Pheasants and deer frequent this area. Light pollution, fences, and buildings will push out the natural habitat.
- There is already a large industrial area. Use it to build businesses, protect our neighborhoods.
- Light issues, noise, traffic, 47/22 issue was denied and this is similar situation.
- The City Code requiring 100 ft buffer is in place for a reason, please do not approve the variance.

I request you deny this development request. The consequences of doing so are only negative.

Sincerely,

Ray Junge
19931 Sparre Rd NW

Planner Stockman requested to respond to some of the comments.

- Lot had been used as a commercial implement dealer for years
- County is not ready to develop trails
- Wildlife; City has to consider the highest and best use for a property based on property rights.
- Commercial areas generate more traffic than industrial uses do, so the proposed development will be limited to daytime uses.
- County will not allow direct access onto County road (Nowthen Blvd); aligned with Sparre road on purpose, based on engineering standards/safety.
- Buffer issue definitely needs to be discussed. For this property shape, the requirement of 100 ft buffer is a burden.
- Engineer Nelson did not have time to complete a review of the property, but certain things are not required until later. The list he included is presenting items that do need to be addressed: Wetland delineation; field work needs to be completed; geotechnical report; pavement details; surface of outdoor storage area, fire chief turning radius approval; Anoka County Hwy approval of ditches; setback of parking & driving areas;

Chairman Ames asked Planner Stockman to discuss items on page 9 of TPC report.

- Building will need to be pushed back to 30 feet from Nowthen Blvd.
- Split zoning would require the front to be higher quality materials along Nowthen Blvd.
- Everything is set back from Viking Blvd on purpose to enhance the looks.
- He would not have as much or as heavy equipment as Perkins
- Most outside storage would be hidden behind fence and other neighboring property uses;
- Moan asked about buffer zone between residential area to the west, along Nowthen Blvd
- Neighboring concerns; Mevisson is satisfied with 6’ fence; wanted fence line mowed and maintained; buffer is sufficient
- Variance application would require another public hearing; hardship property because of shape
- Would need to re-notice variance screening and setback, submit a landscape plan
- Applicant believes he will exceed Commercial requirements for outside and landscaping.

Mayor Pilon asked Planner Stockman to get together with applicant to present landscape plan and variance issues. Changes would not be visible to residents if split zoned.

**Motion by Alders** to continue this until May PZ meeting to consider variance, with plans for setback, landscaping, engineering, etc. **Pearo 2nd. Motion Carried**
2. **DISCUSSION** – A REQUEST by Steve Madson, 8480 Norris Lake Road for the following three actions, pending submittal of additional information.

An INTERIM USE PERMIT to allow the operation of an extended home business per Section 11-4-3.B of the City Code.
A MINING PERMIT to allow dredging of black dirt from western portions of the property, in compliance with Sections 11-4-10 and 6-5 of the City Code.
REVOCATION of a CONDITIONAL USE PERMIT issued on December 14, 1993.

Planner Stockman explained the Request and said the applicant is in attendance. Wetland Specialist and City Planner visited property; excavating and mining has exceeded original permit allowance.
- Need to legalize businesses; home business will tend to be fazed out as an option
- Becky Wozney said that if Madson wants to continue mining, he needs to stay out of wetlands area along Norris Lake Rd.
- City needs to revoke existing CUP and Madson must come back with a new application to continue his business legally.
- To move forward on this, it would need to be noticed and an application submitted
- Madson said he is not interested in opening any more water and would not touch the wetlands designated, but would like to continue his garage door service, septic business, and black dirt sales.
- Maybe IUP in a single application with multiple uses/businesses; Planner will clarify with Attorney if he wants them done separately.
- Becky Wozney would need to review the land for approval
- Mining records & payments to the City are incomplete; Madson said he paid $500/yr. for mining fees because he was told that it was more hassle to do the 7 cents/ton
- IUP discussion for 3 businesses
- Revoke CUP from 1993 – requires a public hearing; state statute.
- Apply Mining application fees to new IUP

📍 Motion to Adjourn by Alders at 8:57; 2nd by Moan. Motion Carried.

Respectfully submitted,

Ellen Lendt, Deputy Clerk  Dale Ames, PZ Commission Chairman
MEMORANDUM

TO: Nowthen Mayor and City Council
    Nowthen Planning and Zoning Commission

FROM: Elizabeth Stockman

DATE: June 19, 2019

RE: Nowthen – Wegner Industrial/Office Development
    7900 Old Viking Blvd. (PID # 21-33-25-33-0015)

FILE NO: 122.02 – 19.02

The Wegner development request was tabled from the April 2019 Planning and Zoning Commission meeting to allow time for revised plan preparation relative to building setback, west elevation architecture/materials, landscaping plan and variance from the 100-foot buffer requirement. A revised site plan and west building elevation were received and have been attached for review. A landscaping plan was not received and the Variance required to deviate from the required 100 foot buffer was not properly noticed. In addition, Mr. Wegner has indicated that his time-table for construction is being pushed back to later this year or possibly next. For these reasons, the Wegner request will again need to be tabled at the June 2019 Planning and Zoning Commission meeting.

I will try to gather more specific information and update you on June 25th. If residents attend the meeting to speak on this application, we will need to open the public hearing and take comments. A 60-day letter was sent in May which allows the City through August 2, 2019 to make a decision on this request. If Mr. Wegner chooses to move forward, the review period will again need to be extended.

C: Lori Streich, City Clerk
    Ellen Lendt, Deputy Clerk
    John Wegner, Applicant
PLANNING REPORT

TO: Nowthen Mayor and City Council
Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: June 19, 2019

RE: Nowthen – Madson Interim Use Permit and Revocation of 1993 Mining Permit
8480 and 8570 Norris Lake Road
08-33-25-31-0003 & 08-33-25-32-0003

TPC FILE: 122.02 – 19.03

BACKGROUND
Steve Madson was issued a Conditional Use Permit (CUP) by the Burns Town Board in 1993 to begin mining operations/wetland mitigation on his two properties which total 32.58 acres (see history below). The 6.09-acre property at 8570 Norris Lake Road contains a house that is rented and Mr. Madson built a home adjacent to this at 8480 Norris Lake Road in 1995. Mr. Madson began mining in 1994 and operates several businesses from the property, including a garage door service and installation business, a septic system installation business and an excavating/trucking/black dirt business. The material mined from the site was used for the septic system business or sold. Many different materials are trucked to/from the site and/or stockpiled there for mixing with the black dirt, such as compost obtained from Elk River then screened, pulverized and mixed before selling.

In 2017, the Anoka County Soil and Water Conservation District (ACSWCD) made the City of Nowthen aware of a wetland fill violation on the 26.49 acre property located at 8480 Norris Lake Road. It was then that the two agencies began working together to identify the site history and make Mr. Madson aware that he had surpassed the terms of his CUP, no longer meeting the conditions that were established. An Administrative Notice was issued in 2017 and again earlier this year. Mr. Madson met the requirements of the ACSWCD in 2018 by meeting the requirements of the restoration order, by removing fill previously placed within the wetland nearest to Norris Lake Road.
In April of 2019 the Planning and Zoning Commission discussed possible courses of action with Mr. Madson who subsequently decided not to pursue the mining permit because of the complicated permitting and stringent mitigation required. An Interim Use Permit is required to allow a Home Extended Business in the RRA, Rural Residential Agriculture District. The property contains an existing residence and two accessory buildings totaling 4,000 square feet.

**EXHIBITS**

Exhibit A – Mining Application (2 pages)
Exhibit B – IUP Application (3 pages)
Exhibit C – 60-day Letter Extending Review Period (3 pages)
Exhibit D - Site Location
Exhibit E – Aerial Photo
Exhibit F – Enlarged Aerial Photo
Exhibit G – Site Photos
Exhibit H – Findings of Fact
Exhibit I – Resolution revoking 1993 CUP (and associated exhibits)

**ANALYSIS & REVIEW OF CITY REGULATIONS**

**Zoning.** The subject site is zoned RRA, Rural Residential Agriculture. Septic system and garage door repair operations are not specifically listed as an interim use but the operation could be allowed provided the Planning and Zoning Commission and City Council determine that the use is “equivalent to interim uses currently listed” and is deemed reasonable as an extended home business. Further evaluation of the proposed use will determine whether it is in conformance with all applicable Zoning Ordinance requirements. Limited scale trucking operations are generally considered an acceptable home business.

**Comprehensive Plan.** The City Council shall review the interim use application against the goals and policies set forth in the Nowthen Comprehensive Plan. The property is guided as Permanent Rural Residential through the year 2030. The Planning and Zoning Commission and City Council will need to determine whether the proposed use is compatible with the surrounding area rural residential and large lot development and in conformance with the Home Extended Occupation requirements outlined herein. Comprehensive Plan review criteria include the following:

1. The effect of the proposed use on the health, safety, morals, and general welfare of the occupants of the surrounding area lands.
2. The effects upon existing and anticipated traffic conditions, including parking.
3. The effect on property values in the surrounding area.
**Interim Use Permit.** In permitting a new Interim Use, the City Council may impose, in addition to the standards and requirements specified in the Zoning Ordinance, additional conditions which they consider necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to, the following:

1. Limiting the height, size, or location of buildings.
   
   **Comment:** Residence and accessory building are existing, no new structures proposed.

2. Controlling the location and number of vehicle access points.
   
   **Comment:** The Madson property currently has one driveway per parcel which will not change.

3. Providing for a sufficient number of off-street parking spaces.
   
   **Comment:** The property contains ample area where work vehicles, machinery and trailers can be parked outside. No additional space is requested for parking or storage.

4. Limiting the number, size, location, or lighting of signs.
   
   **Comment:** No sign is desired at this time.

5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
   
   **Comment:** The closest neighboring home to the east is located about 225 feet away from the pole barn and outdoor storage area. The closest neighboring home in all other directions is 800+ feet. Screening of any outdoor storage, vehicles and equipment not stored within accessory buildings is required by the Home Extended Occupation performance standards as identified in following sections of this report.

**Extended Home Occupation.** An extended home occupation shall be reviewed as an interim use and shall be allowed in the Rural Residential Agriculture District if the Planning and Zoning Commission and City Council determine that the use is “equivalent to interim uses currently listed” and if the business complies with the requirements as stated herein and those required by the City Zoning Ordinance.

1. Extended home occupations shall be carried on by one or more members of the property owner’s family residing in the dwelling unit. If the extended home occupation is on property that is fully accessed by bituminous roads, up to two (2) full-time or (4) part-time on-site employees may be permitted.
Comment: Mr. Madson has indicated that he does not employ anyone on a regular basis and will never exceed four (4) part-time employees. He hires help as needed, but his business is being phased out as he thinks about retiring and selling the property in the near future. Occasionally employees or subcontractors will need to pick up materials or equipment from the subject property, but vehicles not belonging to Mr. Madson will not be parked on this property on a regular basis.

2. Extended home occupations may be permitted within either the principal structure or within accessory structures. The number and sizing of accessory structures shall be as defined in Section 11-4-2 of this Chapter.

Comment: The two existing accessory buildings on site which total 4,000 SF are in compliance with size and setback requirements. No additional buildings are planned.

3. The leasing of space to another person or firm requires an Interim Use Permit and must be obtained by the property owner, not the lessee. The rental of space for the storage of boats, vehicles, etc. are considered as extended home occupations and are subject to the interim use provisions.

Comment: This provision does not apply, as all items stored are associated with the Madson businesses.

4. Retail sales related to extended home occupations shall be limited to minor products that are ancillary to a home occupation service. Such minor retail sales shall be similar to:

a. Hair care products ancillary to home beauty or hair care occupations;

b. Spare or replacement parts ancillary to a small engine or a small machine (motorcycle, lawn mower, snow blower or snowmobile) repair occupation.

Comment: There will be no retail sales on the subject property.

5. An extended home occupation may be identified by one sign, without lights or illumination and of maximum 6 square foot size. All signs shall be subject to review. With the exception of any such permitted sign there shall be no exterior displays. No exterior indication of a home occupation or any variation from the residential character of the principal structure shall be permitted.

Comment: No sign is desired at this time.

6. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated, or discharged.
Comment: Mr. Madson comes and goes to/from the site as needed. Any noise generated will be limited to the loading and unloading of equipment onto the trucks/trailers and starting the engines. It is worthy to note that Mr. Madson has been operating these businesses and running machines on site since 1995 without a complaint. The current operations are far less intense than they once were.

6. If the extended home occupation is located on and has access totally from bituminous surfaced streets, the use shall not create vehicular traffic that would cause unusual damage to the road or create excessive traffic volumes with the determination of unusual damage or excessive volume totally by the City Council on a specific cost permit basis.

Comment: The proposed use is not expected to overburden the capacity of Norris Lake Road, which is considered a collector roadway.

8. Outside storage of materials and equipment used for extended home occupations may be permitted if such storage conforms to the setback, location and maximum size requirement for accessory structures. All outside storage shall be screened from view. If such storage is within one hundred (100) feet of the property line or one hundred twenty (120) feet from any current or potential abutting property residence, it shall be screened by opaque fencing.

Comment: As mentioned previously, the closest residence to the east is 225 feet from the outdoor storage area. The outdoor storage area is separated from this home by a significant stand of natural vegetation. The City Council may specify the type of fencing, berming, or trees to serve as screening, if deemed necessary.

Sunset Date. Mr. Madson has been operating a variety of businesses and running machines on these properties since 1995 without a complaint. The current operations are far less intense than they once were. Since he is looking toward retirement and beginning to phase out operations, he is willing to attach a sunset date to the IUP approval in lieu of having to spend money on site improvements. A three-year time frame should provide ample time to define the future and consider the options. Should Mr. Madson wish to continue business operations beyond three years, he would need to reapply for an IUP and go before the City Council again.

Our office views this as a reasonable compromise given that: 1) the outdoor storage area conforms to the setback, location and size requirement for accessory structures as required, 2) the outdoor storage of machinery, materials and equipment is located a minimum of 50 feet from the east property line and is separated by significant natural vegetation, 3) the outdoor storage area is more than 300 feet from Norris Lake Road (see pictures included as Exhibit G) with limited visibility.
CONCLUSION

Decision to approve the Madson Interim Use Permits shall be made by the City Council provided the proposed uses are found to be consistent with the policies and provisions of the Comprehensive Plan and Zoning Ordinance regulations. The City Council shall ensure that the home extended business conditions of approval protect existing and future needs of residents. The City Council may motion one of three ways following consideration of the factors outlined herein:

- Motion to approve the Interim Use Permit that the request is consistent with Comprehensive Plan and Zoning Ordinance regulations, subject to the conditions (as may be amended) attached in the findings of fact.

- Motion to deny the application based on a finding that the request is inconsistent with the Comprehensive Plan or Zoning Ordinance.

- Motion to table/continue the public hearing until the next meeting.

RECOMMENDED ACTIONS

1. Motion to DENY the Interim Use Permit for new Mining Operation. Because the application has not been formally withdrawn, the City must deny it or it will automatically be approved.

2. Motions to APPROVE the Interim Use Permit for Extended Home Businesses, subject to review of attached findings.

3. Revocation of the 1993 Conditional Use Permit through approval of the attached resolution.

c. Lori Streich, City Clerk
   Ellen Lendt, Deputy Clerk
   Becky Wozney, ACSWCD
Zoning Application for:

- EXCAVATION or
  MINING PERMIT REVIEW
  Base Fee: $250
  Escrow: $4,599
  Public Hearing: $250
- GRADING PERMIT REVIEW
  Base Fee: $200
  Escrow: $1,000
  Security: 150% (non-residential)

Amount Paid: $1,000

Rpt. 19643  CNR 10663

Property Information

Street Address: 8480 Norris Lake Rd. NW, Nowthen, MN 55330

Property Identification Number (PID#): 08-33-25-31-0003

Existing Use of Property: Residential, mining / excavating

Legal Description (Attach full description of Metes & Bounds if necessary):

THE NE 1/4 OF SW 1/4 OF SEC 8 TWP 33 RGE 25, EX E380 FT THEREOF, EX RD, SUBJ TO EASE OF REC

Applicant Information

Name: Steve Madson
     Business Name: Madson Construction

Mailing Address: 8480 Norris Lake Rd. NW

City: Nowthen
     State: MN
     Zip Code: 55330

Telephone: 763-441-5489
           Cell Phone:
           Work:

e-mail: serviceyourdoor@gmail.com

Property Owner Information (If other than applicant):

Name: 
     Business Name: 

Mailing Address:

City: 
     State: 
     Zip Code:

Telephone:
     Cell Phone:
     Work:

e-mail: 

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The City of
Nowthen
"Where it still feels like country"

8188 199th Avenue NW
Nowthen, MN 55330
763-441-1347 Office
763-441-7013 Fax

****FOR OFFICE USE ONLY*** FOR OFFICE USE ONLY****

Date Application Received: 4/18/19
Date Application Complete: 6/25/19

Planning & Zoning Mtg. Date: 4/23/19
City Council Approval/Denial Date: 7/9/19

60-Day Extension: Yes No
Expires On: 8/6/19

Received By: UZ Stockman

Return To: deputyclerk@nowthenmn.net
APPLICATION FEES AND EXPENSES: We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of $500 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. All fees and expenses are due whether the application is approved or denied.

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: ___________________________ Date: 04/04/2019

Property Owner: ___________________________ Date: __________

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant: ___________________________ Date: 04/04/2019

Signature of Property Owner: ___________________________ Date: __________

Signature of Property Owner: ___________________________ Date: __________

Signature of Property Owner: ___________________________ Date: __________
Zoning Application for:

- **CONDITIONAL USE PERMIT**
- **INTERIM USE PERMIT**

Home ext. business

Base Fee: $200  Escrow: $1,000  500
Public Hearing Fee: $250
Recording Fee: $30

Amount Paid: $ 980

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***FOR OFFICE USE ONLY***

Date Application Received: 4/8/19

Date Application Complete: 4/23/19  (60 day review period starts from this date)

Public Hearing Date: 4/23/19  6/25/19

City Council Approval/Denial Date: 7/9/19

60-Day Extension: Yes  No  Expires On: 8/6/19

Received By: UZS.

Return To: Deputy Clerk  deputyclerk@nowthenmn.net

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**Instructions:** Please read carefully and answer all questions thoroughly. Only complete applications will be accepted after validation by the Zoning Administrator, and prior to acceptance of required processing fees and escrows.

**Property Information**

Street Address: 8480 Norris Lake Rd. NW, Nowthen, MN 55330

Property Identification Number (PIN#): 08-33-25-31-0003

Type of Business or Use Requested: garage door service/septic/excavating

Legal Description (Attach full description of Metes & Bounds if necessary):
THE NE 1/4 OF SW 1/4 OF SEC 8 TWP 33 RGE 25, EX E380 FT THEREOF, EX RD, SUBJ TO EASE OF REC

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**Applicant Information**

Name: Steve Madson  Business Name: Madson Construction DBA Classic Garage Door

Mailing Address: 8480 Norris Lake Rd. NW

City: Nowthen  State: MN  Zip Code: 55330

Telephone: 763-441-5489  Cell Phone:  Wcrk:

e-mail: serviceyourdoor@gmail.com
Property Owner Information (If other than applicant):

Name: __________________________________ Business Name: __________________________

Mailing Address: ________________________________________________________________

City: ___________________________ State: ________ Zip Code: _________________

Telephone: _______________ Cell Phone: _______________ Work: _______________

e-mail: ____________________________

Description of Request (attach additional sheets as necessary)

Existing Use of Property: Residential, mining / excavating, off-site garage door service

Description of Proposed Use: Residential, mining / excavating, off-site garage door service

Reason(s) to Approve Request: I would like to continue to use the land for the same uses as before. It was not my intent to do any business practices or permitting incorrectly.

Please describe any previous applications pertaining to the subject site:

Project Name: ______________________________ Date of Application: __________________

Nature of Previous Request: ________________________________________________________

Existing Building Sizes:

RESIDENTIAL LOTS: House (main floor/footprint of living area): 1,352 SF

Garage 1: _______ SF (attached/detached?) Garage 2: _______ SF (attached/detached?)

COMMERCIAL/INDUSTRIAL LOTS: Main Building: _______ Total Square Feet

Office Area: _______ SF; Warehouse/Storage: _______ SF; Manufacturing: _______ SF

ALL LOTS:

Accessory Buildings: (type/size) _______ / _______ SF; _______ / _______ SF

_______ / _______ SF; _______ / _______ SF; _______ / _______ SF
APPLICATION FEES AND EXPENSES: We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of $500 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. All fees and expenses are due whether the application is approved or denied.

I understand and agree that all City-incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. Further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: ____________________ Date: 4-8-19

Property Owner: ____________________ Date: ____________________

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant: ____________________ Date: 4-8-19

Signature of Property Owner: ____________________ Date: ____________________

Signature of Property Owner: ____________________ Date: ____________________

Signature of Property Owner: ____________________ Date: ____________________
April 15, 2019

Steve Madson
8480 Norris Lake Road
Nowthen, MN 55330

RE: Nowthen – Madson Mining IUP and Extended Home Business IUP
TPC FILE: 122.02 – 19.03

Dear Mr. Madson,

This office serves as the City Planner for the City of Nowthen. The City received an application on April 8, 2019 for an Extended Home Business (Interim Use Permit) and a Mining Permit (Interim Use Permit) to operate three businesses from the property, including mining of black dirt. The City Council has 60 days in accordance with Minnesota Statute 15.99 to consider the application and take action to approve or deny the request. The Statute also allows the City to extend the review period an additional 60 days if needed to complete its investigation of the application and make a decision.

Your application was considered incomplete because there are numerous outstanding questions that need to be answered and missing information that the City requires prior to scheduling the public hearings and acting upon the requests. Specifically:

1. The City of Nowthen has consulted with the ACSWCD who is making a determination as to whether there are wetlands on the property which need to be protected/delineated.

2. Mining records not on file with the City for the years 2003-2012, 2017 and 2018, including cubic yards mined and mining renewal fees.

3. If wetlands will be impacted, letters from the Army Corps of Engineers, the Minnesota Department of Natural Resources, and the Anoka Conservation District will be required stating that the proposed project is acceptable.

4. Soil borings sufficient to approximate the number of yards that will be removed.
5. Specifications of the following, using appropriate maps, photographs, and surveys (minimum 100 scale or larger).
   
a. The physical relationship of the proposed designated site to the community and existing development.

   b. Site topography and natural features including location of watercourses and water bodies.

   c. The description and quantity of material to be excavated. Engineering information may be required (and shall be done at the expense of the applicant).

   d. The depth of water tables throughout the area.

6. The purpose of the operation.

7. Description of the potential impact to adjacent properties.

8. The plan of operation, including processing, nature of the processing and equipment, location of the plant, source of water, disposal of water and reuse of water.

9. Travel routes to and from the site.

10. The plans for drainage, water erosion control, sedimentation, and dust control.

11. A rehabilitation plan provided for the orderly and continuing rehabilitation of all disturbed land. Such plan shall illustrate (using photographs, maps and surveys, where appropriate) the following:

   a. The contour of land prior to excavation, if available, after completion of excavation, and after completion of rehabilitation.

   b. Those areas of the site to be used for storage of topsoil and overburden.

   c. A schedule setting forth the timetable for excavation of land lying within the extraction facility.

   d. A timetable for the rehabilitation of land lying within the excavation facility shall be submitted to the township well in advance of the completion of the excavation activities.

   e. The degree of all slopes after rehabilitation, based upon proposed land uses, and description of the type and quantity of plantings where revegetation is to be conducted.
f. The criteria and standards to be used to achieve final rehabilitation as well as intermittent stabilization.

12. A statement identifying the applicant’s program to ensure compliance with the permit conditions, method of response to complaints, and resolving conflicts that may arise as a result of complaints.

13. The deadline for submittal of missing information shall be the **first Tuesday of every month**. When the information is received, the public hearings will be noticed.

This letter shall serve as notice that the City is extending the review period an additional 60 days in accordance with Minnesota Statues 15.99. The deadline for City Council action on the request shall be **August 6, 2019**.

Thank you for your continued cooperation and please contact me for any assistance you require regarding the application or with any questions regarding this notice.

Sincerely,

Elizabeth Stockman
THE PLANNING COMPANY LLC

c. Ellen Lendt, Deputy Clerk
   Shane Nelson, City Engineer
   Kaci Fisher, Wetland Specialist
   Becky Wozney, ACSWCD
ZONING

C-1 - Commercial District (530 acres / 2.48%)
I-1 - Industrial District (323 acres / 1.51%)
CON - Conservancy District (156 acres / 0.73%)
LTA - Long Term Agriculture (0 acres / 0%)
RRA - Rural Residential Agriculture (19,066 acres / 89.2%)
LRUS - Long Range Urban Service (1,300 acres / 6.08%)

Sources: City of Nowthen, Anoka County, MN DNR, HAA & TPC

Ordinance #38, adopted October 13, 2011
Revised Shoreland Overlay District February 19, 2014

Shoreland Overlay District
Site Photos

Views from Norris Lake Road
Views toward shed from house and toward pond to south/rear
Stockpile and outdoor storage areas as seen from house
CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA

PLANNING & ZONING COMMISSION

FINDINGS & RECOMMENDATION
INTERIM USE PERMIT
Garage Door Repair, Septic System, Excavating/Trucking and Black Dirt Sales

APPLICANT: Steve Madson

APPLICATION: Request for approval of an Interim Use Permit to allow an Extended Home Occupation to operate Madson Construction at 8480 and 8570 Norris Lake Road NW; PID# 08-33-25-31-0003, 08-33-25-32-0003.

PLANNING & ZONING COMMISSION MEETING: June 25, 2019

FINDINGS: Based upon review of the application and evidence received, the Planning and Zoning Commission of the City of Nowthen now makes the following findings of fact:

1. The legal description of the property is THE NE1/4 OF SW1/4 OF SEC 8 TWP 33 RGE 25, EX E 380 FT THEREOF, EX RD, SUBJ TO EASE OF REC

and

THE E 210 FT OF THE NW 1/4 OF THE SW 1/4 OF SEC 8 T33 R25 SUBJ TO EASE OF REC

2. The subject site is guided by the Comprehensive Plan permanent rural residential land uses through the year 2030.

3. The subject site is zoned RRA, Rural Residential Agriculture.

4. The Madson property encompasses 32.94 acres and has direct access to Norris Lake Road, a paved roadway.

5. The Madson property contains two existing accessory buildings which will house a portion of the work vehicles and equipment.

6. The Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC., is incorporated herein.

7. The Nowthen Planning and Zoning Commission held a public hearing, preceded by a published and mailed notice, and considered the request at their regular meeting on June 25, 2019.
RECOMMENDATION: Based on the foregoing information and applicable ordinances, the Madson Interim Use Permit and Extended Home Occupation for Madson Construction is approved subject to the following conditions:

1. The scope of businesses allowed on the subject properties include a garage door repair business, septic system installation and repair business, excavating, trucking, and black dirt sales.

2. Hours of operation are limited to Monday through Friday 6AM to 9PM and Saturday/Sunday 8AM to 5PM.

3. No more than two (2) full-time or (4) part-time on-site employees or subcontractors may be permitted on the property at any given time, excluding family members.

4. There shall be no mining on the subject properties, no digging of ponds, no wetland impacts or mitigation, and no removal of natural materials (black dirt, peat, etc.) except that which is currently stockpiled or may be permitted under an Interim Use Permit approved by the City Council to allow the acquisition of compost and black dirt from off-site for processing and resale as part of an authorized extended home occupation(s).

5. Existing tree and ground cover shall be preserved to the extent possible. The amount of open ground not stabilized by established vegetation may not be increased.

6. Wetland impacts are not allowed.

7. All materials and equipment associated with the garage door business are kept inside the pole shed with the exception of the work truck(s).

8. Outdoor storage of materials and equipment shall not extend beyond the existing location as documented in the aerial photo included as Exhibit F. The property owner must work to organize and reduce the outdoor storage by eliminating unused items, removing unlicensed or inoperable vehicles/machinery and condensing materials/recycling.

9. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated or discharged.

10. Any change or intensification of the property use, or activities not permitted by the Interim Use Permit issued shall require an amended IUP. The nature of the business and declaration of typical activities to be conducted on the property have been clearly indicated in the application, letter of intent and Planning Report dated June 19, 2019 prepared by the City Planner, The Planning Company LLC.

11. The property shall be periodically reviewed for compliance upon notification by the Zoning Administrator or Building Official or according to a review frequency as may be established by the City Council.
12. **Termination of the septic system business will occur on December 31, 2019** when the property owner’s license expires.

13. Termination of the IUP will occur at the time the property is sold outside of the family, upon violation of any condition, following discontinuation of the business or use for one (1) year, a change in regulation by the City Council OR **NO LATER THAN JULY 31, 2022**.

14. If an interim use approved by the City Council is not exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, it shall terminate unless a request is submitted to the City in writing no less than thirty (30) days prior to the deadline. The City Zoning Administrator may approve an extension which shall not exceed ninety (90) days whereafter reapplication and approval of the interim use by the City Council will be required.

15. The applicants are responsible for all costs associated with the processing of this request.

16. Any other conditions as stipulated by the City Council.

**MOTION BY:**

**SECOND BY:**

**ALL IN FAVOR:**

**OPPOSED:**

**ADOPTED by the Planning & Zoning Commission of the City of Nowthen this 25th day of June 2019.**

**CITY OF NOWTHEN**

By: ______________________________

Dale Ames, Commission Chair

Attest: ____________________________

Lori Streich, City Clerk
CITY OF NOWTHEN
ANOKA COUNTY, MINNESOTA

RESOLUTION 2019-___

A RESOLUTION REVOKING A 1993 CONDITIONAL USE PERMIT
ISSUED FOR MINING OPERATIONS/WETLAND MITIGATION ON
PROPERTIES OWNED BY STEVE MADSON LOCATED AT
8480 & 8570 NORRIS LAKE ROAD (PIDs 08-33-25-31-0003 AND 08-33-25-32-0003).

WHEREAS, Steve Madson owns two properties within the City of Nowthen located at
8480 and 8570 Norris Lake Road (Subject Properties) identified as PID 08-33-25-31-0003
and 08-33-25-32-0003; and

WHEREAS, a Conditional Use Permit (CUP) was approved by the Burns Town Board
on December 14, 1993 which has been attached as Exhibit A; and

WHEREAS, the intent of the CUP was to allow mining of black dirt/peat and to create
a wetland mitigation area (replacement pond) following excavation of a pond on another
property without a permit (see history outlined in Exhibit B); and

WHEREAS, the owner of the properties, Steve Madson (Property Owner), has failed
to comply with all of the five (5) conditions attached to the 1993 CUP; and

WHEREAS, Nowthen City Code Section 11-10-5.A.1 allows the City Council to hold a
public hearing to revoke a Conditional Use upon violation of conditions under which the
permit was issued; and

WHEREAS, Nowthen City Code Section 11-10-5.C allows the City Council to hold a
public hearing to revoke a Conditional Use upon violation of any condition of the permit, any
City ordinance, any law of the State of Minnesota, or any law of the United States; and

WHEREAS, the Conditional Use Permit limited the amount of material mined from
the site to 4,000 cubic yards; and
WHEREAS, the property owner was required to submit quarterly mining reports which document that the number of cubic yards removed from the property (summarized below) far exceeded the 4,000 cubic yard limit at a total of 56,974 cubic yards, even excluding record-keeping for a 10-year period between 2003 and 2012 when city records were either not kept, lost or destroyed; and

### Mining Records for Steve Madson Property

<table>
<thead>
<tr>
<th>Year</th>
<th>Yards</th>
<th>Year</th>
<th>Yards</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>3,927</td>
<td>2002</td>
<td>2,973</td>
</tr>
<tr>
<td>1995</td>
<td>3,721</td>
<td>2003 - 2012</td>
<td>No Records</td>
</tr>
<tr>
<td>1996</td>
<td>2,915</td>
<td>2013</td>
<td>2,185</td>
</tr>
<tr>
<td>1997</td>
<td>6,986</td>
<td>2014</td>
<td>2,316</td>
</tr>
<tr>
<td>1998</td>
<td>8,398</td>
<td>2015</td>
<td>1,297</td>
</tr>
<tr>
<td>1999</td>
<td>6,602</td>
<td>2016</td>
<td>2,078</td>
</tr>
<tr>
<td>2000</td>
<td>7,196</td>
<td>2017 – present</td>
<td>No records, no mining fees paid</td>
</tr>
<tr>
<td>2001</td>
<td>6,380</td>
<td><strong>TOTAL</strong></td>
<td><strong>56,974 yards</strong></td>
</tr>
</tbody>
</table>

WHEREAS, Exhibit B further documents the fact that the number of cubic yards has been exceeded through analysis by the Anoka County Soil and Water Conservation District that the total excavation on site encompasses 8.2 acres, with depths greater than six (6) feet, which computes to a minimum of 85,990 cubic yards; and

WHEREAS, the Conditional Use Permit required annual renewal of the mining permit and no mining permit renewal fees have been paid since 2016; and

WHEREAS, the Army Corps of Engineers Permit approved on September 21, 1993 and contained herein as Exhibit C, expired on December 31, 2015; and

WHEREAS, the property owner does not oppose the revocation and does not intend to perform any additional mining, create wetland impacts or wetland mitigation; and

WHEREAS, the property owner has made application for approval of three Interim Use Permits to legalize on-going business operations on the subject properties including a septic system business, excavating/trucking/black dirt business, and a garage door repair business; and

WHEREAS, on June 25, 2019 the Nowthen Planning and Zoning Commission held a duly noticed public hearing to consider possible appeals of the pending revocation.
NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Nowthen that:

1. The 1993 Conditional Use Permit is hereby revoked.

2. There shall be no mining on the subject properties, no digging of ponds, no wetland impacts or mitigation, and no removal of natural materials (black dirt, peat, etc.) except that which may be permitted under an Interim Use Permit approved by the City Council to allow the acquisition of compost and black dirt from off-site for processing and resale as part of an authorized extended home occupation(s).

MOTION BY:

SECOND BY:

ALL IN FAVOR:

THOSE OPPOSED:

ADOPTED by the City Council of the City of Nowthen this 9th day of July 2019.

CITY OF NOWTHEN

By:________________________________

Jeff Pilon, Mayor

Attest:____________________________

Lori Streich, City Clerk
ORDER GRANTING CONDITIONAL USE PERMIT

State of Minnesota
Township of Burns

Planning and Zoning Commission Case Number: 35-93

Request for Conditional Use Permit, pursuant to Burns Township Ordinance No. 3, Article 5, Sections 403, 501, and 502 for the property described below.

Request By: Steve Madison
(owned)
23003 Springhill Road Elk River, MN. 55330
(address)
PIN #08 33 25 31 0003, 08 33 25 32 0003
(legal)
Address - 8570 Norris Lake Road
Type of Business: Land Mitigation (Mining)

The above matter came to be heard before the Township of Burns and before the Burns Township Planning and Zoning Commission on Oct. 26, 1993.

(date of public hearing)

Upon motion made and duly approved by the requisite majority of the Burns Township Board of Supervisors, it is ordered that a Conditional Use Permit be granted upon the following conditions:

*change to 4000 cubic yards
*change time set to dusk
*will get mitigation print copies
*renewal annually
*$.07 per cubic yard tax to be billed quarterly (subject to change at Board's discretion).

Date of Board Approval: 12/14/93

Clerk of Township of Burns
Liz,

Now it’s all coming back to me. Steve had a project in St. Francis and he dug out approximately a 1.5 acre pond without a permit in 1993. The Anoka Conservation District and the Corps of Engineers worked with him and it was decided he would mitigate the current and some future wetland impacts (primarily over excavation; which was/is considered an impact) at his property in Nowthen at 8570 Norris Lake Rd NW. The permit stated he needed to create 10 acres of restored wetland for his proposed impacts. That is likely where he gets his 10 acres that he mentioned the other day.

In the meantime, Mr. Madson received a “Land Mitigation (Mining)” permit; which was essentially a wetland mitigation permit for the property located at 8570 Norris Lake Rd NW. In that permit, with minutes that span a couple of months, it states he will only remove 4000 cubic yards along with several other details. The 4000 cubic yards is somewhat confusing because that amounts to a rather small pond (about 2 acres at 1 foot deep. Maybe a zero is missing?) If you look through the minutes; Mr. Madson mentions removing 61,500 yards along with plans that state a 16 acre and 10 acre pond in the same sentence. The plans were not included in the information I received from Corrie. In the actual CUP, they state 4000 yards again. Thus, I believe the 4000 yards is either a typo or bad math. I wish I had the plan to try and clarify some of these questions.

Currently, the excavation onsite is about 8.2 acres. The depths are unknown but are greater than 6.5 feet. Thus, at a minimum he excavated is at a minimum 85,990 cubic yards and likely more.

I’m not too concerned about the old violation in St. Francis; the timeframe is so old (1993) that it would likely be unenforceable anyway. Ultimately, for whatever reason, he didn’t finish the excavation in St. Francis and only dug out the original 1.5 acres. That said, he did not create much wetland at his property-it primarily is another excavation and does not meet the wetland criteria except for the edges.

In my opinion, he is currently out of compliance with the CUP. Any additional excavation anywhere on the site would require an IUP unless he can provide additional information proving otherwise.

Please let me know if you have any questions.

Thanks.

Becky Wozney
Wetland Specialist | Anoka Conservation District
1318 McKay Dr. NE, Suite 300 | Ham Lake, MN 55304
763.434.2030 x14 | AnokaSWCD.org
DEPARTMENT OF THE ARMY PERMIT

Permittee  Steve Maddon

Permit No.  93-00768-TF-TJF

Issuing Office  U.S. Army Corps of Engineers

St. Paul District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferees. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge material into wetlands as part of a peat mining operation in Anoka County, Minnesota. The mining operation will encompass a wetland area not to exceed a total of 12 acres, which includes the approximate 2-acre area already disturbed by recent mining. It is estimated that between 1/2 and 1 acre of wetland will be mined each year, dependent upon demand and weather conditions. The method of operation may include excavation by dragline, backhoe and/or dozer with the peat material being temporarily stockpiled in the wetland adjacent to the excavated area. The excavated peat will then be moved to an upland stockpile area for loading into trucks and distribution.

This work will be done as shown on the attached drawings labeled 93-00768-TF-TJF, pages 1 of 4 through 4 of 4.

Project Location:

The project site is in the SW 1/4 of Section 34, T. 34N., R. 25W.; Anoka County, Minnesota.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2015. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
SECTION 1.  City Code Section 11-5-3 is hereby amended to read as follows:

11-5-3: EXTERIOR BUILDING FINISHES:

A.  For the purpose of this subsection, allowed building materials shall be divided into categories as follows:

1.  Grade A:

   a.  Brick or custom masonry units (CMU) having a brick like appearance.

   b.  Natural or artificial stone.

   c.  Glass.

2.  Grade B:

   a.  Integral color specialty concrete block such as textured, burnished block or rock faced block.

   b.  Integral color architecturally precast concrete panels having an exposed aggregate, light sandblast, acid etch, form liner, tooled, natural stone veneer, brick face and/or cast stone type finish.

   c.  Masonry stucco.

   d.  Ceramic.

   e.  Exterior insulation and finish system (EIFS).

   f.  Opaque panels.

   g.  Ornamental metal.

   h.  Fiber-cement exterior siding.

3.  Grade C:

   a.  Integral color smooth as cast concrete block.
b. Integral color smooth scored concrete block.

c. Integral color smooth as cast concrete panels.

d. Integral color architecturally precast concrete panels having a smooth as cast finish.

e. Glass block.

f. Wood provided that the surfaces are finished for exterior use or the wood is of proven durability for exterior use, such as cedar, redwood or cypress.

4. Grade D:

a. Steel, aluminum.

5. Grade E:

a. Vinyl.

B. Steel or Aluminum Buildings: Except in association with farms as defined by this Chapter, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel and Galvalume shall be permitted as follows:

1. Roofs on non-residential buildings (clear coat or painted), provided:

   a. A standing seam design is used with hidden fasteners,

   b. Special precautions shall be exercised when using Galvalume in certain situations; as noted by the manufacturer, contact with the following products should be avoided:

      i. Contact with concrete, masonry or other highly alkaline products.
      ii. Contact with copper, lead or moisture-wicking building materials.
      iii. Animal confinement areas with high-ammonia content.

   c. The roof pitch does not exceed 3/12 for clear coat, bare-look finishes.

   d. Roof pitches greater than 3/12 must have a painted finish.

2. Walls on non-residential buildings incorporating steel or aluminum shall be required to have a painted finish.

C. Integral Color: For the purpose of this Section, exterior finish materials requiring integral color shall not include natural (concrete) gray.
D. Foundations: Building foundations not exceeding one foot (1') and other such portions of a building's facade below the elevation of the first floor need not comply with the requirements for the primary facade treatment or materials.

E. Exceptions: Garage doors, window trim, flashing accent items and the like, shall not constitute required materials that make up the exterior finish of a building for the purposes of this section.

F. Residential Uses:

1. The primary exterior building finish for residential uses shall consist of grade A, B, C, D, and/or E materials.

G. Commercial Districts: The exterior of buildings within commercial districts shall include a variation in building materials and forms to be distributed throughout the facade and coordinated into the design of the structure to create an architecturally balanced appearance and shall comply with the following requirements:

1. The primary exterior building finish shall consist of grade A, B, and/or C materials except that the exterior building finish for any side facing a collector or arterial street shall be composed of at least sixty five percent (65%) grade A materials and not more than thirty five percent (35%) grade B or grade C materials only.

2. All sides of the principal and accessory structures are to have essentially the same or coordinated harmonious exterior finish treatment.

H. Industrial Districts:

1. The primary exterior building finish shall consist of grade A, B, C, and/or D materials.

2. Steel or aluminum curtain wall panels (nonstructural, non-load bearing) shall be allowed within industrial districts provided that:

   a. The panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.

   b. The building shall be required to be faced with grade A, B, C or D material on wall surfaces abutting public rights of way, a nonindustrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

I. Other Requirements:

1. Back of Parapets: The back of parapets that are visible shall be finished with materials and colors compatible with the front of the parapet.
2. Exposed Roof Materials: Exposed roof materials shall be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.

3. Contrasting Colors: Use of contrasting colors for building elements such as cloth or metal awnings, trim, banding, walls, entries or any portion of the overall building shall be minimized, but in no case shall such coloring exceed ten percent (10%) of each wall area.

J. Expansions:

1. Remodeling or maintenance of existing buildings that do not increase the floor area of the existing structure shall be regulated by Section 11-4-1 of this Chapter.

2. Additions of less than fifty percent (50%) of the floor area of the existing building may use the same or higher-grade materials as the existing structure.

3. Not more than one (1) exterior wall designed for removal to allow future building expansion may be allowed to use grade D materials notwithstanding other applicable provisions of this section provided that the wall does not face a public street.

K. Exceptions: Exceptions to the provisions of this Section may be granted as a conditional use subject to the following criteria:

1. The use is an essential service as defined by this Chapter; or

2. The applicant shall have the burden of demonstrating that:
   a. The proposed building maintains the quality in design and materials intended by this Chapter.
   b. The proposed building design and materials are compatible and in harmony with other structures within the district.
   c. The justification for deviation from the requirements of this Section shall not be based on economic considerations.
SECTION 2. This Ordinance shall be effective immediately upon its passage and publication.

Passed and adopted this 9th day of July 2019 by the City Council of the City of Nowthen.

________________________________
Jeff Pilon, Mayor

ATTEST:

________________________________
Lori Streich, City Clerk
MEMORANDUM

TO: Nowthen Mayor and City Council
    Nowthen Planning & Zoning Commission

FROM: Elizabeth Stockman

DATE: June 19, 2019

RE: Nowthen – Homeward Bound Subdivision CONCEPT PLAN
   7300 Pinnaker Road (PID# 09-33-25-14-0001)

FILE NO: 122.02 – 19.04

BACKGROUND
Lance Nelson of Homeward Bound USA Inc. has submitted a concept plan for subdivision of a
38.82-acre property located at the intersection of Norris Lake Road and Pinnaker Road. Two
subdivision concepts have been submitted showing eight (8) lots to be platted around several
wetlands contained on site. The property is zoned RRA, Rural Residential Agriculture and is
appropriate for single family development.

LIST OF EXHIBITS
Exhibit A – Concept Plan Application (3 pages)
Exhibit B - Site Location Map
Exhibit C – Concept C
Exhibit D – Concept D
Exhibit E – Wetland Delineation
Exhibit F – Street Network Plan
Exhibit G – Park and Trail Plan
CITY CODE REQUIREMENTS & ANALYSIS

Major Subdivision. Divisions involving more than three lots must follow the processing provisions for major subdivisions set forth in the City Subdivision Ordinance Section 10-6 and 10-7. Preliminary platting requires a public hearing and all necessary plans showing the arrangement, sizes, and relationship of proposed tracts to be conveyed for building purposes, tracts to be used for access to building sites, and tracts to be used as easements, street grades and drainage, street design, stormwater ponds, lot buildability, park dedication and/or trail construction which is intended.

Zoning and Land Use Plan Consistency. The property is zoned RRA, Rural Residential Agriculture. All proposed parcels exceed the minimum lot size requirement of 2 ½ acres as required under Section 11-3-5.F, RRA District standards, which is consistent with the low-density residential land use designation on the City’s 2030 Land Use Plan.

Street Alignment. The City Engineer’s office has prepared a plan of the street area network for the region to show how the proposed development fits within the scope of overall access and transportation needs. Concept D is the preferred street layout.

Density. The overall density required is 8/40 and must average five (5) acres. The gross lot area to the centerline of the road is 40.0 acres and the net lot area is 38.82 acres, however the site contains several wetlands encompassing +/-17 acres which reduces overall usable area.

Section 10-2-2 of the City Subdivision Ordinance defines the gross area of a lot as a horizontal plane bounded by the lot lines.

A. In determining the size of a lot for building purposes, measurements can be taken to the centerline of the road in cases where parcels are described by metes and bounds, where platted streets do not exist or whereby the sole means of access is from an established roadway easement.

B. In determining overall development density, except for minor subdivisions of three or fewer lots, when density calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and

2. Fractions below 0.50 shall be rounded down.

C. For lots of record and preliminary platted lots having legal standing on April 9th, 2013, the gross area of the lot shall include measurements taken to the centerline of the adjacent roadway(s) if the area is required to meet lot size minimums or for the purposes of obtaining a conditional or interim use permit.
Concept D shows eight lots encompassing 34.93 acres which yields a density of 4.37 acres. Reducing the total number of lots to seven would achieve the required 5-acre overall density. See other sections of this report regarding lot width/depth and setback deficiencies.

**Lot Width and Public Street Frontage.** The Subdivision and Zoning Ordinances require a minimum lot width of 300 feet (measured at the building setback line) and a minimum of 150 feet of lot frontage on a public street. As noted on Exhibit D, four lots do not currently meet lot width requirements.

It should be noted that the realignment of Pinnaker Road to create a safer intersection with Norris Lake Road and the proposed local road, creates a hardship for the applicant in meeting lot width standards. Consideration of a variance may be considered to allow one or more lots with reduced lot width, provided all other requirements can be met.

**Lot Depth.** All lots are required to have a lot depth of 300 feet. All lots can meet this requirement, provided lot buildability and lot width issues can be resolved. It should be noted that accessory buildings are only permitted in side and rear yards, and variances will not be issued to accommodate such due to lack of (future) planning or poor placement of principal structures.

**Lot Buildability Standards.** The City’s Subdivision Ordinance requires adherence to minimum lot buildability standards such as gross and net land area, identification of water table and soil types, slope limitations, minimum basement elevation, and requirement of an alternative drain field site as contained in Section 10-3-5.

The Minnesota Pollution Control Agency publishes and oversees rules related to Subsurface Sewage Treatment Systems and the land where they are located. Section 7082.0100 subpart 3.F. of the current septic code stipulates that an area needs to be designated for two Type I systems for each parcel created. Soil borings, lowest floor elevations, and the locations of the proposed primary and secondary septic system sites will be shown on the official survey.

**Setbacks.** Lots 1, 2 and 8 are not acceptable due to limited buildable area once building setbacks are deducted as usable area. There is a 30-50 foot setback from wetland edge and drainage easements which will further reduce buildable areas.

Lot 1 contains an existing home which does not meet the 120-foot required front setback to the centerline of the proposed local street. If it is to remain, a variance would be required as part of any pending plat approval.

**Park and Trail Dedication Requirements.** The proposed subdivision creates seven new lots that are subject to park and trail dedication requirements. The City can require the dedication of land or cash in lieu of land for park or trail purposes. It should be noted that the City’s Park and Trail System Plan (shown in Exhibit G) does include a grade-separated trail along Norris Lake
Road. The City Council will have the option of accepting a cash dedication or may choose to require the dedication of 20 feet of additional ROW as allowed under Sections 10-3-2.D and 10-3-4.P (see below).

Section 10-3-2.D: An additional 20-foot easement for trail purposes shall be provided adjacent to all newly platted roads. In general, a Trail Easement shall be provided on one side of all public roads.

Section 10-3-4.P: Trail easements shall be dedicated within or adjacent to all subdivisions. Trails shall be provided to create a continuous trail system within the subdivision and connecting to other adjacent properties. Trail easements shall be provided on at least one side of all streets and as other locations deemed appropriate by the City Council. Trail easements shall be a minimum twenty (20) feet wide.

The park and trail dedication fee of $2500 PER LOT (x 7 lots) shall be paid prior to the City signing final documents, before recording.

RECOMMENDATION
The applicants are looking for a recommendation from the Planning and Zoning Commission regarding the concept plan layout so that they can move forward with preparation of a preliminary plat and other formal documents. TPC supports subdivision of this property, provided all issues as outlined herein can be resolved or accommodated through consideration of a variance.

c: Lori Streich, City Clerk
Ellen Lendt, Deputy Clerk
Shane Nelson, City Engineer
Lance Nelson of Homeward Bound USA, Applicant
Application for:

X CONCEPT PLAN

Base Fee: $200
Escrow: $1000

PRELIMINARY PLAT

FIAL PLAT

Base Fee: $200 + $50/lot
Escrow: $1,500
Public Hearing Fee: $250

Amount Paid: $1,200

***FOR OFFICE USE ONLY*** FOR OFFICE USE ONLY***

Date Application Received: 6-11-19
Date Application Complete: 6-14-19
(60 day review period starts from this date)
Planning & Zoning Comm. 6-25-19
City Council Approval/Denial Date: Not Applicable
60-Day Review Period Ends:
60-Day Extension: __Yes __No Expires On:
Received By: Liz Stockman
Return To: deputyclerk@nowthenmn.net

Additional Platting Fees:
Security Escrow: 150% of estimated construction costs
Engineering Escrow: 7% of initial security amount
Administrative Fee: 1% of total construction costs
Park Dedication Fee: $2000/lot
Trail Dedication Fee: $500/lot

Property Information
Street Address: 7300 Pinnaker Road

Property Identification Number (PID#):
09-33-25-14-0001

Legal Description (Attach full description of Metes & Bounds if necessary):
THE SE1/4 OF NE1/4 OF SEC 9, TWP 33, RGE 25, ANOKA COUNTY, MINNESOTA

Applicant Information

Name: Lance P. Nelson Business Name: Homeward Bound USA, Inc.
Mailing Address: 2390 10th Ave SE
City: New Prague State: MN Zip Code: 56071
Home Phone: Cell Phone: (585) 813-5140 Work:
e-mail (home):
e-mail (work): lance@outpostus.com

Exhibit A
Property Owner Information (If other than applicant):

Name: Lance P. Nelson  Business Name: Homeward Bound USA, Inc.
Mailing Address: 2390 10th Ave SE
City: New Prague  State: MN  Zip Code: 56071
Home Phone:  Cell Phone: (585) 813-5140  Work: 

Email (home): 
Email (work): lance@outpostus.com

Description of Request (attach additional sheets as necessary)

Existing Use of Property: 

Description of Proposed Use: Subdivide existing property into 8 lots averaging 5 acres each

Lot Size: Average of 5 acres each  Zoning: Residential
Number of New Lots: 8  Number of Total Lots: 8
Reason(s) to Approve Request: Growing demand for lots for new residential construction, to be 1 single family home on each lot.

Please describe any previous applications pertaining to the subject site:

Project Name:  Date of Application: 
Nature of Previous Request:

Existing Building Sizes:

RESIDENTIAL LOTS: House: 1700 SF  Garage: NA SF (attached/detached?)
COMMERCIAL/INDUSTRIAL LOTS: Main Building: Total Square Feet
Office Area: SF; Warehouse/Storage: SF; Manufacturing: SF

ALL LOTS:
Accessory Buildings: (type/size) SF: SF; SF: SF; SF: SF; SF: SF; SF: SF; SF: SF; SF: SF; SF: SF
I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted in support of this application are in compliance with adopted City policy and ordinance requirements and are complete to the best of my knowledge.

I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes 15.99 at such time as it is determined to be complete. Pursuant to Minnesota Statutes 15.99, the City will notify the applicant within fifteen (15) days from the filing date of any incomplete or other information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Signature of Applicant: ___________________________ Date: June 11, 2019

Signature of Applicant: ___________________________ Date: __________________

Signature of Property Owner: ___________________________ Date: June 11, 2019

Signature of Property Owner: ___________________________ Date: __________________

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**AGREEMENT TO PAY ALL APPLICATION FEES AND EXPENSES:**

We the applicant and undersigned property owner agree to provide to the City, in cash or certified check, for deposit in an escrow fund, the amount of $1,200 as partial payment for all fees and estimated future City administrative, planning, legal and engineering fees incurred in processing this request. If the escrow amount is depleted, I agree to furnish additional monies as requested by the City within 10 days of such request. I understand that any amounts not utilized from this escrow fund shall be returned to me, without interest, when all financial obligations to the City have been satisfied. All fees and expenses are due whether the application is approved or denied.

I understand and agree that all City incurred professional fees and expenses associated with the processing of this request and enforcing the terms of this agreement including, but not limited to, attorney's fees are my responsibility as the property owner and will be promptly paid by myself upon billing by the City in the event the escrow fund is depleted. I further understand and agree that as the property owner I must make said payment within 10 days of the date of the invoice. Bills not paid within the 10 days of request for payment by the City shall accrue interest at the rate of 6% per year. Further, if I fail to pay said amounts when due, then the City may certify such costs against any property owned by me within the City limits for collection with the real estate taxes and/or take necessary legal action to recover such costs and I agree that the City shall be entitled to attorney's fees and other costs incurred by the City as a result of such legal action. I knowingly and voluntarily waive all rights to appeal said certification of such expenses against my property under any applicable Minnesota Statutes.

Applicant: ___________________________ Date: 6/11/2019

Property Owner: ___________________________ Date: 6/11/2019
NOTICE: City files must be consulted to verify the zoning classification of property in addition to this map.

ZONING

- **C-1 - Commercial District**: (530 acres / 2.48%)
- **I-1 - Industrial District**: (323 acres / 1.51%)
- **CON - Conservancy District**: (156 acres / 0.73%)
- **LTA - Long Term Agriculture**: (0 acres / 0%)
- **RRA - Rural Residential Agriculture**: (20,366 acres / 95.27%)

Proposed Subdivision

Sources: City of Nowthen, Anoka County, MN DNR, HAA & TPC

Ordinance #38, adopted October 13, 2011
Revised Shoreland Overlay District February 19, 2014

Exhibit B
Exhibit D
Preferred Street Configuration
Nowthen, Minnesota

Note: Boundaries indicated on this figure are approximate and do not constitute an official survey product.
HOMEWARD_BOUND
STREET_NETWORK_PLAN_OF_AREA

Proposed Road
Wetlands
Parcels

Sources: City of Nowthen, Anoka County, MN DNR, HAA, TPC

Map Date: 1 June, 2019
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PARK AND TRAIL PLAN

Exhibit G

- Snowmobile Trails (Winter Only)
- Potential Natural Trails
- Potential Trail Corridors (County Roads)
- Potential Trail Corridors (City Streets)
- Existing Trails
- Proposed County Regional Trail

SOURCES: CITY OF NOWTHEN, ANOKA COUNTY, MN DNR, HAA, TPC, 2004 BURNS TOWNSHIP PARK AND TRAIL PLAN

MAP DATE: 27 FEB, 2018

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