

Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning
Telephone: 651.385.3104
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To: Board of Adjustment
From: Land Use Management
Report Date: August 12, 2016
Meeting Date: August 22, 2016

Application Information:

Applicant: John & Cynthia Lucking
Address of zoning request: 31815 Willow Trail, Cannon Falls MN 55009
Zoning district: A3
Township Information: Stanton Township approved the variance to the density controls for Section 24 on 7/12/16.

Attachments:

Site Map
Applicant Statement
Stanton Township Application Form
Goodhue County Zoning Ordinance: Article 23
Survey of Parcel 41.024.2200 and Parcel 41.024.2300

Notice: John & Cynthia Lucking - Variance request from the A3 Urban Fringe District, General District Regulations, Lot Area requirement to allow a parcel less than 35 acres and build a residence at 31815 Willow Trail. Part of the NE ¼ of the SE ¼ of Section 14 in Stanton Township; PID 41.024.2200.

Background: The purpose of this variance is to build a dwelling on parcel 41.024.2200. Parcels under Article 23 Urban Fringe District, Section 5 General District Regulations Subdivision 1.1 are required to have a minimum lot size of thirty-five 35 acres per principal building. The Applicant has 9.4 acres on Parcel 41.024.2200 where the dwelling will be constructed, and another 25.02 acres on the contiguous Parcel 41.024.2300.

Findings of Fact:

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) They are in harmony with the general purposes and intent of the official control;
The intent and general purpose of the A3 Urban Fringe District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County. Furthermore, it is intended that urban development be deferred until an orderly

transition from farm to urban uses can be achieved by annexation or centralized sewage treatment systems.

Subdivision and development of the general vicinity of the Applicant's property and the subject parcel predate the establishment of the A3 zoning classification. According to the Goodhue County Recorders' Office, 41.024.2200 has not been split since at least 1975, and 41.024.2300 has not been split since 1985. The A3 Zoning classification was implemented in 1993.

The Applicant's property is located in an area with numerous other dwelling sites located on parcels less than 35 acres in area. The City of Cannon Falls has expressed no interest in annexing Mr. Lucking's property at this time and it is unlikely that one additional dwelling site would impede future expansion of the City of Cannon Falls.

- 2) The variance is consistent with the comprehensive plan;
The 2016 Comprehensive Plan speaks to this variance in the Agricultural and Housing elements

AGRICULTURAL ELEMENT

Plant Agriculture Objective #4 (pg. 18): If residential development occurs, it should be compact and designed to preserve the prime farmland for agricultural uses or other compatible uses to minimize conflicts between agricultural and non-agricultural uses.
The surrounding lots have residences and constructing a dwelling on this lot would achieve the compactness intent of this Objective. This lot is not prime farm land and constructing a dwelling would not remove farmland.

Plant Agriculture Implementation Strategy #2 (pg. 19): Siting of dwellings or businesses should take into consideration the amount of farmland being used and shall minimize the impact to the greatest extent possible.

The construction of a home on this dwelling would not remove farmland and, in fact, give the Applicant close proximity to his neighboring tree farm operation.

Plant Agriculture Implementation Strategy #3 (pg. 19): housing developments shall be directed to incorporated city limits first.

The proposed home would not within incorporated city limits, but is within a mile of the City of Cannon Falls.

HOUSING ELEMENT

Housing Objective #8 (pg58): Monitor housing demand in the County's unincorporated areas effect on transportation improvements, business, and industrial development in the region.

Approval of the variance to construct a home on the Applicants property will not have a significant impact on the road infrastructure, business or industry development.

Housing Objective #13 (pg58): Provide more housing choices for rural residents.

The Applicant's property will increase the housing choices within the County.

Housing Objective #15 (58): Provide opportunities for adequate and nearby housing for farm labor families.

The Applicant owns an orchard on the neighboring property to the west. Granting the variance will increase his proximity to the farm.

Housing Implementation Strategy # 3 (pg. 59): Re-evaluate the purpose and need for the current A3 Urban Fringe District.

Following the recent adoption of the 2016 Goodhue County Comprehensive Plan it is anticipated that a re-evaluation of the purpose and need for the A3 Zone District will be undertaken. This exercise may result in a change of zone for properties currently within A3 Zone including the Lucking property. However, the Lucking's are interested in building a dwelling at this time and contend that the constructing a dwelling on Parcel 41.024.2200 represents a reasonable use of the property.

- 3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

The intent of the A3 provisions is to limit development of properties around urban centers in preservation of orderly annexation. The construction of a dwelling, which is consistent with the surrounding properties reflects a reasonable use of the subject property and would be compatible with the surrounding area. There are few other appropriate uses for this property; and the land owner's contiguous properties total over 34 acres, which is consistent with the intent of the A3 Zone to allow one dwelling per 35 acres.

- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

The Applicant did not split or alter the properties, which were made nonconforming when the A3 District was implemented. The A3 lot size requirements result in the prohibition of the construction of the dwelling.

- 5) The variance, if granted, will not alter the essential character of the locality.

The surrounding neighborhood's character will not change.

- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

There is no use change. Residences are allowed.

- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

If the variance is approved than, in accordance with this provision, a single condition will be recommended to the Board of Adjustment to include when taking action. The condition will require conformance

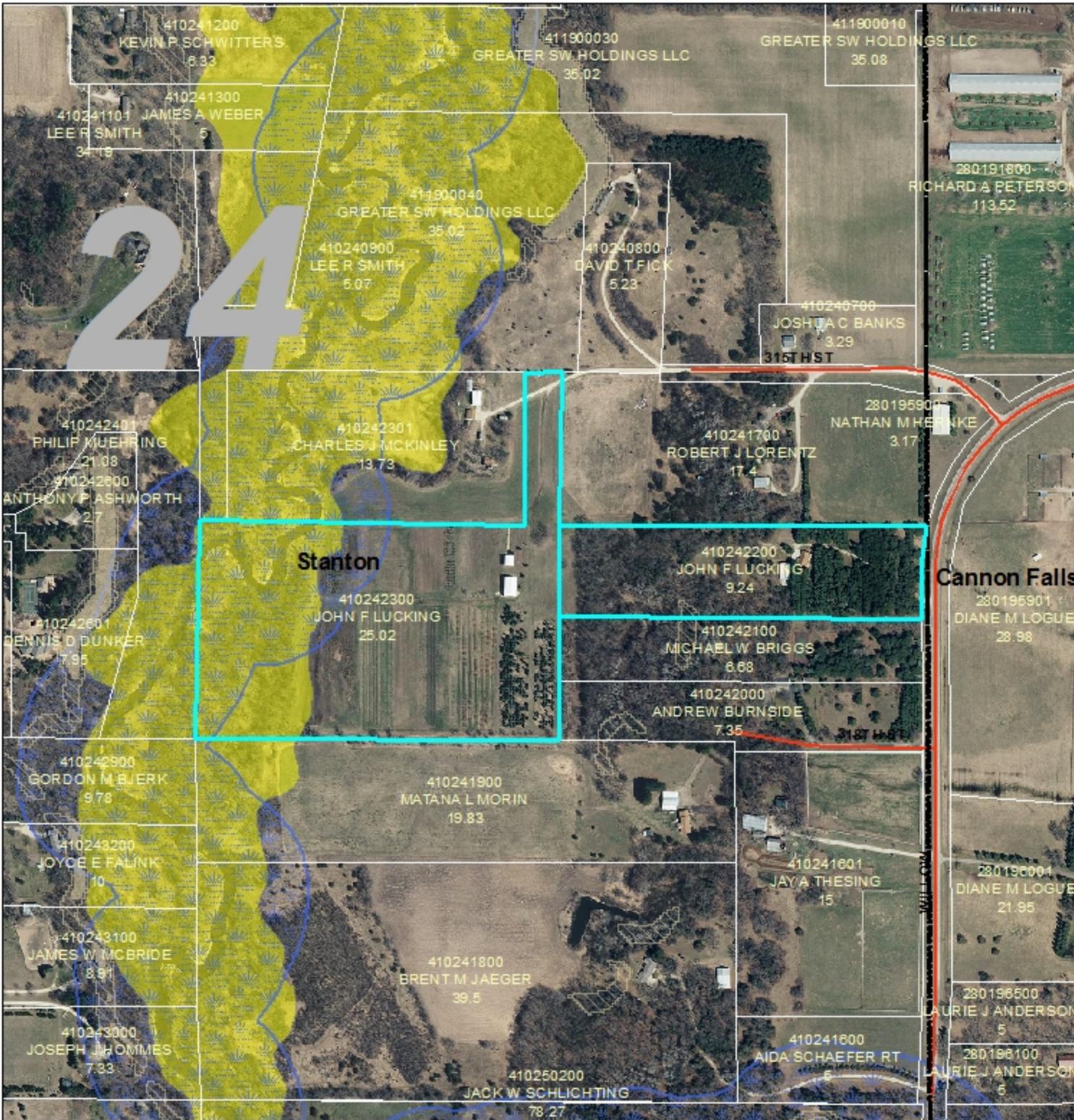
with the variance application submitted to Goodhue County Land Use Management Office dated July 22, 2016.

The following should be edited to reflect any concerns that were raised at the August 22, 2016 BOA meeting and public hearing:

Staff Recommendation:

Staff recommends the Board of Adjustment adopt the staff report into the record (dated August 4, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: approve the variance request from the A3 Urban Fringe district, General District Regulations, Lot Area requirement to allow a parcel less than 35 acres, and build a residence at 31815 Willow Trail. Part of the NE ¼ of the SE ¼ of Section 14 in Stanton Township; 41.024.2200.

Subject to the following condition: Conformance with the application submitted to Goodhue County Land Use Management Office dated July 22, 2016.



PUBLIC HEARING:
 John & Cynthia Lucking - Variance request from A3 Urban Fringe district, General District Regulations, Lot Area to allow a parcel less than 35 acres (34.26 acres combined), to build a residence at 31815 Willow Trail in Stanton Township. Part of the NE ¼ of the SE ¼ of Section 14 in Stanton Township; PID 41.024.2200.

Legend

- Municipal Boundaries
- Road
- Bluff Impact
- % Slope
 - 20
 - 30
- Tax Parcel
- Shoreland
- Special Flood Hazard Area

FLD_ZONE

 - 0.2 PCT ANNUAL CHANCE FLOOD HAZARD
 - A
 - AE
 - AO
 - X

0 125 250 500 750 1,000 Feet

DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2015.

Variance

RECEIVED

JUL 22 2016

Application for Variance	
VARIANCE NUMBER: For Staff Use only	716-0050
\$350 RECEIPT#	15463
DATE	7/22/16

1. Owner/Applicant Information

Land Use Management

PROPERTY OWNER'S NAME:

JOHN + CYNTHIA LUCKING

PROPERTY OWNER'S ADDRESS:

31815 WILLOW TRAIL
CANNON FALLS MN 55009

TELEPHONE:

(651) 263-3353

EMAIL:

APPLICANT OR AUTHORIZED AGENT'S NAME:

JOHN + CYNTHIA LUCKING

APPLICANT'S ADDRESS:

Same as Above

TELEPHONE:

()

EMAIL:

CONTACT FOR PROJECT INFORMATION:

JOHN (JACK) LUCKING

ADDRESS:

Same as Above

TELEPHONE:

(651) 263-3353

EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT:

SAME

LEGAL DESCRIPTION:

ZIP CODE:

Attached

WILL BRING IN

PID#:

(41.024.2300)
41.024.2200

(Please check all that apply)

IF YOU ARE NOT SURE OF THE EVENTUAL SIZE OF THE FINAL PROJECT, PROVIDE THE MAXIMUM ESTIMATES

ZONING DISTRICT

LOT AREA (SQ FT):

LOT DIMENSIONS:

STRUCTURE DIMENSIONS (if applicable):

A3

9.24

(combined would be 34.26)

ADDITIONS TO BUILDING:

New Building on vacant land

Rear

New Addition to existing building

Front

Animal Building

Side

Storage building Other Please clarify

PRESENT OR PREVIOUS USE:

AG OFFICE + STORAGE SHED

PROPOSED USE:

NEW DWELLING

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP:

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request.

Attached

TOWNSHIP OFFICIAL'S PRINTED NAME AND TITLE

TOWNSHIP OFFICIAL'S SIGNATURE

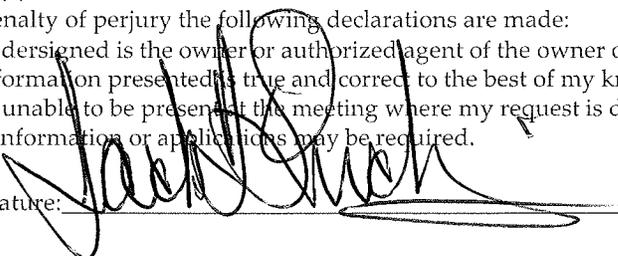
DATE

3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature:



Date:

7-22-16

Print name: _____ owner or authorized agent (circle one)

VARIANCE NUMBER:
For Staff Use only

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Article 23 (A3 Urban Fringe District)
Section 5 subd. 1 Lot Area

Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

2. Who or What created the circumstances?

3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc.) and how is the request consistent with this character?

4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

VARIANCE NUMBER:
For Staff Use only

I WOULD LIKE TO BUILD A HOME ON PARCEL #41024.2200. THIS WILL NOT CHANGE THE CHARACTER OF MY LAND OR HAVE A NEGATIVE IMPACT ON ANY OF THE SURROUNDING LAND OWNERS. IN MY OPINION I THINK A SINGLE FAMILY HOME IS THE BEST USE OF THIS PROPERTY.

**STANTON TOWNSHIP
VARIANCE/CONDITIONAL USE
APPLICATION FORM**

Application Date 6-21-16

Application No. 6212016
Fee Amount \$175.00

PROPERTY

Site Address <u>31815 Willow Trail</u>		Tax Parcel No. <u>410242200</u>	Township Zoning District <u>R-1</u>			
Lot	Block	Subdivision	Section <u>24</u>	Township <u>112</u>	Range <u>18</u>	Qtr/Qtr <u>NE/SE</u>

OWNER

Name <u>Jack Lucking</u>	Day Phone	Evening Phone	
Mailing Address <u>Box 132</u>	City <u>Cannon Falls</u>	State <u>MN</u>	Zip <u>55009</u>

VARIANCE/CONDITIONAL USE REQUESTED

Variance on density controls for Section 24 (67 homes built); variance on NE/SE density (1 home built) Contingent upon Goodhue County A-3 zoning status. BOA to meet in August.

JUSTIFICATION

The Section is already saturated 67 homes - The parcel is conforming to Stanton Township PEZ Ordinance @ 9.24 acres. Setbacks can be met. Public hearing revealed no significant opposition to the proposal. Housing was deemed "best use" of property and surrounding uses were deemed consistent.

TOWNSHIP PLANNING COMMISSION RECOMMENDATION

Date: <u>7-12-16</u>	Reason for Approval/Denial
<input checked="" type="checkbox"/> Approve <input checked="" type="checkbox"/> Add Stipulation (s) <input type="checkbox"/> Deny	<u>Current Section density is supportive and consistent with the proposal. NE/SE sites only one other dwelling. Approval is contingent upon Goodhue County zoning controls.</u>

TOWNSHIP BOARD ACTION

Date	Reason for Approval/Denial	
<input checked="" type="checkbox"/> Approved <input checked="" type="checkbox"/> With Stipulation (s) <input type="checkbox"/> Denied	<u>Conforms to township's PEZ Ordinance. The Section has shown a trend toward higher density, as a whole. The NE/SE sites 1 other dwelling, consistent w/ neighboring properties. Approval is contingent upon Goodhue County zoning controls.</u>	
Expiration Date	Deadline to Approve an/Extension	Authorized Board Signature
		<u>Robert Benson</u>

STIPULATIONS

Goodhue County must remove or adjust the A-3 Zoning currently applied to Parcel # 410242200, 35 acre minimum, for all approvals to be valid.

Township Information

Township Name: Stanton

*****Applicant Complete This Section*****

Applicant Name	Authorized Agent
<u>Jack Lucking, Cannon Falls, MN 55009</u>	
Mailing Address	City State Zip
<u>Box 132, Cannon Falls, MN 55009</u>	
Property Address	City Zip
<u>31815 Willow Trail</u>	
Day Phone	Evening Phone Cell Phone
Parcel Number	Section Quarter/Quarter or Plat Name
<u>410242200</u>	<u>24 NE/SE</u>
What is the Request for?	
<u>Variance on Section density and quarter/quarter density</u>	

*****Township Section*****

Name of Person Completing Form	Title	Date
<u>Cheryle Peters</u>	<u>Clerk</u>	<u>7-20-16</u>
1. Was a public hearing necessary for the request? <u>yes</u>		
2. Were there any concerns about the request raised by the board/public at your meeting? Please explain.		
<u>Mr. Roger Carlson wondered about the 35 acre minimum</u>		
<u>1 email critical of the request, no attendance.</u>		
3. Was the request officially <u>approved</u> /denied? Attach official action/findings of fact. (If no answer 4) <u>yes</u>		
4. Does the township support the request? <u>yes</u>		
5. Did the township place any provisions, or modify the request? Please explain.		
<u>some adjustment from Goodhue County Mr. Lucking needs</u>		

*****Township Official Signature*****

Cheryle Peters am acting on behalf of the Township of Stanton in capacity of Clerk/Supervisor/Chair hereby certify that the above described project has been received by the Township and heard on 7-19-16.

Cheryle A. Peters

ARTICLE 23 A-3, URBAN FRINGE DISTRICT

SECTION 1. PURPOSE

The intent of the A-3 District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County in accordance with the Comprehensive Plan by conserving land for farming and other open space land uses for a period of time until urban services become available.

It is the intent that urban development be deferred in such areas until an orderly transition from farm to urban uses shall be achieved by either the annexation of areas adjacent to the incorporated limits of existing urban centers or the extension of public or other centralized sewage collection and treatment systems.

It is intended that the status of all areas in this district be reviewed, jointly, by the appropriate planning bodies who shall determine whether there should be a transfer of all or any part of such area to some other appropriate land use, or to indicate any changes in the existing Land Use Plan for the particular political entity or change in the Capital Program of the community affecting this district.

SECTION 2. PERMITTED USES

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure not to exceed 2400 square feet.
- Subd. 5. Plant nurseries and sales.
- Subd. 6. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 7. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- Subd. 8. Wind Energy conversion Systems in accordance with Article 18 of this ordinance.
- Subd. 9. Farm Wineries including Tasting Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

SECTION 3. CONDITIONAL USES AND INTERIM USES

In the A-3, Urban Fringe District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism ((as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure that exceeds 2400 square feet in area (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet (see Article 11, Section 28).

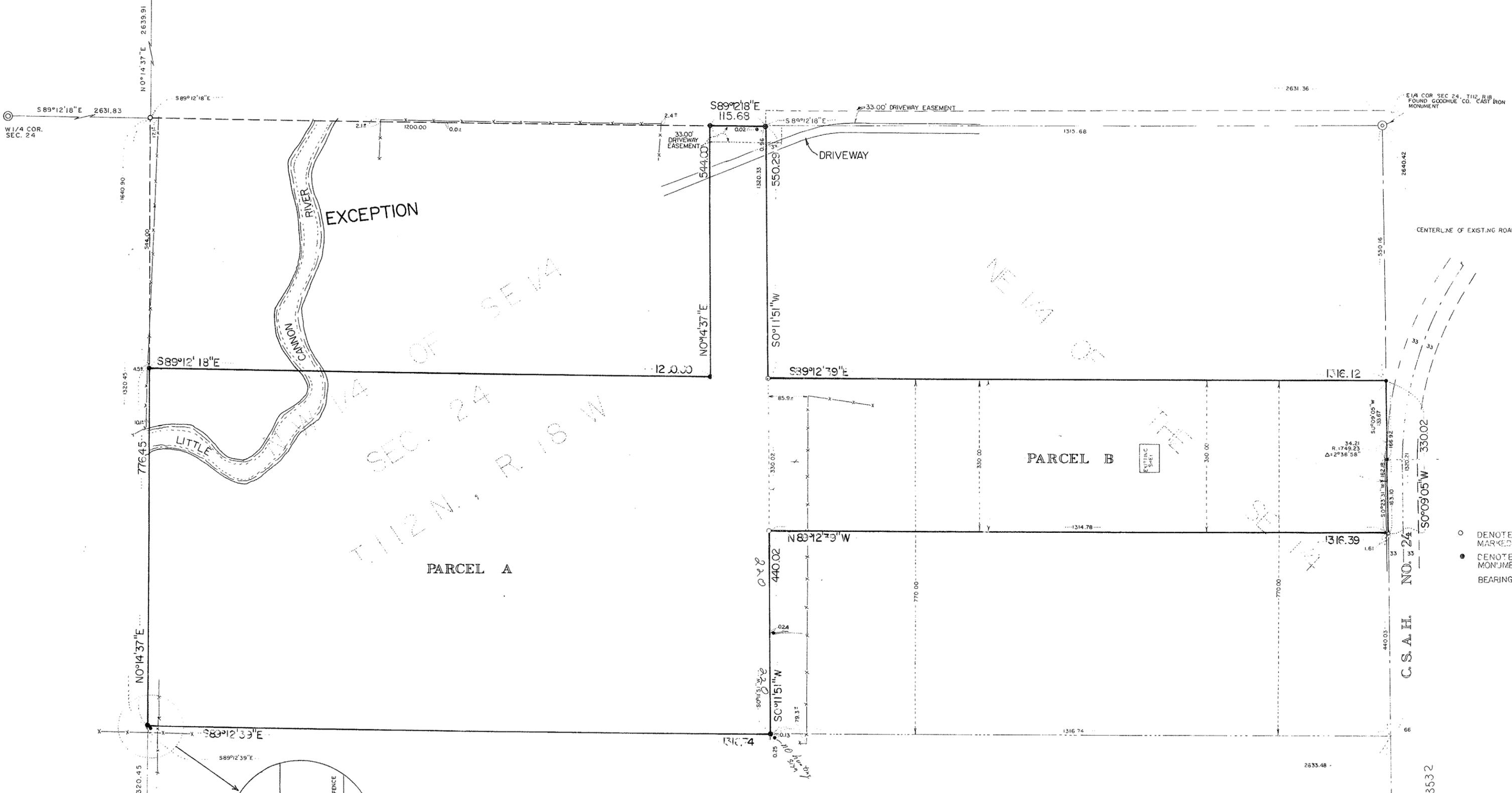
SECTION 4. ACCESSORY STRUCTURES AND USES

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

SECTION 5. GENERAL DISTRICT REGULATIONS

Any lot in the A-3, Urban Fringe District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

- Subd. 1. Lot Area.
 - A. There shall be a minimum lot size of thirty-five (35) acres per principal building or use when not served by a public or centralized sewage collection and treatment system.
 - B. Lot area shall meet the requirements in Article 24, Section 5, Subd. 1.B if served by a municipal sewage treatment system.
 - C. Parcels with an existing dwelling as of June 5, 2012 which have 35 acres or more may be split provided the minimum lot size for the dwelling parcel must be at least 2 acres. All other requirements listed in Subdivisions 2, 3 and 4 of this Section would apply. Further development of dwellings on a parcel from which a dwelling site has been split shall be prohibited until such time as the Zone District Classification is changed.
- Subd. 2. Yard Requirements.
 - A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
 - 1. Front Yard.
 - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
 - b. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.



SE 1/4 OF SEC. 24
T. 112 N., R. 18 W.

Parcel A

The Northwest Quarter of the Southeast Quarter of Section 24, Township 112 North, Range 18 West, Goodhue County, Minnesota, except the North 544.00 feet of the West 1200.00 feet of the Northwest Quarter of the Southeast Quarter of said Section 24, said dimensions being measured along or parallel with the north or west lines of said Northwest Quarter of the Southeast Quarter, containing 24.9 acres more or less, Subject to easements of record, if any.

Parcel B

The North 330.00 feet of the South 770.00 feet of the Northeast Quarter of the Southeast Quarter of Section 24, Township 112 North, Range 18 West, Goodhue County, Minnesota, containing 16.6 acres more or less, Subject to that part taken for County State A-1 Highway No. 24 and easements of record, if any.

I hereby certify that this survey plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.
John F. Dwyer
10/21/91 No. 9294

SE COR. SEC. 24
T. 112, R. 18, FOUND GOODHUE
CO. CAST IRON MONUMENT

DWYER & ASSOCIATES, INC.
Land Surveyors
875 Spruiel Boulevard
Hastings, Minnesota 55033
Bus. (612) 437-2909 Res. (612) 435-5417



BOUNDARY SURVEY

Scale: 1" = 100'
Date: 7-29-91

MIDWAY NATIONAL SURVEYING

Hemmy 1-507-263-3532