



Hermantown City Council Meeting – May 16, 2022

Because of attendance considerations at the regular meeting location due to the health pandemic, Hermantown’s upcoming, City Council Meeting will be conducted both remotely and with in-person access to Council Chambers.

The City Council meeting will utilize the platform “Zoom,” which allows the public to view and/or hear the meeting from their phone or computer. Interested parties can also choose to attend the City Council Meeting in person at City Hall. Current Minnesota Department of Health guidelines regarding the health pandemic will be observed during this meeting.

The 6:30 p.m. City Council Meeting will be available at:

<https://us02web.zoom.us/j/89427926114?pwd=VERySW5HSWNpeGtGcG43NWZtcnVBQT09>

and/or by calling the number (312) 626-6799 and utilizing the meeting ID number of 894-2792-6114 and the passcode of 614195.

Public comment may be possible, but difficult, during the meeting, but any public comments, questions, or concerns can be e-mailed to Community Engagement Manager, Joe Wicklund, at jwicklund@hermantownmn.com up to 3:30 p.m. the day of the meeting with the e-mail title “City Council Meeting.” It is important to note that all comments regarding this meeting are public data.

A few important tips regarding the Zoom platform:

- If your computer does not support audio, you can still watch the meeting on your computer and call in on your phone to hear the meeting
- It is a challenging situation for all, so grace and understanding are appreciated

The 4:30 p.m. Pre-Agenda Meeting will be available in-person only at City Hall. Public comment is not a factor in the pre-agenda meeting, but the meeting is open and members of the public are invited and welcome to attend to this meeting. Attendees of the Pre-Agenda Meeting should expect to follow the current social distancing and mask guidelines.



AGENDA

Pre-Agenda Meeting Monday, May 16, 2022 at 4:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building

Pre-agenda: The Pre-agenda meeting is a work session between the City Council and City staff to review the upcoming City Council meeting and future meetings. The agenda is the same document as the upcoming City Council meeting, but does not follow the same format as the City Council meeting. It is a time for the City Council and City staff to have discussions about the agenda items, and asking and answering questions. Traditionally it is not a time for public comment on the agenda items, as the public can listen to the conversation and ask questions or provide input at the upcoming City Council meeting.

City Council Meeting May 16, 2022 at 6:30 p.m. Council Chambers City Hall - Hermantown Governmental Services Building

Invitation to participate:

The Hermantown City Council welcomes your thoughts, input and opinions to this meeting. The agenda for this meeting contains a brief description of each item to be considered, and the City Council encourages your participation. If you wish to speak on an item contained in the agenda, you will be allowed to address the Council when a motion is on the floor. If you wish to speak on a matter that does not appear on the agenda, you may do so during the public comment period regularly scheduled and set for the beginning of the meeting.

When addressing the City Council, please state your name and address for the record. Please address the City Council as a whole through the Mayor. Comments to individual Council Members or staff are not permitted. Speakers will be limited to three (3) minutes.

Order of discussion

- 1. Reading of the resolution title by Mayor**
- 2. Motion/Second**
- 3. Staff Explanation**
- 4. Initial Discussion by City Council**
- 5. Mayor invites public to speak to the motion (3-minute rule)**
- 6. Follow up staff explanation and/or discussion by City Council**
- 7. Call of the vote**

**CITY OF HERMANTOWN
AGENDA**

**Pre-Agenda Meeting Monday, May 16, 2022 at 4:30 p.m.
Council Chambers
Hermantown Governmental Services Building**

**City Council Meeting May 16, 2022 at 6:30 p.m.
Council Chambers
Hermantown Governmental Services Building**

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **ANNOUNCEMENTS** *(Council Members may make announcements as needed.)*
5. **PUBLIC HEARING** – *(Only when necessary. The rule adopted three minutes per person if necessary. Any action required after the public hearing will be taken immediately following the closing of the public hearing.)*
6. **COMMUNICATIONS**
 - A. Correspondence 22-50 through 22-54 placed on file
7. **PRESENTATIONS** *(Department Heads may give reports if necessary.)*
 - A. Clifton Larson and Allen *(Pre-Agenda Only)*
RE: Audit Presentation
 - B. Dante Tomassoni *(Pre-Agenda Only)*
RE: Housing and Tax Increment Financing
8. **PUBLIC DISCUSSION** *(This is the time for individuals to address the Council about any item not on the agenda. The time limit is three minutes per person.)*
9. **CONSENT AGENDA** *(All items on the Consent Agenda are items which are considered routine by the City Council and will be approved by one motion via voice vote. There will be no discussion of these items unless a Council Member or citizen so requests, in which event the item will be removed from the Consent Agenda and considered at the end of the Consent Agenda.)*
 - A. **Minutes** - Approval or correction of April 18, 2022 City Council Continuation Minutes
 - C. **Accounts Payable** – Approve general city warrants from May 1, 2022 through May 15, 2022 in the amount of \$324,255.10
 - D. Motion to approve/deny the following Massage Therapist License Renewal Applications for the following effective May 17, 2022 through December 31, 2022, contingent upon complete applications being received:

The Well Co.

Matthew Waite

10. MOTIONS

11. ORDINANCES

- A. 2022-05** An Ordinance Establishing Airport Zoning Overlay Safety Zones And Adopting Regulations

Second Reading

(motion, roll call)

- B. 2022-06** An Ordinance Amending Section 350.04, Acceptance And Opening Of Additional Roads And Streets, Of The Hermantown City Code By Modifying The Name Of Eeve Drive To Read As Stevie Drive

Second Reading

(motion, roll call)

- C. 2022-07** An Ordinance Amending Title 2 Of The Hermantown City Code By Amending The Official Zoning Map (4798 Miller Trunk Highway)

Second Reading

(motion, roll call)

12. RESOLUTIONS *(Roll call will be taken only on items required by law and items requiring 4/5's votes, all others can be done by voice vote.)*

- A. 2022-61** Resolution Authorizing And Directing Mayor And City Clerk To Execute And Deliver A Cooperation Agreement Regarding The Duluth International Airport Joint Airport Zoning Board And The Duluth International Airport Zoning Ordinance

(motion, roll call)

- B. 2022-62** Resolution Authorizing A Summary Of An Ordinance Establishing Airport Zoning Overlay Safety Zones And Adopting Regulations, Of The Hermantown Zoning Code

(motion, roll call)

- C. 2022-63** Resolution Providing A Grant To The Hermantown Area Hockey Association

(motion, roll call)

- D. 2022-64** Resolution Approving Cooperative Agreement With St. Louis County CP 0091-681361 Construction Of Haines Road Frontage Road Within

The City Of Hermantown Corporate Limits

(motion, roll call)

- E. 2022-65** Resolution Approving St. Louis County's Sap No. 069-070-057 CP NO. 0013-5330285 County State-Aid Highway No. 13 (Midway Road) Within The City Of Hermantown Corporate Limits

(motion, roll call)

- F. 2022-66** Resolution Approving A First Amendment To The Final Plat Of Peyton Acres Phase 1b And Imposing Conditions On The Final Plat

(motion, roll call)

- G. 2022-67** Resolution Authorizing And Directing The Mayor And City Clerk To Execute And Deliver The Tower And Ground Lease Agreement Between The City Of Hermantown And T-Mobile Central LLC

(motion, roll call)

- H. 2022-68** Resolution Approving Pay Request Number 1 For Reconditioning Of Highway 53 Water Tower (Water Improvement District No. 318) To Osseo Construction Co. LLC In The Amount Of \$57,712.50

(motion, roll call)

- I. 2022-69** Resolution Awarding Contract For One Ton Pickup Truck To North Country GM In The Amount Of \$50,235 Plus Applicable Taxes And Fees

(motion, roll call)

- 13. RECESS** To a special meeting on Wednesday May 18th at 5:00 p.m. for a Joint meeting with HEpDA

Date: May 11, 2022
To: City Council
From: John Mulder, City Administrator
RE: Correspondence

In your agenda packet is a correspondence summary log. This briefly summarizes and assigns a log number for written correspondence received at City Hall.

You are provided with the summary so that you may request a full copy of any correspondence article of interest to you.

I have included in the agenda packet only the correspondence that we believe to be of special interest.

2022 CORRESPONDENCE

<u>DATE</u>	<u>LOG #</u>	<u>FROM</u>	<u>TO</u>	<u>REGARDING</u>	<u>FILED</u>
4/26/2022	22-50	James Zigman, MN Dept. of Transportation	John Mulder, City Administrator	Construction Project on Miller Trunk Hwy.	4/21/2022
4/26/2022	22-51	Lauralin Kania & Matthew Kadilak, MN Pollution Control Agency	Jackie Dolentz, City Clerk	Hawk's Landing BP	4/21/2022
4/22/2022	22-52	John & Ann Ek, 5076 Hermantown Rd.	Joe Wicklund, Communications & Community Engagement	Complaint re: Beacon Sportsbar & Grill	4/22/2022
4/22/2022	22-53	John Mulder, City Administrator	Mark Wasbotten	Resolution 2022-50	4/25/2022
5/11/2022	22-54	Eric Johnson, Comm. Dev. Dir.	Board of Appeals & Adjustments	Variance, Ross Peterson, 535X Truman Dr.	5/10/2022

CITY OF HERMANTOWN
CITY COUNCIL MEETING
May 2, 2022
6:30 p.m.

MEETING CONDUCTED IN PERSON & VIA ZOOM

PLEDGE OF ALLEGIANCE

ROLL CALL: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher

CITY STAFF: John Mulder, City Administrator; Jackie Dolentz, City Clerk; Eric Johnson; Community Development Director; Joe Wicklund, Communications Manager; Paul Senst, Public Works Director; Jim Crace, Chief of Police; Gunnar Johnson, City Attorney; Steve Overom, City Attorney

ABSENT:

VISITORS: 3

ANNOUNCEMENTS

PUBLIC HEARING

A. Public Comment Period on Body Worn Cameras and the Use of Body Worn Cameras Policy

A public comment period was held Monday, May 2, 2022 regarding body worn cameras and the Use of Body Worn Cameras Policy has been recorded but not transcribed. There were no persons present who spoke on this matter.

Public comment period closed at 6:33 p.m.

COMMUNICATIONS

Communications 22-41 through and including 22-49 were read and placed on file.

PRESENTATIONS

Kevin Orme, Director of Finance & Administration, presented the 1st Quarter Financials.

Joe Wicklund, Communications Manager, provided a communications overview for the City.

PUBLIC DISCUSSION

CONSENT AGENDA

Motion made by Councilor Geissler, seconded by Councilor Nelson, to approve the Consent Agenda which includes the following items:

- A. Approve April 18, 2022 City Council Continuation Minutes

Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Councilor Geissler, abstain.
Motion carried.

2022-56 Resolution Approving Wage Adjustment For Public Works Seasonal Help

Motion made by Councilor Nelson, seconded by Councilor Peterson, to adopt Resolution 2022-56 Resolution Approving Wage Adjustment For Public Works Seasonal Help. Roll Call: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Motion carried.

2022-57 City Of Hermantown Resolution In Support Of Local Government Aid (SF 3971/HF 4064)

Motion made by Councilor Peterson, seconded by Councilor Geissler, to adopt Resolution 2022-57 City Of Hermantown Resolution In Support Of Local Government Aid (SF 3971/HF 4064). Roll Call: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Motion carried.

2022-58 Resolution Approving A Body Worn Camera Use Policy

Motion made by Councilor Nelson, seconded by Councilor Peterson, to adopt Resolution 2022-58 Resolution Approving A Body Worn Camera Use Policy. Roll Call: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Motion carried.

2022-59 Resolution Receiving Quotations And Awarding Contract For The Purchase Of BWCs From Axon Enterprise, Inc. In The Total Contract Amount Of \$171,447.03

Motion made by Councilor Hauschild, seconded by Councilor Geissler, to adopt Resolution 2022-59 Resolution Receiving Quotations And Awarding Contract For The Purchase Of BWCs From Axon Enterprise, Inc. In The Total Contract Amount Of \$171,447.03. Roll Call: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Motion carried.

2022-60 Resolution Receiving Quotations And Awarding Contract For The Purchase Of Fleet Video And Related Accessories From Axon Enterprise, Inc. In The Total Contract Amount Of \$91,564.20

Motion made by Councilor Peterson, seconded by Councilor Nelson, to adopt Resolution 2022-60 Resolution Receiving Quotations And Awarding Contract For The Purchase Of Fleet Video And Related Accessories From Axon Enterprise, Inc. In The Total Contract Amount Of \$91,564.20. Roll Call: Councilors Geissler, Hauschild, Nelson, Peterson, Mayor Boucher, aye. Motion carried.

Motion made by Councilor Geissler, seconded by Councilor Nelson, to close the regular meeting of the Hermantown City Council at 6:52 p.m. and go into a closed session pursuant to the following statute and stated reason: Minnesota Statutes § 13D.05, Subd. 3(c)(1) and 13D.05, Subd. 3(c)(3) to evaluate the asking price of naming rights and to consider the acquisition of property rights associated with a proposed hockey arena located on property adjacent to the existing hockey arena in the City of Hermantown and develop offers and counteroffers. Motion carried.

Motion made by Councilor Peterson, seconded by Mayor Boucher, to re-convene into open session at 7:54 p.m. Motion carried.

City Council Continuation Meeting
May 2, 2022
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Motion made by Councilor Nelson, seconded by Geissler, to recess the meeting at 7:55 p.m. Motion carried.

Mayor

ATTEST:

City Clerk

CITY OF HERMANTOWN

CHECKS #68703-68735
05/01/2022-05/15/2022

PAYROLL CHECKS

Electronic Checks - #-69414-69457 \$79,701.32

Electronic Checks - #

LIABILITY CHECKS

Electronic Checks - #-69409-69413 \$60,594.99

Electronic Checks - #-69458-69459 \$77,118.36

Check - #68733-68734 \$2,207.40

PAYROLL EXPENSE TOTAL \$219,622.07

ACCOUNTS PAYABLE

Check - #68735 \$5.31

Check - #68703-68732 \$99,670.73

Electronic Payments #-99767-99769 \$4,123.65

Electronic Payments #-99763 \$833.34

ACCOUNTS PAYABLE TOTAL \$104,633.03

TOTAL \$324,255.10

5/11/2022

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
101	419901	City Hall & Police Building Maintenance	HARTEL'S/DBJ DISPOSAL CO LLC	Garbage Recycling April	351.79	-99769
101	217450	Employee Flexplan	FURTHER ELECTRONIC PAYMENTS	Claim Reimbursement - Electron	602.20	-99768
101	217450	Employee Flexplan	FURTHER ELECTRONIC PAYMENTS	Claim Reimbursement - Electron	899.95	-99768
101	421100	Police Administration	NORTHEAST SERVICE COOPERATIVE	Health Ins April-Inactives	1,396.06	-99767
101	134000	Retiree Insurance/Telephone Reimb.	NORTHEAST SERVICE COOPERATIVE	Health Ins April-Inactives	873.65	-99767
101	424100	Building Inspection	FURTHER ELECTRONIC PAYMENTS	2nd Qtr B VEBA 2022 - Adam Sch	833.34	-99763
101	421100	Police Administration	ANGEL ARMOR	Bullet Proof Vest- Crace	1,253.24	68703
240	433200	Water Tower	BOLTON & MENK, INC.	Hwy 53 Water Tower Recon	2,608.00	68704
101	421100	Police Administration	BRAY & REED LTD.	Prosecution Services Mar 2022	4,500.00	68705
101	421100	Police Administration	BRAY & REED LTD.	Prosecution Services Feb 2022	4,500.00	68705
101	452100	Parks	BRENT'S SEPTIC SERVICE LLC	Holding Tank-Rose RD Ball Fiel	250.00	68706
101	431100	Street Department	CAPITAL ONE TRADE CREDIT	Warning Lights-Steamer	109.99	68707
101	431100	Street Department	CAPITAL ONE TRADE CREDIT	Lights - Steamer Trailer	32.97	68707
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at FD/PD	30.72	68708
101	419901	City Hall & Police Building Maintenance	CINTAS CORPORATION	Mats at CH	8.88	68708
101	431100	Street Department	CINTAS CORPORATION	Uniforms	10.80	68708
101	431100	Street Department	CINTAS CORPORATION	Uniforms	26.76	68708
101	431100	Street Department	CINTAS CORPORATION	Uniforms	26.76	68708
101	431100	Street Department	CINTAS CORPORATION	Uniforms	10.80	68708
101	431901	City Garage	CINTAS CORPORATION	Supplies	22.50	68708
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	29.56	68708
101	431901	City Garage	CINTAS CORPORATION	Mats at PW	11.08	68708
101	431901	City Garage	CINTAS CORPORATION	Supplies	37.50	68708
601	494300	Water Distribution	CITY OF DULUTH COMFORT SYSTEMS	March Water Charges	72,869.51	68709
101	421100	Police Administration	DVS RENEWAL	2014 Dodge CPO	14.25	68710
101	414100	Elections	ELECTION SYSTEMS & SOFTWARE	Warranty/Maintenance/License	1,137.50	68711
101	421100	Police Administration	EMERGENCY AUTOMOTIVE TECHNOLOGIES INC	Back Dock SQD 22	115.00	68712
601	220100	Refund Payable	FARAH, THOMAS	Overpayment on Acct#0592-02	43.26	68713
602	494500	Sewer Maintenance	GOODIN COMPANY INC	Gauge	31.51	68714
603	441100	Storm Water	GOODIN COMPANY INC	Hose Reducer-Water Truck	44.48	68714
101	421100	Police Administration	GREAT LAKES MOBIL LUBE EXPRESS	Oil Change Squad 22	85.38	68715
101	421100	Police Administration	GREAT LAKES MOBIL LUBE EXPRESS	Oil Change Squad 12	43.73	68715
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	Ordinance 2022-04 Sec 1020	57.75	68716
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	Ordinance 2022-02 Sec 210 Amnd	66.00	68716
101	411300	Ordinance, Public Notice and Proceedings	HERMANTOWN STAR LLC	Ordinance 2022-03 Sec 530	86.63	68716
101	414100	Elections	HERMANTOWN STAR LLC	Election Judges	74.25	68716
601	494400	Water Administration and General	HERMANTOWN STAR LLC	Drinking Water Report	792.00	68716
601	494400	Water Administration and General	HERMANTOWN STAR LLC	PW Maintenance Worker	20.62	68716

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Fun d	Account	Department	Vendor Name	Description	Amount	Check #
602	494900	Sewer Administration and General	HERMANTOWN STAR LLC	PW Maintenance Worker	12.38	68716
603	441100	Storm Water	HERMANTOWN STAR LLC	PW Maintenance Worker	8.25	68716
101	415300	Administration & Finance	ICMA - INT'L CITY/COUNTY MANAGEMENT ASSO	ICMA Membership Mulder	1,092.42	68717
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Receipt Book	22.77	68718
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Label	131.52	68718
101	415300	Administration & Finance	INNOVATIVE OFFICE SOLUTIONS, LLC	Note/Pen	24.21	68718
101	415300	Administration & Finance	INTEGRATED OFFICE SOLUTIONS	Copy Overage Konica	278.95	68719
101	415300	Administration & Finance	INTEGRATED OFFICE SOLUTIONS	Copy Overage Toshiba	11.03	68719
101	431100	Street Department	LEIBEL, GLEN M	Reimburse Carhart Bibs	33.33	68720
601	494300	Water Distribution	LEIBEL, GLEN M	Reimburse Carhart Bibs	33.33	68720
602	494500	Sewer Maintenance	LEIBEL, GLEN M	Reimburse Carhart Bibs	33.33	68720
101	431100	Street Department	MENARD INC	Till Screws	7.98	68721
101	431100	Street Department	MENARD INC	Batteries	34.63	68721
101	431100	Street Department	MENARD INC	Mailbox-4915 Trails End Dr	79.99	68721
101	421100	Police Administration	METRO SALES INC	Copier Lease	297.69	68722
101	431100	Street Department	MN EQUIPMENT	Bolt	27.42	68723
275	452200	Community Building	MN POLLUTION CONTROL AGENCY	EWC-Petroleum Brownsfield Reim	600.00	68724
275	452200	Community Building	MN POLLUTION CONTROL AGENCY	EWC- VIC Reimbursements	1,500.00	68724
601	220100	Refund Payable	MULEK, MICHAEL OR DEANNA	Overpayment on Acct#0242-02	8.03	68725
101	431100	Street Department	NAPA AUTO PARTS	Air Freshner	3.33	68726
101	431100	Street Department	NAPA AUTO PARTS	Filters-Bobcat	42.84	68726
601	494300	Water Distribution	NORTHERN STATES SUPPLY INC	Impact Wrench for Water Main B	199.99	68727
101	415300	Administration & Finance	ORME, KEVIN	Travel to GFOA Conference	682.20	68728
101	431100	Street Department	POMP'S TIRE SERVICE INC	Tire Replacement-H4	707.60	68729
601	220100	Refund Payable	SOLAND, SHEILA	Overpayment on Acct# 3407-02	60.51	68730
101	415300	Administration & Finance	TOSHIBA FINANCIAL SERVICES	Copier Lease Toshiba	145.57	68731
101	421100	Police Administration	TYLER TECHNOLOGIES, INC.	Property Room Equipment	4,640.00	68732
101	134000	Retiree Insurance/Telephone Reimb.	MN LIFE	Vatne Life Insurance-Inactive	5.31	68735

Totals: 66 records printed

104,633.03

TO: Mayor & City Council
FROM: Eric Johnson, Community
Development Director



DATE: May 6, 2022

Meeting Date: 05/16/2022

SUBJECT: Hermantown Airport Zoning
Overlay Ordinance” or
“HAZOO”

Agenda Item: 11-A

Ordinance: 2022-05

REQUESTED ACTION

Conduct a second reading on an ordinance establishing a Hermantown Airport Zoning Overlay Ordinance” or “HAZOO”.

BACKGROUND

The Joint Airport Zoning Board “JAZB”) for the Duluth International Airport (DIAP) created an airport overlay in 1988. The overlay relates to properties adjacent to runways 3 and 9 within the City with its purpose to protect the public health, safety, and for the promotion of the most appropriate use of land, in order to prevent the creation or establishment of Airport Hazards.

The 1988 ordinance implemented the requirements of state law.

The Joint Airport Zoning Board (JAZB), of which Hermantown is a member, has been discussing for a number of years its desire for a change in the law to allow each airport to create custom zoning for its airport. The state law was amended in 2019 and permits custom zoning for each airport to better integrate airport zoning with the local zoning and planning processes. Custom zoning also allows for increased flexibility for an airport to enact airport zones that are appropriately sized for the airport’s needs. After numerous discussions and revisions, the JAZB approved an airport zoning ordinance reflecting custom zoning in August 2021 and the MN DOT approved the JAZB Ordinance in October 2021.

The JAZB Airport Zoning Ordinance contemplated that each member community would adopt amendments to its Zoning Ordinance that incorporates the applicable provisions of the Airport Zoning Ordinance. The purpose and intent of the Hermantown Airport Zoning Overlay Ordinance” or “HAZOO” is to protect the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land and to prevent the creation or establishment of airport hazards for the citizens residing in the City of Hermantown.

Each local community is responsible for the enforcement of the JAZB Zoning Ordinance and the requirements of the overlay district. The JAZB Zoning Ordinance is not retroactive to existing uses.

The JAZB Airport Zoning Ordinance restricts those uses which may be hazardous to the operational safety of aircraft operating to and from the DIAP, and, to limit population and building density in the runway approach areas.

A public hearing for this application was held by the Hermantown Planning commission on Tuesday, April 12, 2022. Prior to the meeting, staff had three phone calls regarding the ordinance. At the meeting, three members of the public asked questions which pertained to use of their property and potential changes to property values. Planning Commission members asked questions regarding the ability to repurpose a property in Zone 2.5; the ability to rebuild a structure in Zones 2 or 2.5 should they be damaged and what ramifications there were if the City did not adopt the ordinance. The Planning and Zoning Commission recommended the application unanimously onto the City Council for their approval.

Hermantown recognizes the importance of a regional airport to our community. In the interest of protecting the public health, safety and general welfare of our residents, the City is proposing to enact an airport zoning overlay as the Hermantown Airport Zoning Overlay Ordinance” or “HAZOO”.

Certain properties within the City of Hermantown are subject to the requirements of the JAZB Airport Zoning Ordinance as they fall within one of 4 safety zones associated with runways 3 and 9. The 4 safety zones and their restrictions as well as other applicable provisions/sections of the JAZB Airport Zoning Ordinance are included in the HAZOO.

Safety Zone 1 (formerly A): prohibits buildings, temporary structures and is generally utilized as open space, agricultural uses or parking.

Safety Zone 2 (formerly B): Prohibits of building and structures where groups of people can congregate. Some specific uses include:

- Churches
- restaurants
- movie theaters
- banquet halls,
- stadiums
- schools
- hospitals
- hotel/motels

In addition to these uses, each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; and each site must be a minimum of 2.5 acres in size.

Safety Zone 2.5: Prohibits the following uses:

- Childcare or daycare centers;
- State licensed residential care facilities and housing with service establishments serving 7 or more persons;
- State licensed adult daycare facility serving 13 or more persons;
- State licensed group family daycare facility serving 13 or more children;
- Public or private school.
- Public or private Hospital

Safety Zone 3 (formerly C): prohibits the construction of structures with an elevational height greater than 150 feet above the highest point of the usable runway area. This safety zone extends 1 to 1.5 miles out from the airport and is the largest safety zone in the City.

The cities of Hermantown and Rice Lake are requiring that the city of Duluth indemnify them against takings claims or damage claims that result from the adoption of airport zoning under local ordinances. The reason for this is that these regulations relation to the existence of the airport which is owned by Duluth.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

- Proposed City of Hermantown Airport Zoning Overlay Ordinance
- Recorded Duluth International Airport Zoning Ordinance
- Runway 9 Safety Zones
- Runway 3 Safety Zones

Ordinance No. 2022-05

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE ESTABLISHING AIRPORT ZONING
OVERLAY SAFETY ZONES AND ADOPTING REGULATIONS**

Section 1. **Purpose and Intent.** The purpose and intent of this Ordinance (“Hermantown Airport Zoning Overlay Ordinance” or “HAZ00”) is to protect the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards for the citizens residing in the City of Hermantown.

Section 2. **Background.** Certain properties within the City of Hermantown are subject to the requirements of the Duluth International Airport (“DIAP”) Zoning Ordinance (“Airport Zoning Ordinance”). The Airport Zoning Ordinance was created by the DIAP Airport Joint Zoning Board (JAZB). The purpose of the Airport Zoning Ordinance is to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the DIAP, and, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident. The Airport Zoning Ordinance contemplated that the City of Hermantown would adopt amendments to its Zoning Ordinance that incorporates the applicable provisions of the Airport Zoning Ordinance. HAZ00 is intended to satisfy that requirement.

Section 3. **Airport Zoning Overlay Safety Zones.** The following Airport Zoning Overlay Safety Zones are hereby established in the City of Hermantown:

3.1 **Safety Zone 1:** All land designated as Safety Zone 1 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.1A.

3.2 **Safety Zone 2:** All land designated as Safety Zone 2 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.2A.

3.3 **Safety Zone 2.5:** All land designated as Safety Zone 2.5 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.3A.

3.4 **Safety Zone 3:** All land designated as Safety Zone 3 on the Airport Zoning Map attached hereto as Exhibit A and as legally described in Exhibit 3.4A.

Section 4. **Safety Zones 1, 2, 2.5 and 3.** The Land Use Regulations contained in the Hermantown Zoning Code shall continue to be applicable to the property and uses within the Airport Zoning Overlay Safety Zones. When there is a conflict between the provisions of the HAZ00 and the Hermantown Zoning Code, the most restrictive standards shall apply.

In addition to the provisions contained in the Hermantown Zoning Code, the following Land Use Regulations as set forth in this Section shall be applicable in the Hermantown Zoning Overlay Safety Zones.

4.1. **All Safety Zones:** No use shall be made of any land in any of the Airport Zoning Overlay Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

4.2. **Safety Zone 1:** Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

4.3. **Safety Zone 2:**

4.3.1. **Specific Prohibited Uses.** The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

4.3.1.1. **Group A Uses** - means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.2. **Group E Uses** – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.3. **Group I-2 Uses** – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

4.3.1.4. **Group R-1 Uses** – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

4.3.2. **Density Limitation.** Other uses not specifically prohibited by Section 4.3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.

4.4. **Safety Zone 2.5:**

4.4.1. **Specific Prohibited Uses.** The following classifications of buildings and structures as to use and occupancy are prohibited in Safety Zone 2.5:

4.4.1.1. Childcare or daycare centers;

4.4.1.2. State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.4.1.3. State licensed adult daycare facilities serving 13 or more persons;

4.4.1.4. State licensed group family daycare facilities serving 13 or more children;

4.4.1.5. Public or private school.

4.4.1.6. Public or private Hospital.

Section 5. **Existing Uses and Structures as of Effective Date.** The regulations prescribed by the HAZ00 shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or structure, or tree after the effective date of the HAZ00.

Section 6. **Administrative Appeals.** The provisions of Section 350.01, Administrative Appeals – Filing of Appeal shall be applicable to any appeal of any decision by the Zoning Officer in connection with the administration of the provisions of the HAZ00, provided, however, that after any appeal is filed, it shall be handled in accordance with the provisions of Sections 12, 13 and 14 of the Airport Zoning Ordinance.

Section 7. **Variances.** The provisions of Section 600 – Application, shall be applicable to any application for a variance for any provision of the HAZ00, provided, however, that after any application for a variance is provided, it shall be handled in accordance with the provisions of Section 11, 12, 13 and 14 of the Airport Zoning Ordinance. A copy of any application for a variance from the HAZ00 shall also be provided to the DIAP by the Zoning Officer.

Section 8. **Copies to DIAP.** The Zoning Officer shall promptly provide copies of any permit application for any use within Airport Safety Zones 1, 2 and 2.5 or any application for a variance or administrative appeal to the DIAP.

Section 9. **Amendment to be Inserted in Code.** After this ordinance becomes effective, the changes made by this ordinance shall be made in the appropriate place in the Hermantown Zoning Code. This ordinance shall be published in the official newspaper of the City.

Section 10. **Effective Date.** The provisions of this Ordinance shall be effective after adoption and immediately upon publication once in the official newspaper of the City of Hermantown.

Dated: _____

Mayor

Attest:

City Clerk

Adopted: _____

Published: _____

Effective Date: _____

EXHIBIT 3.1A
Safety Zone 1 of West End of Runway 9-27

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

EXHIBIT 3.2A
Safety Zone 2 of West End of Runway 9-27

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1325.00 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 3932.53 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

EXHIBIT 3.3A
Safety Zone 1 of South End of Runway 3-21

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

EXHIBIT 3.4A
Safety Zone 2.5 of South End of Runway 3-21

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2.5; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.



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County Recorder

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Notes:

DULUTH INTERNATIONAL AIRPORT

ZONING ORDINANCE

1427462

CREATED BY THE DULUTH INTERNATIONAL AIRPORT

JOINT ZONING BOARD

Formed by and Comprised of:

CITY OF DULUTH

CITY OF HERMANTOWN

TOWNSHIP OF CANOSIA

CITY OF RICE LAKE

ST. LOUIS COUNTY

EFFECTIVE DATE: October 6, 2021

THIS ORDINANCE AMENDS AND ENTIRELY REPLACES

DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE dated June 18, 1988,

recorded in the Office of the St. Louis, Minnesota, County Recorder as

Document No. 0456132

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DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

1427462

CREATED BY THE

CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP
CITY OF RICE LAKE – ST. LOUIS COUNTY
JOINT AIRPORT ZONING BOARD

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE DULUTH INTERNATIONAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING TERMS USED HEREIN; REFERRING TO THE DULUTH INTERNATIONAL AIRPORT ZONING MAPS WHICH ARE INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD COMPRISED OF THE CITY OF DULUTH – CITY OF HERMANTOWN – CANOSIA TOWNSHIP – CITY OF RICE LAKE – ST. LOUIS COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY THE MINNESOTA STATUTES 360.061 – 360.074, AS FOLLOWS:

SECTION 1: PURPOSE AND AUTHORITY

The Duluth International Airport Joint Airport Zoning Board, created and established by joint action of the City Councils of Duluth, Rice Lake, and Hermantown, and the Board of County Commissioners of St. Louis County, and the Town Board of Canosia pursuant to the provisions and authority of Minnesota Statutes 360.063, hereby finds and declares that:

- A. The Duluth International Airport is an essential public facility.
- B. An Airport Hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein.
- C. The creation or establishment of an Airport Hazard is a public nuisance and an injury to the region served by the Duluth International Airport.
- D. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of Airport Hazards.
- E. The prevention of these Airport Hazards and Aircraft Accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation

SECTION 2: SHORT TITLE

This Ordinance shall be known as “Duluth International Airport Zoning Ordinance.” Those sections of land affected by this Ordinance are indicated in “Exhibit A” which is attached to this Ordinance.

SECTION 3: DEFINITIONS

1427462

For the purposes of this Ordinance, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined by Minnesota Statutes Chapter 360 (Airports and Aeronautics), Section 360.013 (Definitions), and its successors.

Abandoned Structure – a Non-Conforming Structure that has not been legally occupied or used for any commercial or residential purpose for at least one consecutive year as determined by the Local Airport Zoning Administrator.

Abandoned Use – a Non-Conforming Use that has ceased to have been actively conducted for at least one (1) consecutive year as determined by the Local Airport Zoning Administrator.

Agricultural Uses - land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber; or

Aircraft - any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, but excluding parachutes. (Minn. Stat. 360.013)

Aircraft Accident -an occurrence incident to flight in which, because of the operation of an aircraft, a person (occupant or non-occupant) receives fatal or serious injury or an aircraft receives substantial damage. Except as provided below, substantial damage means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Airport- the Duluth International Airport lands located in Sections 1, 2, 3, 11, 12, Township 50, Range 15; Section 6, Township 50, Range 14; and Section 31, Township 51, Range 14 that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

Airport Boundary - those lands including the property owned by the City of Duluth, by the Government of the United States, and by the State of Minnesota and their respective subdivisions which are used for aeronautical purposes and are contiguous with the runway and building area facilities. The airport boundaries are illustrated in the Airport Property Map of the approved set of Airport Layout Plans on file in the offices of the Duluth Airport Authority.

Airport Elevation -the established elevation of the highest point on the usable landing area which elevation is established to be 1,428 feet above mean sea level.

Airport Hazard -any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off. (Minn. Stat. 360.013)

Airport Safety Zone - an area subject to land use zoning controls adopted under Minnesota Statutes sections 360.061 to 360.074 if the zoning controls regulate (1) the size or location of buildings, or (2) the density of population. (Minn. Stat. 394.22, Subd. 1(a))

Airport Zoning Map- the Duluth International Airport Zoning Map prepared by RS&H, and adopted and attached hereto as Exhibit C of the Duluth International Airport Zoning Ordinance.

Airspace Zones – the Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, whose locations and dimensions are indicated on the Airport Zoning Map

Airspace Surface or Imaginary Surface - The imaginary areas in space and on the ground that are established by this Ordinance and/or the FAA in relation to the Duluth International Airport and its runways as the basis for regulating obstructions to air travel.

Approach Zone - All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of the runway. The inner edge of the approach surface is at the same width and elevations as, and coincides with, the end of the primary surface; as illustrated in Airport Zoning Map.

Board of Adjustment – Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board.

Building -Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

Commissioner - the commissioner of transportation of the State of Minnesota. (Minn. Stat. 360.013)

Conical Zone - all that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of approximately 4,000 feet from the end of Runway 9-27 and Runway 3-21 as measured radially outward from the periphery of the horizontal surface; whose location and dimensions are indicated on the Airport Zoning Map

Department - the Minnesota Department of Transportation. (Minn. Stat. 360.013)

Dwelling - any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

Duluth Airport Authority (“DAA”) – A political subdivision of the State of Minnesota established pursuant to Minnesota Laws of 1969, Chapter 577 for the purpose of controlling and managing City of Duluth airport facilities. DAA has the exclusive power to receive, control, and order the expenditure of any and all moneys and funds in the control and management of the City of Duluth airport facilities.

Duluth International Airport Joint Airport Zoning Board (“JAZB”) – The joint airport zoning board established pursuant to the authority conferred by Minnesota Statutes Sections 360.061-

360.074 comprised of appointed representatives of the St. Louis County, City of Duluth, City of Hermantown, Canosia Township, and the City of Rice Lake.

Entities or, individually, Entity – mean the Cities of Hermantown, Duluth, Rice Lake, Canosia Township and County of St. Louis, Minnesota.

Federal Aviation Administration (FAA) – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, and air navigation; and promoting the development of a national system of airports.

Federal Aviation Regulations (FAR) – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.

FAR Part 36 – Regulation establishing noise standards for the civil aviation fleet.

FAR Part 77 – Objects Affecting Navigable Airspace - Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

Group A Use – means assembly, churches, restaurants, movie theaters, banquet halls, bars, art galleries, casinos, bowling alleys, dance halls, funeral parlors, gymnasiums, indoor pools/tennis courts, lecture halls, museums, arenas, skating rinks, bleachers, grandstands, stadiums as described in the 2018 International Building Code, as may be revised from time to time.

Group E Use – means education use of a building by six or more at any one time for educational purposes through twelfth grade, daycare facilities for more than five children older than two and one-half years old for fewer than twenty-four hours per day as described in the 2018 International Building Code, as may be revised from time to time.

Group I-2 Use – means buildings used for medical care on a twenty-four hour basis for more than five persons who are incapable of self-preservation. Examples include detoxification, foster care, hospital, nursing homes and other supervised living facilities as described in the 2018 International Building Code, as may be revised from time to time.

Group R-1 Use – means residential occupancies containing sleeping units where occupants are primarily transient. Examples include B&Bs with more than six guest rooms, boarding homes with more than ten occupants, and congregate living with more than ten units, and hotels/motels as described in the 2018 International Building Code, as may be revised from time to time.

Hazard to Air Navigation - any object that has a substantial adverse effect upon the safe and efficient use of navigable airspace. Any obstruction to air navigation is presumed to be a hazard to air navigation unless an FAA aeronautical study has determined otherwise.

Height of Building - the vertical distance measured from the highest ground elevation adjoining the front wall of the building to the highest point of the building

Height of Tower or Structure - the vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Horizontal Surface - all that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation; whose location and dimensions are indicated on the Airport Zoning Map.

Hospital - an institution that is built, staffed, and equipped for the diagnosis of disease; for the medical and surgical treatment of in-patients whether they be sick or injured and for their overnight housing during this process. Hospital services include the care and treatment of non-ambulatory patients, intensive care units and acute care services. Outpatient surgery and other treatment centers where overnight stays are provided are not hospitals for the purposes of this definition.

Industrial Use - the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Land - Ground, soil, or earth, including structures on, above, or below the surface.

Landing Area - means the area of the airport used for the landing, taking off or taxiing of aircraft.

Local Airport Zoning Administrator - the person or position designated in the Local Airport Zoning Ordinance to administer and enforce the Local Airport Zoning Ordinance within their political subdivision

Local Airport Zoning Ordinance – means the ordinances as adopted by the City of Hermantown, City of Rice Lake, City of Duluth, Canosia Township, and St. Louis County and codified as a zoning ordinance of that political subdivision.

Material Change in Use – means that there is a change in the purposes for which the circumstances in which a building or property is used.

Material Expansion – means an increase in the floor or building coverage area or volume of an existing building.

Navigable Airspace - airspace at and above the minimum flight altitudes prescribed in the FAR's including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

Non-Conforming Lot - a lot of record created prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Structure - any structure constructed, converted or adopted for a use prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Use - any use of a structure or land or arrangement of land and structures existing prior to the Effective Date of this Ordinance that does not conform to the requirements of this Ordinance.

Non-Precision Instrument Runway - a runway having an existing or Planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are Planned.

Ordinance- This Duluth International Airport Zoning Ordinance, including all exhibits, appendices, and maps attached hereto.

Obstruction - Any structure, tree, plant or other object of natural growth that penetrates one or more of the applicable Navigable Airspaces, imaginary surfaces, or imaginary zones defined and illustrated in this Ordinance.

Permit- type of written authorization that must be granted by a government or other regulatory body before any activity regulated by the Local Airport Zoning Ordinance can legally occur.

Person - any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof. (Minn. Stat. 360.013)

Planned - as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics, and Duluth Airport Authority.

Precision Instrument Approach Zone - all that land which lies directly under an existing or Planned imaginary precision instrument approach surface longitudinally centered on the extended centerline at each end of Precision Instrument Runways 9-27 and 3-21, The inner edge of the precision instrument approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The precision instrument approach surface inclines upward and outward at a slope of 50:1 for a horizontal distance of approximately 10,000 feet expanding uniformly to a width of approximately 4,000 feet, then continues upward and outward for an additional horizontal distance of approximately 40,000 feet at a slope of 40:1 expanding uniformly to an ultimate width of approximately 16,000 feet; whose location and dimensions are indicated on the Airport Zoning Map

Precision Instrument Runway - a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), a Microwave Landing System (MLS), or a Precision Approach Radar (PAR), a Transponder Landing System (TLS), or a satellite-based system capable of operating to the same level of precision guidance provided by the other included systems. Also, a runway for which such a precision instrument approach system is Planned.

Primary Zone -All that land which approximately lies directly under an imaginary primary surface longitudinally centered on a runway and extending 200 feet beyond each end of Runways 9-27 and 3-21. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline; whose location and dimensions are indicated on the Airport Zoning Map

Public Assembly Use – A structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.

Public, Civic and Institutional Uses - uses of a public, quasi-public, nonprofit, or charitable nature generally providing a local service to the people of the community. Generally, these uses provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. This use category includes the following use types:

- a) Community centers or facilities that have membership provisions or are open to the general public to join at any time; and
- b) Facilities for the provision of public services, including governmental offices and public safety and emergency response services, such as police, fire and ambulance services. Such facilities often need to be located in or near the area where the service is provided.

Religious Assembly - a facility or area for people to gather for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Resource Extraction Use - uses involved in the process of (1) removing or extracting minerals and building stone from naturally occurring veins, deposits, bodies, beds, seams, fields, pools or other concentrations in the earth's crust, including the preliminary treatment of such ore or building stone; and (2) the extraction, exploration or production of oil or natural gas resources, including oil and gas wells and accessory offices, storage buildings, rig camps and gas transmission lines.

Runway - any existing or Planned paved surface or turf-covered area of the airport that is specifically designated and used or Planned to be used for aircraft landing and takeoff.

Safety Zone - The land use safety zones (Zones 1, 2 and 3) established by this Ordinance further illustrated in the Airport Zoning Map. *See also* Airport Safety Zone.

Site - a parcel or several adjoining parcels of land under common ownership.

Slope - an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Structure - Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Structural Alteration - Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances

Substantial Damage - Damage of any origin sustained by a Non-Conforming Structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the St. Louis County Assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent

of the assessed market value of the structure as determined by the St Louis County Assessor before the damage occurred.

Substantially Damaged Structure -- means a Non-Conforming Structure that has sustained Substantial Damage.

Transitional Zone - All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surface. Transitional surfaces for those portions of the instrument approach surface which project through and beyond the limits of the conical surface, extend a distance of approximately 5,000 feet measured horizontally from the edge of the instrument approach surface and at right angles to the extended instrument runway centerline; whose location and dimensions are indicated on the Airport Zoning Map.

Traverse Ways - roads, railroads, trails, waterways, or any other avenue of surface transportation.

Utility Runway - a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less and which runway is less than 4,900 feet in length.

Variance -- Any modification or variation of application of this Ordinance to a real property structure or use approved in writing by the BOA.

Visual Runway - a runway intended solely for the operation of aircraft using visual approach procedures, with no existing or Planned instrument approach procedures.

Zoning -- the partitioning of land parcels in a community by ordinance into zones and the establishment of regulations in the ordinance to govern the land use and the location, height, use and land coverage of buildings within each zone.

SECTION 4: AIRSPACE OBSTRUCTION ZONING

- A. **BOUNDARY LIMITATION:** The airspace obstruction height zoning restrictions set forth in this section shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
- B. **AIRSPACE ZONES:** Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of this Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
- C. **HEIGHT RESTRICTIONS:** Except as otherwise provided in the Ordinance, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in this Section 4(B). Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

SECTION 5: LAND USE SAFETY ZONING

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SAFETY ZONE BOUNDARIES INTENT AND SCOPE: In order to carry out the purpose of this Ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

- A. **SAFETY ZONE 1:** All land designated as Safety Zone 1 on the Airport Zoning Map and as legally described in Exhibit B.
- B. **SAFETY ZONE 2:** All land designated as Safety Zone 2 on the Airport Zoning Map and legally described in Exhibit B.
- C. **SAFETY ZONE 2.5:** All land designated as Safety Zone 2.5 on the Airport Zoning Map and legally described in Exhibit B.
- D. **SAFETY ZONE 3:** All land designated as Safety Zone 3 on the Airport Zoning Map and legally described in Exhibit B.
- E. **BOUNDARY LIMITATIONS:** The land use zoning restrictions set forth in this Section 5 shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map.

F. **USE RESTRICTIONS**

In order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following use restrictions are applied to the land use Safety Zones:

1. **ALL SAFETY ZONES:** No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. **SAFETY ZONE 1:** Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those

uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include Agricultural Use, Resource Extraction Use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking.

3. **SAFETY ZONE 2:**

3.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2:

3.1.1 Group A Uses;

3.1.2 Group E Uses;

3.1.3 Group 1-2 Uses; and

3.1.4 Group R-1 Uses.

3.2 Density Limitation. Other uses not specifically prohibited by Section 3.1 must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the 2020 Minnesota State Building Code, or its successor.

4. **SAFETY ZONE 2.5:**

4.1 Specific Prohibited Uses. The following classifications of building and structures as to use and occupancy are prohibited in Safety Zone 2.5;

4.1.1 Childcare or daycare centers;

4.1.2 State licensed residential care facilities and housing with service establishments serving 7 or more persons;

4.1.3 State licensed adult daycare facility serving 13 or more persons;

4.1.4 State licensed group family daycare facility serving 13 or more children;

4.1.5 Public or private school.

4.1.6 Public or private Hospital.

5. **SAFETY ZONE 3:** Areas designated as Safety Zone 3 are only subject to the restrictions set forth in this Section 5(E)(1).

SECTION 6: AIRPORT ZONING MAP

The Zones established in this Ordinance are shown on the Airport Zoning Map attached hereto as Exhibit C and made a part hereof. The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Ordinance is hereby adopted in its entirety as part of this Ordinance.

SECTION 7: EXISTING USES AND STRUCTURES AS OF ENACTMENT

- A. **THIS ORDINANCE AND ANY LOCAL AIRPORT ZONING ORDINANCE NOT RETROACTIVE:** The regulations prescribed by this Ordinance and any Local Airport Zoning Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or Structure, or tree after the Effective Date (Section 21 – EFFECTIVE DATE) of this Ordinance.
- B. **ACQUISITION IN SAFETY ZONES:** The Airport is an essential public facility. The DAA or City of Duluth may acquire land at their own expense for the purposes of preventing and/or reducing Airport Hazards and Aircraft Accidents.

SECTION 8: PERMITS; AND ORDERS TO REMOVE USE OR STRUCTURE, OR TREE

- A. **PERMIT STANDARDS.** Permit applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator pursuant to their applicable Local Airport Zoning Ordinance. Each Permit application shall indicate the purpose for which the Permit is desired, with sufficient information with respect to the proposed project to allow a determination as to whether it conforms to the applicable Local Airport Zoning Ordinance. If such determination is in the affirmative, the Permit shall be granted. Copies of applications for permits shall be provided to the DAA.
- B. **PERMIT REQUIRED.** The following structures or uses shall not be allowed in a Safety Zone 2 unless a Permit has first been submitted to and granted by the Local Airport Zoning Administrator for that jurisdiction:
1. Material expansion of an Existing Structure or Use. Permit required.
 2. New structures or uses. Permit required.
 3. Abandoned Non-Conforming Structure. Permit required for structure to be re-used, rebuilt or replaced.
 4. Substantially Damaged Non-Conforming Structure. Permit required to rebuild, repair, or replace.
 5. Material Change in Non-Conforming Use. Permit required before material change in use may occur.
- C. **ORDER TO REMOVE USE, STRUCTURE, OR TREE.** Whether application is made for a Permit under this subdivision or not, the Local Airport Zoning Administrator may by appropriate action compel the owner of any Structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the applicable Local Airport Zoning Ordinance. If the owner of the Structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the Local Airport Zoning Administrator may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the applicable Local Airport Zoning Ordinance.

SECTION 9: VARIANCES

- A. **APPLICATION.** Any person desiring to erect or increase the height of any Structure, permit the growth of any tree, or use property in a way prohibited by the applicable

Local Airport Zoning Ordinance may apply to both the Local Airport Zoning Administrator and the BOA for a Variance from such regulations. Variance applications shall be made in the manner and on the form established by the Local Airport Zoning Administrator. The Local Zoning Administrator may also establish, collect, and retain a Variance application fee. Variance applications shall be delivered to the Local Airport Zoning Administrator, who shall then deliver the Variance application to the BOA and DAA. The Variance applications may only be made after the Local Airport Zoning Administrator determines that a Variance is required. Copies of Variance applications shall be provided to the DAA.

- B. FAILURE OF BOARD TO ACT ON VARIANCE.** This Section 9B is intended to implement the provisions of Minnesota Statutes § 360.063, Subd. 6a and § 360.067, Subd. 2. If a person submits a complete application for a Variance by certified mail to both the Local Airport Zoning Administrator and the BOA, and they both fail to grant or deny the Variance within four (4) months after receipt of the application, the Variance shall be deemed to be granted by the BOA, unless the BOA has made its decision within a longer time period authorized in writing by applicant. When the Variance is granted by reason of the failure of the BOA to act on the Variance, the person receiving the Variance shall notify the BOA and the Commissioner, in writing by certified mail, that the Variance has been granted. The applicant shall include a copy of the original Permit and Variance applications with the notice. The Variance shall be effective sixty (60) days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Minnesota Statutes Section 360.063, Subdivision 6(a).
- C. VARIANCE STANDARDS.** The provisions of Minnesota Statutes § 360.067, Subd. 2 shall be applicable to an application for a Variance. Variances shall only be granted where it is duly found by the BOA that a literal application or enforcement of the regulations would result in practical difficulty, or undue hardship, and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the applicable Local Airport Zoning Ordinance provided any Variance so allowed may be subject to any reasonable conditions that the JAZB or Commissioner may deem necessary to effectuate the purpose of the applicable Local Airport Zoning Ordinance.

SECTION 10: HAZARD MARKING AND LIGHTING

The Local Airport Zoning Administrator or the BOA may condition any Permit or Variance granted so as to require the owner of the Structure or tree or use in question at their own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an Airport Hazards.

SECTION 11: LOCAL AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Local Airport Zoning Administrator to enforce the regulations prescribed by the applicable Local Airport Zoning Ordinance. Regulations prescribed by the applicable Local Airport Zoning Ordinance for which a Permit is not required to be obtained under the Local Airport Zoning Ordinance shall be enforced and administered as determined by the Local Airport Zoning Administrator. Permit applications shall be made to the Local Airport Zoning Administrator for that jurisdiction. Copies of Permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the applicable Local Airport Zoning Ordinance. Variance applications shall

be made to both the Local Airport Zoning Administrator for that Jurisdiction and the BOA. Copies of Variance applications shall be provided to the DAA.

SECTION 12: BOARD OF ADJUSTMENT FOR THE DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD

A. Establishment: The Board of Adjustment ("BOA") shall consist of five members, one member each appointed by:

1. Canosia Township
2. City of Duluth;
3. City of Hermantown;
4. City of Rice Lake; and
5. Duluth Airport Authority.

Each member shall serve for a term of three years and until their successor is duly appointed and qualified. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. BOA members may be removed by the Entity which appointed such member at any time, with or without cause. JAZB members may also serve on the BOA.

B. Powers: The BOA shall have and exercise the following powers:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Local Airport Zoning Administrator in the enforcement of the Local Airport Zoning Ordinance;
- (2) to hear and decide any special exceptions to the terms of the Local Airport Zoning Ordinance upon which the BOA may be required to pass under such Local Airport Zoning Ordinance; and
- (3) to hear and decide Variances.

C. Majority Vote: The concurring vote of a majority of the members of the BOA shall be sufficient for any action or any order, requirement, decision, or determination of the Local Airport Zoning Administrator, or to make a decision on any matter upon which it is required to pass under the Local Airport Zoning Ordinance or to make a decision on a Variance.

D. Rules and Procedures: The BOA shall adopt rules in accordance with the provisions of this Ordinance. Upon their appointment the BOA members shall select a chair to act at the pleasure of the BOA. Meetings of the BOA shall be held at the call of the chair and at such other times as the BOA may determine. The chair, or if absent, the acting chair, may administer oaths and compel the attendance of witnesses. All hearings of the BOA shall be public. The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the BOA and shall be a public record.

SECTION 13: APPEALS

A. Who May Appeal:

Any Person directly affected by any decision of the Local Airport Zoning Administrator in connection with the administration of a Local Airport Zoning Ordinance may appeal that decision to the BOA. Such appeals may also be made by any governing body of the Entities.

B. Procedure:

All appeals hereunder must be commenced in writing within 10 business days of the issuance in writing of the decision by the Local Airport Zoning Administrator, by filing with the Local Airport Zoning Administrator and the BOA a notice of appeal specifying the grounds thereof and the applicable appeal filing and hearing fee set by the BOA. The Local Airport Zoning Administrator shall forthwith transmit to the BOA all data constituting the record upon which the action appealed from was taken. Copies of the data shall also be provided to the DAA.

C. Stay of Proceedings:

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Local Airport Zoning Administrator certifies to the BOA, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate finds that a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the BOA on written notice to the Local Airport Zoning Administrator and on due cause shown.

D. Hearing:

The BOA shall fix a time for hearing appeals, and then give public notice to the Entities and the DAA, and written notice by mail to the appellant. At the hearing, any party may appear in person or by agent or by attorney.

E. Decisions:

The BOA may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, in writing with detailed findings, as may be appropriate under the circumstances, and to that end shall have all the powers of an Local Airport Zoning Administrator.

SECTION 14: JUDICIAL REVIEW

All decisions of the BOA are final. Any party aggrieved by a decision of the BOA may appeal as authorized by Minnesota law provided that such appeal is made within thirty (30) days of the date of the decision of the BOA.

SECTION 15: PENALTIES

- A. **CRIMINAL.** Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a Permit or Variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or

structure or permit the growth of any tree, except as permitted by such Permit or Variance, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense.

- B. CIVIL. In addition, a Local Airport Zoning Administrator or the DAA may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the Local Airport Zoning Ordinance, or of any order or ruling made in connection with their administration or enforcement of this Ordinance, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case.

SECTION 16: EXEMPTIONS – LAND USED FOR AERONAUTICAL PURPOSES

The restrictions of this Ordinance or any Local Airport Zoning Ordinance shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the Duluth Airport Authority exclusively for aeronautical purposes.

SECTION 17: CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area including but not limited to the Local Airport Zoning Ordinance, whether the conflict be with respect to the height of Structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION 18: SEVERABILITY

In any case in which the provisions of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular Structure or parcel of land to such an extent, or to be so onerous in their application to such a Structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the United States or State of Minnesota Constitutions, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 19: ADMINISTRATION

- A. Meetings and hearings of the JAZB and BOA shall be held at the Duluth International Airport.
- B. JAZB and BOA shall be supported administratively by the staff of the Duluth Airport Authority and Duluth City Attorney's Office.
- C. The BOA shall be supported by the staff and legal counsel provided by the Entity in whose jurisdiction the property affected by the Variance is located with respect to the requested Variance.
- D. The BOA shall be supported administratively by the staff of the Duluth Airport Authority and legal counsel provided by the Duluth Airport Authority in connection with any judicial review of any actions of the BOA pursuant to Section 14 hereof.

E. The DAA shall provide reasonable technical advice and assistance to Local Zoning Administrators with respect to the administration and enforcement of a Local Zoning Ordinance upon request by a Local Zoning Administrator.

SECTION 20: LOCAL AIRPORT ZONING ORDINANCE

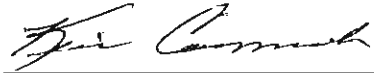
Each of the Entities shall consider the adoption of amendments to its comprehensive plan and thereafter amendments to the zoning for its jurisdiction that incorporate the applicable provisions of this Ordinance. Any such amendments to Entities' zoning shall become effective only after this Ordinance has been approved by the Commissioner.

SECTION 21: EFFECTIVE DATE

This Ordinance shall take effect upon recordation in the St. Louis County Recorder's Office, which shall occur after approval of the Ordinance by the Commissioner. Copies thereof shall be filed with the State of Minnesota Commissioner of Transportation, Division of Aeronautics, and the Entities.

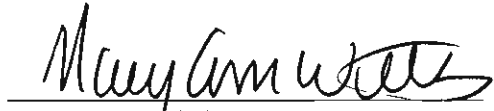
Passed and adopted by the Duluth International Joint Airport Zoning Board ("JAZB") on October 6, 2021 after public hearing by the JAZB, and after approval by the Commissioner on September 24, 2021.

DULUTH INTERNATIONAL AIRPORT JOINT ZONING BOARD



Kevin Connick
JAZB Chairperson

ATTEST:



Mary Ann Wittkop
JAZB Secretary

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 6th day of October, 2021 by Kevin Connick and Mary Ann Wittkop, the Chairperson and Secretary of the Duluth International Airport Joint Airport Zoning Board.

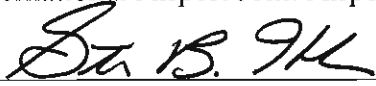

Notary's Signature



EXHIBIT A-SAFETY ZONE LEGAL DESCRIPTIONS

1427462

Safety Zone 1 of East End of Runway 9-27

That part of Section 6, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to the intersection with the north line of the Northeast Quarter of the Southeast Quarter of said Section 6; thence North 89 degrees 17 minutes 03 seconds East, along last described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said point of beginning; thence North 79 degrees 51 minutes 54 seconds West a distance of 4590.59 feet to said point of beginning.

Safety Zone 2 of East End of Runway 9-27

That part of Sections 5, 6, and 8, Township 50, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the northwest corner of the Southwest Quarter of said Section 6; thence on an assumed bearing of South 00 degrees 49 minutes 13 seconds East, along the west line of said Southwest Quarter, a distance of 935.43 feet to the intersection with the easterly extension of the centerline of Runway 9-27; thence South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 204.53 feet to the east end of the proposed runway 9-27; thence continuing South 88 degrees 23 minutes 44 seconds East, along last described easterly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 83 degrees 04 minutes 25 seconds East a distance of 4180.09 feet to a point on the north line of the Northeast Quarter of the Southeast Quarter of said Section 6 said point being the actual point of beginning of Zone 2; thence North 89 degrees 17 minutes 03 seconds East, along last

described north line, a distance of 705.98 feet to the westerly right of way line of Rice Lake Road; thence southerly, along last described right of way line, a distance of 2280.58 feet to the east line of the North Half of the South Half of the Southeast Quarter of the Southeast Quarter of said Section 6; thence South 01 degree 03 minutes 54 seconds East, along last described east line, a distance of 39.99 feet to the south line of said North Half of the South Half of the Southeast Quarter of the Southeast Quarter; thence South 89 degrees 00 minutes 30 seconds West, along last described south line, a distance of 457.54 feet to the intersection with a line bearing South 79 degrees 51 minutes 54 seconds East from said Point "A"; thence South 79 degrees 51 minutes 54 seconds East a distance of 4368.29 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3643.14 feet to the intersection with a line bearing North 83 degrees 04 minutes 25 seconds East from said point of beginning; thence South 83 degrees 04 minutes 25 seconds West a distance of 4667.96 feet to said point of beginning.

Safety Zone 1 of North End of Runway 3-21

That part of Section 31, Township 51, Range 14, St Louis County, Minnesota, described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 31; thence on an assumed bearing of North 89 degrees 22 minutes 07 seconds East, along the south line of said Southwest Quarter, a distance of 56.31 feet to the intersection with the northeasterly extension of the centerline of Runway 3-21; thence North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 1458.40 feet to the end of the proposed extension of Runway 3-21; thence continuing North 30 degrees 52 minutes 18 seconds East, along last described northeasterly extension, a distance of 200.00 feet; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence North 22 degrees 20 minutes 27 seconds East a distance of 3933.06 feet to the intersection with the north line of the Northeast Quarter of the Northwest Quarter of said Section 31; thence North 89 degrees 06 minutes 56 seconds East, along last described north line, a distance of 470.64 feet to the west line of the East 200.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 00 degrees 40 minutes 03 seconds East, along last described west line, a distance of 1323.05 feet to the south line of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 06 seconds East, along last described south line, a distance of 200.00 feet to the southeast corner of said Northeast Quarter of the Northwest Quarter; thence North 89 degrees 08 minutes 19 seconds East, along the south line of the Northwest Quarter of the Northeast Quarter of said Section 31, a distance of 990.90 feet to the west line of the East Half of the East Half of said Northwest Quarter of the Northeast Quarter; thence North 00 degrees 40 minutes 13 seconds West, along last described west line, a distance of 1323.39 feet to the north line of said Northeast Quarter of Section 31; thence North 89 degrees 07 minutes 22 seconds East, along last described north line, a distance of 990.84 feet to the east line of the West Half of the Northeast Quarter of the Northeast Quarter of said Section 31; thence South 00 degrees 40 minutes 22 seconds East, along last described east line, a distance of 185.61 feet to the intersection with a line bearing North 39 degrees 24 minutes 09 seconds East from said point

of beginning; thence South 39 degrees 24 minutes 09 seconds West a distance of 5184.44 feet to said point of beginning.

Safety Zone 2.5 of North End of Runway 3-21

The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 30 and the West Three Quarters of the Northwest Quarter of the Northeast Quarter and the East 200.00 feet of the Northeast Quarter of the Northwest Quarter, Section 31, all located in Township 51, Range 14, St. Louis County, Minnesota.

Safety Zone 1 of West End of Runway 9-27

That part of Sections 3 and 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of said Section 3; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to the intersection with the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1437.77 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said point of beginning; thence North 83 degrees 04 minutes 25 seconds East a distance of 4311.30 feet to said point of beginning.

Safety Zone 2 of West End of Runway 9-27

That part of Section 4, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Southeast Quarter of Section 3 of said Township 50; thence on an assumed bearing of South 00 degrees 17 minutes 07 seconds East, along the east line of said Southeast Quarter, a distance of 523.82 feet to the intersection with the westerly extension of the centerline of Runway 9-27; thence North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 817.84 feet to the end

of the proposed extension of Runway 9-27; thence continuing North 88 degrees 23 minutes 44 seconds West, along last described westerly extension, a distance of 200.00 feet; thence South 01 degree 36 minutes 16 seconds West a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 01 degree 36 minutes 16 seconds East a distance of 1000.00 feet; thence North 79 degrees 51 minutes 54 seconds West a distance of 5093.17 feet to a point on the south line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 4 said point being the actual point of beginning of Zone 2; thence South 89 degrees 17 minutes 28 seconds West, along last described south line, a distance of 612.03 feet to the west line of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 29 minutes 37 seconds East, along last described west line, a distance of 986.08 feet to the southwest corner of said Southeast Quarter of the Northeast Quarter; thence North 89 degrees 19 minutes 12 seconds East, along the south line of said Southeast Quarter of the Northeast Quarter, a distance of 1314.17 feet to the southeast corner of said Southeast Quarter of the Northeast Quarter; thence South 00 degrees 11 minutes 17 seconds West, along the east line of the Southeast Quarter of said Section 4, a distance of 1325.00 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 4; thence South 89 degrees 14 minutes 37 seconds West, along last said north line, a distance of 1304.68 feet to the northwest corner of said Southeast Quarter of the Southeast Quarter; thence South 00 degrees 13 minutes 11 seconds East, along the west line of said Southeast Quarter of the Southeast Quarter, a distance of 253.87 feet to the intersection with a line bearing South 83 degrees 04 minutes 25 seconds West from said Point "A"; thence South 83 degrees 04 minutes 25 seconds West a distance of 3932.53 feet; thence North 00 degrees 07 minutes 11 seconds West a distance of 3854.41 feet to the intersection with a line bearing North 79 degrees 51 minutes 54 seconds West from said point of beginning; thence South 79 degrees 51 minutes 54 seconds East a distance of 4576.98 feet to said point of beginning.

Safety Zone 1 of South End of Runway 3-21

That part of Sections 11 and 12, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to the actual point of beginning of Zone 1; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to the intersection with the northeasterly right of way line of Miller Trunk Highway; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of

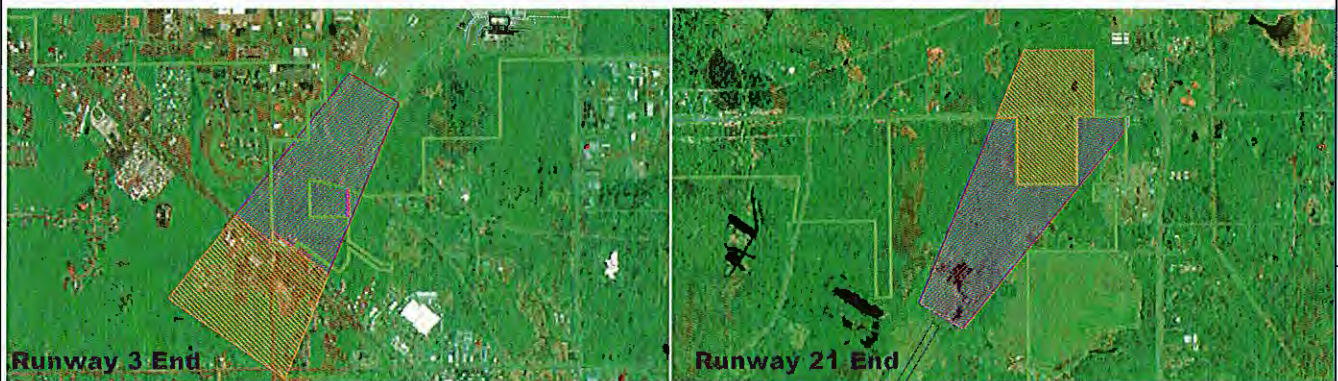
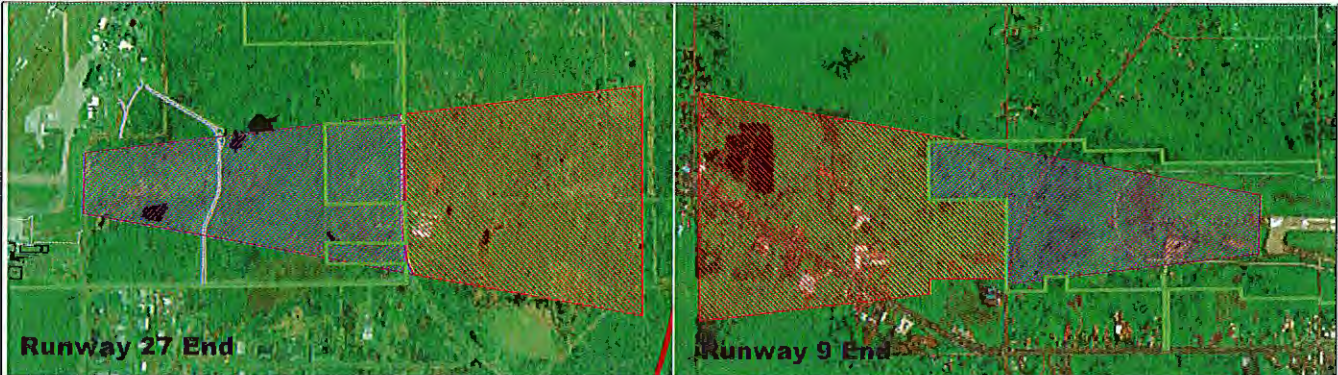
347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said point of beginning; thence North 23 degrees 51 minutes 10 seconds East a distance of 2989.06 feet to said point of beginning.

Safety Zone 2.5 of South End of Runway 3-21

That part of Sections 11, 12 and 13, Township 50, Range 15, St Louis County, Minnesota, described as follows:

Commencing at the northeast corner of the Northwest Quarter of said Section 12; thence on an assumed bearing of South 89 degrees 22 minutes 46 seconds West, along the north line of said Northwest Quarter, a distance of 548.52 feet to the intersection with the southwesterly extension of the centerline of Runway 3-21; thence South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 349.89 feet to the end of proposed runway 3-21; thence continuing South 30 degrees 52 minutes 18 seconds West, along last described southwesterly extension, a distance of 200.00; thence South 59 degree 07 minutes 42 seconds East a distance of 500.00 feet to a point hereinafter referred to as Point "A"; thence North 59 degrees 07 minutes 42 seconds West a distance of 1000.00 feet; thence South 37 degrees 59 minutes 48 seconds West a distance of 3104.55 feet to a point on the northeasterly right of way line of Miller Trunk Highway said point being the actual point of beginning of Zone 2.5; thence South 53 degrees 03 minutes 51 seconds East, along last said northeasterly right of way line, a distance of 739.20 feet to the east line of the Southeast Quarter of said Section 11; thence North 00 degrees 34 minutes 00 seconds West, along last described east line, a distance of 347.40 feet to the intersection with the northwesterly extension of the southwesterly line of Lot 4 of the recorded plat of "ANDERSON'S ACRE TRACTS" on file and of record in the office of the St Louis County Recorder; thence South 54 degrees 08 minutes 29 seconds East, along last described northwesterly extension and said southwesterly line of Lot 4 and the southeasterly extension of said southwesterly line of Lot 4, a distance of 1201.00 feet to the intersection with a line bearing South 23 degrees 51 minutes 10 seconds West from said Point "A"; thence South 23 degrees 51 minutes 10 seconds West a distance of 2068.80 feet; thence North 55 degrees 45 minutes 40 seconds West a distance of 2232.99 feet to the intersection with a line bearing South 37 degrees 59 minutes 48 seconds West from said point of beginning; thence North 37 degrees 59 minutes 48 seconds East a distance of 1822.30 feet to said point of beginning.

EXHIBIT B – AIRPORT ZONING MAPS



RS&H

RS&H, P.C.
4520 Airport Approach Road, Suite 4
Duluth, Minnesota 55811
763-252-1077 FAX 763-252-1000
www.rsandh.com



DULUTH CUSTOM ZONING ORDINANCE

SCALE: 1:10,000

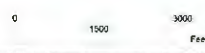
NO.	DESCRIPTION	DATE

DATE ISSUED: _____
DESIGNED BY: _____
DRAWN BY: _____
REVISIONS BY: _____

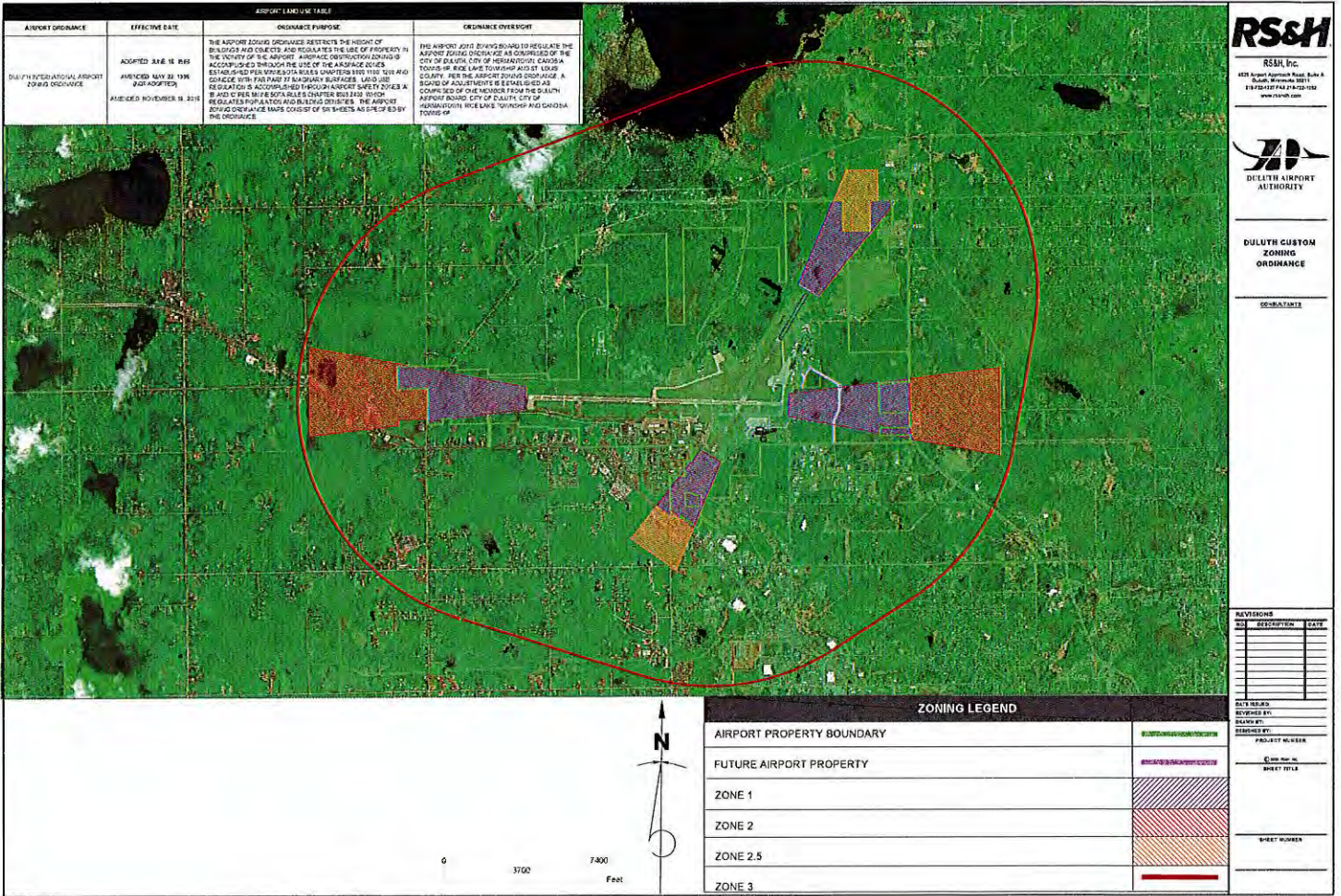
PROJECT NUMBER: _____
DRAWING NUMBER: _____
SHEET TITLE: _____

SHEET NUMBER: _____

ZONING LEGEND	
AIRPORT PROPERTY BOUNDARY	
FUTURE AIRPORT PROPERTY	
ZONE 1	
ZONE 2	
ZONE 2.5	
ZONE 3	



Source: USGS National Wetlands Inventory, 2001; Aerial Photography, 2001; and other sources.



STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

IN THE MATTER OF:

Docket No. 61
Order No. 638

The approval of zoning regulations for
the Duluth International Airport

**FINDINGS, CONCLUSIONS AND
ORDER**

FINDINGS

1. The Joint Airport Zoning Board of the Duluth International Airport has drafted the "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record including a detailed analysis that explains how the proposed custom airport zoning regulations addressed the factors listed in Minnesota Statutes, Section 360.0656, Subd. 1 to provide a reasonable level of safety.
2. The Joint Airport Zoning Board of the Duluth International Airport provided notice to the commissioner of their intention to establish and adopt a custom airport zoning ordinance under the regulations of Minnesota Statutes, Section 360.0656.
3. A public hearing on the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was held on September 24, 2020 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.
4. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.
5. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.
6. The Joint Airport Zoning Board of the Duluth International Airport submitted the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on November 10, 2020.
7. The commissioner examined the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and, within 90 days of receipt of the proposed regulations, objected on the grounds that the proposed regulations did not provide a reasonable level of safety.

8. The Joint Airport Zoning Board of the Duluth International Airport responded to the objections of the commissioner and submitted a revised "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record to the commissioner for review on August 11, 2021.
9. A second public hearing on the revised "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was held on July 21, 2021 giving parties in interest and citizens an opportunity to be heard. Notice of this hearing was published three times during the period between 15 days and 5 days before the hearing in an official newspaper, a second newspaper of wide circulation in the area affected by the proposed regulations and on the Joint Airport Zoning Board's website. No notices were published in the legal section of either newspaper.
10. Notice was sent by mail at least 10 days before the hearing to persons and landowners where the location or size of a building, or density of population, will be regulated, and to persons or municipalities that had previously requested such notice.
11. A copy of the notice and a list of the owners and addresses to which the notice was sent was attested to by the responsible person and made a part of the records of the proceedings.
12. The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" was made available for public inspection on the Duluth International Airport website from July 6, 2021 to the date of the hearing.

CONCLUSIONS

1. Adoption of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is necessary for both the operation of the Airport and the safety of both the public frequenting that airport and the occupants of land in its vicinity.
2. The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" and supporting record evaluate the criteria under 360.0656, Subd. 1 and provide a reasonable level of safety.
3. A bona fide effort to comply with the requirements of Minnesota Statutes, Section 360.065, Subd. 1, was made prior to the approval of the proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE".

Based upon the foregoing Findings and Conclusions, the substantial evidence contained in the record, and the applicable law, the Director of the Office of Aeronautics of the Department of Transportation of the State of Minnesota, issues the following:

ORDER

The proposed "DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE" is hereby approved.

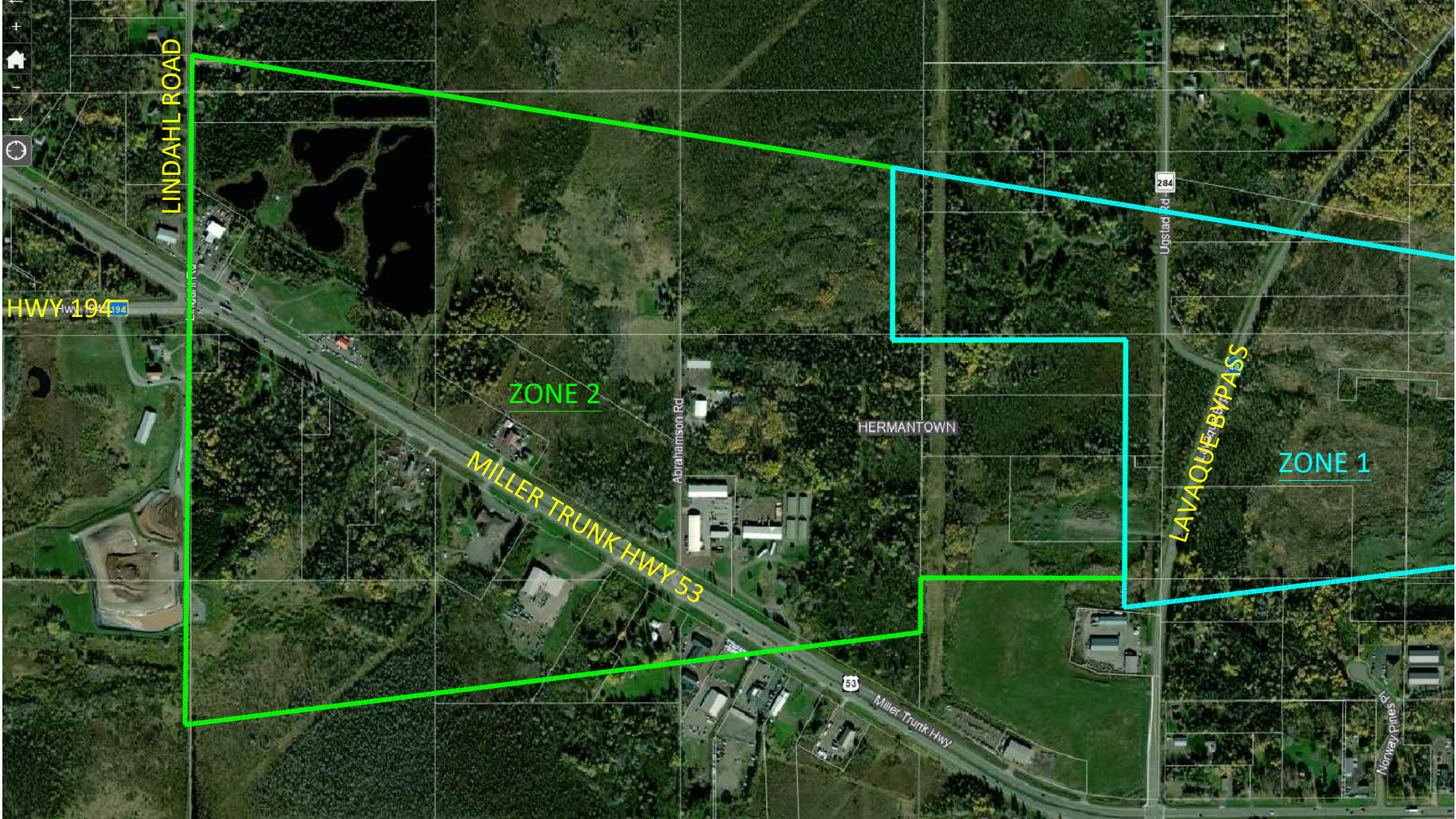
**BY ORDER OF THE DIRECTOR OF THE
OFFICE OF AERONAUTICS OF THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MINNESOTA**

**Cassandra
Isackson**

Digitally signed by Cassandra
Isackson
Date: 2021.09.24 08:57:54
-05'00'

Cassandra Isackson
Director Office of Aeronautics
Minnesota Department of Transportation

DATE: _____



LINDAHL ROAD

HWY 194

ZONE 2

MILLER TRUNK HWY 53

Abrahamson Rd

HERMANTOWN

53

Miller Trunk Hwy

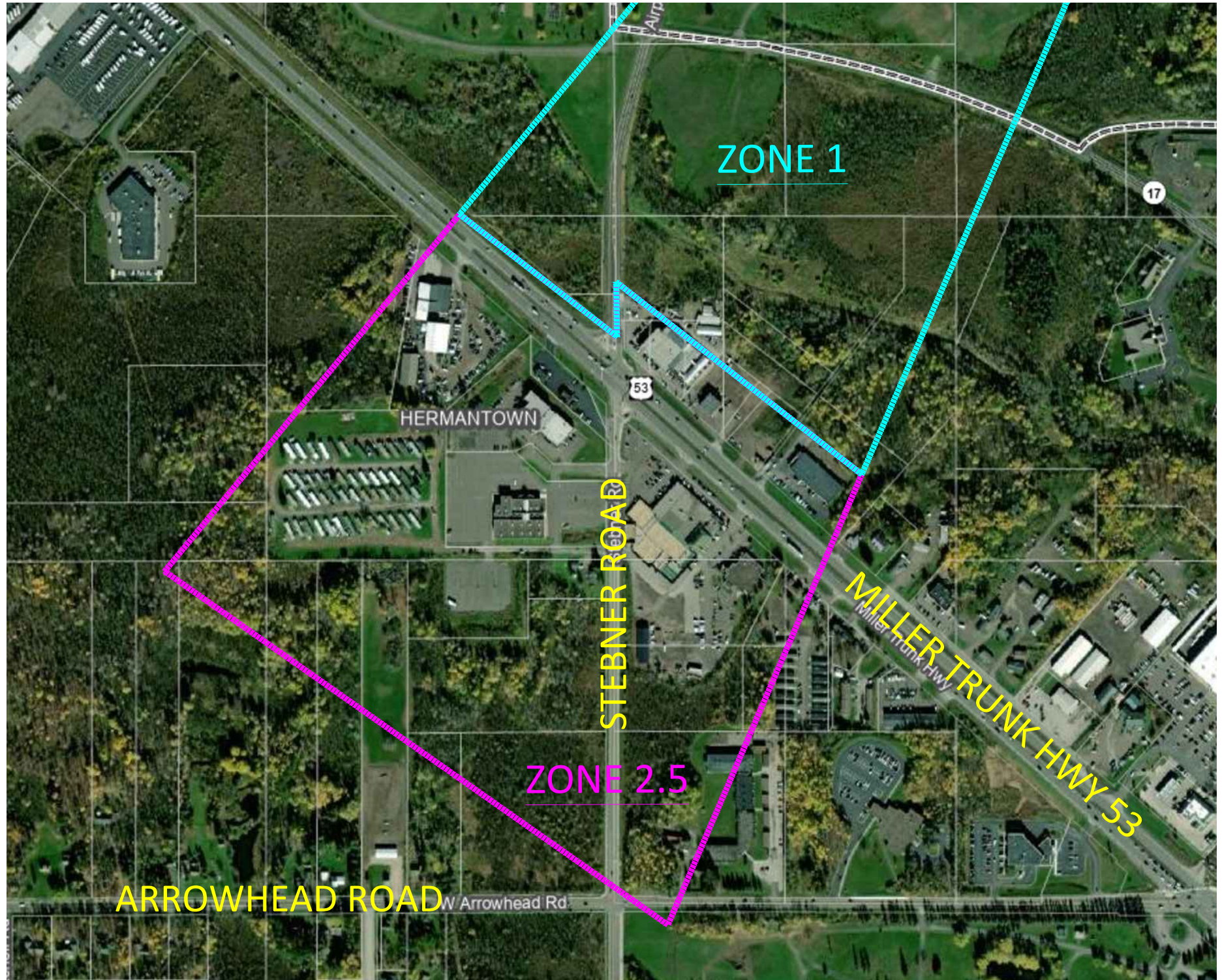
Ugsland Rd

284

LAVAQUE BYPASS

ZONE 1

Norway Pines



ZONE 1

ZONE 2.5

HERMANTOWN

STEBNER ROAD

MILLER TRUNK HWY 53

ARROWHEAD ROAD

W Arrowhead Rd

53

17

TO: Mayor & City Council
FROM: Eric Johnson, Community
Development Director



DATE: May 6, 2022

Meeting Date: 05/16/2022

SUBJECT: Amendment of Section 350.04 of
the Hermantown City Ordinance

Agenda Item: 11-B

Ordinance: 2022-06

REQUESTED ACTION

Conduct a second reading on the amendment to Section 350.04 of the Hermantown City Ordinance to change the street name of Eeve Drive to Stevie Drive.

BACKGROUND

The City has been received a petition to change the street name of Eeve Drive to Stevie Drive. This road intersects Richard Avenue and Haines Road and is located in the Hermantown Marketplace.

There are currently no businesses addressed off of Eeve Drive and in conversations with 911 addressing system, they have no issues with the proposed change of name.

A public hearing for this application was held on Tuesday, April 12, 2022. There were no members of the public who spoke regarding the application. The Planning and Zoning Commission recommended the application unanimously onto the City Council for their approval.

Should this petition be granted by the City Council, the applicant would be responsible for the purchase of the new street signs, and any applicable invoices or fees incurred by the City for the work of the Public Works Department in the installation of the signs and the City Engineer and City Attorney for any review related work.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

- Location Map
- Signed Petition
- Ordinance

Location Map

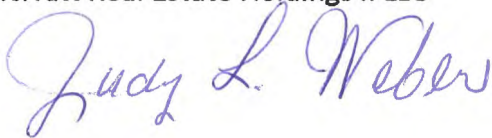


September 21, 2021

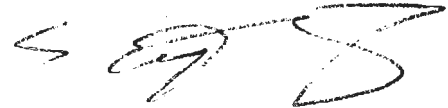
PETITION TO CHANGE ROAD NAME

This petition is to ask the City of Hermantown to change the name of Eevee Drive to Stevie Drive. Property owners along that drive have signed off below.

McNutt Real Estate Holdings II LLC



SLS Quicklubes LLC



Patriot Properties of Hermantown 2 LLC

Patriot Properties of Hermantown 3 LLC



Superior Choice Credit Union



Ordinance No. 2022-06

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING SECTION 350.04, ACCEPTANCE AND OPENING OF
ADDITIONAL ROADS AND STREETS, OF THE HERMANTOWN CITY CODE BY
MODIFYING THE NAME OF EVEE DRIVE TO READ AS STEVIE DRIVE**

Section 1. **Purpose and Intent.** The purpose and intent of this amendment is to reflect that Eeve Drive shall be hereinafter referred to as Stevie Drive in the official records of the City Code.

Section 2. **Authority.** Pursuant to Minnesota Statutes § 412.221, Subd. 18, the City Council is granted the power through this Ordinance to rename the streets and public places of the City.

Section 3. **Amendment to Section 350.04** Section 350.04, Acceptance and Opening of Additional Roads and Streets, contains an Exhibit A Ordinance 2021-02 which contains the Road Inventory of the City of Hermantown effective as of 2021 and is hereby amended to read as shown:

Quadrant	Road Name	Road Section	Surface	Length (Miles)
NE	Evee Dr. <u>Stevie Dr.</u>	Haines RD	Bit.	0.250

Deleted language is struck out and added language is underlined.

Section 3. **Amendment to be Inserted in Code.** After this ordinance becomes effective, the changes made by this ordinance shall be made in the appropriate place in the Hermantown City Code. This ordinance shall be published in the official newspaper of the City.

Section 4. **Effective Date.** The provisions of this Ordinance shall be effective after adoption and immediately upon publication once in the official newspaper of the City of Hermantown.

Dated: _____

Mayor

Attest:

City Clerk

Adopted: _____

Published: _____

Effective Date: _____

TO: Mayor & City Council
FROM: Eric Johnson, Community
Development Director



DATE: May 6, 2022

Meeting Date: 05/16/2022

SUBJECT: Zoning Map Amendment from P –
Public to C - Commercial

Agenda Item: 11-C

Ordinance: 2022-07

REQUESTED ACTION

Conduct a second reading on the proposed amendment to the Hermantown Zoning Map by rezoning 2-acres in the northwest corner of Parcel: 395-0030-00010 and the approximately 13,774 square feet of adjoining right of way from P, Public to C, Commercial.

BACKGROUND

The City has been received a request to rezone a 2 acre portion of the 74 acre Sunrise Funeral Home property. The 2 acre parcel is located in the NW quadrant of the property adjacent to Stebner Road and Arrowhead Road.

SITE DATA

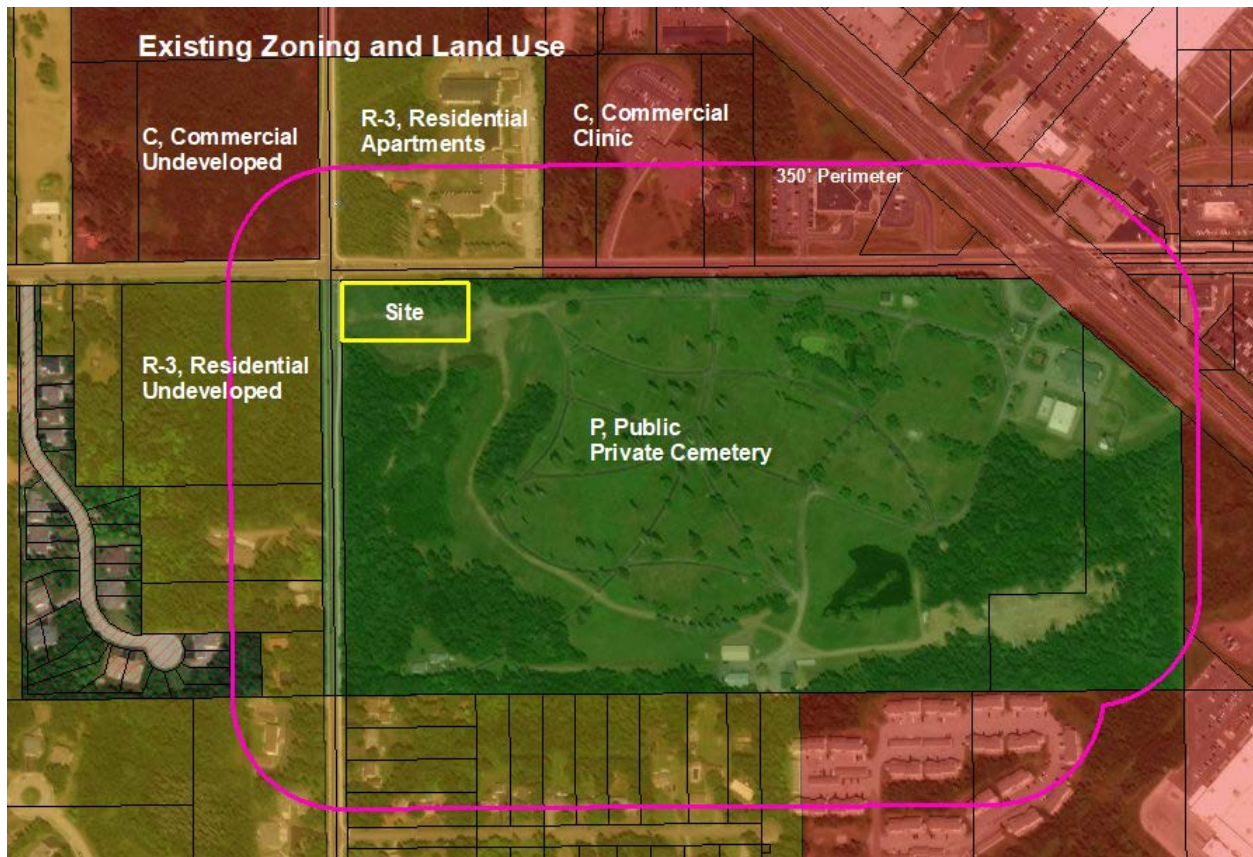
Address: 4798 Miller Trunk Highway
Comprehensive Plan: Concept Area 1: Maintain Suburban Character, Preserve Critical Natural Features, Phase Residential Development, Existing and New Park Areas
Zoning: P, Public
Lot Size: 2.0 acres
Wetlands: None
Shoreland Overlay: No
Airport Zoning: Safety Zone 2.5 and 3

The site is part of the 74-acre Sunrise Funeral Home, Cremation Services, and Cemetery located at 4798 Miller Trunk Highway. It has been owned and operated by the applicant for many years. The site is the 2-acres in the northwest corner of the property bound by Arrowhead Road to the north and Stebner Road to the west. The site measures 417.4 feet by 208.7 feet. In addition to the 2 acre site, the proposed application would rezone the adjoining west right of way measuring 66 feet by 208.7 feet which measures approximately 13,774 square feet.

A public hearing for this application was held on Tuesday, April 12, 2022. Other than the applicant, there were no members of the public who spoke regarding the application. The Planning

and Zoning Commission recommended the application unanimously onto the City Council for their approval.

The property is bordered by R-3, Residential and C, Commercial zoning districts. Existing uses of the neighboring properties on the north side of Arrowhead Road are allowed in the C, Commercial district including an apartment building and medical clinic. Properties on the west side of Stebner Road are undeveloped.



The applicant proposed to rezone the eastern 1 acre portion of this subject area in 2019. The City Council denied the request as the rezoning as it was an internal parcel that did not directly abut or was in the close proximity of a C, Commercial zoning district. This new application is for the 2 acres located in the NW corner of the overall cemetery property on the outside edge of the P, Public zoning district and is directly across from C, Commercial zoned property on the NW corner of the Stebner Road/Arrowhead Road.

Airport Zoning

The property is within the Airport Safety Zone Overlay. 91% is within the Airport Safety Zone 3 and is primarily affected by a limitation on structure elevation. However, the height limits of the base zoning district would prevent the Airport Safety Zone elevation limit from coming into effect. Approximately 9%, or 7,858 square feet, is within the Airport Safety Zone 2.5. This zone is subject to greater restrictions on types of uses, and prohibit the following:

- Childcare or daycare centers;
- State licensed residential care facilities and housing with service establishments serving 7 or more persons;
- State licensed adult daycare facilities serving 13 or more persons;
- State licensed group family daycare facilities serving 13 or more children;
- Public or private school.
- Public or private Hospital



Utilities

The site is well served by public utilities. City watermain and sanitary sewer mains are located along the entire frontage of both Arrowhead and Stebner Roads.

The site is also well served by roads. Arrowhead Road from Stebner to Miller Trunk Highway is a minor arterial road. Stebner and Arrowhead Road west of the intersection are major collector roads. The site is approximately one-third of a mile from the signalized intersection of Arrowhead Road and Miller Trunk Highway.

Wetlands

The site has been cleared previously. The National Wetland Inventory does not show wetlands on the 2 acres requested to be rezoned, though there are wetlands indicated to the south.

Zoning

Applicant is requesting a rezoning from P, Public to C, Commercial. Applicant has stated that they intend to subdivide the site into two one-acre parcels. Possible development scenarios that have been mentioned are two medical based professional offices.

Because there is not a specific use being proposed as part of this application, it is important to consider the various potential uses that would be allowed with new zoning. The Public zoning district allows for four permitted uses (Airport facilities, Public buildings and structures, Public parks and recreation areas, and Public service utilities including plants and service yards) and two special use categories (Cemetery, and public or private schools). The Commercial district provides for 50 different uses in retail sales, offices, professional and service businesses, and multi-family housing, mobile home parks, and places of worship. Any of those uses could be developed on these properties with the major limitation being the size of the property.

All development within the C, Commercial zone is through a Commercial Industrial Development Permit. Proposals for development of the site would require staff and Planning Commission review and approval. The rezoned areas would also have to be platted separately before new development.

Dimensional standards would also change as follows:

Dimensional Standards	C	P
Height	65 feet	50 feet
Setbacks		
<i>Front</i>	35 feet	35 feet
<i>Side (abutting street)</i>	35 feet	35 feet
<i>Side</i>	10 feet	15 feet
<i>Rear</i>	40 feet	25 feet
Minimum lot area	None	None
Minimum lot width	None	None
Maximum lot coverage	50%	35%

Comprehensive Plan

The site is in Area 1 on the Hermantown Comprehensive Plan Concepts Map. The goal for Area 1 is to maintain suburban character, preserve critical natural features, phase residential development, and develop existing and new park areas. Suburban character includes commercial development in the right places. Other commercial and light industrial areas exist within Area 1 including at Lavaque and Morris Thomas Roads, Hermantown and Haines Roads, in the City Industrial Park along Stebner Road.

Analysis of the site indicates that commercial zoning can be consistent with Plan Concept 5 to “develop new commercial uses in areas with similar uses, adequate public infrastructure, including fire, police and emergency medical services, highway and arterial road access and without adverse visual or environmental impacts on existing, established residential, public, recreational or commercial development.”

As discussed, the surrounding zoning and uses are compatible with the C, Commercial district. The adjacent area zoned R-3 is vacant so there are no existing uses to impact. R-3 zoning allows office buildings and hospitals through a SUP.

The site is an unused part of a private cemetery. Rezoning and allowing future commercial development does not reduce the quantity or quality of activities and public benefits intended to be preserved by the P, Public zoning district.

SUMMARY & JUSTIFICATION:

The proposed rezoning meets the criteria of the Comprehensive Plan and the overall goals and policies of the Zoning Ordinance. The 2-acre site is located in an area that has an existing commercial character and development of the site could be complementary to the area. Staff recommends approval of the rezoning based on the following findings:

1. The property is included in the suburban development concept area (Area 1) of the Comprehensive Plan within which commercial zoning and commercial development are currently allowed.
2. C, Commercial uses are compatible with the surrounding uses, including an apartment building, medical clinic, vacant commercial and residential zoned property, and a privately-operated cemetery, funeral home, and cremation service.

SOURCE OF FUNDS (if applicable)

N/A

ATTACHMENTS

- Location Map
- Current and Proposed Zoning Maps
- Ordinance

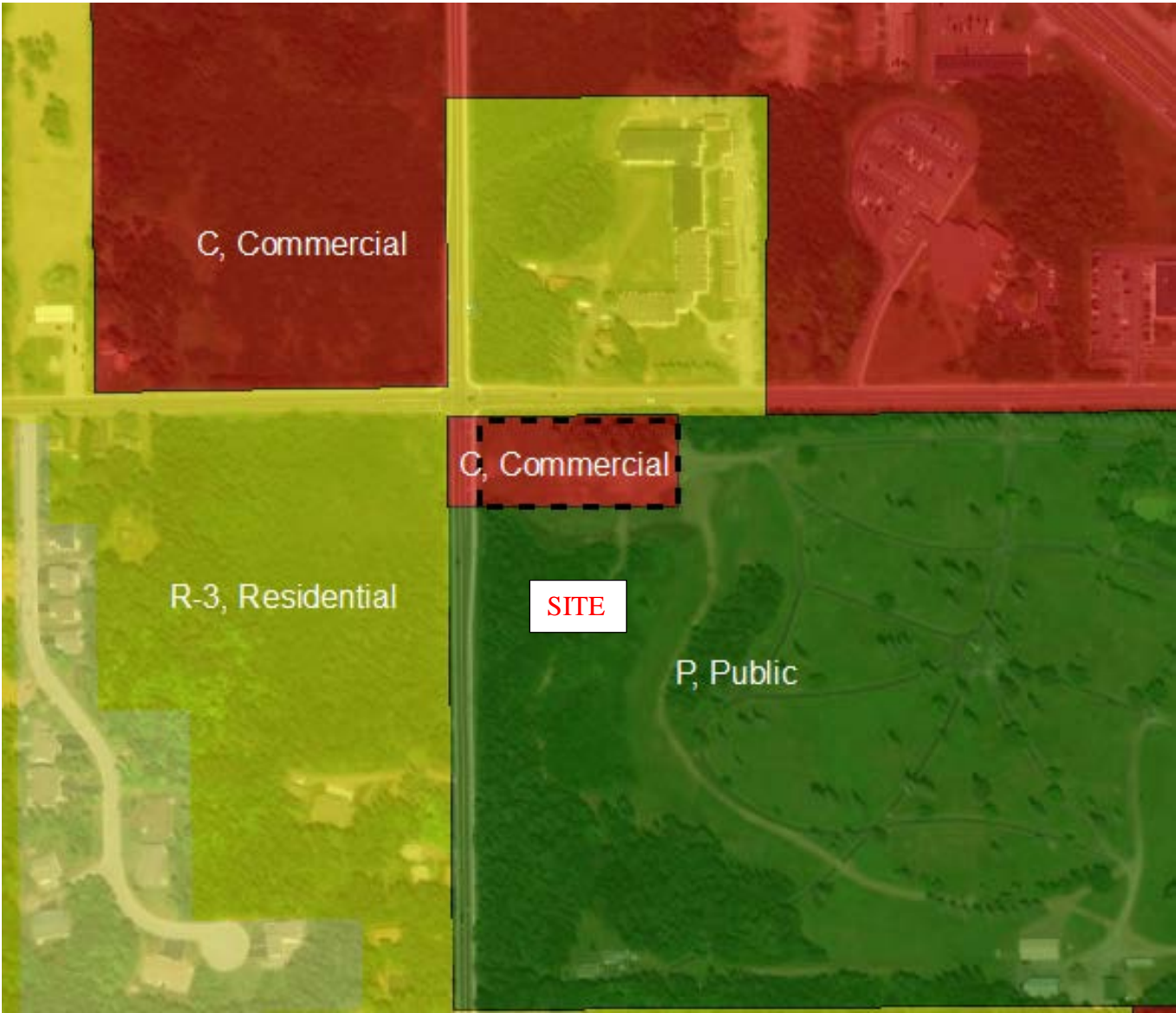
Location Map



Existing Zoning Map



Proposed Zoning Map



Ordinance No. 2022-07

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING TITLE 2 OF THE HERMANTOWN CITY CODE
BY AMENDING THE OFFICIAL ZONING MAP
(4798 MILLER TRUNK HIGHWAY)**

Section 1. Amendment to Official Zoning Map. The Official Zoning Map of the City of Hermantown is hereby amended so that an area measuring 483.4 feet east to west and 208.7 feet north to south of the northwest corner of the parcel described in Section 2 and adjoining right of way on Stebner Road is zoned C, Commercial.

Section 2. Purpose and Intent. The purpose of this amendment is to rezone an area measuring 483.4 feet east to west and 208.7 feet north to south of the northwest corner of ARROWHEAD MEMORIAL PARK HERMANTOWN; All of BLOC A AND BLOCK B EXCEPT THAT PART LYING EAST OF A LINE BEGINNING ON THE SOUTH LINE 600 FT WEST OF THE SOUTHEAST CORNER THENCE NORTHERLY PARALLEL TO EAST LINE 300 FEET THENCE EASTERLY PARALLEL TO SOUTH LINE 300 FEET THENCE NORTHERLY PARALLEL TO EAST LINE TO A POINT ON CENTERLINE OF MILLER TRUNK HWY and adjoining right of way on Stebner Road the property is zoned C, Commercial.

Section 3. Effective Date. This amendment to Title 2 of the Hermantown Code that amends the Official Zoning Map shall be effective after adoption immediately upon (1) the publication of this Amendment to Title 2 of the Hermantown City Code once in the legal newspaper of the City of Hermantown and (2) the filing of this Amendment to Title 2 with the County Recorder of St. Louis County.

Dated: _____

Mayor

Attest:

City Clerk

Adopted: _____

Published: _____

Effective Date: _____

TO: Mayor & City Council
FROM: John Mulder, City Administrator



DATE: May 12, 2022 **Meeting Date:** **5/16/2022**
SUBJECT: Indemnification Agreement – **Agenda Item:** 12-A **Resolution:** 2022-61x
City of Duluth

REQUESTED ACTION

Approve an indemnification agreement with the City of Duluth related to airport zoning and safety.

BACKGROUND

The adoption of airport zoning regulations are different than ordinary zoning regulations. Ordinary zoning regulations normally do not give rise to liability for takings (inverse condemnation) because they are legislative actions of a city that are uniformly applicable to like properties and do not enhance a commercial activity. Airport Zoning regulations have been determined by the Minnesota Courts to be for the benefit of a commercial activity, the airport, and create limitations on the use of properties simply because they are in the vicinity of the airport. This has led to successful takings claims (inverse condemnation) at the Rochester airport and other locations. The City of Hermantown has consistently taken the position that any airport zoning regulations related to the DIAP must be adopted by the Joint Airport Zoning Board and not the City of Hermantown so that the City of Hermantown would not be liable for any takings claims related to the adoption of the regulations. The Metropolitan Airport Commission (MAC) had a similar but much more extensive issue with regard to airport zoning surrounding the MSP airport and in order to get adjoining communities to pass required airport zoning ordinances MAC, as the owner of the MSP airport, agreed to indemnify the surrounding cities which adopted airport zoning regulations from takings claims.

During the negotiation of the custom zoning for the DIAP the Cities of Hermantown and Rice Lake advised the City of Duluth that Hermantown and Rice Lake would need to be indemnified against takings claims related to airport zoning if they adopted airport zoning regulations for their cities. Duluth agreed to provide this indemnification through the proposed indemnification agreement. Hermantown and Rice Lake also required the indemnification to cover claims for personal injuries or deaths caused by a crash in the custom safety zones because the analysis that the custom zoning was safe was done by the engineering firm for the DIAP and JAZB. Duluth also agreed to provide this indemnification. Accordingly, pursuant to the indemnification agreement the City of Duluth agrees to indemnify Hermantown and Rice Lake against takings claims and personal injuries or deaths arising from the custom zoning. The Hermantown's airport zoning regulations will not be effective until the indemnification agreement has been signed by the City of Duluth.

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Indemnification Agreement

Resolution No. 2022-61

RESOLUTION AUTHORIZING AND DIRECTING MAYOR AND CITY CLERK TO EXECUTE AND DELIVER A COOPERATION AGREEMENT REGARDING THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD AND THE DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE

WHEREAS, the Joint Airport Zoning Board (“JAZB”), of which the City of Hermantown is a member, for the Duluth International Airport created an airport overlay in 1988 implementing the requirements of state law at that time; and

WHEREAS, the overlay relates to properties adjacent to runways 3 and 9 within the City to protect the public health, safety and the promotion of the appropriate use of the land to prevent the creation or establishment of airport hazards; and

WHEREAS, state law was amended in 2019 which permitted custom zoning for each airport to better integrate airport zoning with local zoning and planning processes; and

WHEREAS, JAZB recently approving an airport zoning ordinance (“Amended JAZB Ordinance”) permitting custom zoning; and

WHEREAS, the City of Hermantown, City of Rice Lake, Saint Lous County and Canosia Township (collectively “Entities”) desire to incorporate the Amended JAZB Ordinance into the Entities’ respective zoning codes and require compliance; and

WHEREAS, the Entities are further requiring that the City of Duluth indemnify each of the Entities against taking claims or damage claims that may result from the adoption of airport zoning under local ordinances; and

WHEREAS, the City desires to enter into a Cooperation Agreement between the City of Duluth and the Entities in the form of the one attached hereto as Exhibit A adopting the Amended JAZB Ordinance and requiring the City of Duluth to indemnify each of the Entities; and

WHEREAS, the City Council of the City of Hermantown has reviewed the Cooperation Agreement and believes it is in the best interests of the City to approve the Cooperation Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota, as follows:

1. That the Cooperation Agreement attached hereto as Exhibit A is hereby approved.
2. That the City Administrator shall act as the City’s representative at meetings of JAZB.

3. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such agreement on behalf of the City.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted May 16, 2022.

EXHIBIT A

COOPERATION AGREEMENT REGARDING THE DULUTH INTERNATIONAL AIRPORT JOINT AIRPORT ZONING BOARD AND THE DULUTH INTERNATIONAL AIRPORT ZONING ORDINANCE

This Agreement is made this ____ day of _____, 2022, by and between the City of Duluth (“City”), and the City of Hermantown, City of Rice Lake, Saint Louis County, and Canosia Township (collectively “the Entities”).

RECITALS

- A. The Entities are all of the members of the Duluth International Airport Joint Airport Zoning Board (“the JAZB”) formed pursuant to the authority of Minn. Stat. § 360.063.
- B. In 1988 the JAZB adopted the Duluth International Airport Zoning Ordinance (“the Ordinance”) to govern land use and the permitted height of structures, vegetation and other potential obstacles in areas proximate to the Duluth International Airport (“the Airport”) and under the approach and departure paths for flights to and from the Airport.
- C. Under the provisions of the Ordinance, the City of Duluth is designated as the Chief Zoning Administrator who is responsible for administering and enforcing the Ordinance for lands located within each respective Entity.
- D. In connection with runway construction at the Airport and with other changes made at the Airport since 1988, the JAZB adopted amendments to the Ordinance (“Amended JAZB Ordinance”) that were approved by the Commissioner of the Minnesota Department of Transportation (“the Commissioner”).
- E. City desires that each of the Entities amend its zoning code, if necessary, to require compliance with the Amended JAZB Ordinance and to include or otherwise incorporate the Amended JAZB Ordinance as part of its zoning code. The City also desires that an employee of each Entity act as the Zoning Administrator to administer and enforce the Amended JAZB Ordinance within its respective boundaries.
- F. The Entities desire to be protected against possible legal liability that may arise from their adoption and administration of a zoning ordinance that incorporates the Amended JAZB Ordinance.

AGREEMENT

In consideration of the mutual promises and consideration set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. **Adoption Of Amendments And Effectiveness:** A JAZB has sent the final version of the Amended JAZB Ordinance approved by the Commissioner to City and the Entities. The Entities shall hold such public hearings and take such other actions as may be

required by applicable law with regard to incorporating the terms of the Amended JAZB Ordinance into their zoning codes. The Entities shall determine their acceptance of the Amended JAZB Ordinance by approving such ordinances as would be legally required. The City and Entities shall provide the ordinance incorporating the provisions of the Amended JAZB Ordinance to JAZB for its review and approval.

2. **Ordinances and Actions Effective.** After the approval by JAZB of an ordinance adopted by the City or Entities and the execution of this Agreement by the City and the Entities, the Locally Approved Amendments, shall become effective.
3. **Indemnification Of Entities:** In consideration of an Entity's (i) amendment to the zoning code to incorporate therein a provision requiring compliance with the Amended JAZB Ordinance and to include or otherwise incorporate the terms of the Amended JAZB Ordinance as part of the zoning code of the Entity and (iii) designation of an individual or position within the Entity to act as the Zoning Administrator to administer and enforce the Amended JAZB Ordinance within the Entity's boundaries, the City agrees that, subject to the other provisions of this Agreement, it will indemnify and hold harmless:
 - a. the Entity and any officer, elected official, representative, agent or employee of Entity;
 - b. any person who serves or has served as the Entity's representative at meetings of the JAZB; and
 - c. any officer, employee or agent of the Entity, who may hereafter be responsible for or participate in administering or enforcing the Amended JAZB Ordinance within the Entity's boundaries, (collectively, "Indemnified Parties" and individually "an Indemnified Party") from and against any and all losses, liabilities, obligations, costs, expenses, judgments, settlements or other damages of any nature (including reasonable attorneys' fees and expenses and reasonable costs of investigating or defending any claim, action, suit or proceeding or of avoiding the same or the imposition of any judgment or settlement) suffered by the Indemnified Party resulting from or arising out of any act of that Indemnified Party related in any way to the Amended JAZB Ordinance, including but not limited to the consideration and adoption of the Amended JAZB Ordinance, the incorporation of the Amended JAZB Ordinance by the Entity into its zoning code, and the administration or enforcement of the Amended JAZB Ordinance by the Entity.
4. **Limitations And Exclusions:** The City will not indemnify an Indemnified Party with respect to liabilities or costs resulting from or arising out of:
 - a. a failure by the Indemnified Party or an official, employee or agent of the Indemnified Party to follow the procedures established by the Amended JAZB Ordinance, by the zoning code of the respective Entity or by applicable state law in performing any act as to which indemnification would otherwise be available under this Agreement;

- b. the gross negligence or willful misconduct of an Indemnified Party or an official, employee or agent of that Party in performing any of the acts as to which indemnification would otherwise be available under this Agreement;
 - c. actions involving self-dealing or conflict of interest by the Indemnified Party or an official, employee or agent of that Party; or actions of any individual (whether or not that individual is an Indemnified Party) not performed in an official capacity as a representative of the Entity of which the individual is an official, employee or agent and in direct performance of the individual's duties.
5. **Notice Of Claim:** If an Indemnified Party receives notice of a claim or of the commencement of an action or proceeding with respect to which the Indemnified Party believes the City is required by this Agreement to provide indemnification ("Claim"), the Indemnified Party must give written notice thereof to the City within 21 calendar days if the Claim is not asserted in a formal complaint in a legal proceeding, or within 10 calendar days if the Claim is asserted in a formal complaint ("Notice of Claim"). The failure to give Notice of Claim within the time specified in this section shall not relieve the City of its obligations under this Agreement unless the failure is materially prejudicial to the City's ability to negotiate, settle or defend the Claim.
6. **Assumption Or Rejection Of Defense:** Within 10 days after receiving a Notice of Claim in accordance with section 6 of this Agreement, the City must notify the Indemnified Party providing the Notice of Claim either:
- a. that City will assume complete control of the negotiation, settlement and defense of the Claim and will be responsible for the entire amount of any costs incurred in negotiating, settling and defending the Claim, including any amount required to be paid in settlement of the Claim or in satisfaction of a final judgment, after the conclusion of any appeals, in a lawsuit based on the Claim. The City must also notify the Indemnified Party of the name and address of the counsel whom it has assigned or retained to perform the City's duties under this section. Except with the consent of the Indemnified Party, the City may not enter into any settlement of the Claim that does not include, as an unconditional term of such settlement, receipt from the claimant of an unconditional release of the Indemnified Party from all liability with respect to such Claim; or
 - b. that the Claim is not a claim for which indemnification is required under this Agreement and that the City therefore declines to provide indemnification. In such a case, the Indemnified Party may itself control the negotiation, settlement and defense of the Claim at its own expense and may select counsel of its own choice for that purpose, and the City must cooperate with the Indemnified Party in the respects described in sections 8.a, 8.b and 8.c of this Agreement as if the City were an Indemnified Party.

7. **Cooperation Of The Indemnified Party:** As a condition of the City's obligation to indemnify and hold harmless, an Indemnified Party and any Entity with which an individual Indemnified Party is associated:
 - a. subject to the Minnesota Government Data Practices Act, rules relating to attorney-client communications and other laws regarding data in the possession of public bodies, must make available to the City and its counsel all of its books, records and documents that the City or its counsel determines to be necessary for the defense of any Claim for which indemnification is sought;
 - b. must cooperate fully with the City to secure any information or testimony that the City or its counsel determines to be relevant or material to the Claim;
 - c. must execute all necessary pleadings or other documents in any litigation arising out of, or with respect to, any Claim when requested to do so by the City or its counsel; provided however, that an Indemnified Party may have counsel of its own choice review and approve any such pleadings or documents, provided that the City will not be liable for any expenses relating to an Indemnified Party's consulting such separate counsel; and
 - d. must not settle or compromise any Claim for which the City has undertaken the Indemnified Party's defense without the prior written consent of the City.

8. **Termination Of Indemnification Obligation:** The term of this Agreement shall be perpetual in duration, except as it may be terminated pursuant to this paragraph. The parties intend for this to be an Agreement of perpetual duration and understand that the parties shall not have the right to terminate this Agreement for any reason other than the reasons set forth below in this paragraph. The parties are aware of the holding of *Glacial Plains Cooperative, v. Chippewa Valley Ethanol Company, LLLP*, 912 N.W.2d 233 (Minn. 2018) and express their intent for this Agreement to be enforced as an Agreement of a perpetual duration under the holding of that case, subject to the termination provisions set forth below. The City's obligation to provide indemnification pursuant to section 4 of this Agreement will terminate:
 - a. as to an Entity and any Indemnified Party associated with that Entity, if the Entity, having amended its respective comprehensive plan and zoning code as required by section 4 of this Agreement as a condition of its becoming eligible for indemnification, thereafter further amends its comprehensive plan or zoning code so as to change materially the provisions previously adopted pursuant to section 4 of this Agreement unless such changes are consistent with changes that may be enacted by JAZB to its Amended JAZB Ordinance after the effective date of this Agreement;
 - b. as to any Indemnified Party, if the Indemnified Party or an Entity with which an individual Indemnified Party is associated fails to perform any of its obligations under section 8 of this Agreement and does not correct such failure within 30 days after being given notice by the City that the City will cease to provide indemnification if the failure is not corrected and such failure is materially

prejudicial to the City's ability to negotiate, settle or defend the Claim, in which case the City shall be relieved of its obligation to hold harmless, defend and indemnify the Indemnified Party in regard to any such prejudiced claim; or

- c. as to any Indemnified Party, if, after the City has assumed responsibility for a Claim under section 7.a of this Agreement, a court or other adjudicating entity subsequently determines that the Claim is of a type described in section 5 of this Agreement, as to which no indemnification is required, in which case the City must promptly notify the Indemnified Party that it will no longer provide indemnification on such claim thirty (30) days after such notice is provided. The City agrees to notify an Indemnified Party promptly if the City determines that one of the Limitations or Exclusions in section 5 may apply and provide Indemnified Party thirty (30) days within which Indemnified Party may obtain its own counsel.
9. **Settlement of Claims:** The City may settle any claim that it assumes under paragraph 7.A. of this Agreement, provided, however, that any settlement that contains a material non-monetary settlement provision must first be approved by the Indemnified Party if the Indemnified Party is a City or Township.
 10. **Separate Representation Of Indemnified Party:** If an Indemnified Party reasonably determines that there may be a conflict between the positions of the City and the Indemnified Party in connection with the defense of a Claim, or that there may be legal defenses available to the Indemnified Party different from or in addition to those being asserted on its behalf by the City, counsel for the Indemnified Party may conduct a defense to the extent that the Indemnified Party's counsel believes necessary to protect the Indemnified Party's interests.
 11. **Resolution Of Disputes Between Parties:** If a dispute arises between the City and an Indemnified Party concerning either party's compliance with or obligations under this Agreement and the parties are unable to resolve the dispute by negotiation or other procedure (including mediation or arbitration) on which the parties may agree at the time, any lawsuit arising from the dispute must be filed in the Minnesota District Court for the Sixth Judicial District (Saint Louis County).
 12. **Notice:** Any notice, direction, or instrument to be delivered hereunder shall be in writing and shall be delivered to the following:

To City of Duluth:

Duluth City Attorney
Duluth City Attorney's Office
City of Duluth
Room 440 City Hall
411 West First Street
Duluth, MN 55802

To City of Hermantown:

City Administrator
City of Hermantown
5105 Maple Grove Rd
Hermantown, MN 55811

To City of Rice Lake:

Rice Lake City Attorney
City of Rice Lake
4107 W Beyer Road
Duluth, MN 55803

To Saint Louis County:

St. Louis County Attorney
St. Louis County Attorney's Office - Duluth Courthouse
100 N. 5th Ave. W. #501
Duluth, MN 55802

To Canosia Township:

Canosia Township Attorney
4896 Midway Road
Duluth, MN 55811

Such notice shall be either (i) personally delivered (including delivery by Federal Express or other overnight courier service) to the addresses set forth above, in which case it shall be deemed delivered on the date of delivery to said offices, or (ii) sent by certified U.S. Mail, return receipt requested, in which case it shall be deemed delivered on the date shown on the receipt unless delivery is refused or delayed by the addressee, in which event it shall be deemed delivered on the 3rd business day following deposit in the U.S. Mail.

Parties may change to whom notice shall be given by giving notice in accordance with this section, provided that no party may require notice to be sent to more than two addresses.

Any individual who claims entitlement to indemnification under this Agreement must include with the Notice of Claim required by section 6 of this Agreement the address to which any notice, direction or instrument under this paragraph should be delivered to that individual.

13. **Captions:** The section headings in this Agreement are for convenience of reference only and shall not define, limit or prescribe the scope or intent of any provision of this Agreement, but shall be liberally construed in favor of providing coverage for the Indemnified Entities.
14. **Construction:** The rule of strict construction shall not apply to this Agreement. The Agreement shall not be interpreted in favor of or against either the City or any Indemnified Party merely because of their respective efforts in preparing it.
15. **Governing Law:** This Agreement shall be governed by the laws of the State of Minnesota.
16. **Complete Agreement; Amendment:** This Agreement sets forth the complete agreement of the parties with respect to its subject matter. It may be amended, modified or waived as between the City and any Indemnified Party only by a writing signed by both of them.
17. **Signatures:** This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute and be one and the same instrument. Each signatory below represents and warrants that he or she is expressly authorized to enter into this Agreement on behalf of the Party for which that person is signing.

COOPERATION AGREEMENT REGARDING THE DULUTH INTERNATIONAL AIRPORT
JOINT AIRPORT ZONING BOARD AND THE DULUTH INTERNATIONAL AIRPORT
ZONING ORDINANCE

SIGNATURE PAGE

IN WITNESS WHEREOF, the undersigned have caused this Cooperation Agreement to be executed on behalf of the City of Duluth, City of Hermantown, City of Rice Lake, Saint Louis County, and Canosia Township.

CITY OF DULUTH

By:

Mayor

Attest:

City Clerk

Date Attested: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

Resolution No. 2021-62

**RESOLUTION AUTHORIZING A SUMMARY
OF AN ORDINANCE ESTABLISHING AIRPORT ZONING OVERLAY SAFETY
ZONES AND ADOPTING REGULATIONS, OF THE HERMANTOWN ZONING CODE**

WHEREAS, the City Council has adopted Ordinance No. 2022-05, an Ordinance Establishing Airport Zoning Overlay Safety Zones and Adopting Regulations, of the Hermantown Zoning Code; and

WHEREAS, Minnesota Statutes Section 412.191, Subd. 4 (2021) authorizes the City Council to publish a summary of lengthy ordinances upon a four-fifths vote of its members; and

WHEREAS, the Ordinance is quite lengthy and detailed; and

WHEREAS, the City Council desires to publish a summary of the Ordinance; and

WHEREAS, a summary of the Ordinance has been prepared and attached hereto as Exhibit A; and

WHEREAS, a copy of the full text of the Ordinance is available for review at the Hermantown City Offices, 5105 Maple Grove Road, Hermantown, MN 55811 during regular business hours.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. That a summary attached hereto as Exhibit A of the Ordinance be published in lieu of the publication of the entire Ordinance; and
2. The City Council hereby authorizes and directs the City Administrator to publish the summary attached hereto as Exhibit A once in the Hermantown Star.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____, and upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted May 16, 2022.

EXHIBIT A

SUMMARY OF ORDINANCE NO. 2022-05, AN ORDINANCE ESTABLISHING AIRPORT SAFETY ZONES AND ADOPTING REGULATIONS, OF THE HERMANTOWN ZONING CODE

The following is the official summary of Ordinance No. 2022-05, an Ordinance Establishing Airport Zoning Overlay Safety Zones and Adopting Regulations, of the Hermantown Zoning Code was approved by the City Council of the City of Hermantown on May 16, 2022.

There is a lengthy legal description of the Airport Zoning Overlay Safety Zones that were created by this Ordinance, which have not been included in this summary. Please refer to the Ordinance to review the legal descriptions of the Airport Zoning Overlay Safety Zones referenced in this Summary.

The purpose and intent of this Ordinance was to protect the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards for the citizens residing in the City of Hermantown.

The Joint Airport Zoning Board (“JAZB”) for the Duluth International Airport (“DIAP”) created an airport overlay by ordinance in 1988, which affected land uses by residents in the City of Hermantown. The 1988 Airport Ordinance was amended in 2021 (“2021 Airport Zoning Ordinance”) to reflect changes in state law allowing custom zoning.

The City, pursuant to the provisions of the 2021 Airport Zoning Ordinance, adopted four Airport Zoning Overlay Safety Zones applicable to property and uses within the Airport Zoning Overlay Safety Zones. The four safety zones are described as follows:

Safety Zone 1: prohibits buildings, temporary structures and is generally utilized as open space, agricultural uses or parking.

Safety Zone 2: Prohibits of building and structures where groups of people can congregate. Some specific uses that are prohibited include:

- Churches
- restaurants
- movie theaters
- banquet halls,
- stadiums
- schools
- hospitals
- hotel/motels

In addition to these uses, each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; and each site must be a minimum of 2.5 acres in size.

Safety Zone 2.5: Prohibits the following uses:

- Childcare or daycare centers;
- State licensed residential care facilities and housing with service establishments serving 7 or more persons;
- State licensed adult daycare facility serving 13 or more persons;
- State licensed group family daycare facility serving 13 or more children;
- Public or private school.
- Public or private Hospital

Safety Zone 3: prohibits the construction of structures with an elevational height greater than 150 feet above the highest point of the usable runway area. This safety zone extends 1 to 1.5 miles out from the airport and is the largest safety zone in the City.

All existing uses and structures that were in effect prior to this Ordinance can continue.

Any appeals of any decisions of the Zoning Officer in connection with the administration of this Ordinance shall be handled in accordance with the terms and provisions of 2021 Airport Zoning Ordinance and Section 350.01 of the Hermantown Zoning Code.

Requests of variances of the requirements of this Ordinance shall be handled in accordance with the terms and provisions of the 2021 Airport Zoning Ordinance and such application for a variance shall be provided to the DIAP by the Zoning Ordinance.

The foregoing is a summary of a lengthy and detailed Ordinance. The full text of the Ordinance, including maps and legal descriptions, is on file in the office of the City Clerk of the City of Hermantown, 5105 Maple Grove Road, Hermantown, MN 55811, during regular business hours.

If there are any inconsistencies between this summary and the full text of the Ordinance, the terms of the full Ordinance shall govern.

The Ordinance is effective upon publication of this summary.

TO: Mayor & City Council
FROM: Eric Johnson, Community
Development Director



DATE: May 6, 2022 **Meeting Date:** 05/16/2022
SUBJECT: Hermantown Amateur Hockey Association Water Usage **Agenda Item:** 12-C **Resolution:** 2022-63

REQUESTED ACTION

Approval of a \$3,000 annual grant for Hermantown Amateur Hockey Association (HAHA) to be used towards water usage.

BACKGROUND

A similar grant was awarded to the Hermantown Youth Soccer Association to aide them in their annual water usage costs. The Hermantown Amateur Hockey Association (HAHA) has requested an increase in their annual grant from \$2,000 to \$3,000.

The grant will be used for the Hermantown Amateur Hockey Association (HAHA) to help offset their water bill for the cost of flooding the outdoor rinks. The annual grant will be provided in the form of a credit on their water bill.

SOURCE OF FUNDS (if applicable)

General Fund – Parks (101-452100-720) to the Water Enterprise Fund (601-392010)

ATTACHMENTS

- April 8, 2022 HAHA Letter
- Resolution



April 8, 2022

Mayor Boucher, Hermantown City Council, and the Park board:

In the past the Hermantown Park Board has granted the arena \$2,000 to defer the cost of our water bill. We are requesting this number be increased to \$3,000.

A large percentage of this water is used to flood and maintain our outside rinks as well as our pleasure skating rink. These rinks are open to public use all winter long.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Huttel". The signature is fluid and cursive.

Dave Huttel

Hermantown Arena Manager

218-428-2161

Resolution No. 2022-63

**RESOLUTION PROVIDING A GRANT TO THE
HERMANTOWN AMATEUR HOCKEY ASSOCIATION**

WHEREAS, the Hermantown Amateur Hockey Association provides skating rinks for hockey and open skating for all ages; and

WHEREAS, these rinks provide recreational opportunities to the residents of the City of Hermantown, and

WHEREAS, the City Council has determined that it is in the public interest to provide recreational opportunities to its citizens, and

WHEREAS, the City provides in kind services related to park maintenance and repair to other recreation programs in the City, and

WHEREAS, the City does not provide any other in-kind services to the Hockey Association; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown to provide an annual grant in the amount of \$3,000 to the Hermantown Amateur Hockey Association to cover the costs of water to flood indoor and outdoor ice rinks as follows:

1. The annual grant will come in the form of a credit on the water bill
2. The Director of Finance & Administration is authorized to transfer funds from the Park Budget in the General Fund - Parks (101-452100-720) to the Water Enterprise Fund (601-392010)

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted on the May 16, 2022.

TO: Mayor & City Council
FROM: John Mulder, City Administrator
DATE: May 11, 2022
SUBJECT: Cooperative Agreement with St. Louis County -Haines Frontage Road



Meeting Date: 5/16/22
Agenda Item: 12-D
Resolution: 2022-64

REQUESTED ACTION

Approve a Cooperative Agreement with St. Louis County for re-construction of a frontage road near the intersection of Haines and Maple Grove Road.

BACKGROUND

The City is preparing plans to make road improvements in the area referred to as the Hermantown Marketplace. This includes rebuilding Lindgren Road, and improving Richard, Eeve, and Sam's Way. It also includes a short frontage road along Haines Road near the intersection of Haines and Maple Grove. The County has agreed to contribute \$25,000 toward reconstructing that frontage road. The road will then become the responsibility for the City into the future.

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Resolution
Cooperative Agreement.

Resolution No. 2022-64

**RESOLUTION APPROVING COOPERATIVE AGREEMENT WITH ST. LOUIS
COUNTY CP 0091-681361 CONSTRUCTION OF HAINES ROAD FRONTAGE ROAD
WITHIN THE CITY OF HERMANTOWN CORPORATE LIMITS**

WHEREAS, the City intends to reconstruct a frontage road near the intersection of Haines and Maple Grove Road, (hereinafter the "Project") scheduled for construction in 2022 and/or 2023; and

WHEREAS, the County is willing to financially contribute to the "Project"

WHEREAS, the City will advertise, bid, and enter into a contract with the low bidder for construction of the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. The Cooperative Agreement between St. Louis County and the City of Hermantown is hereby approved by the City of Hermantown.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

_____, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted May 16, 2022.



Saint Louis County

Public Works Department • Richard H. Hansen Transportation & Public Works Complex
4787 Midway Road, Duluth, MN 55811 • Phone: (218) 625-3830

James T. Foldesi, P.E.
Public Works Director/
Highway Engineer

April 7, 2022

John Mulder
City Administrator
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811
jmulder@hermantownmn.com

Re: Cooperative Agreement for CP 0091-681361
Construction of Haines Road Frontage Road

Dear Mr. Mulder:

Please find enclosed, the Cooperative Agreement for the above listed project. Please have the proper City of Hermantown officials sign the agreement and return to me at clarkc2@stlouiscountymn.gov, or at the following address for further processing:

St. Louis County Public Works
Attn: Christine Clark
4787 Midway Rd.
Duluth, MN 55811

Once fully executed, a copy will be returned to you.

Sincerely,

Christine Clark
Information Specialist III

Enclosure(s)

c: File
Steve Krasaway

COOPERATIVE
AGREEMENT
BETWEEN
THE COUNTY OF ST. LOUIS
AND
THE CITY OF HERMANTOWN
TO

Perform improvements on the frontage road in the platted right of way on the west side of Haines Road (CSAH 91) serving Parcel ID Numbers 395-0093-00055, 395-0093-00060, and 395-0093-00070, in Hermantown, St. Louis County, Minnesota.

CP 0091-681361

Prepared by the St. Louis County Highway Engineering Division

THIS AGREEMENT is made and entered into by and between the County of St. Louis, a duly organized county within the State of Minnesota, hereinafter referred to as the “County”, and the City of Hermantown, hereinafter referred to as the “City”, a municipal corporation of St. Louis County, Minnesota.

WHEREAS the County and City jointly intend to undertake the reconstruction of the frontage road in the platted right of way on the west side of Haines Road (CSAH 91) serving Parcel ID Numbers 395-0093-00055, 395-0093-00060, and 395-0093-00070 scheduled for construction in 2022 (hereinafter the “Project”); and

WHEREAS, the City will advertise, bid, and enter into a contract with the low bidder for construction of the Project (hereinafter the “Contract”)

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The City shall prepare plans and specifications for the Project. The City shall perform all construction engineering, staking, inspection, material certification and acceptance, and measurement of all items. The County shall pay the City a Lump Sum fee of \$25,000 for the design, plan preparation, construction, and construction administration.
2. All costs for change orders, work orders and supplemental agreements shall be covered by the City.
3. The City shall take all actions necessary to prepare the project for construction, including, but not limited to obtaining any and all applicable permits as required by law for the road and bridge construction.
4. The City shall obtain all necessary permanent and temporary easements

required for the Project.

5. The City shall bear all rights and responsibilities for ownership and maintenance of the frontage road upon completion of the project. The County has no rights or obligations for maintenance or future interests in the frontage road.

6. Each party designates an Authorized Representative for the purpose of administering this Agreement. A party's authorized representative has the authority to give and receive notices, and to make any other decision required or permitted by this Agreement.

a. For the County:

Steve Krasaway, P.E.
Public Works Department / Resident Engineer
4787 Midway Road
Duluth, MN 55811
(218) 625-3841

b. For the City:

John Mulder
City Administrator
5105 Maple Grove Road
Hermantown, MN 55811
(218) 729-3600
jmulder@hermantownmn.com

7. The City will submit an invoice to the County upon substantial completion of the Project. The County shall pay the City invoices within 35 days of receipt.

8. This Agreement may be terminated only as follows:

a. At any time by mutual agreement of the parties;

- b. By any party at any time upon 30 days notice in the event of default by a party, provided however that such termination shall not be effective if the defaulting party cures such default by end of the 30 day notice period. In the event of such termination, the County and City shall be entitled to pro-rata payment for work and services performed up to the effective date of such termination.

9. Each of the parties hereto hereby agrees that it shall defend, indemnify and save harmless the other party and all of their employees and agents from any and all claims, demands actions or causes of action of whatever nature or character arising out of or by reason of their negligent or intentional acts or omissions in the execution or performance of the work provided herein.

10. Any and all employees of the County, while engaged in the performance of any work or service which the County is specifically required to perform under this Agreement, shall be considered employees of the County, and not the City, and that any and all claims that may or might arise under the Workers Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any claims made by any third parties as a consequence of any act of said employees, shall be the sole obligation of the County.

11. Any and all employees of the City, while engaged in the performance of any work or service which the City is specifically required to perform under this Agreement, shall be considered employees of the City, and not the County, and that any and all claims that may or might arise under the Workers Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any claims made by any

third parties as a consequence of any act of said employees, shall be the sole obligation of the City.

12. To the full extent permitted by law, actions by the Parties pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Parties that they shall be deemed a "single governmental unit" for the purpose of liability, as set forth in Minnesota Statutes, Section 471.59, Subd. 1a.

CITY OF HERMANTOWN

COUNTERSIGNED:

By: _____
Mayor

By: _____
City Clerk

Date: _____

Date: _____

COUNTY OF ST. LOUIS

By: _____
Chair of the County Board

By: *[Signature]*
Director of Public Works/Highway Engineer

Date: _____

Date: 4/6/2022

APPROVED AS TO FORM AND EXECUTION:

By: _____
County Auditor

By: _____
Assistant County Attorney

Date: _____

Date: _____

Saint Louis County Contract Number:



Resolution
of the
Board of County Commissioners
St. Louis County, Minnesota
Adopted on: April 5, 2022 Resolution No. 22-186
Offered by Commissioner: Boyle

Agreement with the City of Hermantown (CP 0091-681361)

RESOLVED, That the St. Louis County Board authorizes an agreement, and any amendments approved by the County Attorney, with the City of Hermantown for the reconstruction of the frontage road on the west side of Haines Road (CP 0091-681361), whereby St. Louis County will pay a lump sum of \$25,000 for survey, design, permitting, and construction of the frontage road with funds payable to the City of Hermantown from Fund 200, Agency 200008, Object 626600.

Commissioner Boyle moved the adoption of the Resolution and it was declared adopted upon the following vote:

Yeas – Commissioners Boyle, Grimm, Nelson, Jugovich and Chair McDonald – 5

Nays – None

Absent – Commissioners Jewell and Musolf – 2

STATE OF MINNESOTA
Office of County Auditor, ss.
County of St. Louis

I, **NANCY NILSEN**, Auditor of the County of St. Louis, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 5th day of April, A.D. 2022, and that this is a true and correct copy.

WITNESS MY HAND AND SEAL OF OFFICE at Duluth, Minnesota, this 5th day of April, A.D., 2022.

NANCY NILSEN, COUNTY AUDITOR

By:

Clerk of the County Board/Deputy Auditor

TO: Mayor & City Council
FROM: John Mulder, City Administrator
DATE: May 11, 2022
SUBJECT: Municipal Consent – St Louis
County Project Midway Road



Meeting Date: 5/16/22
Agenda Item: 12-E
Resolution: 2022-65

REQUESTED ACTION

Approve resolution giving Municipal Consent to the St. Louis County Project at the intersection of Midway and Arrowhead Roads

BACKGROUND

St Louis County is planning on adding turn lanes on Midway Road at the intersection at Arrowhead Road.

This is a 2023 project. The only closure will be the west leg of Arrowhead Road and will last about a month. Midway Road and the east leg of Arrowhead will remain open at all times. A full set of the 90% are available at City Hall for inspection.

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Resolution No. 2022-65

RESOLUTION APPROVING ST. LOUIS COUNTY'S SAP NO. 069-070-057 CP NO. 0013-5330285 COUNTY STATE-AID HIGHWAY NO. 13 (MIDWAY ROAD) WITHIN THE CITY OF HERMANTOWN CORPORATE LIMITS

WHEREAS, St. Louis County's plans for S.A.P. NO. 069-070-057 CP NO. 0013-5330285 showing proposed road construction or improvement of County State-Aid Highway No. 13 (Midway Road) within the limits of the City of Hermantown as a State Aid Project have been prepared and presented to the City.

WHEREAS, the project to be completed in 2023 will add left-hand turn lanes on Midway to Arrowhead;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. St. Louis County's preliminary plans of S.A.P. NO. 069-070-057 CP NO. 0013-5330285 have been in all things approved by the City of Hermantown.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

_____, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted May 16, 2022.

TO: Mayor & City Council
FROM: Eric Johnson, Community
Development Director



DATE: May 6, 2022

Meeting Date: 05/16/2022

SUBJECT: Amendment to the Peyton
Acres Phase 1B Final Plat of
10 lots and 1 outlot in an R-3
zoning district

Agenda Item: 12-F

Resolution: 2022-66

REQUESTED ACTION

Council approval of an amendment to the final plat with conditions for Peyton Acres Phase 1B, a 10 lot, 1 outlot single family phased residential subdivision in an R-3 zoning district.

DESCRIPTION OF REQUEST

Applicant is requesting approval of an amendment to the Final Plat for Phase 1B for construction of a 10 lot, 1 outlot residential development at 3956 Stebner Road. The property is located in an R-3, Residential zoning district.

SITE INFORMATION:

Parcel Size: 75.0 acres
Legal Access: 3956 Stebner Road
Wetlands: Yes, delineation approved in 2019; Impacts approved in 2020
Existing Zoning: R-3, Residential (1/2 acre minimum)
Airport Overlay: None
Shoreland Overlay: None
Comprehensive Plan: Suburban

Development Details

The City Council approved a preliminary and final plat application for Phase 1B of Peyton Acres in August 2021. The approved phase 1B plat consisted of 10 single family residential lots and one outlot which contains the remainder of the overall property. The approved phase 1B plat meets the requirements associated with the R-3, Residential zoning district.

As design work on phase 1B commenced, it became apparent that there was a better means to treat stormwater within this phase of the development. In addition, an interested party provided a deposit to JLG for two lots on the north side of Peyton Drive. These two items resulted in JLG requesting to amend the approved plat to reflect these items.

Stormwater

The proposed stormwater pond is being shifted to the east where a naturally occurring low area exists. By shifting the pond to this location, it eliminates the need for an easement which had been previously approved on Block 2, Lot 5. From this new proposed pond location, it is easier to match the existing topography and

water conveyance on the site. The applicant has submitted revised stormwater plans and calculations as they relate to the proposed amended Final Plat.

Lot Size

The proposed amended plat increases the size of Block 1, Lot 4 to incorporate the larger land area requested by the interested party. Instead of adding an addition lot to the plat, JLG is proposing a larger lot 4 to reflect this potential land purchase. The number of lots within the proposed amended plat matches the August 2021 approved plat.

Lastly, the eastern property line of lots 5, 6 and the Peyton Drive right of way have been modified with the eastern property line shifting approximately 18 feet to the west. All proposed lots still meet or exceed required R-3 zoning requirements.

Utilities

The proposed phase will connect to water line constructed within the project to date. In turn, this water line connects to the existing City water main in the right-of-way of Stebner Road. Sanitary sewer will connect to the existing sanitary lines constructed by the developer which connect to an existing stub into the property. The new sewer and water lines will be a City main constructed to City standards. The applicant is in the process of finalizing the final engineering plans as they relate to the proposed amended Final Plat.

Roadway

The applicant will construct a +/-700', 28' wide curb face to curb face bituminous roadway with curb and gutter with a sidewalk on one side with a cul-de-sac in accordance with the City of Hermantown Urban Section design standards and City design speed standards as approved by the City Engineer.

Wetlands

There are 13.5 acres of wetlands on the 75 acre property. This final plat for this phase proposes 4,290 square feet of permanent wetland impacts as part of Phase 1B. The developer has impacted 1,568 square feet of wetlands as part of Phase 1A. Total impacts to date are 5,858 square feet. The TEP and City Staff are supporting a project de minimis exemption up to 10,000 square feet of wetland impacts over the whole 75 acres of the property for a 1.7% permanent wetland impact.

Park Dedication Fees

The Applicant will be required to pay park dedication fees consistent with the requirements of the City Zoning Ordinance. Park dedication fees will be paid according to the Hermantown Fee Schedule. Those fees currently are:

Development Type	Recommended
Single Family, Two Family, Three Family Residential Parcel/CIC Unit	\$1,100/lot
Per bedroom fee	\$150

Summary:

Staff recommends approval of the amended Final Plat for Phase 1B based on the following findings and conditions:

1. The proposed amended final plat meets the intent of the R-3, Residential Zoning District and the overall goals and policies of the Zoning Ordinance.

2. The proposed amended final plat is in accordance with and conformity to the Hermantown Comprehensive Plan and Hermantown Zoning Ordinance.
3. The following conditions are imposed upon the final plat:
 - a. Final plat approval will be void if: (1) a final plat is not recorded with St. Louis County within one calendar year of preliminary plat approval; and (2) the City has not received and approved a written request for a time extension within one calendar year of final plat approval.
 - b. The title of the land underlying the plat shall be approved by the City Attorney.
 - c. Applicant shall enter into a development agreement with the City that outlines development responsibilities and provide financial securities for site improvements and utility installation which includes:
 - i. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the road and infrastructure improvements to be made at the time of approval of the Final Plat, or
 - ii. Installation of road and infrastructure facilities prior to obtaining the Final Plat for the development.
 - iii. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the stormwater facilities to be made at the time of approval of the Final Plat.
 - d. Applicant agrees to construct, at their own expense, a connection between the proposed road and Oak Ridge Drive in a manner and time to be determined via development agreement with City in the event of further subdivision of Outlot B as generally shown on Exhibit B.
 - e. Regardless of the impact on the number of approved lots, all lots will meet the minimum standards for lot area (1/2 acre) and width (100'), all other design standards of the Hermantown Zoning Ordinance, including but not limited to:
 - i. Section 1020.02.2. Frontage. The entire required frontage of each lot must abut on a street that has been officially accepted by the City of Hermantown or other governmental body with jurisdiction over such street, except as provided for flag lots and cul-de-sacs; and
 - ii. 1020.04.3. When a lot completely abuts a cul-de-sac, the required frontage may be measured at the building setback line provided that the frontage at the street line is at least 75% of the required frontage.
 - f. The applicant shall provide a plan to impact 10,000 square feet or less of wetland impacts or an application for wetland replacement plan.
 - g. The applicant shall submit and receive approval from the City Engineer of a permanent stormwater treatment plan that meets the City standards codified in Sections 1080 and 1060 of the City Code.
 - h. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with a 28' wide curb face to curb face bituminous paved road with a sidewalk on at least one side and all other Hermantown road design standards including 30 mph speed design.
 - i. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with cul-de-sacs designed to R/W width of 130' with a paved surface of 100' paved surface.
 - j. The applicant shall sign a consent form assenting to all conditions of this approval.
 - k. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

4. The lots will be served by public water and sewer which will be constructed by the applicant. The new water and sewer main will be constructed by the applicant, reviewed and approved by the City Engineer then turned over to the City.
5. A 5 foot wide sidewalk on one side of the roadway providing connection to Stebner Road and continuing along the proposed cul-de-sac.
6. Prior to starting any site work, the Applicant shall hold a preconstruction meeting with the appropriate development, construction, and City representatives.
7. Prior to issuance of a building permit:
 - a. All necessary permits shall be obtained.
8. Erosion control measures shall be utilized and remain in place throughout the construction period, and shall not be removed until vegetation is established on the site.
9. Not conduct any on-site burning or burial of brush or other site debris on the Property.
10. Prior to issuance of a building permit, all necessary permits shall be obtained, including, without limitation, any stormwater permits required by the Minnesota Pollution Control Agency.
11. The Applicant shall comply with the following conditions during construction:
 - a. Development activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10 p.m. and 7 a.m.
 - b. Loud equipment shall be kept as far as possible from adjacent residences.
 - c. The site shall be kept free of dust and debris that could blow onto neighboring properties.
 - d. Public streets shall be maintained free of dirt and shall be cleaned as necessary.
 - e. The City shall be contacted a minimum of 72 hours prior to any work in a public street or right-of-way. Work in a public street shall take place only upon the determination by the Public Works Director that appropriate safety measures have been taken to ensure motorist and pedestrian safety.
 - f. The Zoning Administrator may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.
12. The Applicant shall pay a park dedication fee of \$11,000 (\$1,100/lot for 10 lots) in lieu of dedicated park land. This fee will be paid at the time of plat approval. The applicant/builder will be responsible for the \$150/bedroom park dedication at the time of building permit.
13. The Applicant shall sign a consent form assenting to all conditions of this approval.
14. The Applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

ATTACHMENTS:

- Location Map
- August 2021 Approved Final Plat
- Proposed Amended Final Plat
- Plat Overlay
- Master Site Plan

Resolution No. 2022-66

RESOLUTION APPROVING A FIRST AMENDMENT TO THE FINAL PLAT OF PEYTON ACRES PHASE 1B AND IMPOSING CONDITIONS ON THE FINAL PLAT

WHEREAS, JLG Enterprises of Hermantown LLP (Applicant) has requested to amend the final plat for Peyton Acres comprised of 10 single family lots on the overall property described in Exhibit A, in an R-3 zoning district; and

WHEREAS, the Hermantown Planning and Zoning Commission recommended the approval of the preliminary plat following a public hearing on March 17, 2020; and

WHEREAS, the Hermantown City Council approved of the preliminary plat following a public hearing on April 6, 2020; and

WHEREAS, the Hermantown Planning and Zoning Commission has recommended the approval of the final plat following a public hearing on July 20, 2020; and

WHEREAS, the Hermantown City Council approved the final plat following a public hearing on August 2, 2021; and

WHEREAS, upon the satisfaction of the conditions set forth herein, the first amendment to the final plat will satisfy the requirements of the Hermantown Zoning Code; and

WHEREAS, the City Council has duly considered this matter and believes that it is in the best interests of the City of Hermantown that the amendment to the final plat be approved, subject to certain conditions being met.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota, as follows:

1. The first amendment to the final plat is in accordance with and conformity to the Hermantown Comprehensive Plan and Hermantown Zoning Ordinance.
2. The first amendment to the final plat of Peyton Acres Phase 1B is hereby approved.
3. The following conditions are imposed upon the first amendment of the final plat:
 - a. Final plat approval will be void if: (1) a final plat is not recorded with St. Louis County within one calendar year of preliminary plat approval; and (2) the City has not received and approved a written request for a time extension within one calendar year of final plat approval.
 - b. The title of the land underlying the plat shall be approved by the City Attorney.
 - c. Applicant shall enter into a development agreement with the City that outlines development responsibilities and provide financial securities for site improvements and utility installation which includes:
 - i. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the road and infrastructure improvements to be made at the time of approval of the Final Plat, or
 - ii. Installation of road and infrastructure facilities prior to obtaining the Final Plat for the development.

- iii. Letter of Credit or other financial surety acceptable to the City Attorney for 125% of the construction value of the stormwater facilities to be made at the time of approval of the Final Plat.
 - d. Applicant agrees to construct, at their own expense, a connection between the proposed road and Oak Ridge Drive in a manner and time to be determined via development agreement with City in the event of further subdivision of the property as generally shown on Exhibit B.
 - e. Regardless of the impact on the number of approved lots, all lots will meet the minimum standards for lot area (1/2 acre) and width (100'), all other design standards of the Hermantown Zoning Ordinance, including but not limited to:
 - i. Section 1020.02.2. Frontage. The entire required frontage of each lot must abut on a street that has been officially accepted by the City of Hermantown or other governmental body with jurisdiction over such street, except as provided for flag lots and cul-de-sacs; and
 - ii. 1020.04.3. When a lot completely abuts a cul-de-sac, the required frontage may be measured at the building setback line provided that the frontage at the street line is at least 75% of the required frontage.
 - f. The applicant shall provide a plan to impact 10,000 square feet or less of wetland impacts or an application for wetland replacement plan.
 - g. The applicant shall submit and receive approval from the City Engineer of a permanent stormwater treatment plan that meets the City standards codified in Sections 1080 and 1060 of the City Code.
 - h. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with a 28' wide curb face to curb face bituminous paved road with a sidewalk on at least one side and all other Hermantown road design standards including 30 mph speed design.
 - i. The applicant shall submit and receive approval from the City Engineer a road design meeting the Hermantown Urban Section Road Standards with cul-de-sacs designed to R/W width of 130' with a paved surface of 100' paved surface.
 - j. The applicant shall sign a consent form assenting to all conditions of this approval.
 - k. The applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.
4. The lots will be served by public water and sewer which will be constructed by the applicant. The new water and sewer main will be constructed by the applicant, reviewed and approved by the City Engineer then turned over to the City.
5. A 5 foot wide sidewalk on one side of the roadway providing connection to Stebner Road and continuing along the proposed cul-de-sac.
6. Prior to starting any site work, the Applicant shall hold a preconstruction meeting with the appropriate development, construction, and City representatives.
7. Prior to issuance of a building permit:
 - a. All necessary permits shall be obtained.
8. Erosion control measures shall be utilized and remain in place throughout the construction period, and shall not be removed until vegetation is established on the site.
9. Not conduct any on-site burning or burial of brush or other site debris on the Property.

10. Prior to issuance of a building permit, all necessary permits shall be obtained, including, without limitation, any stormwater permits required by the Minnesota Pollution Control Agency.
11. The Applicant shall comply with the following conditions during construction:
 - a. Development activity shall comply with all City noise ordinances. There shall be no construction activity between the hours of 10 p.m. and 7 a.m.
 - b. Loud equipment shall be kept as far as possible from adjacent residences.
 - c. The site shall be kept free of dust and debris that could blow onto neighboring properties.
 - d. Public streets shall be maintained free of dirt and shall be cleaned as necessary.
 - e. The City shall be contacted a minimum of 72 hours prior to any work in a public street or right-of-way. Work in a public street shall take place only upon the determination by the Public Works Director that appropriate safety measures have been taken to ensure motorist and pedestrian safety.
 - f. The Zoning Administrator may impose additional conditions if it becomes necessary in order to mitigate the impact of construction on surrounding properties.
12. The Applicant shall pay a park dedication fee of \$11,000 (\$1,100/lot for 10 lots) in lieu of dedicated park land. This fee will be paid at the time of plat approval. The applicant/builder will be responsible for the \$150/bedroom park dedication at the time of building permit.
13. The Applicant shall sign a consent form assenting to all conditions of this approval.
14. The Applicant shall pay an administrative fine of \$750 per violation of any condition of this approval.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolutions was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

And the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted May 16, 2022.

ACCEPTANCE OF RESOLUTION

JLG Enterprises of Hermantown LLP (“Applicant”) hereby acknowledges and accepts the conditions specified on the foregoing Resolution and covenants and agrees to comply with each and every such condition.

Applicant acknowledges that the failure to comply with all of the modifications and conditions shall constitute a violation of the Hermantown Zoning Ordinance and that the City of Hermantown may, in such event, exercise and enforce its rights against the undersigned by instituting any appropriate action or proceeding to prevent, restrain, correct or abate the violation including, without limitation, exercising and enforcing its rights against any security that the undersigned may provide to the City to insure its compliance with the conditions contained in the foregoing Resolution.

Applicant acknowledges that this Resolution shall be recorded with the title to the property described in the text of the Resolution.

IN WITNESS WHEREAS, JLG Enterprises of Hermantown LLP has executed this acceptance this ____ day of _____, 2022.

JLG Enterprises of Hermantown LLP

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by JLG Enterprises of Hermantown LLP.

Notary Public

EXHIBIT A

Northwest Quarter of Southwest Quarter (NW 1/4 of SW 1/4), Section Twenty-four (24), Township Fifty (50), North of Range Fifteen (15), West of the Fourth Principal Meridian, EXCEPT the Northerly 160 feet of the Southerly 965 feet thereof

AND

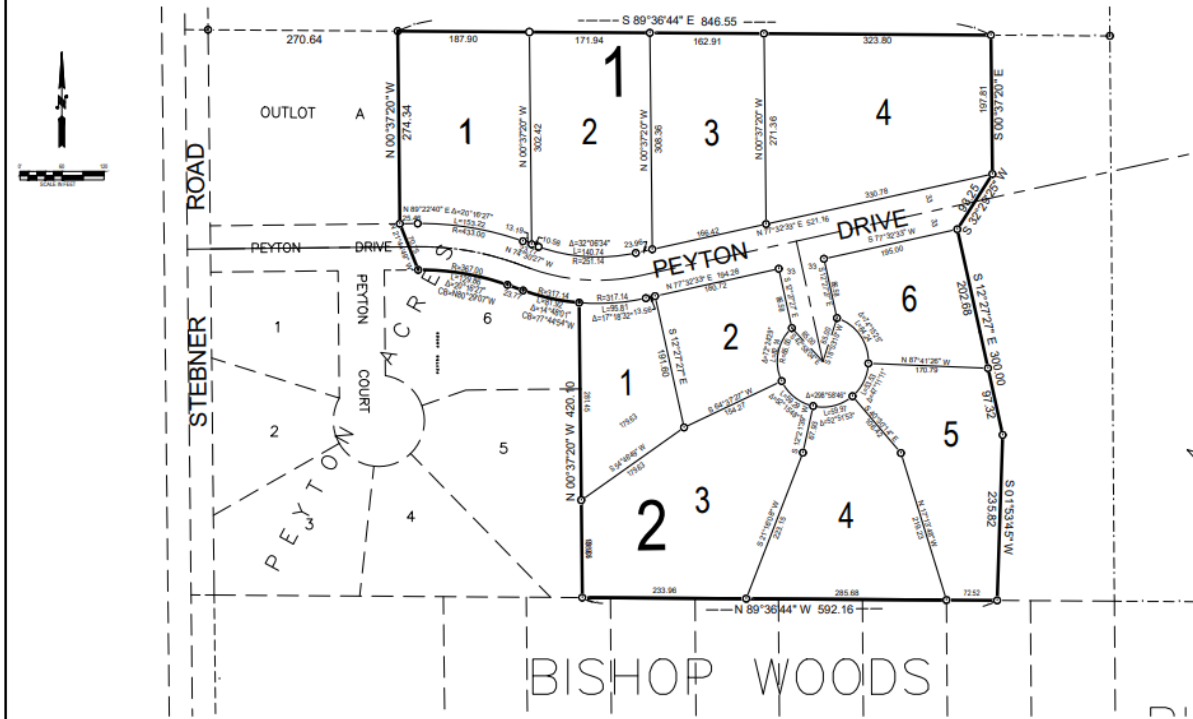
The Northeast Quarter of the Southwest Quarter (NE 1/4 of SW 1/4) of Section Twenty-four (24), Township Fifty (50), Range Fifteen (15)

Parcel ID: 395-0010-06800, 395-0010-06780, 395-0010-06750 and 395-0010-06760

EXHIBIT B

PEYTON ACRES PHASE 1B

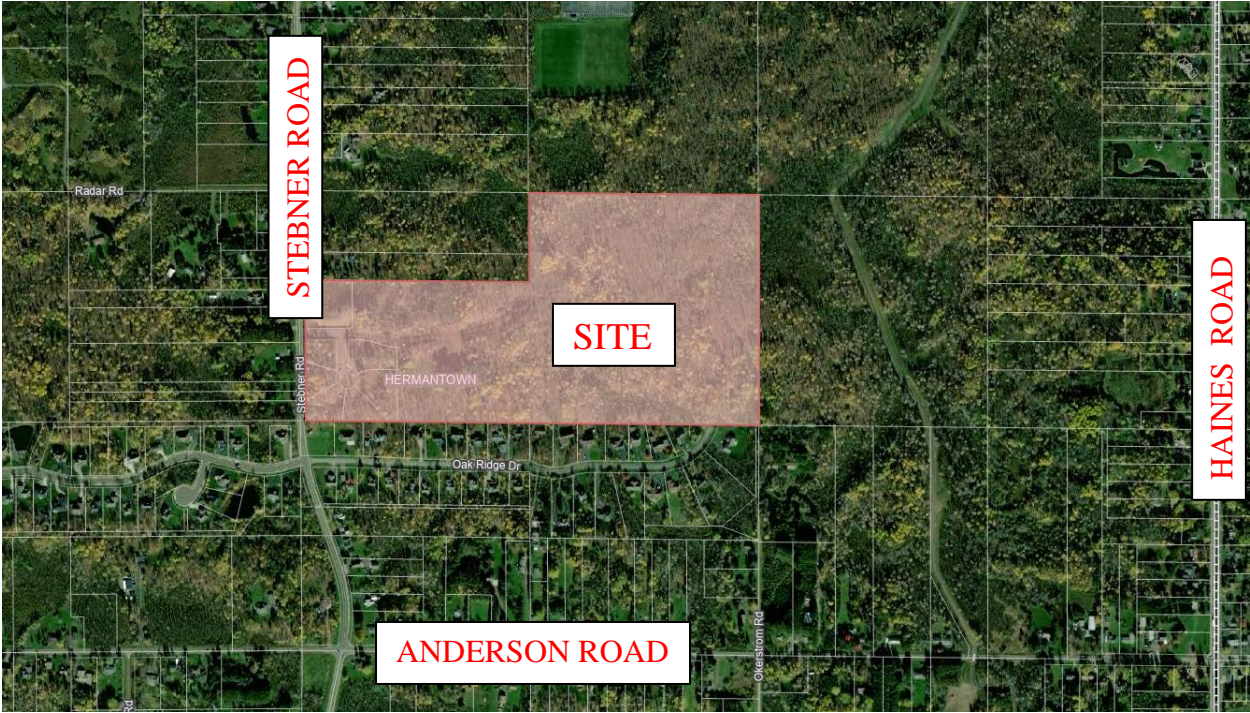
LOCATED IN PART THE N $\frac{1}{2}$ OF THE SW $\frac{1}{4}$ OF SEC. 24, TWP. 50, RGE. 15
ST. LOUIS COUNTY MINNESOTA



RON KRUEGER
Registered Land Surveyor, LLC

08/17/2019 9:00:00 AM

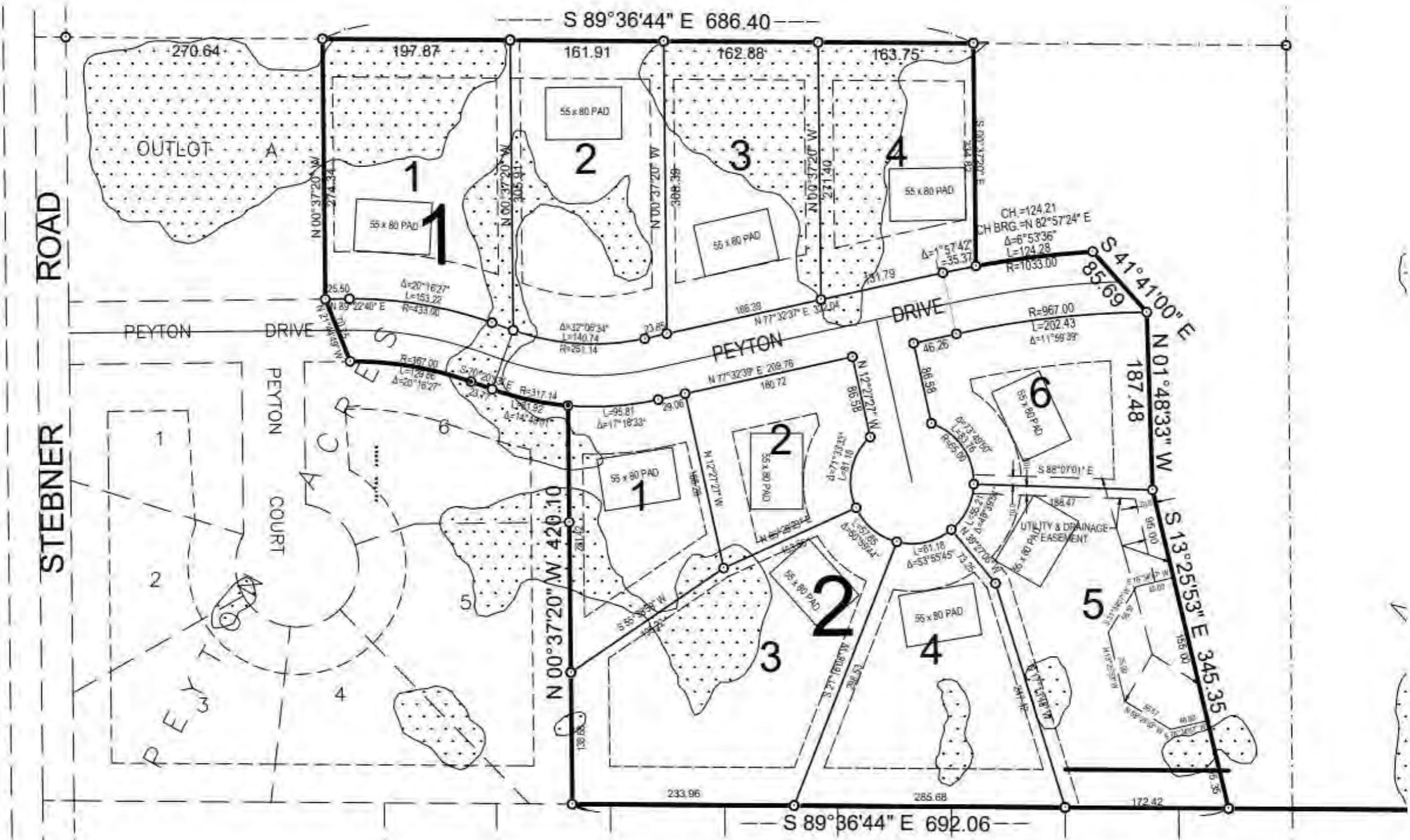
Location Map



PEYTON ACRES PHASE 1B

LOCATED IN PART THE N $\frac{1}{2}$ OF THE SW $\frac{1}{4}$ OF SEC. 24, TWP. 50, RGE. 15

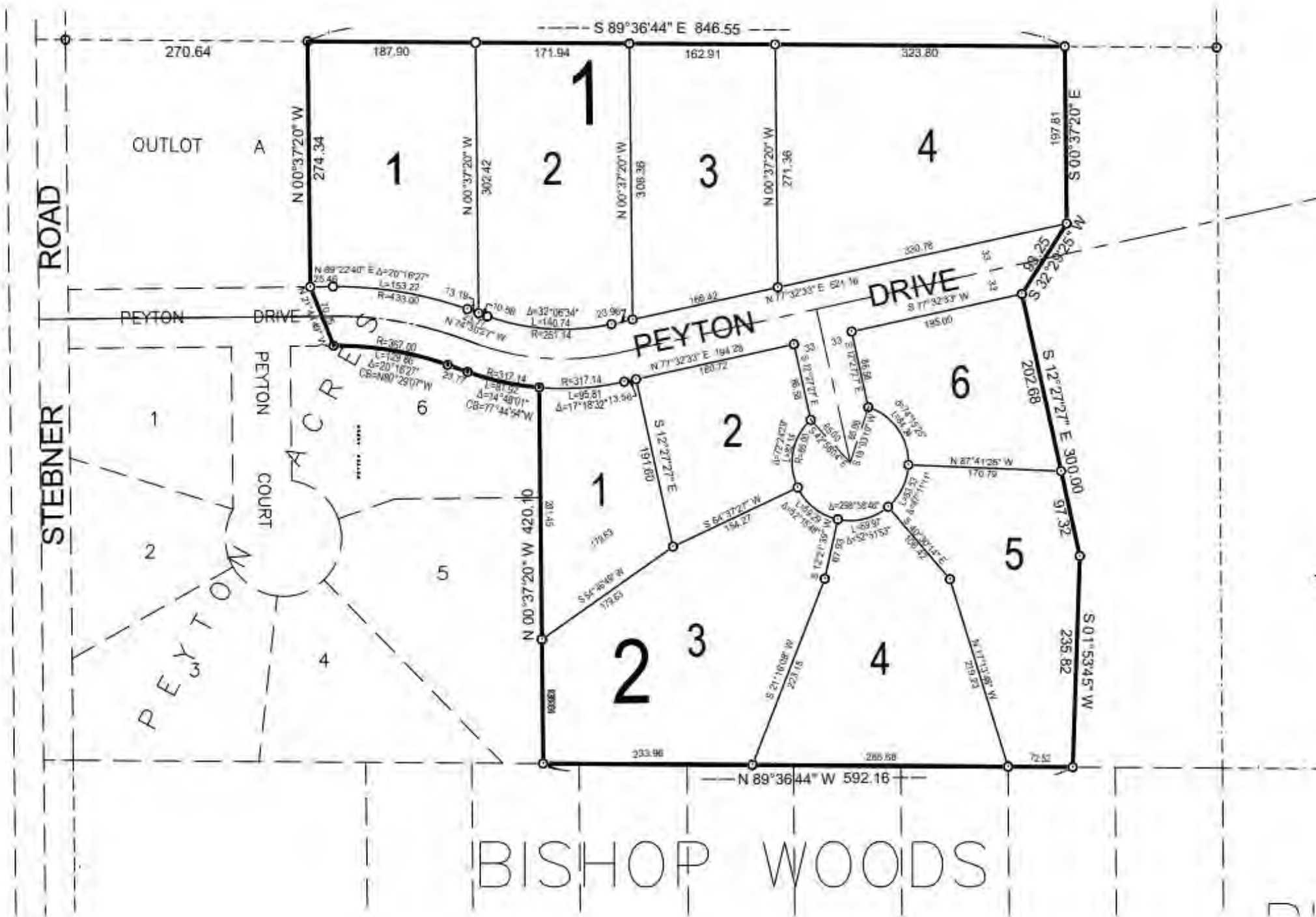
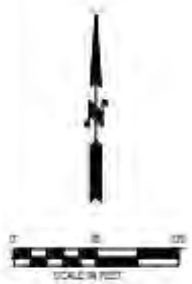
ST. LOUIS COUNTY MINNESOTA



PEYTON ACRES PHASE 1B

LOCATED IN PART THE N $\frac{1}{2}$ OF THE SW $\frac{1}{4}$ OF SEC. 24, TWP. 50, RGE. 15

ST. LOUIS COUNTY MINNESOTA



PEYTON ACRES PHASE 1B

LOCATED IN PART THE N $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SEC. 24, TWP. 50, RGE. 15
ST. LOUIS COUNTY MINNESOTA



- SITE LEGEND:**
-  PROPOSED BIRTPANOUS
 -  PROPOSED STORMWATER MANAGEMENT
 -  PROPOSED HOUSE - 40' X 90'
 -  EXISTING WETLANDS
 -  WETLAND IMPACT

- SITE SUMMARY:**
- APPROXIMATELY 96 BUILDABLE LOTS (W/46 ACRES LOT) (M/100/247)
 - 10 LOTS IN PHASE 1A
 - 1/291 SF ESTIMATED WETLAND IMPACT



SEPTACORP

TO: Mayor & City Council
FROM: John Mulder, City Administrator
DATE: May 12, 2022
SUBJECT: T-Mobile Lease – Hawk Circle
Water Tower



Meeting Date: 5/16/22
Agenda Item: 12-G
Resolution: 2022-67

REQUESTED ACTION

Approve a lease with T-Mobile for a lease on the Hawk Circle Water Tower

BACKGROUND

Previously Sprint had equipment and related lease on the City's Hawk Circle Water Tower. T-Mobile has purchased Sprint and is taking over the lease and adding some new equipment. This lease replaces the lease with Sprint with a new lease with T-Mobile

SOURCE OF FUNDS (if applicable)

ATTACHMENTS

Lease.

Resolution No. 2022-67

RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE AND DELIVER THE TOWER AND GROUND LEASE AGREEMENT BETWEEN THE CITY OF HERMANTOWN AND T-MOBILE CENTRAL LLC

WHEREAS, T-Mobile Central LLC (“T-Mobile”) desires to lease certain land and access to the water tower structure which is owned and operated by the City of Hermantown for access, parking, utilities, inspection, maintenance, installation, construction, operation, repair, removal and placement for and of a communications facility, together with the non-exclusive right to ingress and egress.

WHEREAS, the City of Hermantown desires to lease the land, property, and water tower access to T-Mobile pursuant to the terms of a Tower and Ground Lease Agreement, substantially in the form of the one attached hereto as Exhibit A (“Lease Agreement”); and

WHEREAS, pursuant to the terms of the Lease Agreement, in addition to rent, T-Mobile will reimburse the City for engineering fees and legal costs incurred by the City in consideration of the Lease Agreement; and

WHEREAS, the City Council has determined that it is in the best interests of the City of Hermantown to enter into Lease Agreement with T-Mobile.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermantown, Minnesota as follows:

1. The Tower and Ground Lease Agreement substantially in the form of the one attached hereto as Exhibit A is hereby approved, contingent upon final engineering approval of the construction plans and specifications as provided for in the City’s Antenna Leases and Water Tower Policy.

2. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such Water Tower Agreement on behalf of the City of Hermantown.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

and the following voted in opposition thereto:

WHEREUPON, such resolution was declared duly passed and adopted.

EXHIBIT A
Tower and Ground Lease Agreement

TOWER AND GROUND LEASE AGREEMENT

THIS TOWER AND GROUND LEASE AGREEMENT (“Lease”) is made and entered into as of the ____ day of _____, 2022, by and between the **City of Hermantown** (“Landlord”) and **T-Mobile Central LLC**, a Delaware limited liability company (“Tenant”).

WITNESSETH

1. Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, space on a water tower structure owned and operated by Landlord and certain land (collectively, the “Leased Premises”), said demised space on the water tower being located on top of the tank, and said demised land being 20 foot by 32 foot area for access, parking, utilities, inspection, maintenance, installation, construction, operation, repair, removal, and placement for and of the below-described Communications Facility, all as more specifically described in this Lease, Antenna Site Application, and the drawings attached as Exhibit A.

2. Use. Tenant has the non-exclusive right to use the Leased Premises for the purpose of installing, constructing, maintaining, repairing, operating, inspecting, and removing a Communications Facility as described in this Lease. The Communications Facility may include any or all of the following:

2.1. A concrete foundation on the above-described area with a 8 foot by 10 foot communications shelter placed thereon and containing, without limitation and in Tenant’s reasonable discretion, telecommunications equipment.

2.2. The above-described concrete foundation, communications shelter, equipment contained therein, and lines and equipment on the water tower and between the water tower and the communications shelter may be installed by Tenant or by any of Tenant’s agents or contractors, and at Tenant’s discretion, said agent(s) or contractor(s) may tie into the water tower’s grounding system. Tenant has the right to make alterations of the below-defined Communications Facility from time to time, so long as such alterations do not adversely affect the structural integrity or Landlord’s full use of the Water Tower. During the term of this Lease, and thirty (30) days prior to any modification performed by Tenant or Tenant’s agents or contractors to the initial installation of the Communications Facility, Tenant will submit to the Hermantown City Engineer, for his/her approval, such approval not to be unreasonably withheld or delayed, a set of plans detailing the work to be performed. Tenant shall not erect or install any signs, door lettering, or advertising media of any type on the communications shelter which can be viewed from the exterior of the Leased Premises.

For the purposes of this Lease, all of Tenant’s above-referenced antennas, lines, equipment, switches, power supplies, batteries, communications shelter, accessories, and necessary

appurtenances shall be referred to collectively as the “Communications Facility”. Landlord and Tenant agree that the Communications Facility will be used for the purpose of providing wireless telecommunications and for no other purpose.

3. Term

3.1. Primary Term. The Primary Term of this Lease shall be for five (5) years, and shall commence on June __, 2022, and shall terminate at 11:59 p.m. on June __, 2027, unless sooner terminated as provided herein.

3.2. Extended Terms. Tenant is granted the option to extend the Primary Term of this Lease for one (1) additional period of five (5) years (“Extended Term”) provided Tenant is not then in default hereunder.

4. Rent

4.1. Base Rent. Tenant agrees to pay Landlord, as Base Rent for the Leased Premises the sum of \$22,640.41 (2022) per calendar year payable in advance on or before December 1st of each and every year during the term of this Lease to Landlord at its address as designated in this Lease. Tenant’s rent is paid through December 31, 2022.

4.2. Prorated Rent. Rent for any period during the term hereof which is less than one (1) year shall be prorated based on a three hundred sixty-five (365) day year.

4.3. Rent Adjustment. The amount of Base Rent payable hereunder shall be adjusted annually (“Adjustment Date”) commencing on January 1, 2023, and thereafter each January 1st during the initial term or renewal term as provided in Section 3.2 above. The annual adjustment will be a 5% (five percent) increase. Under the Rent Adjustment formula, the Base Rent for 2023 is \$23,772.43 and \$24,961.05 for 2024.

5. Access and Utilities. Tenant and its employees, agents, invitees, and utility companies are hereby given and granted access for ingress, egress, and regress to and from the Leased Premises on a twenty-four (24) hour daily basis, only during the term of this Lease, for the purpose of erection, installation, operation, inspection, repair, maintenance, and removal of and parking at the Communications Facility and other necessary appurtenances, including telephone lines, power lines, cables and wires to be used in association with the Communications Facility.

6. Utilities at Tenant’s Cost. Tenant shall be solely responsible for and promptly pay all charges for gas, electricity, telephone service, or any other utility used or consumed by Tenant on the Leased Premises. Tenant shall have an electrical current meter installed and shall be solely and exclusively responsible for installation, maintenance, and repair for all utility extensions and connections.

7. Notices. All notices or demands are deemed to have been given or made when delivered in person or mailed by certified, registered, or express mail, return receipt requested, postage prepaid, United States mail, and addressed to the applicable party as follows:

If to Landlord: City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811

With a copy to: Gunnar B. Johnson
Overom Law, PLLC
802 Garfield Avenue
Suite 101
Duluth, MN 55802

T-Mobile Central LLC
12920 SE 38th Street
Bellevue, Washington 98006
Attn: Lease Compliance/Site ID A1N0225A

A party may change its address to which any notice or demand may be given by written notice thereof to the other party.

8. Liability and Indemnity. Tenant agrees to indemnify and save the Landlord harmless from all claims (including costs and expenses of defending against such claims) arising or alleged to arise from any negligent act, negligent omission, or intentional tort of Tenant or Tenant's agents, employees, or contractors occurring during the term of this Lease in or about the Leased Premises. Tenant agrees to use and occupy the Leased Premises at Tenant's own risk and hereby releases Landlord, and Landlord's agents and employees, from all claims for any damage or injury caused by Tenant to the full extent permitted by law. The provisions of this Section shall survive the termination of this Lease.

9. Insurance. Tenant will carry, at its expense, during any period of time it is in possession of the Leased Premises, the following insurance with customary coverage and exclusions insuring Landlord and Tenant against all liability arising out of Tenant's use, occupancy, or maintenance of the Leased Premises, and shall cause the Landlord to be shown as additional insured on the policy:

9.1. Bodily injury. \$750,000.00 for injury to any person and \$2,000,000.00 for all injuries sustained by more than one person in any one occurrence.

9.2. Property damage. \$2,000,000.00 for damage as a result of any one accident.

9.3. Umbrella. An umbrella form covering other excess liability.

Tenant agrees to furnish Landlord with certificates certifying that Tenant has obtained the coverage described prior to commencement of construction. In addition, Tenant will provide an insurance certificate not less than once each year, and at other times as reasonably requested by Landlord.

10. Default. Tenant shall be in default of this Agreement in the event of any one of the following:

10.1. Failure to pay any rent to Landlord when due;

10.2. Landlord determines that Tenant's actions could or may be detrimental to the physical condition of the equipment, water tower and/or Leased Premises covered by this Agreement, or such actions are contrary to other licensing agreements;

10.3. Tenant's actions are detrimental to the ability of Landlord to maintain appropriate state and federal licenses or permits;

10.4. Tenant breaches or violates any term, condition, or covenant of this Agreement;

10.5. Tenant fails to provide certificates of insurance required by this Agreement;

10.6. Tenant defaults under any other agreement with Landlord existing or hereafter arising as attached by executed Addendum.

11. Remedies Upon Default. In the event of default as defined above, and upon expiration of thirty (30) days written notice of default and failure to cure, or make mutually agreeable provisions to cure, Landlord may exercise any one or more of the following remedies:

11.1. Declare this Agreement to be automatically terminated and, thereafter, Landlord shall be relieved of any further performance required under this Agreement;

11.2. Remove or have removed Tenant's equipment and recover any expense from Tenant incurred in removing the equipment;

11.3. Exercise and enforce any other right or remedy available to Landlord, including, but not limited to, reasonable attorney's fees and costs.

12. Liens. Tenant shall require its contractor(s) to provide a payment and performance bond covering the work to be done on the Leased Premises and the tower and will have the City listed as an additional obligee on the bond. Tenants shall not suffer nor permit any mechanic's, vendor's or any other lien to be filed against the Leased Premises by reason of work, labor or materials supplied or claimed to have been supplied to the Landlord. If any such lien at any time shall be filed against the Leased Premises, the Tenant shall proceed with due diligence to cause the same to be discharged of record by payment, deposit, bond, order of court or otherwise, subject, however to the right of the Tenant to contest any such lien by legal proceedings diligently pursued.

13. Garbage and Hazardous Substances and Materials. Tenant, at its sole cost and expense, shall provide for proper removal of all garbage produced on the Leased Premises. Tenant shall comply with all statutes, rules and regulations of federal, state, or local governmental units governing the disposition of hazardous substances or materials whether now existing or hereinafter

enacted. Tenant shall not cause or permit any hazardous substances or hazardous materials to be used, stored, generated, or disposed of on the Leased Premises in violation of any statutes, rules or regulations of federal, state or local governmental units. Tenant shall ensure proper and legal disposal of such substances or materials. As used herein, the terms “hazardous substance” and “hazardous material”, include any element, rule, ordinance, directive or decision because of its ignitability, corrosiveness, toxicity, volatility, radioactivity or carcinogenic or other negative health effect. Hazardous substances and hazardous materials also specifically include petroleum, and its derivatives and byproducts, natural and synthetic gas and their derivatives and by products, ureaformaldehyde, asbestos and PCBs. Tenant shall indemnify, defend and hold Landlord harmless from and against any claim, damage or expense arising out of Tenant’s installation, use, generation, storage or disposal of any hazardous materials or hazardous substances, regardless of whether Landlord has approved the activity. The representations, warranties, indemnifications and duties set forth in this Section shall survive the termination or expiration of this Lease.

14. Permits. Landlord acknowledges that following the execution of this Lease, Tenant will be contacting the appropriate local, state and federal governmental agencies for the purpose of obtaining all building permits and approvals, use permits, and other governmental permits and approvals (collectively, “Permits”) necessary for the installation, construction, operation, and maintenance of the Communications Facility. Landlord agrees to fully cooperate with Tenant in obtaining the Permits and, without limiting the generality of the foregoing, to execute any applications, maps, certificates, or other documents that may be required in connection with the Permits, at no cost to Landlord.

15. Other Conditions and Provisions

15.1. Tenant shall acquire no interest in the land or in the water tower by virtue of this Agreement other than as set forth in this Lease.

15.2. Tenant shall keep and maintain the Communications Facility in good repair and condition and in accordance with all local, state, federal governmental rules and regulations. Tenant understands and agrees that the water tower and the Leased Premises may, from time to time, require repair and/or maintenance including, but not limited to, painting of the tower. Upon notification by Landlord, Tenant agrees to protect its own property during the time of any such repairs and/or maintenance and further agrees that its use of the Leased Premises, including the water tower, may be temporarily interfered with by reason of such activities. Tenant agrees that Landlord shall not be responsible to Tenant for temporary cessation of use provided that rentals due hereunder shall be suspended during any necessary cessation of use. Tenant agrees to relocate or protect any equipment or facilities under such repairs or maintenance activities, said relocation or protection to be at Tenant’s expense.

15.3. Tenant covenants and agrees that Tenant’s antennas and the installation, operation, and maintenance thereof will:

15.3.1. Not interfere with the use and operation of Landlord’s water tower, and specifically its primary use, and any communications equipment or the radio

equipment of other tenants on the water tower. In the event there is such interference by Tenant, Tenant promptly will take all steps necessary to correct and eliminate same within a reasonable time. If Tenant is unable to eliminate such interference caused by it within a reasonable time, Tenant agrees to remove its antennae(s) causing the interference from the water tower and, in Tenant's discretion, replace the antenna(s) with one or more which cause no said interference.

15.3.2. Not interfere with Landlord's maintenance and repair of the water tower and its lighting system.

15.4. Tenant shall reimburse the City of Hermantown all reasonable costs in connection with the preparation of this Lease and any enforcement of it, including reasonable attorneys' fees and costs.

16. Taxes. Tenant shall pay to taxing authority any real estate taxes that may be attributable to any improvement to the Leased Premises made by Tenant.

17. Assignment and Subletting. Tenant may not sublet any or all of Tenant's interest in this Lease, any part thereof, the leaseholder's interest of Tenant created hereby, and/or any or all of Tenant's right, title, and interest in and to any or all of the Communications Facility. Tenant may assign this Lease, with Landlord's prior consent, which consent shall not be unreasonably withheld or delayed, during the initial term or any extended term, to any transferee of the FCC Authorization to conduct non-wireline pcs communications system(s) on Frequency Block F. This Lease shall extend to and be binding upon the successors and assigns of the parties hereto. Time shall be considered of the essence in the performance hereof.

18. Entire Agreement and Binding Effect. This Lease shall not be amended or changed except by written instrument signed by the parties hereto. Section captions herein are for convenience or reference only and neither limit nor amplify the provisions of this Lease. The invalidity of any portion of this Lease shall not have any effect on the balance thereof. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of Landlord and Tenant.

19. Governing Law. This Lease shall be governed by the laws of the State of Minnesota.

20. Termination. Landlord intends to continue to use the Leased Premises on a water tower for a indefinite period of time. In the event that such use is discontinued at this location for any reason, as may be determined by Landlord in its sole discretion, Landlord shall have the right to terminate this Agreement by giving notice thereof to Tenant in writing by certified mail, return receipt requested, and such notice shall be effective six (6) months after receipt of such notice by termination as evidence by the return receipt. Upon termination of this Lease, Tenant shall promptly remove the Communications Facilities from the Leased Premises.

21. User Priority. Tenant agrees that the following priorities of use, in descending order, shall apply in the event of communication interference or other conflict while this Lease is in effect, and Tenant's use shall be subordinate accordingly:

21.1. Landlord;

21.2. Public safety agencies, including law enforcement, fire and ambulance services, that are not part of the Landlord;

21.3. Other governmental agencies where use is not related to public safety; and

21.4. Government-related entities whose antennae offer a service to the general public for a fee, in a manner similar to a public utility, such as long distance and cellular telephone, not including radio or television broadcasters.

Tenant's use of the Leased Premises shall be non-exclusive, and Landlord specifically reserves the right to allow the Leased Premises to be used by other parties and to make additions, deletions, or modifications to its own facilities on the Leased Premises.

22. Additional Buildings. Tenant acknowledges that Landlord may permit additional buildings to be constructed on the Leased Premises. At such time as this may occur, Tenant will permit said buildings to be placed immediately adjacent to Tenant's building and will allow "attachments" to its buildings so as to give the appearance that all buildings are a connected facility. Said attachments will be made at no cost to Tenant and will not compromise the structural integrity of Tenant's building.

23. Termination of Prior Lease. T-Mobile merged with Sprint Communications. Spectrum Realty Company was part of that merger as was Tenant. The parties agree that the prior lease for the Premises with Spectrum Realty Company and Landlord for the Premises is terminated as part of this Lease.

24. Site Restoration. In the event that this Lease is terminated or not renewed, Tenant shall have sixty (60) days from the termination or expiration date to remove the Communications Facilities, and related equipment from the Leased Premises, repair the site and restore the surface of the land. Upon receipt of notice to terminate this Lease, Tenant shall deposit with Landlord the sum of \$5,000.00, which shall be fully refunded to Tenant upon the timely removal of the Communications Facilities, and related equipment, the repair of the site and the restoration of the Structure surface to the reasonable satisfaction of the Landlord. In the event that Tenant's Communications Facilities, and related equipment are not removed to the reasonable satisfaction of the Landlord, they shall be deemed abandoned and become the property of the Landlord and Tenant shall have no further rights thereto. Tenant has notified the Landlord that the following entities have an interest in the Communications Facilities and related equipment because of financing arrangements:

24.1. If Landlord removes the Communications Facilities or related equipment, Landlord must give written notice to the above entities at the addresses provided, informing

them that Communications Facilities or related property have been removed and will be deemed abandoned if not claimed and the storage fees and other reasonable costs paid within thirty (30) days.

25. Tenant Interference

25.1. With Structure. Tenant shall not interfere with Landlord's use of the water tower or the land and agrees to cease all such actions which unreasonably and materially interfere with Landlord's use thereof no later than three (3) business days after receipt of written notice of the interference from Landlord. In the event that Tenant's cessation of action is material to Tenant's use of the Leased Premises and such cessation of action is material to Tenant's use of the Leased Premises and such cessation frustrates Tenant's use of the Leased Premises, within Tenant's sole discretion, Tenant shall have the immediate right to terminate this Lease.

25.2. With Higher Priority Users. If Tenant's Communications Facility causes impermissible interference with higher priority users as set forth in under Subparagraph 21 above or with pre-existing tenants, Tenant shall take all measures necessary to correct and eliminate the interference. If the interference cannot be eliminated within forty-eight (48) hours after receiving Landlord's written notice of the interference, Tenant shall immediately cease operating its Communications Facility and shall not reactivate operation, except intermittent operation for the purpose of testing, until the interference has been eliminated. If the interference cannot be eliminated within thirty (30) days after Tenant received Landlord's written notice, Landlord may at its option terminate this Lease immediately.

25.3. Interference Study - New Occupants. Upon written notice by Landlord that it has a bona fide request from any other party to lease an area including or in close proximity to the Leased Premises ("Leased Premises Area"), Tenant agrees to provide Landlord, within sixty (60) days, the radio frequencies currently in operation or to be operated in the future of each transmitter and receiver installed and operational by Tenant on the Leased Premises at the time of such request. Landlord may then have an independent, registered professional engineer of Landlord's choosing perform the necessary interference studies to determine if the new applicant's frequencies will cause harmful radio interference to Tenant. Landlord shall require the new applicant to pay for such interference studies.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the City of Hermantown has caused this Tower and Ground Lease Agreement to be executed by its duly authorized representatives as of the date first above written.

LANDLORD:

City of Hermantown

By _____
Its Mayor

And by _____
Its City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____ and _____, the Mayor and City Clerk, respectively, of the City of Hermantown on behalf of the City of Hermantown.

Notary Public

[END OF SIGNATURES]

EXHIBIT A
Communications Facility

TO: Mayor & City Council
FROM: Paul Senst, Public Works Director



DATE: May 10, 2022

Meeting Date: 05/16/2022

SUBJECT: 2002 Water Tower Recoating Pay
App. #1

Agenda Item: 12-H

Resolution: 2022-68

REQUESTED ACTION

Approve Pay Application #1 to Osseo Construction Co. LLC for the work related to the tower reconditioning project.

BACKGROUND

Attached is Pay Application #1 for the work associated with the Hwy. 53 water tower reconditioning project. This is for work completed from April 1, 2022 thru April 30, 2022. Bolton & Menk and NCE have reviewed the project progress thus far and agreed upon the quantities of work completed. The amount of Pay Application #1 is **\$57,712.50**. The City will hold 5% retainage of the completed construction through the duration of the project. This retainage amount for pay application #1 is **\$ 3,037.50**.

NCE has reviewed the quantities through construction inspection and discussions with Bolton & Menk, representatives. I recommend payment in the amount of **\$57,712.50** be authorized at the May 16th, 2022 City Council Meeting.

SOURCE OF FUNDS (if applicable)

Sales Tax 240-43200-530 Project 318

ATTACHMENTS

Bolton & Menk Recommendation & Pay App 1

Resolution No. 2022-68

RESOLUTION APPROVING PAY REQUEST NUMBER 1 FOR RECONDITIONING OF HIGHWAY 53 WATER TOWER (WATER IMPROVEMENT DISTRICT NO. 318) TO OSSEO CONSTRUCTION CO. LLC IN THE AMOUNT OF \$57,712.50

WHEREAS, the City of Hermantown has contracted with Osseo Construction Co. LLC for reconditioning of the Highway 53 Water Tower (Water Improvement District NO. 318) (“Project”); and

WHEREAS, Osseo Construction Co. LLC has performed a portion of the agreed upon work in said Project; and

WHEREAS, Osseo Construction Co. LLC has submitted Pay Request No. 1 in the amount of \$57,712.50; and

WHEREAS, the City will maintain an accumulated retainage as shown on the pay requests until the final work and documentation is completed; and

WHEREAS, Bolton & Menk has approved such Pay Request No. 1 provided that \$3,037.50 accumulated as retainage of 5% be withheld pending final acceptance of the Project by the City of Hermantown.

WHEREAS, the necessary documentation for the pay request is on file and available for inspection.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hermantown, Minnesota as follows:

1. Pay Request No. 1 is hereby approved.
2. The City is hereby authorized and directed to pay to Osseo Construction Co. LLC The Sum Of \$57,712.50 which is the amount represented on pay request No. 1.

Councilor _____ introduced the foregoing resolution and moved its adoption.

The motion for the adoption of such resolution was seconded by Councilor _____ and, upon a vote being taken thereon, the following voted in favor thereof:

_____, aye.

and the following voted in opposition thereto:

WHEREUPON, such resolution has been duly passed and adopted May 16, 2022.



Real People. Real Solutions.

4960 Miller Trunk Highway
Suite 350
Duluth, MN 55811

Ph: (218) 729-5939
Bolton-Menk.com

VIA EMAIL

May 10, 2022

John Mulder, City Administrator
City of Hermantown
5105 Maple Grove Road
Hermantown, MN 55811

RE: HWY 53 Tower Reconditioning
Pay Request No. 1
BMI Project Number: 0M2.125206

Dear John,

Enclosed is a copy of Pay Request No. 1 from Osseo Construction Co. LLC for \$57,712.50. Work covered by this pay request primarily consists of mobilization, site maintenance, and curtain containment. The contractor also completed modification of the access doors, installed the roof manway, and began installing obstruction lighting. The total completed work reflected on this request represents 13% of the work to be completed under this contract. I have reviewed this request and recommend payment to the contractor. Please process this request for payment.

Please contact me if you have any questions.

Sincerely,

Bolton & Menk, Inc.

Brian J. Guldan, P.E.
Principal Environmental Engineer

Enclosures

cc: Paul Senst, City of Hermantown Public Works Director
David Bolf, City Engineer
Jamie Connor, Bolton & Menk, Inc.

File

APPLICATION FOR PAYMENT

Owner:
 City of Hermantown
 5105 Maple Grove Road
 Hermantown, MN 55811
 CONTRACTOR:
 Osseo Construction Co. LLC
 PO Box 143, 14248 10th Street
 Osseo, WI 54758

PROJECT: HWY 53 Tower Reconditioning

VIA ARCHITECT:
 Bolton & Menk Inc

APPLICATION NO: 1

PERIOD TO: 5/4/2022

PROJECT #: 0M2.125206
 CONTRACT #:
 CONTRACT DATE:

Distribution to:

<input checked="" type="checkbox"/>	OWNER
<input checked="" type="checkbox"/>	ARCHITECT
<input checked="" type="checkbox"/>	GENERAL CONTRACTOR
<input type="checkbox"/>	SUBCONTRACTOR
<input type="checkbox"/>	

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
 Continuation Sheet is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from The Osseo Construction Co. LLC, and that current payment shown herein is now due.


1. ORIGINAL CONTRACT SUM	\$	<u>455,500.00</u>
2. Net change by Change Orders	\$	<u>0.00</u>
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$	<u>455,500.00</u>
4. TOTAL COMPLETED & STORED TO DATE (Column G)	\$	<u>60,750.00</u>
5. RETAINAGE:		
a. <u>5%</u> of Completed Work (Column D + E)	\$	<u>3,037.50</u>
b. <u> </u> % of Stored Material (Column F)	\$	<u>n/a</u>
Total Retainage (Lines 5a + 5b or Total in Column I)	\$	<u>3,037.50</u>
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	<u>57,712.50</u>
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	<u> </u>
8. CURRENT PAYMENT DUE	\$	<u>57,712.50</u>
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less 6)	\$	<u>397,787.50</u>



 Contractor's Signature

5/4/22

 Date



 Engineers Signature

5/10/22

 Date

 Owners Signature

 Date

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Contractor		
Total approved this Month		
TOTALS		
NET CHANGES by Change Order		

CONTINUATION SHEET

PAGE 2 OF 2 PAGES

APPLICATION NO: I
 APPLICATION DATE: 5/4/2022
 PERIOD TO: 5/4/2022

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

CONTRACTOR'S PROJECT NO:

ITEM NO.	DESCRIPTION OF WORK	C	D		F	G		H	I
			SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)		
1	Mobilization and Site Maintenance	\$50,000.00	\$0.00	\$25,000.00	N/A	\$25,000.00	50.00%	\$25,000.00	\$1,250.00
2	Grinding (misc) 10 hrs, \$100.00/hour	\$1,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$1,000.00	\$0.00
3	Welding (misc) 10 L.F., \$150.00/L.F.	\$1,500.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$1,500.00	\$0.00
4	Pit Filler (misc) 1 hr, \$150.00/hour	\$150.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$150.00	\$0.00
5	Caulking (misc) 100 L.F., \$10.00/hour	\$1,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$1,000.00	\$0.00
6	Complete Sandblasting and Reconditioning of Tower (Interior Wet)	\$110,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$110,000.00	\$0.00
7	Complete Sandblasting and Reconditioning of Tower (Exterior)	\$137,350.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$137,350.00	\$0.00
8	Partial removal and spot repair sandblasting and reconditioning of tower < 10% spot repair (interior dry)	\$30,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$30,000.00	\$0.00
9	Full curtain containment	\$25,000.00	\$0.00	\$25,000.00	N/A	\$25,000.00	100.00%	\$0.00	\$1,250.00
10	Replace failed material covering the exterior roof to dry riser opening	\$3,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$3,000.00	\$0.00
11	Provide and install new safety climb systems to all ladders	\$8,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$8,000.00	\$0.00
12	Provide and install new overflow pipe screen	\$250.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$250.00	\$0.00
13	Replace pressure manway gasket	\$250.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$250.00	\$0.00
14	Remove and salvage existing inlet/outlet pipe insulation. Reinstall salvaged existing insulation with new metal jacket with new metal banding.	\$6,500.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$6,500.00	\$0.00
15	New tank logos/lettering	\$10,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$10,000.00	\$0.00
16	Provide and install tower (tank) mixer	\$25,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$25,000.00	\$0.00
17	Remove and replace damaged grout and mortar between cone base ring and foundation and repair foundation. Apply caulk to grout/base ring seam.	\$5,000.00	\$0.00	\$0.00	N/A	\$0.00	0.00%	\$5,000.00	\$0.00
18	Provide and install new dual LED aviation obstruction lighting on pivoting post	\$4,500.00	\$0.00	\$2,250.00	N/A	\$2,250.00	50.00%	\$2,250.00	\$112.50

TO: Mayor & City Council

FROM: Paul Sens

DATE: May 4th, 2022

Meeting Date: 05/16/2022

SUBJECT: Purchase of 1-ton Truck

Agenda Item: 12-I

Resolution: 2022-69



REQUESTED ACTION

Approve Purchase of GMC 1-Ton Pickup truck

BACKGROUND

As part of our 2022 Capital improvement plan, we had in it a 1-ton Pickup purchase. This unit will replace Unit H7. H7 was sold last Fall/Winter, had rust holes in the frame and was a safety hazard to have on the streets and for plowing.

This is a purchase thru North Country GM as part of the MN State Bid process.

SOURCE OF FUNDS (if applicable)

2022 CIP Plan
PW&U 22-003
401-431100-543

ATTACHMENTS

North Country GM Quote



NORTH COUNTRY GM

BOB OHARA | 218-349-8955 | rwohara01@aol.com

CITY OF HERMANTOWN

Prepared For: PAUL

Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro





NORTH COUNTRY GM

BOB OHARA | 218-349-8955 | rwohara01@aol.com

Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (✔ Complete)

Quote Worksheet

	MSRP
Base Price	\$44,200.00
Dest Charge	\$1,695.00
Total Options	\$4,340.00
Subtotal	\$50,235.00
BID ASSIST	(\$6,900.00)
2023 MODEL PRICE ADJ @ 14.5%	\$5,540.00
Subtotal Pre-Tax Adjustments	(\$1,360.00)
Less Customer Discount	(\$4,124.00)
Subtotal Discount	(\$4,124.00)
Trade-In	\$0.00
Subtotal Trade-In	\$0.00
Taxable Price	\$44,751.00
Sales Tax	\$0.00
Subtotal Taxes	\$0.00
Subtotal Post-Tax Adjustments	\$0.00
Total Sales Price	\$44,751.00

Dealer Signature / Date

Customer Signature / Date

Selected Model and Options

MODEL

CODE	MODEL	MSRP
TK30903	2022 GMC Sierra 3500HD 4WD Reg Cab 142" Pro	\$44,200.00

COLORS

CODE	DESCRIPTION
GAZ	Summit White

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro ( Complete)

BODY CODE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
E63	Pickup bed includes bed assist step (STD)	0.00 lbs	0.00 lbs	\$0.00

REAR WHEEL CONFIGURATION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
SRW	Single Rear Wheels (STD)	-47.00 lbs	-144.00 lbs	\$0.00

EMISSIONS

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
FE9	Emissions, Federal requirements	0.00 lbs	0.00 lbs	\$0.00

ENGINE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
L8T	Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline (401 hp [299 kW] @ 5200 rpm, 464 lb-ft of torque [629 N-m] @ 4000 rpm) (STD)	0.00 lbs	0.00 lbs	\$0.00

TRANSMISSION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
MYD	Transmission, 6-speed automatic, heavy-duty (STD)	0.00 lbs	0.00 lbs	\$0.00

GVWR

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
JFN	GVWR, 11,100 lbs. (5035 kg) with single rear wheels (STD) (Included and only available with TC30953 or TK30903 model with (L8T) 6.6L V8 gas engine. Requires single rear wheels.)	0.00 lbs	0.00 lbs	Inc.

AXLE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
GT4	Rear axle, 3.73 ratio (Requires (L8T) 6.6L V8 gas engine.)	0.00 lbs	0.00 lbs	\$0.00

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (Complete)

PREFERRED EQUIPMENT GROUP

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
1SA	Pro Preferred Equipment Group includes standard equipment	0.00 lbs	0.00 lbs	\$0.00

WHEELS

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
PYT	Wheels, 18" (45.7 cm) 8-spoke painted steel, Silver Extended (STD) (Requires single rear wheels.)	6.00 lbs	-76.00 lbs	\$0.00

TIRES

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
QF6	Tires, LT275/70R18E all-terrain, blackwall (STD) (Requires single rear wheels.)	24.00 lbs	-63.00 lbs	\$0.00

SPARE TIRE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
ZYG	Tire, spare LT275/70R18 all-terrain, blackwall (STD) (Included and only available with (QF6) LT275/70R18E all-terrain, blackwall tires with (E63) pickup bed single rear wheel models. Available to order when (ZW9) pickup bed delete and (QF6) LT275/70R18E all-terrain, blackwall tires are ordered with single rear wheel models.)	0.00 lbs	16.00 lbs	\$0.00

PAINT

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
GAZ	Summit White	0.00 lbs	0.00 lbs	\$0.00

SEAT TYPE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
AE7	Seats, front 40/20/40 split-bench with upper covered armrest storage with fixed lumbar (STD)	4.00 lbs	2.00 lbs	\$0.00

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (Complete)

SEAT TRIM

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
H0U	Jet Black, Cloth seat trim (Requires (ZLQ) Fleet Convenience Package or (PCI) Convenience Package.)	-1.00 lbs	-1.00 lbs	\$0.00

RADIO

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
IOR	Audio system, GMC Infotainment System with 7" diagonal color touchscreen, AM/FM stereo with seek-and-scan and digital clock, includes Bluetooth streaming audio for music and select phones; featuring wired Android Auto and Apple CarPlay capability for compatible phones (STD)	0.00 lbs	0.00 lbs	\$0.00

ADDITIONAL EQUIPMENT - PACKAGE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
VYU	Snow Plow Prep/Camper Package includes (KW5) 220-amp alternator, includes increased front GAWR on Heavy Duty models, (NZZ) skid plates (transfer case and oil pan), pass through dash grommet hole and roof emergency light provisions. Contact GM Upfitter Integration at www.gmupfitter.com for plow installation details and assistance. Note: if ordered for Camper usage, recommend ordering (UY2) Trailering wiring provisions. (Requires 4WD model and includes (KW5) 220-amp alternator and is upgradeable to (KHF) Dual alternators (220-amp primary, 170-amp auxiliary). Not available with (F60) Heavy Duty Front Spring/Camper Package.)	1.00 lbs	0.00 lbs	\$300.00
ZLQ	Fleet Convenience Package includes (AQQ) Remote Keyless Entry, (K34) cruise control, (QT5) EZ Lift power lock and release tailgate and (DBG) outside power-adjustable vertical trailering with heated upper glass, (AXG) power windows, express up/down driver, (AED) power windows, express down passenger and (AU3) power door locks (Not available with (PCI) Convenience Package.	0.00 lbs	0.00 lbs	\$1,400.00

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro ( Complete)

ADDITIONAL EQUIPMENT - MECHANICAL

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
JL1	Trailer brake controller, integrated (Required with (L5P) Duramax 6.6L Turbo-Diesel V8 engine. Crew Cab and Double Cab models available as free flow with (L8T) 6.6L V8 gas engine. Regular Cab models Requires (PCI) Convenience Package or (ZLQ) Fleet Convenience Package. Included with (CMT) Gooseneck / 5th Wheel Prep Package.)	4.00 lbs	3.00 lbs	\$275.00
K05	Engine block heater (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine.)	4.00 lbs	1.00 lbs	\$100.00
K4B	Battery, auxiliary, 730 cold-cranking amps/70 Amp-hr (Requires (L8T) 6.6L V8 gas engine and either (KW5) 220-amp alternator or (KHF) dual alternators. Not available with (KW7) 170-amp alternator.)	0.00 lbs	0.00 lbs	\$135.00
KW5	Alternator, 220 amps (Included with (L5P) Duramax 6.6L Turbo-Diesel V8 engine or (VYU) Snow Plow Prep/Camper Package. Free flow on (L8T) 6.6L V8 gas engine.)	1.00 lbs	1.00 lbs	Inc.
NZZ	Skid Plates protect the oil pan, front axle and transfer case (Included with (X31) X31 Off-Road Package or (VYU) Snow Plow Prep/Camper Package.)	8.00 lbs	1.00 lbs	Inc.

ADDITIONAL EQUIPMENT - EXTERIOR

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
CGN	Bed Liner, Spray-on Pickup bedliner with GMC logo (does not include spray-on liner on tailgate due to Black composite inner panel) (Not available with (NHT) Max Trailering Package or (ZW9) pickup bed delete. Included with (CMT) Gooseneck / 5th Wheel Prep Package. Not available with any Ship Thrus EXCEPT (VSH), (VTV), (TCH) or (TCE).)	4.00 lbs	49.00 lbs	\$545.00
DBG	Mirrors, outside power-adjustable vertical trailering with heated upper glass lower convex mirrors, integrated turn signals, manual folding/extending (extends 3.31" [84.25mm]), Black (Included and only available with (ZLQ) Fleet Convenience Package or (PCI) Convenience Package.)	0.00 lbs	0.00 lbs	Inc.
QT5	Tailgate, gate function manual with EZ Lift includes power lock and release, includes hitch area light (Included and only available with (PCI) Convenience Package or (ZLQ) Fleet Convenience Package. Not available with (ZW9) pickup bed delete.)	0.00 lbs	4.00 lbs	Inc.

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (✔ Complete)

ADDITIONAL EQUIPMENT - INTERIOR

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
9L7	Upfitter switch kit, (5) Provides 3-30 amp and 2-20 amp configurable circuits to facilitate installation of aftermarket electrical accessories. Kit with all required parts will be shipped loose with the truck for installation by the dealer or upfitter at customer expense. Installation instructions and technical assistance available at www.gmupfitter.com .	0.00 lbs	1.00 lbs	\$150.00
A2X	Seat adjuster, driver 10-way power including lumbar (Requires (H0U) SLE Jet Black Cloth material, (PCI) Convenience Package or (ZLQ) Fleet Convenience Package and (KI4) 120-volt AC power outlet.)	5.00 lbs	4.00 lbs	\$290.00
AED	Window, power front, passenger express down (Standard on Crew Cab and Double Cab. On Regular Cab, included and only available with (PCI) Convenience Package or (ZLQ) Fleet Convenience Package.)	0.00 lbs	0.00 lbs	Inc.
AQQ	Remote Keyless Entry (Included and only available with (PCI) Convenience Package or (ZLQ) Fleet Convenience Package.)	0.00 lbs	1.00 lbs	Inc.
AU3	Door locks, power (Standard on Crew Cab and Double Cab. On Regular Cab, included and only available with (PCI) Convenience Package or (ZLQ) Fleet Convenience Package.)	0.00 lbs	0.00 lbs	Inc.
AXG	Window, power front, drivers express up/down (Standard on Crew Cab and Double Cab. On Regular Cab, included and only available with (PCI) Convenience Package or (ZLQ) Fleet Convenience Package.)	0.00 lbs	0.00 lbs	Inc.
C49	Defogger, rear-window electric (Included with (PCI) Convenience Package.)	0.00 lbs	0.00 lbs	\$225.00
K34	Cruise control, steering wheel-mounted (Included with (PCI) Convenience Package, (ZLQ) Fleet Convenience Package or (RGE) Safety Essentials Package.)	0.00 lbs	0.00 lbs	Inc.
KC9	Power outlet, bed mounted, 120-volt (400 watts shared with (KI4) instrument panel mounted power outlet) (Included and only available with (KI4) 120-volt AC power outlet. Not available with (ZW9) pickup bed delete.)	0.00 lbs	2.00 lbs	Inc.
KI4	Power outlet, instrument panel, 120-volt (400 watts shared with (KC9) bed mounted power outlet) (Requires (PCI) Convenience Package or (ZLQ) Fleet Convenience Package.)	2.00 lbs	1.00 lbs	\$225.00

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro ( Complete)

ADDITIONAL EQUIPMENT - LPO				
CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	MSRP
VXJ	LPO, Assist steps, chromed tubular, 4" round (dealer-installed) (Not available with any other RPO or LPO assist step.)	26.00 lbs	26.00 lbs	\$695.00
Options Total		41.00 lbs	-172.00 lbs	\$4,340.00

Price Summary

PRICE SUMMARY		MSRP
Base Price		\$44,200.00
Total Options		\$4,340.00
Vehicle Subtotal		\$48,540.00
Destination Charge		\$1,695.00
Grand Total		\$50,235.00

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Weight Ratings

WEIGHT RATINGS

Front Gross Axle Weight Rating:	5600 lbs
Rear Gross Axle Weight Rating:	7250 lbs
Gross Vehicle Weight Rating:	11100.00 lbs

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (✔ Complete)

Standard Equipment

Package

Trailering Package includes trailer hitch, 7-pin and 4-pin connectors and (CTT) Hitch Guidance (Deleted when (ZW9) pickup bed delete is ordered.)

Mechanical

Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline (401 hp [299 kW] @ 5200 rpm, 464 lb-ft of torque [629 N-m] @ 4000 rpm) (STD)

Transmission, 6-speed automatic, heavy-duty (STD)

Rear axle, 3.73 ratio (Requires (L8T) 6.6L V8 gas engine.)

Pickup bed includes bed assist step (STD) (Deleted when (ZW9) pickup bed delete is ordered.)

GVWR, 11,100 lbs. (5035 kg) with single rear wheels (STD) (Included and only available with TC30953 or TK30903 model with (L8T) 6.6L V8 gas engine. Requires single rear wheels.)

Air filter, heavy-duty

Air filtration monitoring

Transfer case, two-speed electronic shift with push button controls (Requires 4WD models.)

Auto-locking rear differential

Four wheel drive

Cooling, external engine oil cooler

Cooling, auxiliary external transmission oil cooler

Battery, heavy-duty 720 cold-cranking amps/80 Amp-hr maintenance-free with rundown protection and retained accessory power (Included and only available with (L8T) 6.6L V8 gas engine.)

Alternator, 170 amps (Requires (L8T) 6.6L V8 gas engine.)

Recovery hooks, front, frame-mounted, Black

Frame, fully-boxed, hydroformed front section and a fully-boxed stamped rear section

Suspension Package (Not available with (X31) Off-Road Package.)

Steering, Recirculating Ball with smart flow power steering system

Brakes, 4-wheel antilock, 4-wheel disc with DURALIFE rotors

Brake lining wear indicator

Capless Fuel Fill (Requires (L8T) 6.6L gas V8 engine. Not included with (ZW9) pickup bed delete.)

Exterior

Wheels, 18" (45.7 cm) 8-spoke painted steel, Silver Extended (STD) (Requires single rear wheels.)

Tires, LT275/70R18E all-terrain, blackwall (STD) (Requires single rear wheels.)

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Exterior

Tire, spare LT275/70R18 all-terrain, blackwall (STD) (Included and only available with (QF6) LT275/70R18E all-terrain, blackwall tires with (E63) pickup bed single rear wheel models. Available to order when (ZW9) pickup bed delete and (QF6) LT275/70R18E all-terrain, blackwall tires are ordered with single rear wheel models.)

Single Rear Wheels (STD)

Tire carrier lock keyed cylinder lock that utilizes same key as ignition and door (Deleted with (ZW9) pickup bed delete.)

Bumper, front chrome lower

Bumper, rear chrome with bumper CornerSteps

CornerStep, rear bumper

Bed Step, Black integrated on forward portion of bed on driver and passenger side (Not available with (ZW9) pickup bed delete.)

Moldings, beltline, Black

Cargo tie downs (12), fixed, rated at 500 lbs per corner

Grille, Chrome surround with Black mesh

Headlamps, LED reflector with incandescent turn signals and LED signature Daytime Running Lamps

Taillamps, LED tail and SRW are incandescent stop, turn and reverse light and DRW are LED stop, turn and reverse light

Lamps, cargo area, cab mounted integrated with center high mount stop lamp, with switch in bank on left side of steering wheel

Mirrors, outside high-visibility vertical trailering lower convex mirrors, manual-folding/extending (extends 3.31" [84.25mm]), molded in Black

Glass, solar absorbing, tinted

Door handles, Black grained

Tailgate, standard (Deleted with (ZW9) pickup bed delete.)

Tailgate and bed rail protection caps, top (Deleted with (ZW9) pickup bed delete.)

Tailgate, locking, utilizes same key as ignition and door (Included and only available with (QK1) standard tailgate. Deleted with (ZW9) pickup bed delete.)

Tailgate, gate function manual, no lift assist (Deleted with (ZW9) pickup bed delete.)

Entertainment

Audio system, GMC Infotainment System with 7" diagonal color touchscreen, AM/FM stereo with seek-and-scan and digital clock, includes Bluetooth streaming audio for music and select phones; featuring wired Android Auto and Apple CarPlay capability for compatible phones (STD)

Audio system feature, 2-speakers (Requires Regular Cab model.)

Bluetooth for phone connectivity to vehicle infotainment system

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Interior

- Seats, front 40/20/40 split-bench with upper covered armrest storage with fixed lumbar (STD)
- Seat trim, Vinyl
- Seat adjuster, driver 4-way manual
- Seat adjuster, passenger 4-way manual
- Floor covering, rubberized-vinyl (Not available with LPO floor liners.)
- Steering wheel, urethane
- Steering column, Tilt-Wheel, manual with wheel locking security feature
- Instrument cluster, 6-gauge cluster featuring speedometer, fuel level, engine temperature, tachometer, voltage and oil pressure
- Driver Information Center, 3.5" diagonal monochromatic display
- Exterior Temperature Display located in radio display
- Windows, manual (Standard on Regular Cab model. Crew Cab and Double Cab models have power windows standard.)
- Door locks, manual (Requires Regular Cab model.)
- Power outlet, front auxiliary, 12-volt
- USB ports, 2 (first row) located on instrument panel
- Air conditioning, single-zone
- Mirror, inside rearview, manual tilt
- Assist handles, front A-pillar mounted for driver and passenger, rear B-pillar mounted

Safety-Mechanical

- StabiliTrak, stability control system with Proactive Roll Avoidance and traction control includes electronic trailer sway control and hill start assist

Safety-Exterior

- Daytime Running Lamps LED signature lighting

Safety-Interior

- Airbags, Dual-stage frontal airbags for driver and front outboard passenger; Seat-mounted side-impact airbags for driver and front outboard passenger; Head-curtain airbags for front and rear outboard seating positions; Includes front outboard Passenger Sensing System for frontal outboard passenger airbag (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)
- Rear Vision Camera (Deleted with (ZW9) pickup bed delete.)
- Hitch Guidance dynamic single line to aid in truck trailer alignment for hitching (Deleted with (ZW9) pickup bed delete.)

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Vehicle: [Fleet] 2022 GMC Sierra 3500HD (TK30903) 4WD Reg Cab 142" Pro (✔ Complete)

Safety-Interior

Teen Driver a configurable feature that lets you activate customizable vehicle settings associated with a key fob, to help encourage safe driving behavior. It can limit certain available vehicle features, and it prevents certain safety systems from being turned off. An in-vehicle report card gives you information on driving habits and helps you to continue to coach your new driver

Tire Pressure Monitoring System with Tire Fill Alert (does not apply to spare tire)

Processing-Other

Trailer Information Label provides max trailer ratings for tongue weight, conventional, gooseneck and 5th wheel trailering (Not available with (ZW9) pickup bed delete.)

WARRANTY

Warranty Note: <<< Preliminary 2022 Warranty >>>

Basic Years: 3

Basic Miles/km: 36,000

Drivetrain Years: 5

Drivetrain Miles/km: 60,000

Drivetrain Note: HD Duramax Diesel: 5 Years/100,000 Miles; Qualified Fleet Purchases: 5 Years/100,000 Miles

Corrosion Years (Rust-Through): 6

Corrosion Years: 3

Corrosion Miles/km (Rust-Through): 100,000

Corrosion Miles/km: 36,000

Roadside Assistance Years: 5

Roadside Assistance Miles/km: 60,000

Roadside Assistance Note: HD Duramax Diesel: 5 Years/100,000 Miles; Qualified Fleet Purchases: 5 Years/100,000 Miles

Maintenance Note: 1 Year/1 Visit

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