

COUNCIL MEETING

7:30 P.M.

DATE: September 15, 1986

AGENDA

I CALL TO ORDER:

II ROLL CALL: *ALL PRESENT*

III DETERMINATION OF QUORUM:

IV APPROVAL OF MINUTES *APPROVED*

Minutes of September 2, 1986, Special Meeting of September 8, 1986 and Special Meeting of September 10, 1986.

V COUNCIL ITEMS TO BE CONSIDERED:

VI AWARDING OF BIDS AND HEARING:

1. Public Hearing-Uncollectible City Accounts.

VII REPORTS FROM CITY STAFF:

A. City Planner

1. Variance/Special Use Permit-Auto service station adjacent to Westview Mall-Don's Super Value/IBI/Petroleum Service.
2. Rezoning from R-3 to C-1 or zoning amendment-Mac McGoon, 1100 Westview Drive.
3. Site Plan-expansion of building at 1207 Vermillion St. ("The Barbers" building) Ron Battern.
4. Variance request-sign requirements-Clarence Linn/Amoco Oil and LeRoy signs-1500 Vermillion Street.
5. Request for amendment to Development Agreement to allow vinyl sided homes in the Three Rivers Mobile Home Park-Ken Grund.
6. Amend zoning ordinance for Industrial Park.

B. City Administrator

1. Uncollectible City Accounts
 - a. Uncollectible City Accounts-certified for assessments
 - b. Uncollectible City Accounts-Cancellation
2. Request for transmitter-Police.
3. Regina Rescue Response System.
4. Lions Club Request-Lake Rebecca.
5. Reimbursement of Skills Amusement License-Hutch's.
6. One day 3.2 beer license-St. Boniface-October 5, 1986.
7. City Hall-Ad-Hoc Committee appointment.
8. 1st Reading-Ordinance Amendment-Increase Mayor's and City Council salary.
9. Approve Representation to Germany.
10. Request for Garbage Rate Increase.
- 10:10 11. Old Fire Truck Declared Surplus Property.

C. City Attorney

D. City Engineer

Bring defibrillator back up

1. Interpretation of assessment.

8-1 Bond no

VII. COMMENTS FROM AUDIENCE;

IX. UNFINISHED BUSINESS;

X. NEW BUSINESS;

XI. REPORTS FROM CITY COMMITTEES, OFFICERS, COUNCILMEMBERS.

XII. COMMUNICATIONS AND MISCELLANEOUS BUSINESS;

XIII. PAYMENT OF CLAIMS

Consent Agenda:

1. Pay all bills as audited.

T-N 9-0

XIV. ADJOURNMENT

H. D. Hudson

10:30 Berg - K 9-0

Hastings, Minnesota
September 2, 1986

The City Council of the City of Hastings, Minnesota met in a regular meeting on Tuesday, September 2, 1986 at 7:30 p.m. in the Council Chamber of the City Hall.

Members Present: Councilmember Berg, Werner, Kulzer, Bond, Trautmann, Nesbitt, Plan, Wendler and Mayor Stoffel.

Members Absent: None.

The Mayor called for additions or corrections to the minutes of the meeting of August 18, 1986. Councilmember Werner noted that the early special meeting on that date began at 7:00 p.m. The Mayor then called for additions or corrections to the special meeting of August 21 and August 26, 1986 and hearing none declared the minutes approved as presented.

The Mayor declared the Public Hearing open at 7:30 p.m. to hear and pass on all objections, written or oral, if any, to the proposed assessments for Projects No. 1986-1, and 1986-3 through 13. Gary Brown, the City Administrator/Clerk, read the affidavit of publication in to the record. Jim Kleinschmidt, the City Engineer and Tom Montgomery, the Assistant City Engineer, explained the projects as to total costs and assessments. The Mayor stated that the City Engineer would go through each project individually and those wishing to speak to a project could speak at that time.

Project No. 1986-1 Oak Street from 11th Street to 13th Street Mr. Matt Begich, 800 West 13th Street had several questions on the procedure for asking questions, the assessment charges, and he stated that he felt he wasn't afforded an opportunity to be heard at the public hearing. Lillian Hamilton, 1204 Oak Street questioned the high assessments for watermain and stated that she did not receive a letter of notice on the hearing. Ray Hamilton spoke on behalf of Lillian Hamilton, his mother. He stated that she is not hooked up to water on Oak Street and he questioned why in 1984 the line was not continued at that time. Barb Hamilton spoke on behalf of Lillian Hamilton, her daughter, she stated that Lillian Hamilton does not have the income to pay the assessments that she is never going to use.

Project No. 1986-3 Frazier Street from 1st Street to 2nd Street Joe Meyer, 121 Frazier Street asked if he could pay a contractor to do additional work in his area. He was told that that would have to be worked out between him and the contractor. Edward Denn, 110 Frazier Street requested that he wanted his driveway wider than the city's specifications. He was willing to pay for the additional cost.

Project No. 1986-4 Tiereny Drive from Todd Way to a point 200 feet east; also Todd Way from Todd Court to Tiereny drive. No one wished to speak on this improvement.

Project No. 1986-5 Upper 160th Street West of LeRoy Avenue consisting of Siebens 3rd Addition. No one wished to speak on this improvement.

Project No. 1986-6 Cory Lane from 220 feet South of 160th Street to 540 feet South of 160th Street. No one wished to speak on this improvement.

Project No. 1986-7 1st Street from CSAH 42 to Pleasant Drive Jerry Denn stated that some people were not assessed for this project through the Northwest Ponding Basin Project. Joan Voelker, 931 West 1st Street asked how the lots were assessed, was sanitary sewer work going to be done, were there going to be additional charges to the home owner because the contractor is going over the due date, and she felt that the storm sewer should not have been lowered.

Project No. 1986-8 Ash Street from 3rd Street to 4th Street. No one wished to speak on this improvement.

Project No. 1986-9 State Street from 4th Street to 7th Street. No one wished to speak on this improvement.

Project No. 1986-10 Prairie Street from 6th Street to TH 55. No one wished to speak on this improvement.

Project No. 1935-11 Pine Street from 2nd Street to TH 55. Betty Gerlach, 700 West 7th presented the City Council with a letter of her three concerns. They were to 1) Save the trees that she has in her yard and if it is only temporary that they live, that the city reimburse her at a later date for their removal and replacement. 2) That the city supply some form of retaining wall for the high slope created from the improvement on her boulevard, and 3) that the city do something about the gas piping in the yard. Mr. Bob Carey, 650 West 7th Street asked what the city planned to do with the snow in the winter and suggested that the street should have been narrower. Tom Nesbitt requested that City Staff check into the gas piping with the gas company. Ann Stoffel spoke on behalf of Mrs. Pete Stoffel 648 West 6th Street she questioned whether the people were assessed for the long or short side of the lots. Nick Taffe, 539 West 7th Street asked what size of lot he was being assessed for.

Project No. 1935-12 Williams 1st Addition. No one wished to speak on this improvement.

Project No. 1935-13 Malcolm Avenue from 160th Street to TH 316 Terry Fuchs, 3700 Malcolm Avenue asked why some project costs were higher than others and why the storm sewer was not constructed. Jill Owl 3395 Malcolm Avenue questioned how it was determined how deep the sewer would be, why there was no provision for partial payment in the assessment and why she was not asked about improvements for her half lot. She also questioned what was the finished requirement on her driveway and the city's position on not hooking up to the services now and having a problem later in the winter.

The City Administrator read into the record letters opposing assessments from Lillian Hamilton regarding Project No. 1936-1, Grace Rejali, Kooros Rejali, Rebecca Paperalla and Michael Paperalla concerning Project No. 1986-12 and Bob Carey concerning Project No. 1935-11. These letters will be placed on file and available in the office of the City Clerk. No one else wished to speak on this matter the Mayor closed the public hearing at 9:35 p.m.

The Mayor declared the Public Hearing open at 9:35 p.m. to consider the expenditure of Federal Revenue Sharing Dollars. Mr. Mark Holmes of the Fire Department gave a presentation to the City Council for the purchase of (2) defibrillators. Gary Brown, the City Administrator Clerk, read into the record the request from City Staff for Federal Revenue Sharing Funds as follows:

PUBLIC HEARING-
FEDERAL REVENUE
SHARING

Street Department	Heat Bituminous Mix Tractor	\$3,500.00
Building Inspector	Portable Radio	\$1,100.00
Dutch Elm	1987 Program (\$2,000 for reforestation)	\$22,000.00
Fire/Ambulance	2 Defibrillators	\$19,000.00
Police Department	6 Portable Radios	\$6,600.00

The Mayor asked if anyone else had any requests for Federal Revenue Sharing Dollars. Joan Voelker requested the Council consider assisting those on fixed incomes for the improvement assessments. Fred Trautmann suggested that some of the money be allocated for park improvements and equipment. Tom Nesbitt suggested that some of the dollars be allocated for the sidewalk problem, specifically the hospital and schools. No one else wished to speak on the matter. The Mayor closed the public hearing at 10:10 p.m.

Moved by Councilmember Werner, seconded by Councilmember Wandler to adopt Resolution No. 66-86 for the assessments on the 1936 Improvement Projects for Projects No. 1986-3 Frazier Street from 1st Street to 2nd Street; Project No. 1985-4 Tierney Drive from Todd Way to a point 200 feet East; of Todd Way from Todd Court to Tierney Drive; Project No. 1935-5 Upper 160th Street West of LeRoy Avenue consisting of Siebens 3rd Addition; Project No. 1985-6 Cory Lane from 220 feet South of 160th Street to 540 South of 150th Street; Project No. 1935-3 Ash Street from 3rd Street to 4th Street; Project No. 1986-9 State Street from 4th Street to 7th Street; Project No. 1935-10 Prairie Street from 6th Street to TH 55; and Project No. 1985-13 Malcolm Avenue from 160th Street to TH 316. 9 Ayes; Nayes, None. Copy of resolution on file.

RESOLUTION NO.
66-86 IMPROVE-
MENT ASSES-
MENTS

Moved by Councilmember Werner, seconded by Councilmember Kulzer to adopt Resolution No. 67-86 for the assessments on Improvement Project No. 1986-1 Oak Street from 11th Street to 13th Street. The watermain assessments for Lot 1, Block 7 and for Lot 4, Block 8 Hancock Thomas add be reduced from \$3,814.60 to \$1,907.30 for each of these lots and that the difference be paid from the water fund as these properties were served from an adjacent street. 9 Ayes; Nays, None. Copy of resolution on file.

RESOLUTION NO.
67-86 IMPROVE-
MENT ASSES-
MENTS

Moved by Councilmember Trautmann, seconded by Councilmember Werner to adopt a resolution approving the assessments for Project No. 1986-7 1st Street from CSAH 42 to Pleasant Drive.

PROJECT 1986-7

Moved by Councilmember Bond, seconded by Councilmember Kulzer to table Project No. 1986-7 for further staff review of this project. 9 Ayes; Nays, None.

Moved by Councilmember Werner to approve Project No. 1986-11, Pine Street from 2nd Street to TH 55 with the following changes being noted: 1. That the City would only move one tree at 700 W. 7th Street and staff would work out some arrangements for the other tree. 2. Staff would work with Ms. Gerlach on the slope in her boulevard and 3. The staff would work with the gas company on the equipment in the yard at her address.

PROJECT NO.
1986-11

Moved by Councilmember Werner, seconded by Councilmember Kulzer to table Project No. 1986-11 until staff has an opportunity to work with the City Council and residents to resolve some of the issues. 9 Ayes; Nays, None.

Moved by Councilmember Trautmann, seconded by Councilmember Werner to adopt Resolution No. 68-86 Williams 1st Addition, for the the assessments on Improvement Project 1986-12. 9 Ayes; Nays, None.

RESOLUTION NO.
68-86 IMPROVE-
MENT NO.
1986-12

Moved by Councilmember Werner, seconded by Councilmember Bond to approve the Home Occupation Permit for Arnies Construction-Arnold Kvam, 1349 West 20th Street to allow him to conduct business proposed to be Arnies Construction out of his home subject to Kvam complying with all standards pertaining to home occupation permits. 9 Ayes, Nays, None.

HOME OCCUPATION
PERMIT-ARNOLD
KVAM 1349 W.
20TH STREET

Moved by Councilmember Werner, seconded by Councilmember Kulzer to approve the Minor Subdivision of City owned property adjacent to the water tank on the North Frontage Road, subject to the zoning of the property being researched further and the drainage system for the tank being resolved. 9 Ayes; Nays, None.

MINOR SUBD.
WATER STORAGE
NORTH FRONTAGE
ROAD

Moved by Councilmember Trautmann, seconded by Councilmember Wendler to accept the survey for the property owned by the City along the North Frontage Road, as prepared by John Dwyer & Associates. 9 Ayes; Nays, None.

ACCEPT SURVEY
NORTH FRONTAGE
ROAD

Moved by Councilmember Trautmann, seconded by Councilmember Berg to authorize the advertisement of the city owned property along North Frontage Road with sealed bids to be obtained for the sale. The Council reserves the right to reject any and all bids. The bids to be opened on October 17, 1986 and considered for award at the October 20, 1986 regular City Council meeting. 9 Ayes; Nays, None.

SALE OF CITY
PROPERTY-NORTH
FRONTAGE RD.

Moved by Councilmember Werner, seconded by Councilmember Wendler to refer the matter of the sidewalk plan to the Planning Commission for review and recommendation to the City Council. 9 Ayes; Nays, None.

SIDEWALK PLAN

Moved by Councilmember Berg, moved by Councilmember Bond to approve the use of City Streets and sidewalks and support by the Hastings Police, Police Reserve, Fire Department and Street Department for the Main Street Festival activities to held on September 20, 1986. 9 Ayes; Nays, None.

MAIN STREET
FESTIVAL

Moved by Councilmember Werner, seconded by Councilmember Trautmann to pass the 3rd and Final Reading of Ordinance No. 211 for the Charter Amendments. 9 Ayes; Nays, None.

ORDINANCE NO.
211-CHARTER
AMENDMENTS

- Moved by Councilmember Pian, seconded by Councilmember Trautmann to appoint Jim Williams to the Cable Commission. Mr. Williams would be filling an unexpired term of Beverly Bacon. This term would expire December 31, 1987. 9 Ayes; Nays, None. CABLE COMMISSIONER JIM WILLIAMS
- Moved by Councilmember Kulzer, seconded by Councilmember Werner to approve a time extension until November 1, 1986 for the proposed demolition of the O'Connor Kranz building, 102 Tyler St. and directing the Teen Center, which is currently located in the building, to pay the utility bills. 9 Ayes; Nays, None. DAKOTA COUNTY HRA-TIME EXTENSION FOR DEMOLITION
- Moved by Councilmember Bond, seconded by Councilmember Werner to approve the request for a block party to be held on the 1400 block of Blueberry Lane on September 7, 1986 from 12:00 Noon to 8:00 p.m. 9 Ayes; Nays, None. BLOCK PARTY BLUEBERRY LANE
- Moved by Councilmember Werner, seconded by Councilmember Pian to approve the expenditure of \$500.00 to put the sick leave and vacation leave on the computerized employee payroll system. 9 Ayes; Nays, None. COMPUTERIZED PAYROLL SYSTEM
- Moved by Councilmember Berg, seconded by Councilmember Wendler to set a public hearing for September 15, 1986 to consider the uncollectible city accounts for Dutch Elm, utility, weed and junk assessments. 9 Ayes; Nays, None. SET HEARING-CITY UNCOLLECTIBLE BILLS
- Moved by Councilmember Werner, seconded by Councilmember Kulzer to approve the Cable Commission and Staff recommendations for the application transfer process of the Cable Franchise Application as follows: 1. The City of Hastings authorizes O'Connor & Hannan to submit a transfer application with the six other affected communities. 2. The City of Hastings authorizes the Law Firm of O'Connor & Hannan to prepare a summary of the document, subcontract the financial portion and provide the City of Hastings with those findings. 3. The City of Hastings set a public hearing for October 6, 1986 to consider the transfer application. 4. Council authorize staff to prepare specific questions or concerns to be submitted for response by the Company. The City's Cable Attorney's, Herbst & Thue Law Firm, will be used as needed throughout the process. 9 Ayes; Nays, None. CABLE TRANSFER APPLICATION
- Moved by Councilmember Berg, seconded by Councilmember Trautmann to accept the resignation of Jon Ludwig the Assistant Building Inspector effective September 5, 1986 and authorize the City Staff to fill the position. 9 Ayes; Nays, None. ASSISTANT BUILDING INSPECTOR
- Moved by Councilmember Berg, seconded by Councilmember Wendler to accept the resignation of volunteer Firefighter Thomas P. Rohlfing effective August 22, 1986. The Council expresses its thanks and appreciation Mr. Rohlfing for his services to the City of Hastings. 9 Ayes; Nays, None. RESIGNATION-VOLUNTEER FIRE-FIGHTER
- Moved by Councilmember Berg, seconded by Councilmember Bond to table the Federal Revenue Sharing Funding until the October 6, 1986 regular City Council meeting. 7 Ayes; Nays, Werner and Trautmann. FEDERAL REVENUE SHARING FUNDS
- Moved by Councilmember Trautmann, seconded by Councilmember Bond to set the budget meetings for September 8, 22, & 29 at 7:00 p.m., location to be determined by staff. 9 Ayes; Nays, None. BUDGET MEETINGS
- Moved by Councilmember Werner, seconded by Councilmember Berg to approve the request of Dick and Pam Thorsen for a 60 day extension to the current purchase agreement for the Latto Hospital, 520 Ramsey Street. 9 Ayes; Nays, None. LATTO HOSPITAL TIME EXTENSION
- Moved by Councilmember Trautmann, seconded by Councilmember Pian to:
1. Pay all bills as audited.
 2. Partial Payment No. 6 new water tower-Hydrostorage Incorporated \$19,783.75.
 3. Partial Payment No. 4 1986 Improvement Austin P. Keller - \$242,913.00. 9 Ayes; Nays, None.
- CONSENT AGENDA

Moved by Councilmember Berg, seconded by Councilmember Wondler ADJOURNMENT
to adjourn the meeting at 11:30 p.m. 9 Ayes; Nays, None.

ATTEST

Mayor

City Administrator/Clerk

Hastings, Minnesota
September 8, 1986

The City Council of the City of Hastings, Minnesota met in Special Council meeting on Monday, September 8, 1986 at 6:30 p.m. in the Basement of the County Library, 830 Vornillion Street, Hastings, Minnesota.

The purpose of the meeting was to consider assessment rolls of two improvement projects (Pine Street and West 1st Street).

Acting Mayor, Michael Werner called the meeting to order at 6:34 p.m.

Members Present: Councilmember Werner, Kulzer, Trautmann, Nesbitt
Plan, and Wendler.

Members Absent: Mayor Stoffel, Councilmember Bond and Berg.

Mayor Stoffel arrived at 6:36 p.m., Councilmember Berg arrived at 6:42 p.m. and Councilmember Bond arrived at 6:53 p.m.

The City Engineer, James J. Kleinschmidt reviewed with the Council the aspects of Project No. 1985-7 (West 1st Street from Pleasant Drive to CSAH 42). He indicated that staff had recommended that a turn around be constructed in the boulevard at the Joan Voelker residents due to the design of the roadway and the driveways close proximity to the intersection.

Moved by Councilmember Nesbitt, seconded by Councilmember Werner RESOLUTION NO. to adopt Resolution No. 76-86 for improvement Project No. 1985-7 for 76-85 PROJECT the assessment roll as submitted by City Staff with the alteration of 1985-7 a crushed rock turn around in the boulevard at the Voelker residents. 7 Ayes; Nayses, Wendler. (Councilmember Bond had not arrived at this time yet). Copy of resolution on file.

The City Engineer then reviewed with the City Council Project No. 1985-11 (Pine Street from T.H. 55 to CSAH 42). A number of affected residents asked questions of the City Engineer which resulted in the following motion.

Moved by Councilmember Werner, seconded by Councilmember Wendler RESOLUTION NO. to adopt Resolution No. 77-86 for the assessment roll for Project 77-86 PROJECT No. 1985-11 with the following changes. 1) That a concrete surface 1985-11 be constructed at 700 W. 7th in areas which are to steep to mow between the sidewalk and the fence (with the Mayor appointed Committee to work out details). 2) Staff to remove the tree at the corner of 7th & Pine and replace it with a tree of a 1-1/2" to 2" diameter. 3) That the City would replace any tree damaged on Pine Street as a result of the construction of Pine Street within one year with a 2" or larger tree. 4) That the City would trim back this fall or early next spring trees that were affected by this construction project in an attempt to save the trees. 5) That the City Engineer will resolve any drainage problems within the construction area. 8 Ayes; Nayses, Councilmember Kulzer. Copy of resolution on file.

Moved by Councilmember Werner, seconded by Councilmember Wendler ADJOURNMENT to adjourn at 7:35 p.m. 9 Ayes; Nayses, None.

ATTEST

Mayor

City Administrator/Clerk

September 10, 1986
Hastings, Minnesota 55033

The City Council of the City of Hastings, Minnesota met in a special meeting on Wednesday, September 10, 1986 at 5:00 p.m. in the Council Chambers of the City Hall for the purpose of Canvassing the Election Returns for the Primary Election held on Tuesday, September 9, 1986.

Members Present: Councilmember Werner, Bond, Trautmann, Nesbitt,
Wendler and Mayor Stoffel

Members Absent: Councilmember Berg, Kulzer, Plan.

Councilmember Werner introduced the following Resolution
and moved its adoption:

RESOLUTION NO.
78-86 CANVASS OF
PRIMARY ELECTION
RETURNS

RESOLUTION NO. 78-86

RESOLUTION ON PRIMARY ELECTION

The results of the canvass of votes in the four (4) Wards of the City for the Primary Election held therein on Tuesday, the 9th day of September, 1986 and the same are declared to be as follows:

1st Ward Councilperson at Large

Tom E. Nesbitt	151
Fred Trautmann	172
Michael Werner	161

3rd Ward Councilperson at Large

Tom E. Nesbitt	193
Fred Trautmann	255
Michael Werner	184

2nd Ward Councilperson at Large

Tom E. Nesbitt	290
Fred Trautmann	201
Michael Werner	163

4th Ward Councilperson at Large

Tom E. Nesbitt	170
Fred Trautmann	257
Michael Werner	267

Be it resolved that the City Council finds from said canvass that the following listed candidates in the four (4) Wards of the City have received a plurality of votes in said Wards, and also finds and declares the following shall be candidates for such office at the General Election on November 4, 1986.

At Large Councilperson

Tom E. Nesbitt
Fred Trautmann
Michael Werner

Pursuant to Chapter 2, Section 2.05, of the City Charter, the City Administrator/Clerk notified the three (3) candidates for the office of At Large Councilperson that their respective names would appear on the General Election Ballot on November 4, 1986, unless within two (2) days they file a refusal.

Councilmember Bond seconded the motion to adopt said Resolution and the same was passed by the following votes: Ayes, 6; Nays, 0.

Moved by Councilmember Nesbitt, seconded by Councilmember Wendler to adjourn the meeting at 5:05 p.m. Ayes, 6; Nays, 0.

ATTEST

Mayor

City Administrator/Clerk

Minutes of Hastings Cable Television Commission
Tuesday, September 2, 1986
3:00 PM
City Hall Council Chambers

Members Present: Rosendahl, Rayner, Bour, Swanson

Members Absent: Pellant, Siebenaler

Also Present: Dianne Latuff, Marie Boldon, James Williams,
Mike Wurm

A quorum being present, Chairman Rosendahl called the meeting to order.

Moved by Commissioner Bour and seconded by Commissioner Rosendahl that the minutes of the meeting of August 19, 1986, be approved as written. Ayes 4, Nays 0.

Commissioner Siebenaler arrived at the meeting at 3:15.

Dianne Latuff reported on the joint franchise area meeting held on August 22, 1986. After lengthy discussion of the options available to the Commission and the various merits thereof, it was moved by Commissioner Rayner and seconded by Commissioner Rosendahl that the following staff recommendations be approved:

1. The City of Hastings authorize O'Connor Hannan to submit a transfer application with the other 6 affected communities.
2. The City of Hastings authorize the law firm of O'Connor Hannan to prepare a summary of the document, subcontract the financial portion, and provide the City of Hastings with those findings.
3. The City of Hastings set a public hearing for October 6, 1986, to consider the transfer application.
4. Council authorize staff to prepare system specific questions or concerns to be submitted for response by the company.

Ayes 5, Nays 0.

Dianne Latuff further requested direction from the Commission as to the use of our Cable Attorneys, Herbst and Thue. It was moved by Commissioner Siebenaler and seconded by Commissioner Rayner that Herbst and Thue be consulted with regard to system specific questions, as well as being given the opportunity for a general review of the transfer application as finally formatted. Ayes 5, Nays 0.

With regard to the necessity to formulate system specific questions for the transfer application, Chairman Rosendahl appointed a sub-committee consisting of Commissioner Siebenaler, James Williams and Dianne Latuff to review the franchise ordinance and prepare these questions. The sub-committee would also have the authority to review system specific questions of the other communities and incorporate any they feel necessary.

It was moved by Commissioner Rayner and seconded by Commissioner Bour that District 200 be contacted and asked to submit any questions they might have with regard to the transfer application, and further that they appoint a representative to serve on the sub-committee. Ayes 5, Nays 0.

At the suggestion of Commissioner Rayner, it was agreed to table discussion and/or decision on the proposed revised by-laws of the Access Corporation until our next meeting in order to allow all commissioners an opportunity to fully review same. A brief discussion on implementing start-up of the Access Corporation was held, and a tentative target date for start-up set for early November.

Marie Boldon passed out a letter detailing current billing practices of the Cable Company.

There being no further business, it was moved by Commissioner Rayner and seconded by Commissioner Rosendahl that the meeting be adjourned. Ayes 5, Nays 0.

Respectfully submitted,

Mary Ellen Swanson

Mary Ellen Swanson
Secretary

HASTINGS PLANNING COMMISSION

Monday, September 8, 1986

The regular meeting of the Hastings Planning Commission was called to order at 7:30 p.m.

Members Present: Commissioners Ditty, Stevens, Dredge, Folch, Kaiser, and Chairman Simacek

Members Absent: Commissioners Conzemius, Anderson, Voelker.

Staff Present: Planning Director Harmening.

A motion was made by Commissioner Kaiser, seconded by Commissioner Stevens, MINUTES to approve the August 25, 1986 Planning Commission minutes. Voice vote carried unanimously.

Commissioners Conzemius and Anderson came at this time.

The Chairman opened the Public Hearing at 7:35 p.m. Planning Director Harmening briefly reviewed the proposal. In this case Don's Super Value/ IBI/Petroleum Equipment Service were requesting approval of a front yard setback variance from the required 50 feet to 35.5 feet, site plan, and a special use permit to allow a proposed four pump automotive service station to be located between the north wall of Don's Super Valu and the So. Frontage Road. Harmening discussed specifics of the project including matters pertaining to adjacent utilities, comments on traffic impacts, and the action to be taken by the Planning Commission. Comments received from the audience during the public hearing included:

PUBLIC HEARING
SPECIAL USE
PERMIT-VARIANCE
AND SITE PLAN -
AUTO SERVICE
STATION ADJACENT
TO WESTVIEW MALL
DONS SUPER VALU
IBI/PETROLEUM
EQUIPMENT SERVICE

Pat Ryan, Representative of Petroleum Equipment Service-Mr. Ryan provided a general overview of the project and provided pictures of gas stations done by his company in other communities. Mr. Ryan also discussed specifics of the proposal including details on the types of tanks installed, safety measures to be implemented, etc. Mr. Ryan indicated that he felt the proposed gas station would compliment the mall due to the high amount of traffic in the area which would make the station very competitive. Mr. Ryan also indicated that a pedestal sign was not proposed for the station but that three 3' x 8.5' price signs were proposed for the canopy. Ryan stated that he felt the gas station would control traffic better than the current situation. Ryan also commented on the fact that when the City approved the original site plan for the Westview Mall in 1974 the City approved in concept the extension of the Super Value building towards the South Frontage Road with a proposed setback of 35'.

Commissioner Voelker came at this point.

Other comments made:

Edith Kaiser-expressed concerns for problems associated with gas transport deliveries and truck deliveries to the Super Valu particularly with regard to the proximity of the Super Valu loading dock as related to the gas station.

Mike Harris- stated that once the service station is installed the semi tractor will not be allowed to be connected to the trailer which should then resolve this problem. Mr. Harris also indicated that the applicant would be willing to stripe in the designated fire lane on the east side of the mall.

Tom Harmening - asked what the hours would be of the proposed station. The applicants indicated that the hours at this time were anticipated to be 7:00 a.m. to 10:00 p.m.

Peter Folch - stated that the mall layout really was not originally intended for a gas station and that it was felt the proposed space was too cramped for the station.

Sue Dredge - asked questions regarding the operation of the incinerator. The applicants indicated that the incinerator is now used as needed.

Sue Dredge - asked whether locking caps would be placed on the tanks and whether automatic shut offs would be provided on the pumps. Mr. Ryan indicated that locking caps would be provided on the tanks and that automatic shut off provisions would be provided on the pumps.

There being no further comments from the audience the Chairman closed the public hearing at 8:11 p.m.

Planning Director Harmening indicated that the Planning Commission should first act on the proposed variance request followed by separate action on the Special Use Permit.

After considerable discussion a motion was made by Commissioner Stevens, seconded by Commissioner Ditty, to recommend that the variance be granted due to the fact that special conditions and circumstances exist with this matter pertaining to the fact that the City originally agreed in concept that the mall could place a 5,000 square foot expansion/extension to the building at a later date which, according to the original site plan, would appear to come within 35 feet of the South Frontage Road right of way which is the same as the proposed setback for the gas station. Upon vote taken, Ayes, Commissioner Ditty, Stevens, Chairman Simacek; Naves, Commissioner Dredge, Folch, Kaiser, Conzemius, Anderson; Commissioner Voelker abstained. The motion was declared not approved.

Planning Director Harmening requested from the Planning Commission members voting against the motion the reasons for their vote. It was the consensus of the Planning Commission members who voted against the motion that although they perceived a need for a gas station in the proximity of the Westview Mall it was felt that the location of the proposed station was not appropriate due to the traffic concerns, ingress and egress, and compatibility with the mall and that the applicant did not demonstrate that their proposal met the criteria for the granting of the variance.

After further discussion a motion was made by Commissioner Folch to table the request for a special use permit for an automotive service station.

Mr. Ryan requested that the Planning Commission provide action on the special use permit such that the Council could act on the special use permit at its next meeting.

Mr. Folch agreed to withdraw his motion.

After further discussion a motion was made by Commissioner Ditty, seconded by Commissioner Anderson, to recommend denial of the Special Use Permit based on the fact that the request for the variance was recommended for denial. Upon vote taken, Ayes, Commissioner Ditty, Stevens, Simacek, Conzemius, Anderson; Naves, Commissioner Dredge, Folch, Kaiser; Commissioner Voelker abstained. Whereupon the motion was declared approved.

The Chairman opened the public hearing at 8:25 p.m. Planning Director Harmening reviewed the application being made by Mr. McGoon. In this case Mr. McGoon has made application to the City for its review of several zoning requests to resolve the recent questions pertaining to the Mac McGoon Photography Studio home occupation permit. The requests in order of preference by the applicant are as follows:

- A. A request for a rezoning of the Mac McGoon property at 1100 Westview Drive from the current R-3 zoning classification to a C-1 Neighborhood Commerce zoning classification.
- B. If the above request is denied by the City the applicant then requests that the City consider an amendment to Section 10.13, Subdivision 2b of the City Zoning Ordinance (R-3 standards) by adding "Photographic Studios" as a permitted use.
- C. If the above options are not considered acceptable by the City the applicant then requests that the City provide an interpretation of whether photographic studios are considered to be a professional office which are permitted in R-3 zones.
- D. If the above options are not considered acceptable by the City the applicant then requests a variance from the provisions of the home occupation permit standards to allow the continued use of the property, with respect to the existing photography studio, under the auspices of a home occupation permit.

Planning Director Harmening provided brief comments on the memo which he had prepared for this matter. Mr. Harmening indicated that the discussion in item 1c of his memo was inaccurate as residential uses are allowed in the C-1 zone but only as apartments on the second floor.

Mr. McGoon presented a slide presentation which provided the Planning Commission with pictures of the McGoon property at 1100 Westview Dr. and the surrounding land uses.

James Storkamp, representing Mr. McGoon, then provided comments on Mr. McGoons various land use applications with particular emphases on the C-1 rezoning request. Storkamp provided a rebuttal to the Planning Commission of staffs interpretation that the proposed rezoning constituted a spot zone. Mr. Storkamp reviewed with the Planning Commission the intent of the C-1 zone. Storkamp also provided a letter to the Planning Commission which had been circulated by Mr. McGoon to his neighbors, which was also signed by various adjacent property owners, which indicated their support for McGoons application.

PUBLIC HEARING-
REZONING FROM
R-3 to C-1,
ZONING AMENDMEN
INTERPRETATION
OF ZONING CODE,
AND 86-4
VARIANCE REQUES
MAC MCGOON, 110
WESTVIEW DRIVE

Storkamp also provided comments on the considerable investment Mr. McGoon had made in his property with respect to landscaping, construction of the home and purchase of two lots, equipment, etc. Mr. Storkamp also commented on the original approval made by the City in 1978 and stated that in his opinion the City led Mr. McGoon on to believe that his home occupation permit was in compliance with the City Code. Storkamp also commented on the variance request and the recommendation by the City staff to approve the variance request with conditions. Storkamp stated that the proposed conditions of the variance were too restrictive and would subject Mr. McGoon to constant scrutiny from the City.

Other comments which were received from the audience:

Stephen Weber, 1285 W. 13th St. - Mr. Weber stated that he did not have a problem with Mr. McGoons Photography Studio and that traffic related to the photography studio has not created problem for him. Mr. Weber also questioned what else could happen to the property if Mr. McGoon should no longer be living on the premises. Planning Director Harmening indicated that if the property should be rezoned commercial the primary uses permitted on the property would be commercial in nature and establishments could be located in the structure which are permitted in a C-1 zone.

Edith Kaiser - questioned whether or not the home occupation used more space in the home presently than what was used in 1978. Kaiser also questioned whether or not more persons were involved with the home occupation presently than were in 1978. Storkamp indicated that the same amount of space is now used in the structure for the home occupation as was used in 1978. Mr. Storkamp indicated that in terms of persons involved with the home occupation some growth had been experienced in terms of Mr. McGoons son in law as well as the addition of a part time secretary during busy times of the year.

Peter Folch - briefly reviewed the letter from City Attorney Moynihan dated July 2, 1985 and the comments made in that letter regarding action which could be taken by the City regarding the McGoon home occupation.

Tom Ditty - feels that McGoons daughter, Cindy, has too much at stake in the Mac McGoon Photography Studio and that it would be completely unfair to her to remove her from the business particularly through conditions which may be placed on the proposed variance.

Edith Kaiser- also indicated that she felt Cindy had very much at stake in the business and that her interest should be taken into consideration when action is taken on this matter.

There being no further comments from the audience the Chairman closed the Public Hearing at 9:10 p.m.

Planning Director Harmening reviewed with the Planning Commission the necessary action to be taken on this matter. It was his suggestion that the Planning Commission start first with the rezoning request followed by the Zoning Amendment and, if necessary a recommendation on the Zoning Interpretation and finally the Variance.

After considerable discussion a motion was made by Commissioner Dredge, seconded by Commissioner Stevens, to recommend that the request for a rezoning for the property at 1100 Westview Drive from R-3 to C-1 be denied due to the following reasons:

- A. the proposed rezoning constitutes "spot zoning".
- B. the proposed rezoning would be inconsistent with the City of Hastings Comprehensive Plan.
- C. The proposed rezoning would open the subject property up to other commercial uses other than photographic studios which is not consistent with the Comprehensive Plan and the intent of the R-3 zone and would be detrimental to the public health, safety, and welfare of the surrounding residential area.

Upon vote taken, Ayes, Commissioner Stevens, Dredge, Folch, Kaiser, Conzemius, Anderson; Naves, Ditty, Simacek, Voelker. Whereupon the motion was declared approved.

After considerable discussion a motion was made by Commissioner Conzemius, seconded by Commissioner Anderson, to approve the requested zoning amendment to allow photographic studios to be a permitted use in the R-3 zone with the condition that studios may only be located in a single family home. Upon vote taken, Ayes, 9; Naves, 0.

Due to the fact that the applicants second zoning request was approved no further action was taken by the Planning Commission on the zoning interpretation and the variance request.

The Planning Director informed the Planning Commission that Mr. Battern is requesting site plan approval of an 18' x 39'8" addition proposed to be made to the north side of his existing building at the above stated address (current structure contains "The Barbers", "Chicos", etc.). The Planning Director indicated that according to Battern, the building addition is proposed to accomodate an office for Battern and retail space for a possible drug store. The Planning Director noted that some members of the Planning Commission may recall that the City gave site plan approval to Mr. Battern in May of 1985 for an addition proposed to be made to the south side of his structure which he did construct in part last year. Mr. Battern now proposes to construct the remaining uncompleted portion on the north side of the building rather than the south side. Therefore, many of the considerations and approvals given by the City last year with respect to the number of parking spaces, setbacks, etc. would again come in to play for the current proposal. Planning Director noted that the largest concern with respect to the proposal now at hand pertains to eventual traffic movement capabilities between the eventual north side of Batterns building and the Dairy Queen property.

SITE PLAN-
EXPANSION TO
BUILDING AT
1207 VERMILLION
STREET (THE
BARBERS BLDG.)
RON BATTERN

The Planning Director discussed with the Planning Commission various items of interest pertaining to parking, drainage, vehicular access, utilities, etc. The Planning Director noted that upon recently reviewing the subject property and the Dairy Queen property during a peak traffic period for both properties it appeared traffic movement problems already exist between the two structures. The Planning Director further noted that with the expansion of the Battern building to the north and the continued use by the Dairy Queen of the four parking spaces it would appear that a poor traffic situation would become even worse. Harmening noted that as a solution Battern, as well as Harmening, had spoken with the owners of the Dairy Queen regarding the possible deletion of the four parking spaces on the north side of their building with this space, as well as the remaining space on the north side of the Battern building, to be used for ingress and egress purposes for the Dairy Queen as well as the Battern property. Harmening noted that a representative of the Dairy Queen did indicate that they would consider accomodating this request if proper assurances could be made to them that the City would require that Battern properly complete the parking lot located on the rear of his property.

Planning Director Harmening also discussed drainage concerns which the City Engineer had expressed regarding the rear of the Battern property.

After discussion a motion was made by Commissioner Anderson, seconded by Commissioner Dredge, to recommend approval of the site plan subject to the following conditions:

- A. That the applicant install a 3.5 foot hedge or fence along the rear property line.
- B. That a bumper curb be installed within five feet of the rear property line.
- C. That the owners of the Dairy Queen property formally agree (written letter or other document) to delete the four parking spaces along the south side of their building and use the space in conjunction with the remaining space to the north of the Battern building for ingress and egress purposes only.
- D. That Battern completely install (including bituminous) all parking facilities prior to occupancy of the proposed addition and also properly stripe the parking lot.
- E. That questions pertaining to adequacy of the utility services be investigated prior to permit issuance.
- F. That Batterns building cannot have more than 3900 sq.ft. of net retail floor space. If this area should be exceeded Battern would be required to provide parking in addition to the proposed 26 parking stalls.

- G. That one parking stall to the rear of the property be deleted to accomodate the required five foot side setback to the parking lot.
- H. That Battern discuss with the City Engineer the method for draining the rear of the property.

Upon vote taken, Ayes, 8; Nays, Commissioner Voelker.

The Planning Director informed the Planning Commission that Clarence Linn/Amoco Gas Station and Leroy Signs were requesting two variances to the Citys sign requirements. The variance requests are as follows:

86-5 VARIANCE REQUEST-
SIGN REQUIREMENTS-
CLARENCE LINN/AMOCO OI.
& LEROY SIGNS-1500
VERMILLION STREET

- A. A request for a variance to allow sign space on the subject property in excess of the permitted amount. In this case the applicant requests that they be allowed to add to the existing sign space on the property a 2'4" x 18' Food Shop sign on the front of the building (Vermillion Street side) and a 1'9" x 9'8" "Car Wash" sign on the fascia or the exit to the car wash. City code permits 240 sq.ft. of sign space on the subject property. Currently there exists 236' of sign space not including a small A frame sign which is placed daily at the corner of 15th & Vermillion Street and a plastic Amoco Ultimate sign located on Vermillion Street on the south side of the property. The Planning Director noted that whatever action was taken by the Planning Commission on the variance request the applicant should be instructed to remove the signs as the proper permits had not been issued for them. The Planning Director further noted that with the addition of the proposed sign space the property would have 295 sq.ft. of sign space which would be 55 sq.ft. over the maximum allowed. The Planning Director also noted that the calculation of sign space on the subject property is somewhat unique as city code requires that the existing striping on the canopy along with the Amoco insignia must be counted as sign space.
- B. A request for a variance to the City Code pertaining to the height of the pedestal sign. City code states that "each motor fuel station may have one pedestal sign not in excess of 100 square feet nor more than 25' in height". In this case the existing pedestal sign, according to the applicant, is 23' in height and is proposed to be raised to 28' which would then be 3' over the maximum.

The Planning Director reviewed the criteria which should be met for the granting of variances.

The Planning Director also noted that in November of 1984 the City denied a request by Joe O'Brien for a sign height variance of 2'.

After discussion a motion was made by Commissioner Stevens, seconded by Commissioner Kaiser, to recommend approval of the variance to the amount of sign area on the property from 240 sq.ft. to 295 sq.ft. as special conditions exist in the standard Amoco sign design, due to the striping, which artificially inflates the sign area calculation.

Upon vote taken, Ayes, 9; Naves, 0.

A motion was made by Commissioner Dredge, seconded by Commissioner Folch, to deny the request for a variance to increase the pedestal sign height three feet higher than the maximum of 25' as permitted by code based on the fact that the criteria for the granting of variances, as stipulated by the City Code, have not been met. It is further recommended that the City require the applicant to immediately remove the illegal A frame sign and the Amoco Ultimate sign. Upon vote taken, Ayes, 9; Naves, 0.

The Planning Director informed the Planning Commission that Mrs. Denn desired to withdraw her request for a home occupation] permit as she was in the process of negotiating a lease arrangement with Star Realty for the "Hutch's" space at 310 Vermillion Street. Harmening further indicated that Mrs. Denn hoped to be in her leased space by September 15, 1986. The Planning Commission took no further action on this matter.

HOME OCCUPATION -
MRS. GERALD DENN
1010 W. 4TH STREET

The Planning Director reviewed with the Planning Commission a rough draft of a proposed mobile home park ordinance. The Planning Commission requested that they be allowed to study this draft prior to any public hearing being ordered for the proposed zoning ordinance amendment. No further action was taken.

OTHER BUSINESS

Planning Director reviewed with the Planning Commission the Council directive that the Planning Commission provide a recommendation to the City Council on an updated Main Pedestrian Route System Plan, a priority list of streets which should have sidewalks constructed along them, and a recommendation on financing options. Chairman Simacek established a committee consisting of Nick Conzemius, Susan Dredge, Edith Kaiser, and Mike Simacek with said committee to study the questions presented by the Council and respond back to the Council with a recommendation. It was further directed by Chairman Simacek that Nick Conzemius would act as the Chairman of this committee.

The Planning Director updated the Planning Commission on recent City Council actions.

A motion was made by Commissioner Dredge, seconded by Commissioner Kaiser, to adjourn the meeting at 10:00 p.m. Upon vote taken, Ayes, 9; Naves, 0. ADJOURNMENT

MEMO

Date: September 11, 1986

To: Mayor & City Council

From: Tom Harmening, City Planner

Re: Variance, Special Use Permit - Auto Service Station - Dons Super Valu/IBI/Petroleum Equipment Service

The above stated applicants are requesting approval of a front yard setback variance from the required 50 feet to 35.5 feet, site plan approval, and a special use permit to allow a proposed four pump automotive service station to be located between the north wall of Don's Super Valu in the Westview Mall and the South Frontage Road (please see attached site plan). From a procedural perspective the City Council should act first on the proposed variance followed by separate action on the special use permit.

Attached, please find a memo to the Planning Commission from staff (dated 9/5/86) which provides a complete summary and overview of the proposed project. I also encourage you to read the minutes of the Planning Commission during which this matter was reviewed. The minutes are located in the front of your agenda packet.

I. Variance Request -

Pursuant to City Code, for a variance to be granted the applicant must demonstrate the following:

- A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- B. That literal interpretation of the City Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
- C. That the special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance request will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non conforming use of lands, structures, or buildings in other districts shall be considered as grounds for the issuance of a variance.

Recommendation from the Planning Commission -

A motion was made and seconded to approve the variance request as special conditions and circumstances were present in this case due to the fact that when the city approved the original site plan for the Westview Mall in 1974 the City approved in concept the extension of the Super Valu building toward the So. Frontage Road with a 35 foot setback proposed which was comparable to the setback now proposed by the applicant.

This motion failed on a vote of 5 Naves, 3 Ayes, and 1 abstention.

Upon polling the members of the Planning Commission voting against the motion, the reasons given for their negative vote pertained to the fact that the applicant had not demonstrated that the variance request met the criteria for the granting of a variance. In addition, it was felt that the proposed location was not appropriate for an auto service station due to traffic concerns, ingress and egress, and compatibility with the mall due to its close proximity. Staffs feeling from the members voting against the motion was that although they saw the need for a gas station in the general vicinity of the mall the proposed location in their opinion was not appropriate.

II. Special Use Permit -

Pursuant to City Code before any special use permit can be issued there must be written findings certifying compliance with the specific rules governing the individual special use permit and that satisfactory provisions and arrangements have been made concerning the following were applicable:

- A. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience traffic flow and control, and access in case of fire or catastrophe.
- B. Offstreet parking and loading areas where required, with particular attention to Item A above, and the economic, noise, glare, or odor affects of the special exception on adjoining properties and properties generally in the district.
- C. Refuse and service areas, with particular reference to items A & B above.
- D. Utilities, with reference to locations, availability, and compatibility.
- E. Screening and buffering with reference to type, dimensions and character.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic affect, and compatability and harmony with properties in the district.
- G. Required yards and other open space.
- H. General compatability with adjacent properties and other property in the district.

Recommendation from Planning Commission:

The Planning Commission recommended that the Special Use Permit be denied based on the fact that the variance had not been granted.

Again, I strongly encourage you to read the attached staff memo to the Planning Commission which provides for a comprehensive overview of the proposal.

jt

MEMO

Date: September 5, 1986

To: Planning Commission

From: Tom Harmening, City Planner

Re: Public Hearing-Special Use Permit, Variance and Site Plan - Auto Service Station - Don's Super Value/IBI/Petroleum Equipment Service

The above stated applicants are requesting approval of a front yard setback variance from the required 50 feet to 35.5 feet, site plan, and a special use permit to allow a proposed four pump automotive service station to be located between the north wall of Don's Super Valu in the Westview Mall and the South Frontage Road (please see attached site plan). Although discussed later in this memo, from a procedural perspective the Planning Commission should act first on the proposed variance followed by separate action on the Special Use Permit.

Items of interest pertaining to this proposal are as follows:

A. Zoning: The subject property is zoned C-4 Regional Shopping Center with auto service stations permitted by Special Use. The zoning of the surrounding property is C-4 as well.

B. Specifics on Site Plan: Very briefly, the applicant proposes a four pump auto service station with an 8' x 18' service building and 40' x 34' Canopy (see attached site plan). Apparently the service building will be used primarily for paying for gas although cigarettes, pop, and various other items will be available. To accommodate traffic movement other than that related to the service station the applicant proposes to place a driving lane on each side of the canopy. In addition, to accommodate traffic movement on and off of the South Frontage Road the applicant proposes to widen the existing east entrance from 24' to 28'. Additional discussion on traffic movement will be made later in this memo. The applicant also proposes to place a five foot concrete walk along the north side of the Super Valu building. The site plan also illustrates the location of three 10,000 gallon fiberglass fuel tanks to the east of the service building.

C. Utilities: The Planning Commission and applicant should note that a water service line to the Super Valu building extends from the South Frontage Road to the northeast corner of the Super Valu. The fuel tanks would appear to be in very close proximity to this line and may present a problem in that the tanks cannot be located within a certain distance of water service lines (staff is uncertain but believes this distance to be at least 10 feet).

D. Drainage: The subject area currently drains in a general south to north direction towards the South Frontage Road. Although not specifically noted on the site plan, upon speaking with one of the applicants this same drainage pattern would still be maintained.

E. Signs: No plans have been submitted.

F. Parking: The proposed development would eliminate fourteen parking spaces along the north side of the Super Valu. The Planning Commission should note that the mall currently has approximately 525 parking stalls. The 14 parking stalls were not included in the original approval of the parking amount for the mall due to the fact that it was anticipated at the time of original approval of the mall site plan that the Super Valu would eventually construct a 5,000 sq. ft. expansion towards the So. Frontage Road which would eliminate the fourteen parking spaces (see attached site plan). The Planning Commission should note that when the City Council approved the original site plan for the Westview Mall in 1974 the Council approved in concept the extension of the Super Valu building towards the South Frontage Road. According to the site plan it was proposed that the building expansion would extend to within 35 feet of the South Frontage Road right of way (front lot line).

The City Code also requires that the auto service station provide four parking spaces. It is felt that the existing mall parking would meet this need.

G. Traffic Impacts: It appeared from the Planning Commission's last meeting that the impact of the proposed development to traffic and pedestrian safety in and around the subject area was a primary concern. This concern appeared to specifically relate to traffic and pedestrian movement around the proposed gas station, the ability for gas transport trucks to service the station as well as delivery of goods to the Super Valu, and the impact to ingress and egress onto the South Frontage Road, etc.

The Planning Commission also requested that staff provide it with information pertaining to increased traffic generated from the proposed development and its relation to the So. Frontage Road. To accurately estimate this impact is somewhat difficult to determine due to the unique circumstances relating to the proposed service stations close proximity to the mall. In any event, to give the Planning Commission data to work with, according to the "Institute of Transportation Engineers Informational Report, Second Addition, 1979" the estimated peak traffic volumes generated per hour from an auto service station is 3.6 trip ends/per pump or in this case 15 trip ends per hour during a peak one hour period. A "Trip End" represents the combined total of "in" movements and "out" movements generated by the proposed use. Therefore, although it would not appear the station would generate an excess amount of traffic, concerns still need to be addressed pertaining to the ability for traffic and trucks to move through the subject area particularly in light of the fact that the Tops Do It Center parking lot is proposed to be connected to the subject area.

H. Other Items: The Planning Commission should also discuss matters pertaining to the general compatibility of the proposed development with the adjacent properties. The Planning Commission should note that this item is one rule or criteria which must be met for a Special Use Permit to be issued.

The Planning Commission should also note that the City does have a specific section in the Zoning Ordinance which deals with auto service stations (see attached). With the exception of the items noted under

in this memo,
paragraphs D, E, and F the proposal does not appear in major conflict with
the aforementioned ordinance section.

Staff did provide the applicants with information pertaining to the steps
and requirements for the granting of variances, special use permits, and
site plan approvals.

Exhibits from the applicants - the applicants have provided a site plan, a
completed land use application form, plans related to building
construction, pictures of a similar gas station in a different city, and
elevation drawings of the proposed station (the last two items will be
available at the Planning Commission meeting). Representatives of Don's
Super Valu have also provided a letter to the Planning Commission and
Council which provides comment on their proposal (see attached).

Discussion and Action to Be Taken:

As was stated previously, after the Planning Commission has reviewed the
proposal formal action should first be taken on the front yard setback
variance request from the required 50 foot setback to the proposed 35.5
foot setback followed by separate action on the special use permit. If the
variance is not approved it is suggested that action on the Special Use
Permit be tabled as obviously the special use permit could not be approved
without the variance.

Variance Request -

Pursuant to City Code, for a variance to be granted the applicant must
demonstrate the following:

- A. That special conditions and circumstances exist which are peculiar to
the land, structure, or building involved and which are not applicable to
other lands, structures, or buildings in the same district.
- B. That literal interpretation of the City Code would deprive the
applicant of rights commonly enjoyed by other properties in the same
district under the terms of the zoning ordinance.
- C. That the Special Conditions and circumstances do not result from the
actions of the applicant.
- D. That granting the variance request will not confer on the applicant any
special privilege that is denied by the Zoning Ordinance to other lands,
structures, or buildings in the same district. No non conforming use of
neighboring lands, structures, or buildings in the same district, and no
permitted or non conforming use of lands, structures, or buildings in
other districts shall be considered as grounds for the issuance of a
variance.

With respect to the variance request it does not appear that the applicant has provided overwhelming evidence or arguments which would clearly meet the variance criteria just outlined. From a staff perspective it is also difficult to clearly define arguments which specifically meet one or more of the variance requirements. A couple of thoughts which do come to mind are:

A. With the exception of the I-1 district the 50 foot setback in the C-4 zone is the most restrictive of all commercial zones. As the Planning Commission is aware the C-4 zone is the City's "Regional Shopping Center" zone which implies large buildings, large parking areas, and substantial pedestrian and automotive traffic. The intent of the 50 foot setback, at least in part, appears to provide a separation and buffer from the uses and the property line. In this case, could the gas service station be considered a secondary or accessory use to the mall in general?

B. The City originally agreed in concept that the mall could place a 5,000 square foot expansion/extension to the building at a later date. According to the site plan this addition would appear to come within 35 feet of the South Frontage Road right of way and would provide for an approximate 25 foot driving lane. The applicant now proposes a 12 1/2 foot driving lane with another 12 foot of space under the canopy.

As staff has repeatedly stated for other variance requests, very technically, and per City Code, unless the Planning Commission can determine that reasons for granting of the variance fall into the variance criteria as mentioned previously the variance request would not appear eligible for approval.

Special Use Permit:

Pursuant to City Code before any special use permit can be issued there must be written findings certifying compliance with the specific rules governing the individual special use permit and that satisfactory provisions and arrangements have been made concerning the following where applicable:

A. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience traffic flow and control, and access in case of fire or catastrophe.

B. Off Street parking and loading areas where required, with particular attention to Item A above, and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district.

C. Refuse and service areas, with particular reference to items A and B above.

D. Utilities, with reference to locations, availability, and compatibility.

E. Screening and buffering with reference to type, dimensions and character.

F. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.

G. Required yards and other open space.

H. General compatibility with adjacent properties and other property in the district.

With respect to the special use permit the criteria mentioned under items A, D, G, and H appear to be particularly relevant to this proposal. If the variance request is approved, which would then require action on the special use permit, the Planning Commission should address these matters specifically. Staff comments on the individual items are:

With respect to criteria A staff does not feel the anticipated normal automotive traffic will create a major problem but staff does have concerns regarding delivery truck traffic in this area and the applicants plans for dealing with this concern.

With respect to criteria D not enough information is available at this time to adequately address the matter but it would still appear that a problem may exist.

With respect to criteria G this concern would be addressed through the variance process.

With respect to criteria H staff does have concerns with the compatibility of an automotive service station in such close proximity to the proposed shopping mall.

Jt

LAND USE APPLICATION

CITY OF HASTINGS

Address of Property Involved Westview Shopping Center

Legal Description of Property Involved Part of Lot 1, Block 2, Westview Shopping Center

Applicant:
Name Don's Super Value
Address Westview Shopping Center
Telephone 437-3171

Official Use Only
Date Rec'd <u>9/2/86</u>
Case No. <u>633</u>
Fee Paid <u>\$130.00</u> (<u>\$100 special use</u> <u>\$30 variance</u>)
Rec'd by <u>T.H.</u>

Owner: (If different from Applicant)
Name: IBI Inc.
Address: 1303 Eddy St.
Telephone: 437-5708

Request:
Zone: _____ Special Use: X
Site Plan Review X Subdivision: _____
Variance: X Other: _____

Present Zone: _____
Applicable Ordinance No. _____ Section: _____

Description of Request Special use permit to allow gas pumps.
Front yard setback variance - 35'-0" in lieu of 50'-0"
(22'-0" to canopy edge)
Site plan approval

Planning Commission	Approved	Denied	Date

Donald Harris
Ronald R. Bolter
Edward H. ...
Signature of Applicant
Donald Harris Pres.
IBI Inc.

Don's Super Valu
Westview Mall
Hastings, MN 55033
September 2, 1986

City of Hastings
Planning Committee and
Hastings City Council

We at Don's Super Valu are proposing the addition of a gasoline filling station on the north side of Westview Mall, adjacent to our existing business. Accompanying this letter, you will find drawings, detailing the layout we are proposing. It will be done tastefully, and with efficient use of existing space. We would like this addition in our continuing effort to serve Hastings and the surrounding communities with good quality gasoline products as well as the best possible grocery products, and prices. The gasoline station will help to increase the malls drawing power, as well as aid our survival in the very competitive grocery industry.

We ask your support in this project, and, as always, are open to any suggestions that might aid in making this a workable plan. Thank you for your cooperation.

Sincerely,
Don's Super Valu

Mike Harris

Mike Harris

Don Harris

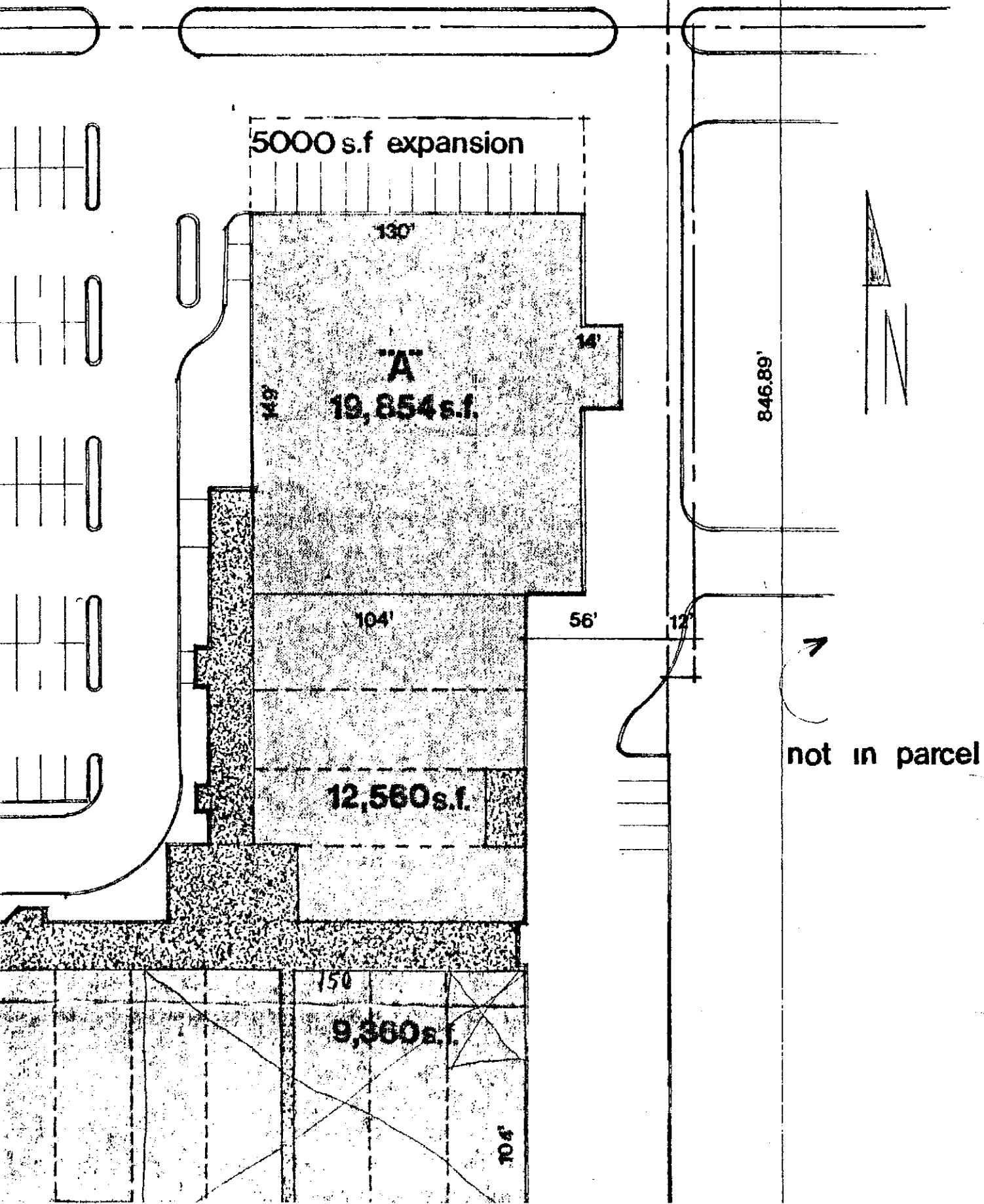
Don Harris

Don Bohlken

Don Bohlken

Original Site Plan - 1974

SOUTH FRONTAGE ROAD



F. Where non-conforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty per cent of the replacement cost at the time of destruction.

SUBD. 6. REPAIRS AND MAINTENANCE. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten per cent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SUBD. 7. USES UNDER SPECIAL PERMIT PROVISIONS NOT NON-CONFORMING USES. Any use allowed only by a "Special Use Permit" under this Chapter, which use exists at the time of passage of this Chapter, shall not be deemed a non-conforming use, but without further action be considered a conforming use. Any use hereafter permitted pursuant to a Special Use Permit in a district under the terms of this Chapter (other than a change through Board of Adjustment action pursuant to Subdivision 5, Subparagraph C of this Section from a non-conforming use to another non-conforming use not permitted in the district), shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

**

SEC. 10.07. SPECIAL PROVISIONS.

SUBD. 1. GENERAL REQUIREMENTS AND PERFORMANCE STANDARDS FOR MOTOR SERVICE STATIONS. Motor service stations shall conform to the following standards:

A. A fence or wall of acceptable design which is over fifty per cent closed and not over six (6) feet in height nor less than four (4) feet shall be constructed along the interior property line where said use abuts property residentially used or zoned. Said fence shall be adequately maintained. Application of this provision shall not require a fence within the required front yard nor within fifteen (15) feet of any street right-of-way.

B. Minimum site frontage shall be one hundred twenty-five (125) feet. The entire site other than that taken up by a structure or planting shall be surfaced with a material to control dust and drainage.

C. A drainage system subject to approval of the City Engineer shall be installed.

D. A landscaped or surfaced yard, not less than ten (10) feet wide shall be maintained along street curb lines except at driveway entrances. Nothing, including vehicles and equipment, shall be parked, stored or displayed in this area. An additional concrete curb or divider of not less than six (6) inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits.

E. Exterior lighting shall not be directed upon adjacent land or the public right-of-way.

F. Pump islands shall be located not less than thirty (30) feet inside exterior property lines.

G. No driveway at a property line shall be less than twenty (20) feet from the intersection of two (2) street right-of-way lines.

H. Each motor fuel station may have one (1) pedestal-type sign not in excess of one hundred (100) square feet nor more than twenty-five (25) feet in height, erected within any yard except that no part of the sign shall extend across a property line or right-of-way line. The pedestal shall not be greater than eighteen (18) inches in diameter and no part of the sign surface shall be less than sixteen (16) feet vertical distance from the grade of the nearest driveway or parking area. The pedestal shall not be less than five (5) feet from a driveway at its nearest point.

I. At least four (4) off-street parking spaces plus two (2) additional off-street parking spaces for each service stall shall be required.

J. No dead storage of vehicles for a period longer than forty-eight (48) hours shall be permitted.

K. No sales of motor vehicles shall be permitted.

L. If a motor fuel station remains closed and inactive for a period of six (6) consecutive months, all storage tanks must be removed from the property or inactivated by pumping out all fuel and sealed. The area is to be restored in a manner that is approved by the City Engineer.

M. All conditions pertaining to a specific site are subject to change by the Council after recommendations by the Planning Commission when the findings are such that the general welfare and public betterment can be served as well or better by modifying the conditions.

SUBD. 2. GENERAL REQUIREMENTS AND PERFORMANCE STANDARDS FOR MOBILE HOME PARKS AND CAMPING PARKS.

A. The purpose of this Subdivision of the Zoning Chapter is to establish provisions for the granting of a mobile home park permit. No

PROJECT: *Donis Super Valu*
Special Use Permit / Variance

Auto Service Station
South Frontage Road

Department	Reviewed		Date	Name	Comments
	Yes	No			
Fire	✓		9/2/86	<i>J. Rosendahl</i>	<i>approved subject to State Fire Marshal review & approval.</i>
Water	✓		9/2/86	<i>Arnold Parker</i>	<i>VERIFY WATER SERVICE CLEARANCE @ EAST AREA OF PROPOSED TANKS</i>
Building	✓		9/2/86	<i>W. J. Martin</i>	<i>APPROVED SUBJECT TO COMPLETE WORKING DRAWINGS</i>
Planning	✓		9/2/86	<i>T.H.</i>	<i>See memo dated 9/5/86</i>
Engineering	✓		9/2/86	<i>J. Kleinachmidt</i>	<i>approved</i>
Parks					

September 15, 1986
Don's Super Valu
Hastings, MN. 55033

Hastings City Council
Hastings City Planner.

Since the Planning Commission meeting (Mon. 9/8/86) we have had a chance to meet or talk to most of you. During those meetings and discussions you expressed several areas of concern as well as some possible solutions. We agree with you. There are some changes necessary to make this a safe, workable project.

We propose to:

1. Place Do Not Enter signs at the respective ends of each lane to prevent traffic entering the wrong lane.
2. Remove incinerator and install a cardboard baling system to replace it.
3. Restrict transport delivery times to avoid congestion during mall hours.
4. Move the underground storage tanks to the west side of the proposed station to give greater distance from the city water main.
5. There was also some concern as to the east/west positioning of the station. We would like it to be somewhat centrally located, but it could easily be moved a small distance either direction with no problems.
6. The striping of a designated fire lane running north and south along the back side of the mall to insure a clear lane for easy traffic flow as well as mall safety.
7. There was concern for stop signs at the ends of the directional lanes. We feel this might tend to further slow and congest traffic in this area, but if the council feels these are needed they could be easily positioned at the ends of each lane.
8. There was also some concern about the entrance and exit ramps. We have already proposed to widen the east ramp from 24 feet to 28 feet. The west ramp is presently at 30 feet and we feel that one is wide enough. A wider ramp may cause a loss of control rather than improve access. However, we could easily widen the east ramp to 30 feet to match the west ramp. The city code allows a maximum width of 32 feet for ramps. If the council feels it necessary, these ramps could be extended to that width.

We would like to thank you for your time and suggestions. We hope we have been able to address all your concerns and look forward to working together to further promote business in Hastings.

Sincerely,
Don's Super Valu

Donald P. Boller

Mike Hansen *Don Harris*

September 10, 1986

Hastings City Council

We, the merchants of the Westview Shopping Mall, support Don's Super Valu in their request for a variance to operate a gasoline filling station at our shopping center. Our feeling is that this would not cause a traffic congestion problem, but would only serve to increase sales for all of our businesses.

We ask you to reconsider their request for a variance to further promote shopping in Hastings.

Sincerely,

Leslie Nielsen	Meloy Park Florist
Dana Smith	Bookshelf
Jim Saverson	Westview Signage
Janice Blalock	White Drug Co
Kevin Frost	Radio Shack
Ron Toppin	Ferman Inc.
Walter Henderson	Claydon's
Virginia Jensen	Shoe Store
Monica Woodwick	Quebers
Annette Chaffin	Westview Mall Cafe
Nancy Biskupski	Westview Mall Cafe
W. Gava	Pizza Hut
John Fieghman	McDonald's
Audrey Thompson	Maurices
Ms. M. Clark	Westview Tailor Shop
M. Dawson	IBI Inc.

MEMO

Date: September 11, 1986

To: Mayor & Council

From: Tom Harmening, City Planner

Re: Mac McGoon Photography Studio, 1100 Westview Drive

James Storkamp, on behalf of Mac McGoon, has made application to the City for its review of several zoning requests to resolve the recent questions pertaining to the Mac McGoon Photography Studio home occupation permit. These requests in order of preference by the applicant are as follows (please see attached exhibits).:

A. A request for the rezoning of the Mac McGoon property at 1100 Westview Drive from the current R-3 zoning classification to a C-1 Neighborhood Commerce zoning classification.

B. If the above request is denied by the City the applicant then requests that the city consider an amendment to Section 10.13, Subdivision 2b of the City zoning ordinance (R-3 standards) by adding "Photographic Studios" as a permitted use.

C. If the above options are not considered acceptable by the city the applicant then requests that the City provide an interpretation of whether photographic studios are considered to be a professional office which are permitted in the R-3 zones.

D. If the above options are not considered acceptable by the city the applicant then requests a variance from the provisions of the home occupation permit standards to allow the continued use of the property, with respect to the existing photography studio, under the auspices of a home occupation permit.

Attached is a considerable amount of background information, past memos, and letters pertaining to this matter. It is my suggestion that you preface your entire review of this matter by reading the attached memo which contains recommendations from myself to the Planning Commission dated 9/5/85, a memo from myself to the City Council dated 7/3/86, a letter from Shawn Moynihan, City Attorney, dated 7/2/86 and a letter from Mac McGoon dated 4/13/86. Also attached is a recent letter from James Storkamp dated September 5, 1986 which provides a lengthy discussion on the applicants position.

Recommendations from Planning Commission -

The Planning Commission reviewed the requests in order of the preference given by the applicant and accepted testimony on the requests during a public hearing. The actions taken were as follows:

1. Request for rezoning from R-3 to C-1:

The Planning Commission recommended that the request for a rezoning for the property at 1100 Westview Drive from R-3 to C-1 be denied due to the

following reasons:

- A. The proposed rezoning constitutes "spot zoning".
- B. The proposed rezoning would be inconsistent with the City of Hastings Comprehensive Plan.
- C. The proposed rezoning would open the subject property up to other commercial uses other than photographic studios which is not consistent with the Comprehensive Plan and the intent of the R-3 zone and would be detrimental to the public health, safety, and welfare of the surrounding residential area.

2. Request for Zoning Amendment - Photographic Studios in R-3 zones:

The Planning Commission recommended approval of the requested zoning amendment to allow photography studios as a permitted use in the R-3 zone with the condition that photography studios may only be located in a single family home.

The Planning Commission did not take formal action to provide a recommendation to the City Council on the interpretation of "professional office" or variance request as those requests were of a lower priority in preference to the applicant than the rezoning and zoning amendment request. If the City Council should not follow the Planning Commission's recommendation to approve the zoning amendment, the Planning Commission anticipates that the Council will refer back to the Planning Commission for a recommendation the remaining zoning requests pertaining to the interpretation of a professional and the variance request.

If the Council should desire to follow the recommendation of the Planning Commission regarding the zoning amendment the appropriate action from the Council would be to approve a first reading of the zoning amendment and order the Public Hearing for the second reading.

Date: September 5, 1986

To: Planning Commission

From: Tom Harmening, City Planner

Re: Mac McGoon Photography Studio, 1100 Westview Drive

James Storkamp, on behalf of Mac McGoon, has made application to the City for its review of several zoning requests to resolve the recent questions pertaining to the Mac McGoon Photography Studio Home Occupation Permit. These requests in order of preference by the applicant are as follows (please see attached exhibits):

A. A request for a rezoning of the Mac McGoon property at 1100 Westview Drive from the current R-3 zoning classification to a C-1 Neighborhood Commerce zoning classification.

B. If the above request is denied by the City the applicant then requests that the City consider an amendment to Section 10.13, Subdivision 2b of the City Zoning Ordinance (R-3 standards) by adding "Photographic Studios" as a permitted use.

C. If the above options are not considered acceptable by the City the applicant then requests that the City provide an interpretation of whether photographic studios are considered to be a professional office which are permitted in R-3 zones.

D. If the above options are not considered acceptable by the City the applicant then requests a variance from the provisions of the home occupation permit standards to allow the continued use of the property, with respect to the existing photography studio, under the auspices of a home occupation permit.

Attached is a considerable amount of background information, past memos, and letters pertaining to this matter. Although I will go through each of the above stated requests one by one it is my suggestion that you preface your entire review of this matter by reading the attached memo from myself to the City Council dated 7/3/86, a letter from Shawn Moynihan, City Attorney dated 7/2/86 and a letter from Mac McGoon dated 4/13/86.

I. Discussion on Zoning application -

1. Request for rezoning from R-3 to C-1 - Mr. McGoon's primary request is for a rezoning of the property upon which his house is located at 1100 Westview Drive (Lot 9, Block 2, Dakota Hills 4th Addition) from an R-3 Medium Density Residential Zone to a C-1 Neighborhood Commerce Zone. Mr. McGoon appears to make this request as Photographic Studios are considered to be a permitted use in the C-1 zone. Concerns/Issues pertaining to this request are as follows:

a. Spot zoning - spot zoning is defined as the rezoning of a single parcel of land or relatively small area for a higher intensity use than the land surrounding the parcel which usually

benefits and provides special and privileged treatment to its owner. Spot zoning is not consistent with the Comprehensive Plan. In the McGoon case the zoning of the adjacent properties are: west-R-3; east-R-3 and R-1; south-R-1; north-C-4. Although there is a commercial zone located to the north of the McGoon property it is felt the proposed rezoning constitutes a spot zone due to the remaining surrounding residential zoning and existing single family housing as well as the fact that the proposed rezoning relates entirely to the benefit of one small parcel of property and the related property owner.

- B. Comprehensive Plan - The City of Hastings Comprehensive Plan, in its land use planning element, clearly identifies that the property in question should develop and be maintained under a single family residential environment. In addition the text of the Comprehensive Plan indicates that the proposed rezoning would be inconsistent with the land use in that area. Therefore, it is felt the proposed rezoning is clearly in conflict with the Comprehensive Plan and supports the findings that the proposed rezoning constitutes a "spot zone" which would not promote the public health, safety, and welfare of the existing residential environment.
- C. Non Conforming Use - The rezoning of the subject property to a C-1 would create a non conforming use due to the fact that residential uses are not permitted in C-1 zones. The creation of non conformities is inconsistent with basic planning and zoning principles.
- D. Other zoning concerns - The proposed rezoning of the subject property to C-1 would permit many other commercial establishments on the property, in addition to photography studios, which could include barber or beauty shops, craft shops, medical offices and clinics, laundromats, real estate and insurance offices, clothing stores, and the like.

2. Request for Zoning Amendment-Photographic Studios in R-3 Zones -

Mr. McGoons first alternate request asks that the City consider amending the current R-3 standards by adding to the list of permitted uses the phrase "Photography Studio". Currently, permitted uses in the R-3 zone includes townhomes, quadraminiums, four plexs, single family dwellings when part of a PRD, nursing homes, retirement homes, dormitories, public and parochial schools and churches, fire stations, professional offices, daycare centers, old age homes, libraries, gift or craft shops and similar uses of a public service nature, duplexes, and customary accessory uses.

Concerns/Issues pertaining to this request are as follows:

- A. It would appear that the proposed amendment would further commercialize the R-3 residential zone (which are interspersed throughout the City) and would not appear consistent with the intentions of the R-3 zone and the Citys Comprehensive Plan. The proposed zoning amendment, if approved,

would also appear to present a troublesome precedent for future requested amendments to the zone to accomodate other commercial development.

B. The City already provides for limited businesses and commercial activities in the R-3 zone through the home occupation process.

C. The proposed zoning amendment could be construed, and therefore attacked, as being special legislation by the City for the benefit of one property owners gain.

D. As noted above, professional offices and gift and craft shops are permitted in the R-3 zone. In staffs opinion it is questionable whether or not land uses other than residential in the R-3 zone should be allowed in any way except for home occupations. This concern is not new. For example, in late 1983 the City Council adopted an ordinance which deleted professional offices and gift and craft shops as uses in the R-1 and R-2 zones as there apparently was a concern that the presence of these land uses could cause problems. In addition, concerns were also expressed by the Planner at that time regarding the advisability of permitting these non residential uses in the R-3 zone as well (see attached memo from Paul Burns dated 10/7/83).

3. Photography Studios - Professional Offices -

Mr. McGoons second alternate request asks that the City provide an interpretation of the meaning of professional office by finding that photographic studios are considered to be a professional office which are permitted in the R-3 zone. Staff has done research and provided considerable comment to the City Council on this matter. Please see the attached memo from myself to the City Council dated 8/14/86. It is felt the memo is self explanatory and no further comment is needed at this point.

4. Variance Request -

Mr. McGoons third alternate request asks that the City consider granting a variance from the provisions of the Home Occupation Standards. The variance would appear to specifically apply to the following standards:

A. McGoon utilizes more than 25% of the floor area of his home for purposes of conducting the home occupation (McGoon utilizes approximately 960 sq.ft. of a total of 2765 sq. ft. or 35%).

B. McGoon employes persons on the premises who do not reside on the premises.

Currently, in staffs opinion, a variance with conditions would appear to be the most appropriate way in which to handle this matter. Again, staff has provided considerable discussion on the proposed variance which is contained in an attached memo to the Planning Commission dated July 10, 1986. Please review this memo with regard to the variance request.

II. Recommendation:

Based on the primary and three alternate zoning requests made by the applicant the following recommendations are provided for your consideration.

1. Request for rezoning from R-3 to C-1 -

It is recommended that the rezoning request be denied due to the following reasons:

- a. The proposed rezoning constitutes "spot zoning".
- b. The proposed rezoning would be inconsistent with the City of Hastings Comprehensive Plan.
- c. The proposed rezoning would create a non conforming use (residential portion of the structure) which is contrary to basic planning and zoning principles.
- d. The proposed rezoning would open the subject property up to other commercial uses other than photographic studios which is not consistent with the Comprehensive Plan and the intent of the R-3 zone and would be detrimental to the public health, safety, and welfare of the surrounding residential area.

2. Request for zoning amendment - Photographic Studios in R-3 zones -

It is recommended that the proposed zoning amendment be denied due to the following reasons:

- a. The proposed amendment would further commercialize the R-3 medium density residential zone which would not be consistent with the intent of the R-3 zone and the Comprehensive Plan. The proposed zoning amendment would also set a potentially troublesome precedent as it would open up the R-3 zone to future requests for zoning amendments to permit other commercial activities.
- b. The City of Hastings Zoning Ordinance currently provides for businesses and commercial activities in the R-3 zone through the home occupation process.
- c. The proposed zoning amendment requests special legislation by the City for the benefit of one property owners gain.
- d. The proposed zoning amendment would be contrary to past actions by the City to reduce the amount of commercial activities in its residential zones.

3. Request for zoning interpretation-Photographic Studios as Professional Offices.-

It is recommended that a definition/interpretation of "Professional Office" not include photographic studios due to the following reasons:

- a. The intent of the zoning ordinance is to use the traditional interpretation of "professional" which implies that "learned" and highly advanced educational professions such as attorneys

and doctors fall under the definition of professional. In addition, other occupations which imply professional attainments and highly advanced education (as distinguished from mere skill) and involve predominantly mental, intellectual, or scientific skill (rather than physical or manual) would also fall under the definition of professional.

- b. The zoning ordinance implies that photographic studios are not intended to be considered as a professional office due to the fact that professional offices are listed separately from photographic studios as permitted uses in commercial zones within the City's Zoning Ordinance.
- c. The R-3 zoning district's primary intent is to accommodate residential land uses. A liberal interpretation of professional office would compromise the residential integrity of the R-3 zone and would not be consistent with the Comprehensive Plan.

4. Variance Request -

Based upon the past history of the Mac McGoon home occupation at 1100 Westview Drive and the City's involvement over the last eight years it is recommended that the Planning Commission consider approving the requested variance due to the fact that special conditions and circumstances exist which are peculiar to the situation. It is further recommended that the Planning Commission develop in final form parameters and restrictions which McGoon's home occupation would be required to operate within. Possible parameters for operation of the Mac McGoon Photography Studio at 1100 Westview Drive include:

- a. The structure at 1100 Westview Drive may not be extended or enlarged to accommodate the home occupation.
- b. The home occupation may not extend to any areas in the structure at 1100 Westview Drive.
- c. The use of the structure at 1100 Westview Drive shall conform to the regulations of the zoning ordinance if the home occupation is discontinued for six consecutive months or for eighteen months during any three year period.
- d. If the home at 1100 Westview Drive is sold or occupied by persons other than Mac McGoon any home occupation on the premises shall conform to the provisions of the zoning ordinance.
- e. If the structure at 1100 Westview Drive is damaged by fire or other cause to an extent of more than 50% of its market value as estimated by the Building Inspector and approved by the City Council the home occupation shall not be restored except in conformance with the regulations of the zoning ordinance.
- f. The home occupation must conform with the regulations of the zoning ordinance if Mac McGoon should no longer be the principle active and present party in the Mac McGoon Photography Studio business at 1100 Westview Drive.

MORATZKA, DILLON, KUNKEL & STORKAMP

PROFESSIONAL ASSOCIATION

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September 5, 1986

City of Hastings
Planning Commission

In Re: Zoning Requests of Mac McGoon

Dear Ladies and Gentlemen:

We are attorneys for Mr. Mac McGoon, owner of property at 1100 Westview Drive, Hastings, which is the subject of various zoning requests being considered by you and a public hearing concerning which will be held by your commission at your meeting on Monday, September 8, 1986, at 7:30 o'clock p.m. Given the multifaceted nature of our request to the commission and the complex facts involved, we wish by this letter to make to you a written presentation concerning our client's requests so that you can have before you our position to review and study prior to the meeting together with the other materials being provided you by the City Planner's office. This memo is not intended to be comprehensive of our position, but merely a general statement thereof. We will appear before you at the scheduled public hearing to provide additional information and to answer any questions that any of you may have. Mr. Harmening has graciously agreed to provide you with copies of this memorandum with your regular pre-meeting packets.

The basics of our request to the city for zoning consideration are set forth in our letter to Mr. Harmening of July 24, 1986, a copy of which is attached. Our first request, and the preferable action from our point of view, is a rezoning of our client's property to a C-1 classification under the Hastings City Code. Accordingly, the thrust of this memorandum to you will be primarily directed to that issue.

HISTORICAL BACKGROUND

We believe that it is crucial to your deliberations to be fully apprised of the historical background to our client's request. While you have previously been provided with background information from Mr. Harmening and a copy of our client's letter

to him of April 13, 1986 on this point, we would like to briefly summarize, in writing, this historical background preparatory to our later comments.

1. 1956 through 1959: In 1956 McGoon went into the photography business and conducted a one room studio with a dark room in the basement of his residence at 705 Vermillion Street.

2. 1959 through 1970: Needing larger quarters, McGoon built a new home with combined studio at 1016 Tyler Street with a walk-in downstairs for the business which included a reception area, camera room, work room, and dark room, the living area being on the upper level. The business was conducted by Mr. McGoon, his spouse, and two children. In 1970 he added an outside employee to serve as receptionist and assistant. In 1959 the City, for the first time, adopted a home occupation permit requirement and such a permit was issued to McGoon for the use of the property on Tyler Street. The City never required a formal application, never inspected the studios on Tyler Street, and never provided McGoon with any information as to the requirements of the home occupation ordinance. The city automatically renewed the home occupation permit annually, and McGoon paid the \$10.00 fee therefore every year. No complaints or communications of any type were had between the city and McGoon during this time.

3. In June of 1978 McGoon applied to the city for a home occupation permit for a new residence being constructed by him at 1100 Westview Drive, the site presently in consideration. Full disclosure of the floor plan, the intended use, and information concerning the home occupation was provided the city. No one at staff, planning commission or city council level requested more detailed information or questioned the proposed use. Both the planning commission and the city council unanimously approved the proposed use by McGoon as presented with no additional limitations or conditions. On the strength of this, McGoon completed the purchase and construction of a large and expensive residence containing preplanned space for the business as being conducted at that time. No information whatsoever was provided by the city concerning any limitations on the proposed business use.

4. 1979 through 1985: The City annually renewed McGoon's home occupation permit and McGoon paid an annual fee therefore. At no time during this period was information provided McGoon from the city as to home occupation permit requirements and limitations. The only active inspection by the city was in June, 1985, after which the City Council unanimously renewed the home occupation permit. There are no records of any neighborhood or other complaints concerning the usage of the property during this period of time nor prior periods.

5. December 1985: Based upon comments received by city staff, McGoon was sent a letter outlining, for the first time, requirements for home occupation permits, and instructed to comply with the requirements.

6. January, 1986: The City staff, for the second time (the first time being in 1985) inspected property at 1100 Westview Drive and obtained from McGoon copies of the floor plans. The city staff determined total floor area for the home to be approximately 2,765 square feet (though this does not give credit for a downstairs closet) and staff further determined that approximately 960 square feet was being used for the home occupation (though no credit given in this calculation for portion of that space dedicated to personal as well as business use). Without taking the aforementioned variances into consideration, staff determined that 34.7% of floor space was being used for home occupation.

7. April, 1986 to Present: Results of foregoing inspections communicated to McGoon and McGoon provided additional information to City. At some point in time City staff determined that R-3 zone (in which the property is located) never provided for home occupations, notwithstanding the fact that the city had issued such permits from 1978 through 1985-1986. Pending resolution of issues, city council ultimately extended use of property by McGoon through early October, and began and has now completed necessary process to amend zoning ordinance to allow home occupations in R-3 zones. In July, 1986, McGoon, through the undersigned, made formal application for zoning amendments to accomodate continued usage of property as allowed by city from 1956 forward.

The present business use of the property remains basically the same as it has from the beginning of the occupation of the property at 1100 Westview Drive. Mr. McGoon is the proprietor and primary employee of the business. His wife works with him on a full time basis. His married daughter Cindy Hoffman, who lives at another address, works as a full time photographer at the studio and doing outside assignments. The business also employs one other full time person as receptionist and secretary. Ms. Hoffman's husband, McGoon's son-in-law, Armin Hoffman, is a full time employee of 3M Company who does occasional weekend wedding photography off the premises. Occasionally the business retains freelance photographers who work assignments outside of the premises, and who do not have any involvement within the studio.

The majority of the photography volume takes place outside of the studio on location, at schools, churches, the

customer's place of business or residence, etc. The studio activity involves mostly seasonal portraits, and a vast majority of the business's customers never come to the premises, whatsoever. Again, there is no record of any neighborhood or other complaints concerning the use of the business premises.

C-1 REZONING REQUEST

Our client's first, and most preferred method of resolving the situation presented at this time is to rezone the property from its present R-3 zone to a C-1 "Neighborhood Commerce" Zone in accordance with Section 10.15 of the Hastings City Code. As stated in that section of the City Code, the intent of the Neighborhood Commerce Zone classification is to establish neighborhood commerce districts to provide an opportunity for residents to make day-to-day purchases at locations convenient to their places of residence. Businesses in this zone are limited in gross floor area to 1,000 square feet per business and no single structure may exceed 6,000 square feet. The uses in this zone are limited to day-to-day retail needs of the neighborhood and accessory uses incidental to same and the ordinance specifically includes photographic studios as one of the limited business uses involved.

The present use of the property by McGoon would appear to fit squarely within all of the definitions included in Section 10.15 defining the C-1 Zone. Moreover, the particular property in question is located on a major through street in the city, Westview Drive, at its intersection with 12th Street. Immediately across the street from the subject property, to the north, is the Westview Mall Shopping Center, which is zoned C-4. The property is on a corner lot, with frontage on 12th Street as well as Westview. The driveway and parking area of the premises is on the less busy 12th Street (which abutts Westview Mall Shopping Center) so as not to create any traffic hazards on Westview Drive. In addition, on street parking is available on both the east and north frontages of the property and is not otherwise prohibited by any parking bans.

It should be noted here that Mr. McGoon owns an additional lot abutting the subject premises immediately to the west, Lot 8, which fronts on 12th Street, and that rezoning of this parcel is not being requested, and it would continue to be zoned R-3. Mr. McGoon has extensively landscaped this lot, and it acts as a natural buffer zone between the subject premises and the next property to the west, which is a duplex. photographs of the adjoining property, which acts as a buffer zone, will be presented to you at the public hearing. While Mr. McGoon has no intention of separately selling this additional lot, even if he

were to do so, it could be used only for an R-3 use, and the purchaser would be on notice that the property immediately to the east, the subject premises, is zoned for neighborhood commerce and is presently being used for limited commercial purposes.

More significantly, we would point out to you that the subject premises would act as a transitional zone between the C-4 shopping center zone immediately to the North and the R-3 Residential Zone next to the south. As such, the rezoning requested herein would certainly not constitute "spot zoning," which is so often disparaged as being undesirable. We would submit that good zoning philosophy encourages transitional zones between disparate uses and that this particular property is a good example of implementation of that philosophy.

At the public hearing we shall present to you a complete set of photographic slides that demonstrate the desirability of the rezoning of the property to act as such a transitional zone. In particular, we would ask your attention to the proximity of the Westview Mall Shopping Center and the new construction presently taking place there.

As indicated above, no neighborhood complaints have ever been received by the McGoons, nor, for that matter, by the city with regard to the present use of the property. In fact, an informal survey of the neighborhood by the applicant has disclosed that the neighboring property owners all support action by the city that will assure the continued use and occupation by Mr. McGoon of the property as proposed herein, a use made of the property consistently since its development in 1978 to the present.

ALTERNATIVES TO REZONING OF PROPERTY TO C-1

In that we are aware that city staff will be expressing opinions adverse to our request for a rezoning of the property to a C-1 Neighborhood Commerce classification, we feel it appropriate to briefly touch on alternative courses of action available to the city together with some of the negative aspects of each of these alternatives which, in our opinion, render them less desirable than a rezoning of the property to a C-1 Neighborhood Commerce Zoning classification.

As we prepare this memo to you, it is our understanding that city staff is recommending to you, as its first choice, the granting of a variance from strict compliance by McGoon with the home occupation permit ordinance. While McGoon appreciates this recommendation and the fact that it would generally allow continuance of the business by him as heretofore allowed by the

city for some 30 years, the conditions and limitations proposed by staff to be placed upon the variance would pose an extreme hardship and inequity to the McGoons. For this reason, we do not consider the variance procedure an acceptable alternative to our primary request herein. The reasoning for this position are outlined hereafter.

The initial, rough draft of the recommendations by city staff included six limitations to be placed upon the granting of a variance. As we understand these recommended limitations, they are as follows:

- a. Structure may not be extended or enlarged to accomodate the home occupation;
- b. Home occupation may not extend to any areas in the structure other than the lower level of the home;
- c. The variance would discontinue if the occupation were discontinued for any reason for six consecutive months or for 18 months during any three year period;
- d. That the variance extend only to Mac McGoon, and no one else;
- e. That if the structure were to be damaged so as to require replacement of more than 50% of present market value, variance would discontinue;
- f. That the home occupation variance would be discontinued should Mac McGoon no longer be the principal party in the studio business.

The limitations set forth would severely handicap the McGoons and prevent them from carrying out what has always been their long range plan, which is to eventually turn over the photography business on the premises to their daughter, Cindy Hoffman. Had such limitations been put on the business from the beginning, the McGoons would never have built and completed the expensive structure as they did in 1978-1979, and they would have found an alternative site to do so. To now change the rules of the game so as to prohibit them from carrying out their long range plans is, in essence, depriving them of a property right that they have previously enjoyed. Moreover, if Ms. Hoffman were not able to take over the business from her father, for whatever reason, the only way for Mr. McGoon to recover the substantial

investment that he has in the property and his business would be to sell it to another photographer to continue the same operation. The limitations proposed by city staff would make this impossible. Again, this would constitute a deprivation of an extremely valuable property right by the city. Moreover, and in any event, it would subject the McGoons to constant scrutiny for any technical violation of the comprehensive limitations put upon their use. In summary, the variance procedure being recommended would severely limit and handicap the applicant from the full use and enjoyment of the property that he reasonably expected from the time that the city initially gave its unanimous approval to his plans, and the seven years of hard work and enterprise that he has invested in the facility and his business.

Should the planning commission nonetheless recommend against the rezoning of the property to a C-1 Neighborhood Commerce classification as being primarily requested herein, we believe that there are two other reasonable alternatives available for the planning commission to recommend and have included these in our initial application to the commission of July 24, 1986.

The first, and we believe simplest alternative, would be an amendment of Section 10.13 Subd. 2b of the Hastings City Code to add to that paragraph, as a permitted use, photographic studios. As you are aware, that paragraph presently allows, in an R-3 zone, nursing homes, retirement homes, dormitories, public and parochial schools and churches, fire stations, professional offices, daycare center, old age home, library, gift or craft shop and similar uses of a public service nature. As you can see from the description of the McGoon operation set forth above, the use of the property as a photographic studio puts less stress on the character of the neighborhood than most any of the uses permitted under the existing code. We would submit that professional offices, daycare centers, and gift or craft shops generate a much larger volume of traffic, and hence neighborhood disturbance, than a photographic studio ever would. By using this alternative method, the city would be assured that no other possible use could be made of the property other than those already allowed in the R-3 and the photography studio that is now there. It would obviate the need for constant policing of the situation and would relieve the McGoons from the hardships that would otherwise be created by strict application of the home occupation permit rules, which the city is proposing to impose for the first time after 30 years of appropriate operation.

In response to this, we anticipate that someone may argue that such a change as proposed to Section 10.13 Subd. 2b would open up all other properties in the city that are zoned R-3 to the same use. We do not deny this to be the case. However,

given the fact that the subdivision already allows uses of a much more commercial and high traffic nature, allowing this use in any R-3 zone of the city would not substantially change the character of any other neighborhood that is zoned R-3.

The second alternative to rezoning which we would ask the commission to consider in the event of a denial of the applicants first two choices is the simple expedient of recommending an interpretation of the term "professional offices," as used in Section 10.13 Subd. 2b as including photographic studios. The primary advantage of this course of action is that it would entail no rezoning and no amendment to the existing ordinance. The referenced subdivision already allows "professional offices" as a permitted use in an R-3 zone, but as previously pointed out by the city planner, nowhere in the Hastings City Code is this term defined. We believe that you have had the benefit of Mr. Harmening's memo to the Mayor and Council of August 14, 1986, on this interpretation question. He points out that there are two courses of action regarding such an interpretation of what constitutes a professional office: A "liberal" interpretation and what he refers to as a more "traditional" interpretation. It is the staff's conclusion that the more traditional interpretation should be considered.

However, we would submit that the reasoning and rationale cited by staff to support a more traditional interpretation is not sound. Accompanying this memorandum we have provided copies of various material from the Minnesota Professional Photographers Association, Incorporated, of which Mr. McGoon and his business is a member. In its own memorandum, staff notes that "other occupations which imply professional attainments and highly advanced education (as distinguished from mere skill) and involve predominantly mental, intellectual, or scientific skill (rather than physical or manual) would also appear to be eligible to be identified as professional." A review of the materials from the Professional Photographers Association make it clear, we believe, that a professional photographer is every bit as professional as a doctor, lawyer, dentist, engineer or architect. Moreover, we would point out that the Hastings City Council previously interpreted, in 1983, insurance and real estate brokers to be "professionals."

Moreover, making a distinction between the various types of professionals based upon traditional interpretations of that term simply does not make sense in this case. Based upon the historical use of the property and the nature of the business of the studio, as set forth above, we would submit that Mr. McGoon's photography studio will result in a much lower volume of traffic and other disturbances to the neighborhood than does a doctor's or lawyer's office. One only has to sit in the waiting room of a doctor's office for an hour to see how many patients

are seen by the typical physician during that short period of time. No such high volume would be generated by a photography studio, as shown above.

SUMMARY

As can be seen from the foregoing, and other materials provided you by the city staff, any of the three alternatives to a rezoning of the property entail numerous other technical difficulties, not the least of which is the fact that anything short of a rezoning of the property to C-1 would have an affect on all other R-3 zoned property in the city. Moreover, and most significant from an equitable point of view, is the fact that the city, through its past actions and inactions has allowed and encouraged the McGoons to invest a great deal of time and money in their present property and to plan their entire futures based thereon. To now deny them to continue to use their property as they had otherwise expected to, is to exalt form over substance, and would cause great hardship by the imposition of rigid technicalities.

For all of the reasons set forth above, we would respectfully submit that the fairest and most expeditious manner for the city to resolve the difficulties that it has created is to rezone the McGoon property at 1100 Westview Drive to C-1.

Very truly yours,

FOR THE FIRM



James B. Storkamp

JBS:lmc
Enclosures
cc: Mac McGoon

MORATZKA, DILLON, KUNKEL & STORKAMP

PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

725 VERMILLION STREET

P.O. BOX 489

HASTINGS, MINNESOTA 55033

(612) 437-7740

TIMOTHY D. MORATZKA

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CANNON FALLS OFFICE

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CANNON FALLS, MINNESOTA 55009

(507) 263-4654

TWIN CITIES LINE: 333-6738

July 24, 1986

Mr. Tom Harmening
Planning Director
City of Hastings
100 Sibley Street
Hastings, MN 55033

In Re: Mac McGoon Property
1100 Westview Drive, Hastings

Dear Tom:

As we have previously discussed by phone, to resolve the alleged improper use of property referred to above by our client, Mr. McGoon, we would propose to make application to the City at this time for a rezoning of the property to C-1 Classification under the Hastings City Code. To save time for our client and for city staff and the Planning Commission and City Council, we would propose, at the same time, to make three alternative requests to the City should our initial request ultimately be denied. The first alternative would be, in the event that the City decides against the rezoning request, for an amendment, by the City, of Hastings City Code Section 10.13 Subdivision 2B to add to that Paragraph, as a permitted use, photographic studios. As a second alternative, we would like to make application for an administrative interpretation by your office, or the City Council, acting as the Board of Adjustment and Appeals, to define professional photographic studios as being a professional office use as contemplated by Section 10.13 Subdivision 2B. The final alternative request would be for a variance from the provisions of the home occupation permit ordinance to allow the continued use of the property for the home occupation as previously conducted there for the last eight years in approximately 35% of the home and with one non-family employee on the premises.

Please be so kind as to advise us what type of formal application and application fee you will require for this multi faceted request and we will immediately provide you with same. We will then be in touch with you to discuss the various alternatives and

to obtain your advices as to what your recommendations will be to the Planning Commission. Also, we would intend to appear before the Planning Commission to make a brief presentation with regard to our request. Thank you in advance for your assistance herein.

Very truly yours,

FOR THE FIRM

James B. Storkamp

JBS:lmc

cc: Mac McGoon

bcc: Fred Trautmann

APPLICATION FOR HOME OCCUPATION PERMIT

APPLICANT MAC MCGOON

PHONE 437-2000

PRESENTLY AT 1016 TYLER STREET HASTINGS

ADDRESS REQUESTING SAME AT NEW RESIDENCE 12th AND WESTVIEW HASTINGS

Do you own this property? YES If not, give name and address of owner _____

(Written permission by owner must be attached)

Legal Description of property for which permit is requested Lot 9, Block 2
Dak Hills Addition

Present Zoning Classification R-3

Describe in detail the Home Occupation under this Permit PHOTOGRAPHY AND SALE OF
PHOTOGRAPHS (AS PRACTISED UNDER HOME OCCUPATION PERMIT FOR PAST 20 YEARS)

How many cars park at your home each week as a result of your Home Occupation? TWO TO TEN DAILY (EXCEPT SUNDAY)

What is the average length of time each car is parked? 10-15 Minutes Hours
PROVISIONS PLANNED FOR 2 CAR OFF STREET PARKING

Do you provide any Off Street Parking other than your driveway? _____

If yes, room for how many cars? TWO Draw sketch on back as to location on lot.

In what part of your home do you carry on your Home Occupation? LOWER LEVEL

Upper Level
LIVING AREA WILL BE between 1200 and 1300--LOWER LEVEL (LIVING AND HOME OCCUPATION COMBINED)
No. of square feet in your home _____ No. of square feet used in H.O. APPROX 500 120

For how long a period of time do you intend to continue this Home Occupation as --
WE HAVE OPERATED HOME OCCUPATION FOR PLUS 20 YEARS AND UNDER HOME OCCUPATION PERMIT
REGULATIONS SINCE IN EFFECT. RENEWAL FOR YEAR 1978-1979 has
applied for under this application? BEEN PAID.

How long have you been carrying on this business? 22 YEARS 9 YEARS AT 705 VERMILLION
13 YEARS AT 1016 TYLER
TO MY KNOWLEDGE THERE HAVE NO COMPLAINTS OF OUR HOME OCCUPATION _____

Signature of Applicant M. A. "Mac" McGoon at either location

Date June 5, 1978

ANNUAL FEE - \$10.00
License Year - July 1 to July 1

Approved by City Council on _____

FEE RECEIVED: Date _____ By _____

MEMO

Date: July 3, 1986

To: Mayor & City Council

From: Tom Harmening, City Planner

Re: Renewal of Home Occupation Permits

I. Attached, for your review, is a list of the 50 home occupation permits which are up for renewal. 13, or approximately 25%, of the home occupations were inspected (those inspected are underlined on the attached list). There were no violations found for those home occupations which were inspected. Therefore, with the exception of one home occupation which is discussed in length later in this memo (McGoon Permit), it is recommended that the home occupation permits as listed be approved for the period of July 1, 1986 - June 30, 1987 subject to the City receiving by July 14, 1986 the required \$10.00 permit fee from those persons who have not yet made payment (those which had not paid by 7-3-86 are indicated with an asterix on the attached list).

II. McGoon Home Occupation Permit - Photography Studio.

As the City Council is aware, Staff has been preparing a report for the Council on matters pertaining to the home occupation permit held by Mr. McGoon for a photography studio located at 1100 Westview Drive. The preparation of the report was in response to questions raised regarding McGoons operation as compared to the standards and criteria for home occupation permits as contained within the City's Zoning Ordinance. It appears that from information compiled on this matter three primary areas of concern have been established regarding McGoons operation as compared to the City's home occupation standards. These are:

A. The City's Zoning Ordinance in 1978, as well as the present, does not permit home occupations in R-3 Zones. In 1978 McGoons home was located and still is located in an R-3 zone.

B. McGoon utilizes more than 25% of the floor area of his home for purposes of conducting the home occupation (McGoon uses approx. 960 sq. ft. of a total of 2,765 sq. ft. in his home or 35%).

C. McGoon employs persons for the home occupation who do not reside on the premises.

What follows is an outline of background information and history of McGoons home occupation from its inception in 1956 and progression through the years up to the present. Also attached is a letter from McGoon which provides information on his operation. In addition, I have also attached a letter from Shawn Moynihan, City Attorney, which outlines alternatives available to the City Council for addressing the Mac McGoon home occupation matter.

A. Background Information - Mac McGoon Photography Studio.

1. 1956 through 1959 - Conducted a one room studio with a darkroom in basement in residence at 705 Vermillion Street (Source - McGoon letter of 4/13/86.)
2. 1959 through 1970 - Built a home/studio at 1016 Tyler Street with a walk-in downstairs for the business (reception area, camera room, work room/darkroom) with the living area in the upper level. During this period McGoon's personnel consisted of himself, his wife and occasional assistance from his two children who were both in school. In 1970 McGoon also added an outside employee who served as a receptionist and assistant. Sometime during this period McGoon states that the city required McGoon to have a Home Occupation Permit which was issued to him without application or request and was renewed annually (Source-McGoon letter of 4/13/86).
3. 1970 through 1978 - still operating at 1016 Tyler Street McGoon's operation basically was conducted as indicated above. During this period McGoon's daughter attended various schools and classes which had an emphasis in photography and gradually increased her participation in McGoon's business. In 1976 McGoon's daughter married and changed her address from the McGoon residence but continued to work as a full time photographer at the McGoon studio as well as undertaking outside assignments. During this period McGoons personnel consisted of himself, his wife, an outside assistant/receptionist, and his daughter (Source McGoon letter of 4/13/86). As an added note, in 1975 Mr. McGoon requested permission to add a 270 sq. ft. addition to his home for purposes of providing more space for his home occupation. As the overall space being used by McGoon still complied with the zoning ordinance the City Council approved McGoons request. (Source - City records).
4. 1978 - still operating at 1016 Tyler Street McGoon officially applied for a Home Occupation Permit in June of 1978 for a proposed dwelling/studio at 1100 Westview Drive. (Source-McGoon letter of 4/13/86.)

Pursuant to City records McGoon did make application in June of 1978 and presented photographs of the property at 1100 Westview Drive as well as a site plan for the proposed structure. On Mr. McGoons application form it was indicated that McGoon estimated he would use approximately 500 sq. ft. of his home for his Home Occupation out of an estimated total house size of approximately 2500 sq. ft. (This proposal complied with the cities 25% floor area requirement).

As an added note the location of 1100 Westview Drive was located and still is located in an R-3 zone. Home Occupations were not considered to be permitted or special uses in R-3 zones.

In 1978 the Planning Commission and City Council unanimously approved Mr. McGoon's application for a Home Occupation Permit at 1100 Westview Drive (Source - City records).

5. 1979-McGoon moved from 1016 Tyler Street to 1100 Westview Drive in February of 1979 bringing along the same personnel as was used at 1016 Tyler Street which would apparently include McGoon and his wife, his daughter, and an outside receptionist/assistant (Source-letter from McGoon of 4/13/86).
6. 1979 through present - McGoon used free lance photographers during this period that do not have any involvement with the studio. These assignments range from 0 persons during slack winter months to one-three persons during the peak summer season. The free lance photographer usually gets its assignment by phone during the week and returns the film to the studio when finished with the assignment (Source-McGoon letter of 4/13/86).

Other than yearly renewals of McGoon's home occupation permit it appears the city had little contact with McGoon. In June of 1985 the City did inspect McGoons residence and home occupation as a part of an inspection of all home occupation permits in the City. The City Council subsequently renewed McGoons home occupation permit for the 1985-1986 permit period (Source-City records).

In December of 1985, based on comments received by the City, McGoon was sent a letter outlining the requirements for home occupation permits and instructed to comply with the requirements (Source-city records).

In late January of 1986 City staff inspected McGoons operation and received from McGoon plans for the structure to allow the city to determine floor area information. It was determined that McGoons total floor area for his home is approximately 2,765 sq. ft. of which approximately 960 sq.ft. is used for the home occupation (34.7%; source-City records).

On April 10, 1986 McGoon was sent a letter requesting that he provide the city with information pertaining to McGoon's Photography Studio operation which exists presently as compared to that which was proposed and existed in 1978-1979. McGoon responded to this request in writing on April 13, 1986 (Source-City records). In addition to the earlier excerpts from McGoons letter, McGoon also comments in his letter that the majority of his photography volume takes place outside the studio on location-in the schools, at the churches, customers place of business, etc. The studio activity involves mostly seasonal portraits and is handled by either his daughter or himself as it has been for years. McGoon further states that he feels his home occupation at this date parallels the Tyler Street operation as well as the 1979 era when he first made the decision to build his home/studio on Westview Drive.

B. Consideration of action to be taken by the City Council.

Upon closely reviewing the alternatives for action as outlined by the City Attorney (see attached) it would appear two options are available for City Council consideration (Alternative B & C).

Based upon the history of McGoons home occupation and the City's past involvement over the last eight years, the City Council may wish to consider Alternative C as an option for dealing with this matter. Using this alternative the Council could consider extending McGoons permit for a set period of time (60 days, for example) during which the Planning Commission would be directed to provide a recommendation to the Council on a zoning ordinance amendment to permit home occupations for single family homes in an R-3 Zone and also a recommendation on a variance for McGoon to the City's home occupation standards. As a condition for variance approval the City could establish parameters and restrictions which McGoon's operation would have to operate within.

On the matter pertaining to amending the Zoning Ordinance to permit home occupations for single family homes located in R-3 zones, it would not appear inappropriate or unreasonable to permit such an occurrence based on the fact that many of the City's more recent developments are zoned R-3 P.R.D. which contain single family homes (Williams 1st Addn., Riverwood Addn., Siebens Addn's.).

In summary, Staff recommends that some course of action be taken on the McGoon Home Occupation matter. Hopefully, the information provided in this memo will assist the Council with this task such that further direction may be given to staff on this matter.

jt



**Hertogs Fluegel
Sieben Polk
Jones & LaVerdiere**
PROFESSIONAL ASSOCIATION

July 2, 1986

999 Westview Drive
Hastings, MN
55033
(612) 437-3148

Mr. Thomas K. Harmening
City Planner
100 Sibley Street
Hastings, Minnesota 55033

Re: Mac McGoon - Home Occupation Permit

Dear Tom:

We have been asked to outline the legal options of the City regarding the home occupation matter of Mr. McGoon.

We understand the basic facts of this matter to be the following. In 1978, Mr. McGoon, who had been operating his photography business out of his home on Tyler Street, applied to the City for a home occupation permit for his new location at 1100 Westview Drive. A copy of that application, as provided to us by the City, is attached to this letter. Among other information provided, the application states that the zoning district for that property is R-3. The application also states that approximately 500 square feet will be used in the proposed home occupation.

The City's zoning ordinance in 1978, as well as now, does not permit home occupations in R-3 zones. In recent months, the City realized its error, i.e., that a home occupation permit should not have been issued to Mr. McGoon in that zone. Subsequent investigation has also revealed that Mr. McGoon's home occupation is occupying almost 960 square feet, about 460 feet more than is allowed by the home occupation ordinance. Furthermore, Mr. McGoon is employing persons other than members of the family residing on the premises.

LEGAL OPTIONS

A. One alternative for the City Council would be to allow Mr. McGoon to continue his present home occupation without any zoning amendments to allow home occupation permits in the R-3 zone. This approach would not be advisable since the City would be condoning an obvious violation of its own ordinances. This approach could set a dangerous precedent for the City and could easily come back to haunt the City Council. Future attempts to enforce the home occupation

Samuel H. Hertogs
Donald J. Fluegel
*Michael R. Sieben
*Michael S. Polk
*Harvey N. Jones
*Richard A. LaVerdiere
Steven D. Hawn
George L. May
Kenneth A. Skrien
Leo F. Schumacher
Shawn M. Moynihan
Carol A. Eckersen
Kathy A. Endres
Michael R. Strom
John O. Sonsteng

*Also admitted in Wisconsin

OFFICES ALSO AT:

Red Wing, MN
(612) 388-1581

Cottage Grove, MN
(612) 459-1019

ordinance against other individuals would be met with the argument that the City is selectively enforcing its zoning ordinances. This would present enforcement problems for the City in the future.

B. The second alternative is for the City to strictly enforce its home occupation ordinance as it applies to Mr. McGoon. This would require Mr. McGoon to close his business since home occupations are not a permitted use in the R-3 zone.

If the City elects this alternative, it can expect the argument to be made that the City should be prevented from enforcing its home occupation ordinance against Mr. McGoon because it has failed to enforce it against him in the past. Furthermore, the argument will be made that the City should also be prevented from enforcing its home occupation ordinance since the City issued the permit to him eight years ago and has renewed it each year thereafter. The City's legal response to these arguments would be that the administration of a zoning ordinance is a governmental function versus a proprietary function. Under Minnesota case law, a municipality cannot be prevented from correctly enforcing its zoning ordinances even if the owner has relied to his detriment on previous City action. Frank's Nursery Sales vs. City of Roseville, 296 N.W.2d 604 (1980). The City Council may not be bound by a prior erroneous application of its zoning ordinances. Id.

If the City's actions were challenged and the Court follows the decision of Frank's Nursery Sales, the City should be able to correctly enforce its zoning ordinances as they relate to Mr. McGoon. It should be noted, that my research has not found any cases where a City attempted to correct an erroneous interpretation it has followed for eight years. It is unknown what affect, if any, that fact may have upon a Court if it were to review the City's actions.

Although the City may be able to enforce its zoning ordinances, the City could face a possible claim by Mr. McGoon for an unconstitutional taking of his property. An unconstitutional taking occurs when governmental action deprives a landowner of all reasonable uses of his land. There is insufficient information available to the City now to determine whether Mr. McGoon would be deprived of all reasonable uses of his land if the City were to close his business. However, this possibility is something the Council should consider in its deliberations on this matter.

C. A third alternative for the City is to amend the zoning ordinance to permit home occupations in the R-3 zone. This amendment could restrict home occupations to only single family dwellings in the

R-3 district. This approach would allow Mr. McGoon to continue his home occupation, however, his operation would have to comply with the home occupation ordinance. From the information provided to us, we understand that Mr. McGoon presently is using a greater percentage of his home for his home occupation than is allowed by the ordinance. Likewise, Mr. McGoon may be employing personnel who do not reside on the premises. These violations and any others would have to be eliminated so that Mr. McGoon would be in compliance with the home occupation ordinance.

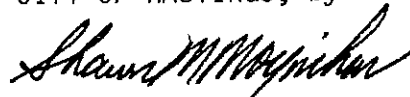
If the homeowner requested, the City could consider a variance to its home occupation ordinances as they applied to Mr. McGoon's situation. In considering any variance request, the City Council could impose restrictions on Mr. McGoon's operation to prevent any further expansion or to ensure that it would be brought into conformity with City ordinances over a period of time.

To summarize, we do not feel that Option A is a viable option for the City. Option B would more than likely require the City to seek assistance from the Courts in enforcing its home occupation ordinance. It may also require the City to defend itself from claims by Mr. McGoon for an unconstitutional taking of his property as well as other possible claims. The third alternative presents an equitable solution to a problem which should have been noticed several years ago.

We will be present at Monday's meeting to answer any questions the City Council may have regarding this matter.

Very truly yours,

CITY OF HASTINGS, by



Shawn M. Moynihan
Assistant City Attorney

SMM/bap

mac mcgoon studio inc.

"The Home of Creative Photography"

April 13, 1986

Mr. Thomas Harmening
City Planner--City of Hastings
100 Sibley Street
Hastings, Minn 55033

Dear Mr. Harmening:

This letter is in response to your letter dated April 10, 1986, our phone conversations and other correspondence relating to the home occupation history of Mac McGoon Studio.

The following information covers our beginning in the photography business in 1956, our operation at 1016 Tyler from the late '50's through February 1979 and finally our move to 1100 Westview Drive in February, 1979 to the current date.

Our first involvement was a one room studio in our residence at 705 Vermillion Street with a darkroom in our basement. As our business grew so did our need for larger quarters. In 1959 we built a home/studio with a walk-in downstairs and our residence in the upper level. (1016 Tyler Street). We used the entire downstairs, minus a tuck in garage, for our photo business. This facility consisted of a reception area and a camera room, plus our workroom/darkroom combination.

From 1956 thru 1970 our personnel consisted of my wife and I with occasional assistance from the two children who were both in school. In about 1970 we added an outside employee who served as a receptionist and assisted us with order preparation. Our son Randy graduated in 1970 and permanently separated himself from the photography business. Our daughter Cindy graduated in 1972 and continued her photographic education at UMD and later at Hennepin County Vo-Tech where she completed a course in commercial-professional photography in early 1976. Throughout this schooling process she pursued photography at our studio evenings and week-ends. Cindy married in October 1976 and changed her address at that time, continuing to work as a full time photographer at our studio and outside assignments.

Sometime during the period of 1959 and while still at our Tyler Street address the City of Hastings adopted a home occupation permit requirement. The home occupation was issued to us without application or request and was renewed annually and mailed to us with a \$10.00



automatically

1100 Westview Drive • Hastings, Minnesota 55033
612-437-2000



mac mcgoon studio inc.

"The Home of Creative Photography"

page2....

invoice.

In June 1978 we officially applied for a home occupation permit for a proposed dwelling/studio for 1100 Westview Drive. We presented our sketches and plans, together with photos, aerial and ground, showing our relationship to the existing Westview mall. Our application to the planning commission passed without a dissenting vote and likewise was approved by the City Council. I was commended by the council for having done a good job of preparation and given well wishes. This permission was given and the permit ultimately issued without any special conditions or regulations to be followed. The issuance of the permit in 1978 was basically the same as previous years, except as they dealt with the new address.

It might be proper at this point to mention that at no time---from our first year until your letter of December 4, 1985 were we ever given any information from the city dealing with floor space requirements, outside employee restrictions or regulations dealing with home occupations.

We moved to our present location at 1100 Westview Drive in February 1979 bringing with us the same personnel from 1016 Tyler.

Cindy's husband, Armin, is a full-time employee at 3 M Co, working with us as an occasional week-end wedding photographer. We are also involved with other free-lance photographers that do NOT have any involvement within the studio. These assignments vary from zero during the slack winter months to one, two or three on the heavier wedding week-end during the peak summer season. The photographer usually gets his assignment by phone during the week and returned film to the studio when finished with the assignment.

The majority of our photography volume takes place outside the studio on location....in the schools, at the churches, customer's place of business, etc. The studio activity involves mostly seasonal portraits and is handled by either Cindy or myself...as it has been for many years. When we go into schools we add a person or two to assist with student preparation, bookkeeping chores, etc., however these people are on a day to day basis and are not used in the studio in any way.

We feel that our home occupation at this date parallels the Tyler Street operation as well as the 1979 era when we made the decision to build



1100 Westview Drive • Hastings, Minnesota 55033
612-437-2000



mac mcgoon studio inc.

"The Home of Creative Photography"

page 3.....


our home/studio on Westview Dr and were given the full blessings of the Planning Commission and ultimately the go ahead by our City Council.

We have a very large monetary investment in our present location. The building and grounds were designed specifically for a home/studio and could not be adapted to living quarters for my wife and I. The personal futures of Mrs. McGoon and myself, as well as Cindy and Armin's family are suddenly and unpredictably at stake.

We assume that you respond to us favorably and without delay enabling us to put this agonizing threat behind us and permit us to proceed with our business and our personal lives in a normal manner.

Thank you.

Respectfully yours,



Mac McGoon Studio



1100 Westview Drive • Hastings, Minnesota 55033
612-437-2000



VIA2

MEMO

Date: August 14, 1986

To: Mayor & Council

From: Tom Harmening, City Planner

Re: Professional Office in R-3 Zone

During the last City Council meeting a question was raised whether a photography studio constituted a professional office which are permitted in R-3 zones. This question was precipitated due to the recent review of the McGoon Photography Studio. As you recall the interpretation was tabled until the 8/18/86 Council meeting such that staff could provide research on the matter and provide input to the Council.

On a related matter I wish to make the Council aware of the fact that McGoons attorney has made application to the city which requests that the city consider possible action to resolve the McGoon home occupation matter which included a request for an interpretation of what constitutes a professional office (see attached letter). It was anticipated that this matter would proceed through the usual channels and was scheduled to be placed on the Planning Commission Agenda for August 25, 1986. Therefore, due to this circumstance Council action at this time regarding the interpretation of professional office might be somewhat premature. Nevertheless, staff has followed the instructions of the City Council and has reviewed the question pertaining to the interpretation of professional office.

Prior to commencing discussion on this matter staff would like to note that clearly defining a professional is not an easy task based on the fact that what may constitute a professional occupation to one person may not be in line with the thoughts of another. Due to this fact the Council may wish to eventually dispose of the phrase "professional" office as a permitted use and just simply list the types of office uses permitted in a specific zone.

It appears that the Council could take two courses of action regarding an interpretation of what constitutes a professional office - a "liberal" interpretation and what staff would call a more "traditional" interpretation. Based on the following comments staff is currently of the opinion that the "traditional" interpretation should be considered.

Liberal Interpretation

A liberal interpretation of professional office, which staff assumes would include photography studios, would appear to imply that any vocation, calling, occupation or employment involving labor, skill, education, and special knowledge which a person professes to have acquired could be construed as being a profession. This would appear to imply that a person of almost any trade or occupation could then be permitted to establish a business under the auspices of a professional office. In staffs opinion this interpretation could then set a potentially troublesome precedent as it is felt the intent of certain zoning districts within the city could be compromised. For example, professional offices are permitted uses in the

R-3 zone. In staffs opinion it is questionable whether or not office uses of any type should be allowed in the R-3 zone but in any event it appears that the intent, at least in part, of allowing professional offices in the R-3 zone was to provide on a limited bases (traditional interpretation) certain types of offices as transitional uses in some areas in the R-3 multi family district. In addition, as the Council is aware, the R-3 zone is often used under a planned unit development concept. In this case, under an R-3 PUD some limited land uses (professional offices under a traditional interpretation) other than residential are permitted and, on a preplanned basis, may be very functional as the propensity for a whole neighborhood to be commercialized in an unplanned fashion is eliminated. As was stated before, in the case of the R-3 zone the primary intent is to accomodate residential land uses. A liberal interpretation of professional office could compromise the residential integrity of the zone and would not, in staffs opinion, be consistent with the Comp Plan. Also, please recall that home occupations are proposed to be permitted uses in the R-3 zone which would allow small scale businesses to exist.

It should also be noted that discussion by the Council and Planning Commission regarding professional offices in the citys residential zone is not new. For example, in late 1983 the City Council adopted an ordinance which deleted professional offices as uses in the R-1 and R-2 zone as there apparently was a concern that the creation of offices of any interpretation in these zones could cause problems. In addition, concerns were also expressed by the Planner at that time regarding the advisability of permitting professional offices, particularly with a liberal interpretation, in the R-3 zone as well (see attached memo from P. Burns dated 10/7/83). Staff basically concurs with the previous Planners thoughts and submits that maybe the city should consider deleting offices of any type, excepting for possible PUD's, from the R-3 zone.

The Council also discussed professional offices in November of 1985 during which it found that a barbershop/beauty shop and tanning salon did not constitute a professional office.

Traditional Interpretation

At the risk of upsetting persons involved in certain occupations the traditional interpretation of a professional office, which by studying the zoning ordinance would appear to be its intent, would imply that the "learned" and highly advanced educational professions such as attorneys and doctors would most certainly fall under the definition of professional. In addition, other occupations which imply professional attainments and highly advanced education (as distinguished from mere skill) and involve predominantly mental, intellectual, or scientific skill (rather than physical or manual) would also appear to be eligible to be identified as professional.

As was stated previously, it is staffs opinion that the intent of the zoning ordinance was to use the traditional interpretation of professional, particularly in the residential zones, due in part to the concerns expressed above.

As an added note, to support the previous comments regarding the intended definition of professional office the Council should be aware that within the listing of permitted uses in commercial zones in the city's zoning ordinance the use "professional office" is listed separately from "photography studio" as a permitted land use which would appear to imply that photography studios were not intended to be considered as a professional office.

Based upon the traditional interpretation of professional offices and the comments provided in this memo the following occupations could be considered to fall under professional:

Doctors (of all types including psychologists/psychiatrists, veterinarians), Dentists, Attorneys, Engineers, Architects, possibly Accountants (CPA) and, based on a 1983 Council interpretation, Insurance and Real Estate Brokers.

Summary

To summarize this memo the following thoughts are provided for your consideration:

- A. A clear definition of professional is somewhat difficult to provide and the Council may wish to eventually discard the use of this phrase in the Zoning Ordinance (or limited only to PUDs in R-3 zones) and in its place simply list the types of office uses allowed.
- B. A liberal and traditional interpretation of professional office appears available to the Council. Based upon the research conducted by staff it would appear that the traditional interpretation should be implemented, which, in staff's opinion would not include photography studios.

Other matters

A question was raised with respect to the number of parking spaces McGoon would be required to provide if a photography studio was interpreted as being a professional office. This topic in itself presents an interesting question due to the following:

- A. Professional offices are required to provide one parking space for each 100 sq. ft. of floor area. If this standard was implemented McGoon would be required to provide 10 spaces.
- B. Studios are required to provide 1 parking space for each 400 sq. ft. of floor area. If this standard was implemented McGoon would be required to provide 3 parking spaces.

The question now raised is which parking requirement should be met? If a photography studio was interpreted as being a professional office it is felt the City would have sufficient justification to require the stricter parking interpretation.

October 7, 1983

MEMO

TO: PLANNING COMMISSION

FROM: PAUL BURNS

SUBJECT: REVIEW OF ZONING ORDINANCE DEFINITION OF "PROFESSIONAL OFFICES"

At their last meeting, the City Council chose to interpret the term "Professional Offices" to include such things as Insurance and Real Estate Offices. This term is included in a grouping of land uses that is included as a special use in the R-1 District, a permitted use in the R-2, R-3, and R-4 Districts. Previously, this term had only been interpreted to include Doctors, Dentists, and Lawyers Offices. The City Council has asked the Planning Commission to review this provision for its appropriateness, and definition in these residential districts.

This was a provision that was historically placed in many older zoning ordinances. I believe its original intent was to allow an office for such things as Doctors and Dentists, when they were located in the persons home. That distinction has now been eliminated, and one must question whether any kind of an office building is a compatible use in a residential zoning district, especially single family districts. If this broader interpretation had been followed, many homes along Highway #55 between Highway #61 and Westview would have been converted to general offices long ago. The same concern exists for the area between the midtown shopping center and the downtown along Highway #61. To allow general offices in these areas, not to mention the remainder of the single family zones, would be inconsistent with the goals of the Comprehensive Plan, in my opinion. Therefore, I would definitely recommend eliminating professional offices as a special use in the R-1 zoning district, and a permitted use in the R-2 zoning district. I would also recommend eliminating gift or craft shops and the phrase "similar uses of a public service nature" from both single family districts. None of these uses are included in the draft zoning ordinance single family districts.

The question of whether these uses should be permitted in the multiple family districts is a harder question. I can envision where such uses could be an appropriate transitional use in some areas in the multiple family districts. For example, those areas zoned or planned for multiple family residential use near the commercial zones could be an appropriate location for an office. The main question is whether, if general offices are a permitted use in, for example the R-3 zoning district, would the areas zoned R-3 be more likely to be developed as office projects than medium density housing? The area between Pleasant Drive and Westview near the Vermillion River which is zoned R-3 would not, I believe be an appropriate location for an office building, whereas those multiple family zones near the North Frontage Road might be, as well as those narrow strips of R-3 zoning near the Midtown Shopping Center.

I would recommend immediately advising the Council to eliminate office uses from the single family zones, while further researching the appropriateness of this use in the R-3 district.

MEMO

Date: July 10, 1986

To: Planning Commission

From: Tom Harmening, City Planner

Re: 86-4 Variance Request to Home Occupation Criteria-Mac McGoon
Photography Studio, 1100 Westview Drive

During the July 7, 1986 City Council meeting the Council discussed in length matters pertaining to the Mac McGoon home occupation permit. Three areas of concern were discussed pertaining to the McGoon permit. These are:

- A. The City zoning ordinance in 1978, as well as the present, does not permit home occupations in R-3 zones. In 1978 McGoons home was located and still is located in an R-3 zone.
- B. McGoon utilizes more than 25% of the floor area of his home for purposes of conducting the home occupation (McGoon uses approximately 960 sq.ft. of a total of 2,765 sq.ft. in his home or 35%).
- C. McGoon employs persons for the home occupation who do not reside on the premises.

As a result of the City Council discussion the Council took action to extend the Mac McGoon home occupation permit for 60 days during which the staff and Planning Commission were to study the matter further and provide recommendations on an amendment to the zoning ordinance to permit home occupations in R-3 zones as well as a recommendation on a variance for McGoon to the citys home occupation standards. As the matter pertaining to the zoning amendment was discussed in a previous memo, the discussion that follows will deal only with the variance question.

With respect to the variance question I have attached the following exhibits for your review:

- A. A summary of the citys requirements pertaining to home occupation permits.
- B. A rather lengthy memo which was submitted to the Council dated July 3, 1986 which includes background information and history of McGoons home occupation from its inception in 1956 and progression through the years up to the present. Also included is a letter from Shawn Moynihan, City Attorney, which outlines alternatives available to the City for addressing the Mac McGoon home occupation as well as a letter from McGoon which provides information on his operation. It is respectively requested that the Planning Commission study these items thoroughly as their contents are important in providing a proper perspective of the subject at hand.

As with all variances the following criteria are to be considered:

- A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
- B. That literal interpretation of the City Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
- C. That the special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance request will not confer on the applicant any special privileges that is denied by the zoning ordinance to other lands, structures, or buildings in the same district.

Upon reviewing the attached memos on this matter please note that on the last page of my memo (memo is dated July 3, 1986) it was suggested that the City consider granting a variance for McGoon from the city's home occupation standards. This suggestion was based upon the history of the McGoon home occupation permit and the city's involvement over the last eight years. Based upon the history and city involvement it was felt that at least criteria A of the variance requirements was met in that special conditions and circumstances exist which are peculiar to the situation.

Under normal circumstances the city would not wish to place itself in a position of granting variances for home occupation permits. In this particular case it is felt that the city would have sufficient justification and past history available to it such that the city could separate the variance request now at hand versus a potential home occupation variance request in the future.

As was also noted in my previous memo as well as in Shawn Moynihan's letter, it was suggested that if a variance request is considered the City should establish parameters and restrictions within which McGoons operation would have to operate. Attached, for your review, is a rough draft of a potential list of parameters or restrictions which could possibly be placed as a condition for variance approval. It should be noted that in addition to the list of parameters for the McGoon operation any approval should be conditioned upon successful passage of the proposed zoning amendment regarding the permitting of home occupations in R-3 zones.

Recommendation: Based upon the past history of the Mac McGoon home occupation at 1100 Westview Drive and the city's involvement over the last eight years it is recommended that the Planning Commission consider approving the requested variance due to the fact that special conditions and circumstances exist which are peculiar to this situation. It is further suggested that the Planning Commission develop in final form the parameters and restrictions which McGoons home occupation would be required to operate within. It is further suggested that any recommended approval of the variance be conditioned upon the successful passage of a zoning ordinance amendment which permits home occupations in R-3 zones.

Please note that the suggested parameters for the McGoon home occupation permit are in rough draft form. At this point neither McGoon nor the general public has had an opportunity to provide comment on the suggested parameters. Staff is still in the process of studying the parameters and may recommend changes or additions to the list.

jt

PROJECT: McGoon Zoning Application

Remoning
Zoning Amendment
Zoning Interpretation
Variance

Department	Reviewed		Date	Name	Comments
	Yes	No			
Fire	✓		9/2/86	Sherrill	approved
Water	✓		9/2/86	James Ender	N/A
Building	✓		9/2/86	Murphy	APPROVED
Planning	✓		9/2/86	T. H.	See memo dated 9/5/86.
Engineering	✓		9/2/86	J. Klenschmidt	approved
Parks					

MEMO

Date: September 11, 1986

To: Mayor & City Council

From: Tom Harmening, City Planner

Re: Site Plan - 1207 Vermillion St., Ron Battern

Mr. Battern is requesting site plan approval of an 18' x 39'8" addition proposed to be made to the north side of his existing building at the above stated address (current structure contains "The Barbers", "Chicos", etc.). According to Battern, the building addition is proposed to accommodate an office for Battern and retail space for a possible drug store (please see attached site plan). As members of the City Council may recall the City gave site plan approval to Mr. Battern in May of 1985 for an addition proposed to be made to the south side of his structure which he did construct in part last year. Mr. Battern now proposes to construct the remaining uncompleted portion on the north side of the building (Dairy Queen side) rather than the south side. Therefore, many of the considerations and approvals given by the City last year with respect to the number of parking spaces, setbacks, etc. will again come into play for the current proposal. Probably the largest concern with respect to the proposal now at hand pertains to eventual traffic movement capabilities between the eventual north side of Batterns building and the Dairy Queen property.

Items of interest pertaining to the proposal are as follows:

A. Zoning - the subject property is zoned C-3. The zoning of the adjacent properties are - north-C-3; south-C-3; west-C-3; east-R-3.

B. Setbacks - the proposed addition and existing structure meet C-3 setback requirements.

C. Parking - Required - 26; the applicant proposes 27 spaces but one space should be removed from the back parking lot to provide for the required five foot side setback. Last year the City Council also required that a five foot rear setback be maintained from the rear property line with bumper curbs and a 3.5 foot hedge to be placed along the rear property line. This same requirement should still be maintained. As an added note, Battern was to complete the construction of the parking lot to the rear of the building by May 31, 1986. He has not yet done so thus the City Council may wish to consider that a possible approval of the site plan be predicated on the completion of the parking lot, including bituminous surfacing, yet this year.

D. Drainage - Currently the rear of the subject property appears to drain to the east. The City Engineer has expressed concerns regarding drainage and has requested that a drainage plan be submitted.

E. Vehicular access - the largest concern of staff is the potential for traffic movement problems between the north side of Batterns proposed addition and the Dairy Queen. Currently, the Dairy Queen has four parking spaces along the south side of their building. The four parking spaces appear to infringe in part on the Battern property and generally receive access from the Battern property. Upon recently reviewing the situation during a peak traffic period both for the Dairy Queen and the businesses in Batterns building, it appears traffic movement problems already exist between the two structures. Therefore, with the expansion of the Battern building to the north and the continued use by the Dairy Queen of the four parking spaces it would appear that a poor traffic situation would become even worse. As a solution Battern, as well as myself, have spoken with the owners of the Dairy Queen regarding the possible deletion of the four parking spaces on the south side of their building with this space, as well as the remaining space on the north side of Batterns building, to be used for ingress and egress purposes for the Dairy Queen as well as Batterns property. A representative of the Dairy Queen did indicate that they would consider accomodating this request if proper assurances could be made to them that the City would require that Battern promptly complete the parking lot located on the rear of his property.

F. Utilities - the Water and Building Department expressed concern regarding the adequacy (sizing) of the existing utilities as they relate to the proposed addition. This concern relates to the fact that if the existing sewer and water services to the subject property are at their maximum capacity, according to code, and would have to be increased in size to accomodate the addition the cost of extending the services into Highway 61 would negatively affect the viability of making the proposed addition.

Recommendation:

The Planning Commission recommended approval of the revised site plan subject to the following conditions:

- A. That the applicant install a 3.5 foot hedge or fence along the rear property line.
- B. That a bumper curb be installed within five feet of the rear property line.
- C. That the owners of the Dairy Queen property formally agree (written letter or other document) to delete the four parking spaces along the south side of their building and use this space in conjunction with the remaining space to the north of the Battern building for ingress and egress purposes only.
- D. That Battern completely install (including bituminous) all parking facilities prior to occupancy of the proposed addition and also properly stripe the parking lot.
- E. That questions pertaining to the adequacy of the utility services be investigated prior to permit issuance.

F. That Batterns building cannot have more than 3900 sq. ft. of net retail floor space. If this area should be exceeded Battern would be required to provide parking in addition to the proposed 26 parking stalls.

G. That one parking stall to the rear of the property be deleted to accomodate the required five foot side setback to the parking lot.

H. That Battern discuss with the City Engineer the method for draining the rear of the property.

Jt

SUBJECT PROPERTY



LAND USE APPLICATION

CITY OF HASTINGS

Address of Property Involved 1207 Vermillion St. Hastings Mo.

Legal Description of Property Involved Lots 23-24 & S. 12' of Lot 25 Blk 9 Tripp
Ad.

Applicant:
Name Ronald W. Batten

Address 1207 Vermillion Street
Hastings Mo. 65033

Telephone 437-6114

Official Use Only
Date Rec'd <u>9/2/86</u>
Case No. _____
Fee Paid <u>\$100.00</u>
Rec'd by <u>T.H.</u>

Owner: (If different from Applicant)
Name: _____

Address: _____

Telephone: _____

Request:
Zone: CB

Special Use: _____

Site Plan Review X

Subdivision: _____

Variance: _____

Other: _____

Present Zone: C3

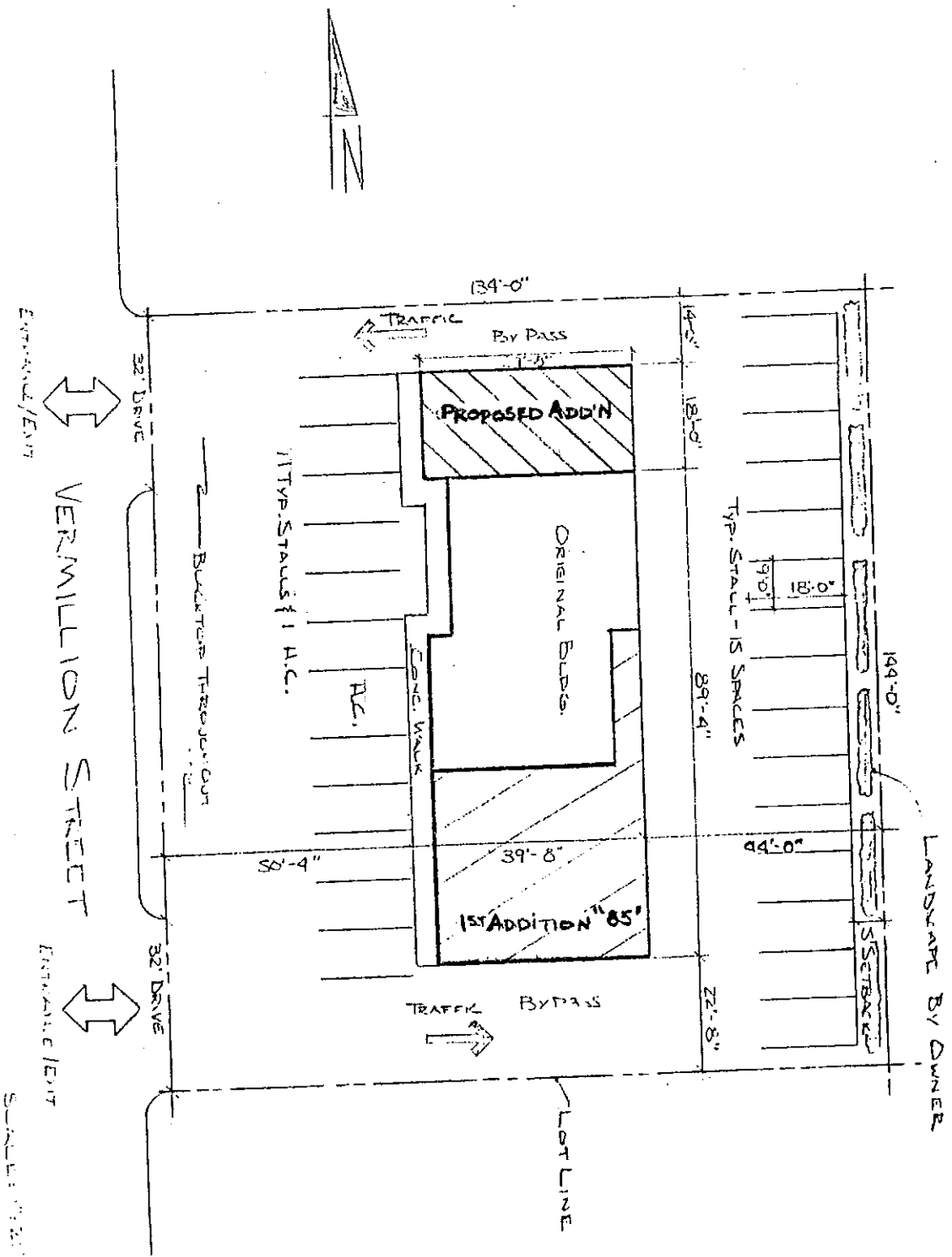
Applicable Ordinance No. _____ Section: _____

Description of Request _____

Planning Commission	Approved	Denied	Date

Ronald W. Batten
Signature of Applicant

LOT ON 714
 AREA = 3485
 DISTING = 4149
 NO = 26 STALLS ; 1 HAND-UP



PROJECT: 1207 Vermillion St. Site Plan - Ron Batten

Department	Reviewed Yes No		Date	Name	Comments
Fire	✓		9/2/86	G. Rosendahl	approved subject to adequate access available on north side of bldg. - between D.P. & addition
Water	✓		9/2/86	[Signature]	WATER & SEWER SERVICE LINES TO EXISTING COMPLEX ARE A 4" SEWER AND A 3/4" WATER SERVICE
Building	✓		9/2/86	M. [Signature]	APPROVED SUBJECT TO FINAL APPROVAL OF UTILITIES.
Planning	✓		9/2/86	T. [Signature]	Approve as per memo
Engineering	✓		9/2/86	J. [Signature]	Provide drainage plan
Parks					

MEMO

Date: September 11, 1986

To: Mayor & City Council

From: Tom Harmening, City Planner

Re: 86-5 Sign Variances - Clarence Linn/Amoco Oil, 1500 Vermillion Street and LeRoy Signs, Inc.

The above stated applicants are requesting two variances to the City's sign requirements. The variance requests are as follows:

A. A request for a variance to allow sign space on the subject property in excess of the permitted amount. In this case the applicant requests that they be allowed to add to the existing sign space on the property a 2'4" x 18' "Food Shop" sign on the front of the building (Vermillion Street side) and a 1'9" x 9'8" "Car Wash" sign on the fascia or the exit to the car wash (see attached exhibits). City code permits 240 sq.ft. of sign space on the subject property (Section 10.07, Subd. 4T3). Currently there exists 236 sq. ft. of sign space not including the small A frame sign which is placed daily at the corner of 15th & Vermillion Street and a plastic "Amoco Ultimate" sign located on Vermillion Street on the south side of the property. Whatever action is taken by the City Council on the variance request the applicant should be instructed to remove the signs as the proper permits have not been issued for them.

With the addition of the proposed sign space the property would have 295 sq. ft. of sign space or 55 sq. ft. over the maximum allowed.

The City Council should be aware that the calculation of sign space on the Subject Property is somewhat unique as City Code requires that the existing stripping on the canopies along with the word "Amoco" must be counted as sign space. The City Council may wish to consider this point when taking action on this matter.

B. A request for a variance to the City Code pertaining to the height of the pedestal sign. City code states that "each motor fuel station may have one pedestal type sign not in excess of 100 sq. ft. nor more than 25 feet in height" (Sec.10.07, Subd.1H). In this case the existing pedestal sign, according to the applicant, is 23' in height and is proposed to be raised to 28' which would then be 3 feet over the maximum.

The Council should note that in November of 1984 the City denied a 2 ft. sign height variance as requested by Joe O'Brien.

As with all variance requests City Code states that variances should only be granted if the applicant can demonstrate that:

A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

B. Literal interpretation of the City code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.

C. That special conditions and circumstances do not result from the actions of the applicant.

D. That granting the variance request will not confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same district. No non conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non conforming uses of land, structures, or buildings in other districts shall be considered grounds for the issuance of the variance.

Recommendation:

A. The Planning Commission recommended approval of the variance to the amount of sign area on the property from 240 sq.ft. to 295 sq.ft. as special conditions exist in the standard Amoco sign design, due to the stripping, which artificially inflates the sign area calculation.

B. The Planning Commission recommended that the variance to increase the pedestal sign height 3 feet higher than the maximum of 25 ft. be denied based on the fact that the applicant has not demonstrated that the request meets the criteria for the granting of variances as stipulated by the City Code.

It was further recommended that the applicant be required to immediately remove the illegal "A" frame sign and the "Amoco Ultimate" sign.

Jt

SUBJECT PROPERTY



LAND USE APPLICATION

CITY OF HASTINGS

Address of Property Involved 1500 Vermillion

Legal Description of Property Involved _____

Applicant: Leroy Signs, Inc., For:
Name Mr. Clarence Linn

Address 1500 Vermillion
Hastings, MN

Telephone 437-8103

Owner: (If different from Applicant)

Name: Clarence Linn

Address: _____

Telephone: _____

Request:

Zone: C-3

Special Use: _____

Site Plan Review _____

Subdivision: _____

Variance: X

Other: _____

Present Zone: _____

Applicable Ordinance No. _____ Section: _____

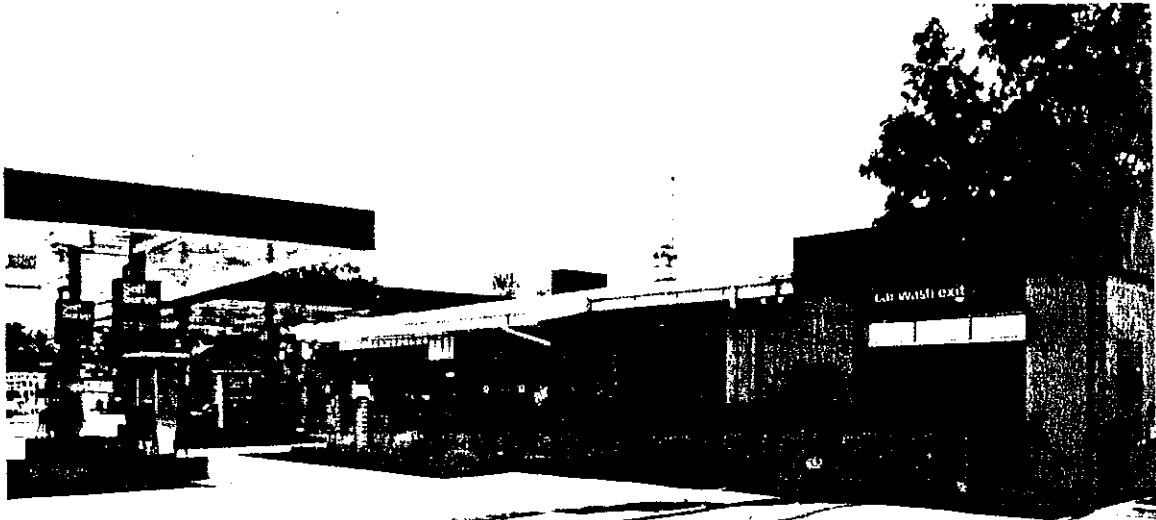
Description of Request Signage in addition to allowable. Add one 2'4" by 18' "Food Shop" with stripe on front of building and one 1'9" by 9'8" "Car Wash" sign on fascia over "Car Wash Exit". And raise existing "Amoco" Identification sign from present height of 23' to new height of 28'.

Official Use Only	
Date Rec'd	<u>8/27/84</u>
Case No.	<u>635</u>
Fee Paid	<u>\$30.00</u>
Rec'd by	<u>T.H.</u>

Planning Commission	Approved	Denied	Date

Leroy Signs, Inc.
[Signature]
Signature of Applicant

See File #'s 112 & 143



Car Wash



Food Shop

Sign

PROJECT: Variance Request - Amoco Station, 1500 Vermillion St.

Department	Reviewed		Date	Name	Comments
	Yes	No			
Fire	✓		9/2/86	[Signature]	N/A
Water	✓		9/2/86	[Signature]	N/A
Building	✓		9/2/86	[Signature]	APPROVED
Planning	✓		9/2/86	T.H.	Approve variance for sign area Deny variance for sign height Variance See Memo
Engineering	✓		9/2/86	[Signature]	approved
Parks					

VII A5

MEMO

Date: September 11, 1986

To: Mayor and City Council

From: Tom Harmening, City Planner

Re: Request for Amendment to Development Agreement to allow vinyl sided homes in the Three Rivers Mobile Home Park - Ken Grund

The Development Agreement between Mr. Grund and the City of Hastings regarding the Three Rivers Mobile Home Park Development stipulates that only wood sided homes can be brought into the park. Attached, is a letter and related exhibits received from Mr. Grund which requests that the City reconsider this requirement as apparently Mr. Grund has had to turn away prospective tenants who either owned or desired a vinyl sided home.

As a point of information, Mr. Grund did request in the fall of 1985 that the City reconsider the requirement of only permitting wood sided homes. That request was not approved by the City Council.

jt

Three Rivers Mobile Home Park
1 Shannon Drive
Hastings, Minnesota 55033
(612) 437-3552

August 28, 1986

Mr. Thomas K. Harmening
Planning Director
City of Hastings
100 Sibley Street
Hastings, Minnesota 55033

Re: Vinyl Siding on Manufactured Housing

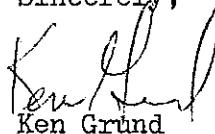
Dear Mr. Harmening:

Enclosed you will find two brochures on vinyl siding. Vinyl Siding carries a 50 year warranty and requires very little maintenance. These homes are attractive and actually cost more. By excluding vinyl sided homes, many good looking homes are locating in other cities.

I will send some pictures to you as soon as possible. Since this is not an ordinance ammendment, please advise me when this could be brought before the City Council for approval.

Thank you for your cooperation.

Sincerely,



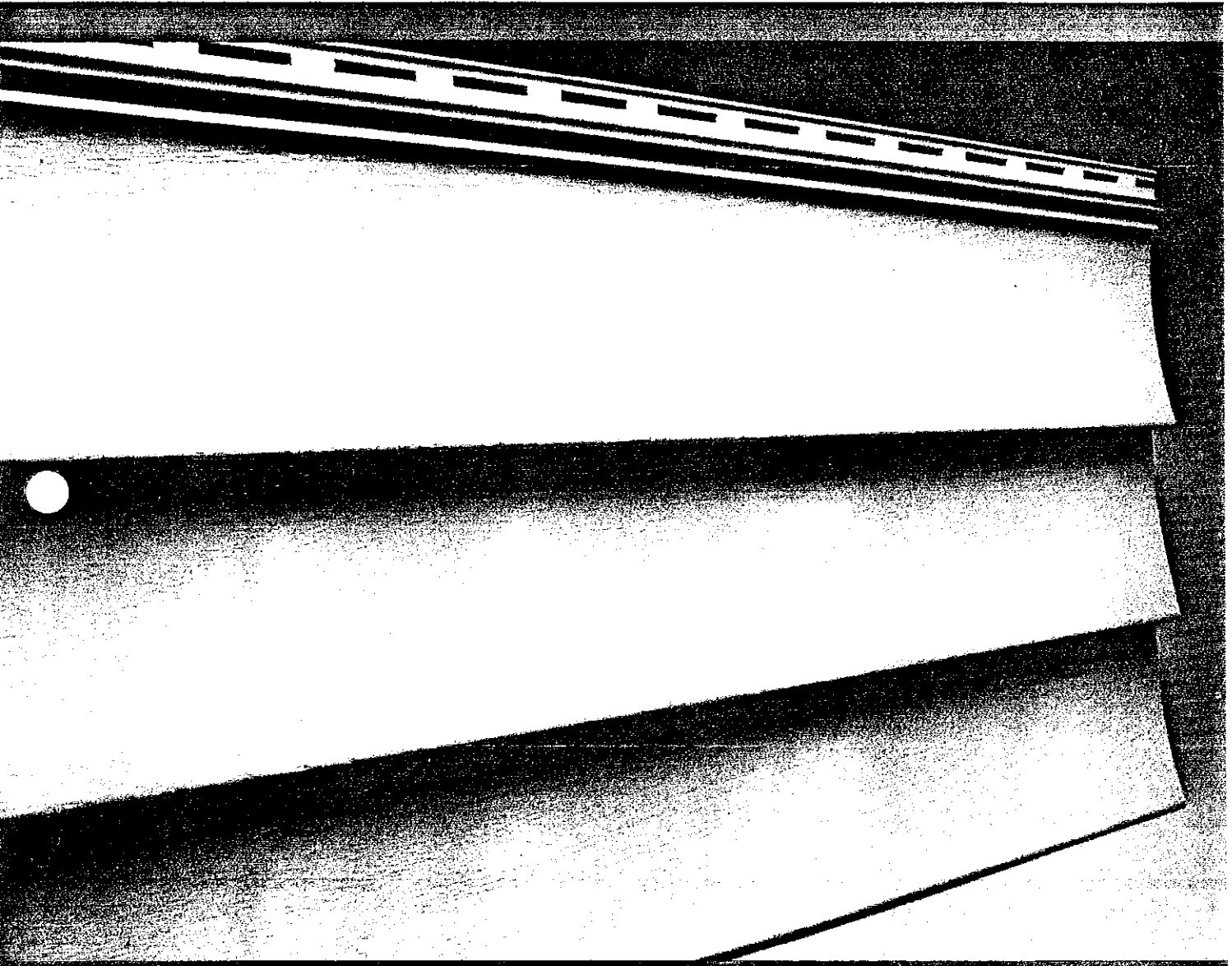
Ken Grund

cc: Gary Brown
City Administrator

CertainTeed 

Triple 4" Horizontal Siding

Specifically Engineered for Manufactured Housing



You have always counted on Alumax for quality building materials . . . and now Alumax has added another quality product line — solid vinyl siding from CertainTeed Corporation.

Alumax offers a complete line of CertainTeed Solid Vinyl Siding, Soffit and accessories. They are

virtually maintenance-free and add long-lasting beauty and protection to any manufactured home.

CertainTeed, a leader in the building materials industry since 1904, engineers its Triple 4" horizontal siding *specifically* for the manufactured housing industry.

And all CertainTeed siding products are backed with a 50-year limited, non-prorated warranty and the Good Housekeeping Seal!



Designed for Speed of Installation

CertainTeed's Triple 4" horizontal siding has the appearance of its traditional Double 4" counterpart, but reduces installation time by one third!

Also, the Triple 4" horizontal siding has a square butt for a deeper shadow line, and a low gloss finish with woodgrain embossing

for a more natural look of wood. It won't chip, peel, or rot. Because the color is molded clear through, it never needs painting and won't show scratches.

Colors

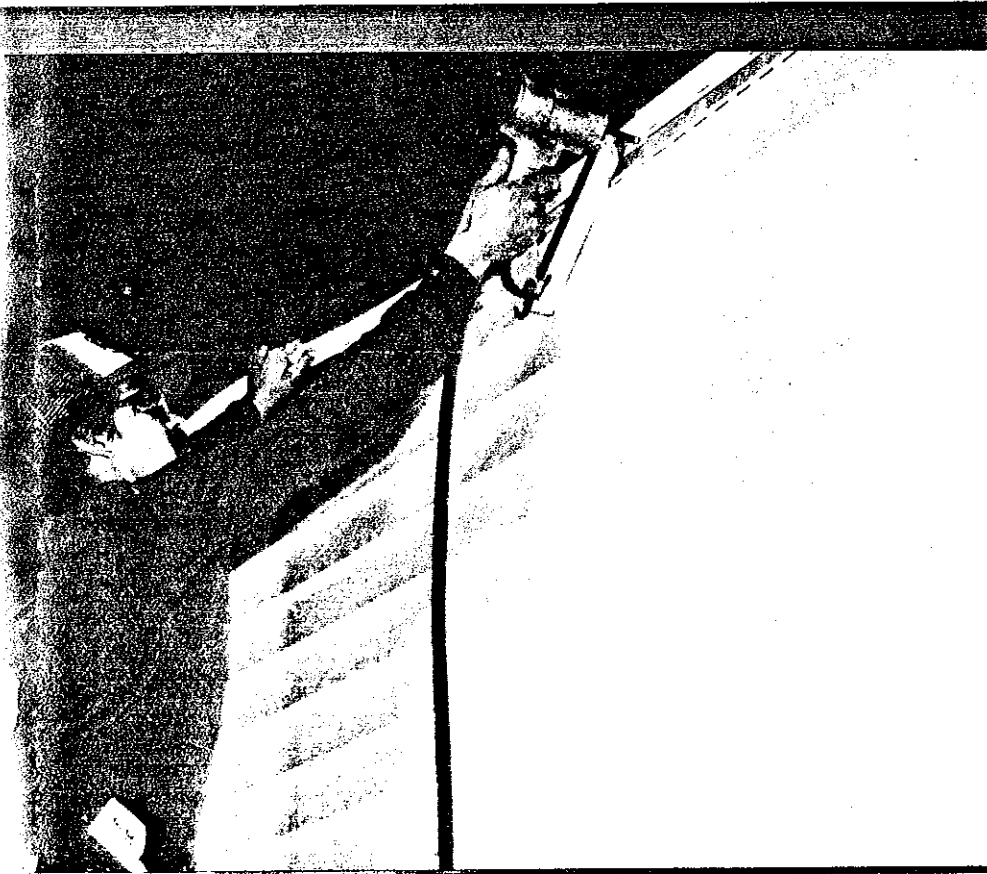
CertainTeed's Triple 4" horizontal solid vinyl siding and accessories are available in a wide variety of popular colors including: Georgetown Blue; Pebble Gray; Desert Tan; Heritage Cream and Colonial White.

Other Products and Accessories

Also available are CertainTeed's quality Double 4", Double 5" and Triple 4" vertical siding, CertaVent® 12" and 16" solid vinyl soffit in solid and vented styles, and a full line of accessories.

CertainTeed's solid vinyl siding must be installed in accordance with manufacturer's printed installation procedures. A complete CertainTeed installation guide for mobile and manufactured housing (Pub. No. 20-50-40) and an application guide for stapling (Pub. No. 20-50-305), are available through Alumax. Manufacturers of pneumatic staplers provide operating instructions as well. Please consult these booklets for complete installation information.

All of CertainTeed's siding products and accessories can be ordered through Alumax and delivered to your door from any one of 19 building product facilities conveniently located throughout the United States.



VinylGard SIDING

50 Year Non-Prorated
Limited Warranty

Champion International Corporation ("Champion") warrants VinylGard Siding, soffit and siding accessories ("VinylGard Siding Products") purchased, installed and/or utilized in the United States of America (except Alaska and Hawaii) to be free from manufacturing defects as defined in this Limited Warranty for a period of 50 years from the date of installation on the structure on which they are first installed subject to all of the following conditions:

1. Subject to the limitations of this Limited Warranty, if during the 50 year period following initial installation of the VinylGard Siding Products, said products manifest signs of splitting, cracking, and/or surface peeling, and if after examination of the alleged defective condition(s), it is determined by Champion that the splitting, cracking, and/or surface peeling is caused by or results from defective manufacture of the VinylGard Siding Products, then, in its sole discretion, Champion agrees to refund that portion of the original purchase price paid for any such defective material. Labor, installation and any similar costs are excluded specifically and shall not be paid by Champion in any event.

2. Champion's Limited Warranty expressly **excludes** the following:
a. Unsatisfactory VinylGard Siding Products performance including splitting, cracking, and/or surface peeling caused by or resulting from failure to comply with Champion's installation instructions and/or otherwise resulting from or touching upon faulty installation of the VinylGard Siding Products; and
b. VinylGard Siding Products failure, including splitting, cracking and/or surface peeling, due to impact from any object, and any failure or unsatisfactory performance resulting from misuse of or failure to maintain the VinylGard Siding Products and any damage attributable to fire or other casualty including, without limitation, Acts of God, or exposure to environmental pollutants; and

c. Siding Products failure, including splitting, cracking and/or surface peeling, resulting from movement and/or collapse of the structure on which the VinylGard Siding Products are installed; and
d. Color fading and/or chalking of original color after installation of the VinylGard Siding Products.

3. Champion's Limited Warranty shall be void if paint or any other surface coating is applied to VinylGard Siding Products. Champion's Limited Warranty is void if the VinylGard Siding Products are purchased, installed and/or utilized outside the United States of America.

4. Registration and Claim Procedure
a. All claims of alleged VinylGard Siding Products defect shall be submitted in writing within thirty (30) days of discovery of such alleged defect. Claims shall be addressed to Champion International Corporation, One Champion Plaza, Stamford, CT 06921, Attn: Building Products Consumer Affairs Coordinator.

b. No warranty claim shall be honored without presentation of this written VinylGard Siding Products Limited Warranty by the owner of the structure on which the VinylGard is installed. The warranty and the rights created herein are transferable by the original Purchaser of VinylGard Siding Products to a subsequent owner of the said structure.

THIS WARRANTY STATES THE ENTIRE LIABILITY OF CHAMPION WITH RESPECT TO THE PRODUCTS NAMED ABOVE. ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE IS SPECIFICALLY EXCLUDED AND DISCLAIMED BY CHAMPION. UNDER NO CIRCUMSTANCES WILL CHAMPION BE RESPONSIBLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF NEGLIGENCE, BREACH OF THIS WARRANTY, OR ANY IMPLIED WARRANTY, AND SUCH DAMAGES ARE SPECIFICALLY EXCLUDED FROM THIS WARRANTY.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

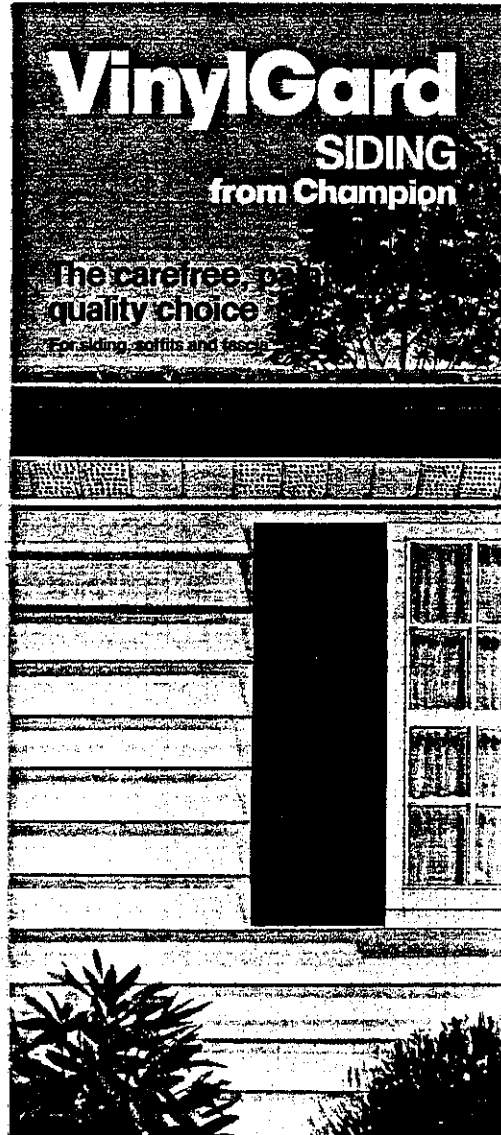
 **Champion**
Champion International Corporation

VinylGard, Champion and the Corporate Mark are trademarks of Champion International Corporation. Copyright 1985, Champion International Corporation.

Form #45-15702 Printed in U.S.A. May, 1985

VinylGard SIDING from Champion

The carefree, paint
quality choice
for siding, soffits and fascias



The carefree,
paintfree —
quality siding.

VinylGard
SIDING
from Champion



Champion VinylGard Siding is the perfect choice to make a lasting improvement in the appearance and value of your home — without all the care and maintenance headaches of conventional sidings.

Never needs painting

Durable

Solid vinyl

Easy to install

Beautifies any home

Complete System

The beautiful, paintfree choice

With Champion VinylGard Siding — you'll never have to paint again.

Because the color goes right through the solid vinyl compound, VinylGard won't show scratches like other sidings. An occasional wash down with a hose is all it takes to keep the color of VinylGard Siding looking fresh and new.



The quality choice

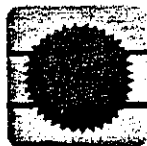
Champion VinylGard Siding comes in a choice of America's most popular colors, and a natural-looking woodgrain texture that will immediately make a beautiful difference in the appearance of any home.



The 50-year warranty* choice

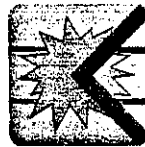
VinylGard Siding is made to last. Champion warrants it free of manufacturing defects for a period of 50 years.

When properly installed, VinylGard Siding will continue to make a carefree, paintfree quality difference in the appearance and value of your home.



The lasting choice

Champion VinylGard Siding is made from polymerized vinyl compounds mixed with pigments and stabilizers and is unaffected by termites, grease, oil, and most household reagents. It won't rust or corrode like metal sidings, and stands up to rough treatment without crushing or denting. Because the vinyl is extruded in its final form, VinylGard Siding will maintain its shape for the life of the system.



The easy installation choice

VinylGard Siding is lightweight, easy to handle, and easy to install. Simple to follow, step-by-step VinylGard Siding installation instructions (form #85-15707) are available from your Champion Dealer. They contain all the information for estimating material requirements and the necessary "How-To" installation details.



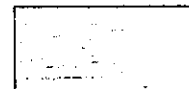
Recommended Maintenance Instructions

With very little effort, you can keep VinylGard siding looking clean and new. Although the siding will get dirty, like anything else exposed to the atmosphere, a heavy rain will generally wash away most surface dirt. The material may be washed down with an ordinary garden hose and if neither rain or hosing do a satisfactory job, just follow these simple instructions:

1. Get an ordinary, long-handled car washing brush at your auto supply store. This brush must have soft bristles, and the handle should fasten onto the end of a hose. It lets you wash the siding just like you wash your car.
 2. If the dirt is hard to remove, such as soot and grime found in some industrial areas, wipe down the siding with a solution made up of the following:
 - A. 1/3 cup of detergent such as Tide
 - B. 2/3 cup of a household cleaner such as Mr. Clean or Lestoil
 - C. 1 gallon of water
 3. If stubborn stains exist, remove them with cleansers like Comet or Ajax, (use with caution).
 4. If you want to wash down your entire house, start at the bottom and work up to the top in order to prevent streaking.
- If you face an extremely difficult cleaning problem which the above instructions do not solve, contact Champion International Corporation, Building Products, One Champion Plaza, Stamford, Connecticut 06921.

The versatile choice

VinylGard Siding's natural-looking woodgrain texture, in a choice of popular colors and siding styles, makes it the perfect choice for both traditional and modern homes.



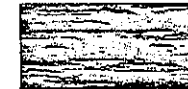
White



Ivory



Beige



Slate Gray



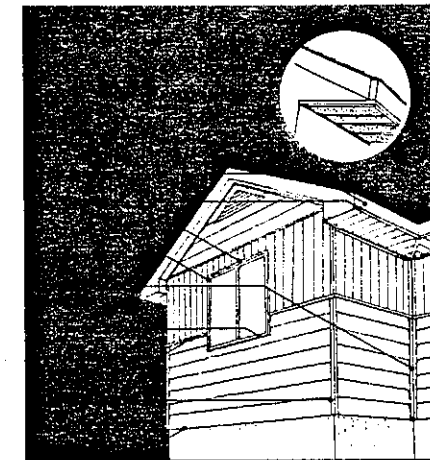
Horizontal Lap



Vertical Panel or Perforated Soffit panel

The color-matched choice

VinylGard Siding's color-matched accessories for finishing corners, eaves, soffits, fascia and around doors and windows will add a finishing touch for a thoroughly professional-looking job that's carefree, paintfree and lasting.



Make the carefree, paintfree, quality choice. Choose VinylGard Siding.

VinylGard SIDING from Champion

P.S. Also ask your building supply dealer about the carefree, paintfree, quality Champion VinylGard Gutter System for your home.

*Limited warranty. See back page.

MEMO

Date: September 11, 1986

To: Mayor & City Council

From: Tom Harmening, City Planner

Re: Amendment to Zoning Ordinance Requirement for Industrial Park

During the Industrial Park Advisory Board meeting of 9/4/86 a question was raised on whether the citys zoning ordinance section pertaining to the City Industrial Park (I-1 Zone) should be amended to allow living quarters in buildings in the Industrial Park to accomodate security personnel. The Industrial Park Advisory Board requested that staff research the matter and provide them with an example of an amendment to the Industrial Park standards which would permit this occurence. Although staff has not completed its study of this matter, nor has this matter discussed with the Planning Commission, this question is being brought to the Councils attention for input and suggestions. For example, one question which has been developed by staff is if living quarters for security personnel are allowed in the citys industrial park should living quarters also be allowed in the citys other industrial zone (I-2 Zone) which, for example, is located in the Downtown (Hudson and Elevator)?

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MEMO

To: HONORABLE MAYOR AND CITY COUNCIL

From: MARTY MCNAMARA *Marty*

Subject: DELINQUENT DUTCH ELM ACCOUNTS TO BE CERTIFIED TO COUNTY - 1986

The following list of accounts is submitted to the Council for approval of certification to the County for the 1986 Dutch Elm Program.

Boulevard Trees

<u>Name</u>	<u>Address</u>	<u>P.I.D.</u>	<u>Amount</u>
Vernon Jensen	1113 Walnut Street	19-31950-030-01	\$211.68
Vernon Jensen	1113 Walnut Street	19-31950-030-01	\$90.00
Jeff Merritt	1702 Spring Street	19-88150-020-12	\$230.00
Jeff Malm	314 W. 5th Street	19-32150-060-26	\$90.00
Gary Freiermuth	734 W. 5th Street	19-10500-140-26	\$86.56
Thomas Sieben & G. Menard	300 W. 7th Street	19-32150-080-42	\$123.66
Ann Peterson	731 W. 5th St.	19-10500-100-31	\$74.20
Gregory Kimmen	528 W. 6th St.	19-10500-120-29	\$111.29
Garth Schmidt	534 W. 6th St.	19-10500-110-29	\$400.00
Mrs. Mamer Rother	523 Ramsey	19-32150-051-34	\$139.50
Panagiotis Antoniou	1002 Tyler St.	19-13200-010-08	\$139.50
Pam Thorson	649 W. 3rd St.	19-10500-090-16	\$112.50
Wm. Fuehr	612 W. 6th St.	19-10500-160-30	\$94.50
Douglas Krook	720 W. 3rd St.	19-10500-160-12	\$130.50
R.Siebold/T.Langenfeld	1030 W. 4th St.	19-10500-140-20	\$94.50

MEMO

Date: September 11, 1986
To: Mayor and City Council
From: Tom Harmening, City Planner
RE: Special Assessments

What follows is a list of property owners which owe the City money for services rendered.

1. Stephen Lubich, 1194 Union Court; P.I.D. #19-64376-060-01
Amount - \$940.00 (Garbage Removal & House Cleanup)
2. Imperial Estates, Inc., 595,615 & 655 Whispering Lane and
610, 620, 630, 640 Pleasant Drive; P.I.D.#'s 19-83900-010-01,
19-83900-020-01, 19-83900-080-01, 19-83900-070-01, 19-83900-060-01,
19-83900-050-01, 19-38900-040-01 Amount - \$512.32 (Grass & Weed Removal)
3. Lawrence M. Conzemius, 1217 Vermillion St.; P.I.D. #19-77300-220-04;
Amount - \$100.00 (Garbage Removal).
4. Michael P. Hutchinson, 222 West 13th St.; P.I.D. #19-32150-050-87
Amount - \$50.00 (Grass Cutting)
5. Gerald A. Burns & A.G. Enstad, 1250 Hwy 55; P.I.D. #19-36100-036-00
Amount - \$100.00 (Grass & Weed Cutting).
6. Milton J. Setterholm, Jr., 315 E. 2nd St.; P.I.D. #19-32150-080-02
Amount - \$100.00 (Weed Cutting)
7. Al Sieben, 700 E. 2nd St.; P.I.D. #19-32151-040-20; Amount - \$180.25

MEMO

Date: September 11, 1986

From: Arnold Endres

Subject: Delinquent Water Bills for 1986

The following accounts are submitted to the Council for approval for certification to the County.

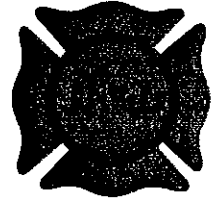
Account No.	Owner	Address	Amount Due	Parcel No.
01-187	Timothy Furney	504 W. 3rd	15.48	19-32150-040-52
01-18799	Timothy Furney	504 W. 3rd	15.41	19-32150-040-62
02-033	Henry Nawrocki	406 W. 4th	22.00	19-32150-070-24
02-052	Marty Kranz	700 W. 4th	21.84	19-10500-200-17
02-05298	Marty Kranz	700 W. 4th	93.14	19-10500-200-17
02-151	Paul Murphy Const.	407 Vermillion	37.86	19-32150-041-29
02-168	Don Keller	401 Tyler	34.54	19-32150-040-32
02-19099	Roland Groth	108 W. 5th	68.67	19-32150-070-28
02-19599	Jeff Malm	314 1/2 W. 5th	109.95	19-32150-060-26
02-257	Al & Lucille Sieben	420 Ash	10.33	19-14000-110-01
04-016	Living Word	8th & Vermillion	34.65	19-32150-060-52
04-019	Helen Jacques	718 Vermillion	63.38	19-32150-080-53
04-041	Paul Peine	700 W. 8th	46.34	19-10500-180-44
04-116	Steve Crisp	817 Tyler	29.70	19-13200-180-03
04-119	Alvin Fuchs	901 Tyler	23.44	19-13200-150-03
04-11999	Alvin Fuchs	901 Tyler	55.99	19-13200-150-03
04-276	Charles Teuber	511 W. 11th	13.87	19-31950-010-01
04-35999	Steve Persell	321 W. 12th	160.65	19-32150-040-86
05-052	Donald Benzick	1302 1/2 Spring	12.10	19-32150-010-91
05-05593	Vincant Pletcher	1302 Eddy	20.82	19-32150-020-90

Account No.	Owner	Address	Amount Due	Parcel No.
05-06199	Richard Judge	120 W. 14th	43.80	19-32150-050-89
05-07199	Patricia Lehmann	314 1/2 W. 14th	3.93	19-32150-061-91
06-031	Edward Snaza	1915 Manor Lane	45.59	19-18300-030-07
06-122	Mel Copleland	1912 Edgewood	8.45	19-18300-030-03
06-14999	Ray Knutson	1921 Louis Lane	4.07	19-18301-030-02
06-29099	Veterans Admin.	990 Southview	78.45	19-18303-010-01
06-29199	Brian & Carol Manninen	941 Southview Cr+	28.82	19-75100-040-02
07-12399	William & Timothy Gegen	1635 Forest	13.76	19-63400-150-01
07-215	Mardell & Clement McNamara	404 W. 18th	20.97	19-88150-081-13 (
07-22599	Paul Doffing	1942 Ashland	47.63	19-25800-080-03
08-05099	Leon Diersen	1405 Sibley	40.05	19-77300-240-03
08-074	Jim Balitz	1012 Ramsey	32.04	19-13200-021-07
08-09299	Richard Siebold	1114 Ramsey	3.74	19-77300-040-03
09-14807	Peter Sieben	2750 Millard	10.05	19-32000-033-01
09-13416	Aldon & Phyllis Enstad	410 Pleasant	70.20	19-83952-050-02
09-13696	Gary Hoffman & D. McNamara	1475 W. 4th	26.16	19-66500-030-01
09-234	IBI	Westview Mall	26.53	19-83000-012-02 (
09-358	John Furney	1311 W. 15th	40.61	19-19500-060-01
09-36499	Bruce Hostetler	1310 W. 16th	3.14	19-19500-120-01
09-755	Wesley Ackerman	1339 W. 19th	97.34	19-77000-050-05
10-17098	Curtis Nelson	110 E. 14th	126.22	19-77300-100-07
10-17099	Curtis Nelson	110 E. 14th	216.34	19-77300-100-07
11-03199	James Conroy	1234 View Court	3.60	19-19501-310-06
11-206	Gerald Iwasko	1340 Hillside	23.75	19-19501-220-05
11-322	Ray Knutson	1031 Westview	30.43	19-19503-230-03

Account No.	Owner	Address	Amount Due	Parcel No.
11-32397	Vincent Pletcher	1023 Westview	22.79	19-19503-240-03
11-32499	Vincent Pletcher	1011 Westview	2.59	19-19503-250-03
11-899	Ronald Fries	1290 Westview	58.40	19-19501-010-01
11-901	Allan Moffatt	1322 Westview	27.37	19-19501-020-03
11-97896	Paul Lawrence	1341 W. 12th	1.12	19-19503-050-01
11-97899	Paul Lawrence	1345 W. 12th	25.98	19-19503-050-01
12-858	Daniel Stayberg	1471 W. 17th	64.17	19-32850-010-06
14-155	Ken Strassburger	908 E. 2nd	77.75	19-32151-040-08
14-16499	Thomas Langenfeld	600 E. 3rd	24.30	19-32151-040-24
15-01099	James & Joanne Selfert	1040 Co.Rd.47	4.81	19-83600-020-01
15-41999	Stephan Lubich	1194 Union Court	77.46	19-64376-060-01



HASTINGS FIRE DEPARTMENT



DONALD C. LATCH, CHIEF
115 West 5th Street
Hastings, Minnesota 55033

Business Office (612) 437-5610

TO: Mayor Stoffel
City Council

FROM: Laura Hoff, Hastings Fire Department

SUBJECT: Request for Cancellation of Ambulance Billings

DATE: August 28, 1986

Attached are listings of ambulance invoices that are being submitted for cancellation, and reasons for each request.

Many of these ambulance invoices have been returned to us from United Diversified Collection Agency as "uncollectable" for various reasons (i.e. destitute, no assets, efforts exhausted, unable to locate, etc.). All other requested cancellations are parties that have filed bankruptcy or refused to pay balances on accounts where Medicare has partially paid the claim.

Total amount requested for cancellation is \$12,347.02. If you have any questions, please contact me.

:lh *LH*

Attachments (3)

** ALL ACCOUNTS MARKED UNCOLLECTABLE HAVE BEEN RETURNED TO
US BY UNITED DIVERSIFIED CREDIT SERVICES AS BEING
UNCOLLECTABLE (UNABLE TO LOCATE OR NO ASSETS)

PAGE 1

INV. #	DATE	NAME	AMOUNT	REASON
4862	6-14-78	Lance Terrell (Newport)	\$ 31.25	Filed bankruptcy
5344	2-17-79	Robert Karow (Hastings)	46.88	Uncollectable
5392	3-15-79	Steven Denn (Hastings)	80.00	" "
5499	5-15-79	Ruth Burnette (West St. Paul)	62.50	" "
5758	9-3-79	James Welch (Inver Grove Hghts)	94.95	" "
5761	9-3-79	" "	120.00	" "
5810	9-29-79	Marion Anderson (Prescott)	71.88	" "
5813	9-29-79	Susan Greenleaf (Prescott)	78.83	" "
5850	10-6-79	John Lundblad (Maplewood)	65.00	" "
5925	11-12-79	Janet Demars (Prescott)	82.50	" "
6103	1-28-80	Magnus Manlove (Chaska)	65.00	" "
6113	1-31-80	Gaylord Payne (Rochester)	82.50	" "
6137	2-8-80	Randy Grmundson (Kenyon)	115.00	" "
6177	2-24-80	Jay Flemming (Cottage Grove)	115.00	" "
6273	4-6-80	Fred Bowen (Hastings)	138.00	" "
6274	4-6-80	" "	115.00	" "
6306	4-22-80	Lawrence Mattson (St. Paul)	78.00	" "
6307	4-22-80	" "	138.00	" "
6330	5-2-80	Danney Tschida (Minnetonka)	65.00	" "
6432	6-18-80	Carol Jennings (Evanston, IL)	78.00	" "
6461	6-29-80	James Condon (So. St. Paul)	65.00	" "
6605	9-6-80	Sandra Dahl (Hastings)	65.00	" "
6638	9-20-80	David Johnson (Hastings)	65.00	" "
6665	10-4-80	Terry Peters (Eden Prairie)	110.00	Filed bankruptcy
6715	10-31-80	Jim Happe (Welch)	115.00	Uncollectable
6716	10-31-80	" "	115.00	" "
6722	11-5-80	Gerald Tennis (So. St. Paul)	39.18	" "
6810	12-17-80	Karen Andreae (Hastings)	65.00	" "
6886	1-24-81	Judith Goodrich (Hastings)	110.00	" "
6919	2-8-81	Debra Beil (Hastings)	65.00	" "
6942	2-21-81	Chris Eberspacher (Cottage Grove)	82.50	" "
7131	5-24-81	John Dabydeen (Burnsville)	65.00	" "
7164	6-11-81	Lisa Reinert (Hastings)	66.00	" "
7314	8-29-81	Charles Rehfeld (Hastings)	65.00	" "
7316	8-30-81	Jacqueline Norton (Hastings)	52.00	" "
7437	11-2-81	Cory Hall (Inver Grove Hghts)	138.00	" "
7486	11-28-81	Kathy Lynch (Stillwater)	27.60	" "
7509	12-12-81	Justin Hudak (Hastings)	131.95	" "

<u>INV. #</u>	<u>DATE</u>	<u>NAME</u>	<u>AMOUNT</u>	<u>REASON</u>
7608	1-28-82	Paul Craven (W. St. Paul)	\$115.00	Uncollectable
7614	1-31-82	Anthony Tshida (Hastings)	32.46	" "
7661	2-23-82	Carl Mathison (Hastings)	65.00	" "
7782	5-1-82	Conrad Janquwski (S.St. Paul)	84.95	" "
7784	5-1-82	Dabydeen Hilton (Burnsville)	65.00	" "
7785	5-1-82	" "	138.00	" "
7888	7-8-82	Donavan Lillemoe (Minneapolis)	115.00	" "
7905	7-18-82	Essie Denzer (St. Paul)	121.95	" "
7932	7-31-82	Lowell Norton (Hastings)	116.95	" "
7981	8-28-82	Lawrence Thompson (Hastings)	115.00	" "
7982	8-28-82	" "	200.00	" "
8009	9-17-82	Harry Kaiser (Hastings)	223.00	" "
8097	11-3-82	George Ronning (St. Paul)	123.00	" "
8113	11-14-82	Terry Vroman (Hastings)	80.00	" "
8243	1-15-83	Sandra Haug (Hastings)	105.00	" "
8329	2-26-83	Stephan Hale (Prescott)	120.00	" "
8334	3-4-83	Geraldine Bearson (Hastings)	45.00	" "
8341	3-10-83	Bryan Thole (S. St. Paul)	223.00	" "
8346	3-12-83	David Fredline (Hastings)	91.00	" "
8396	4-9-83	Richard Hicks (Shaddock, Okla)	115.00	" "
8459	5-12-83	Connie Hudak (Vermillion)	117.00	" "
8495	6-6-83	Richard Larson (Hastings)	160.00	" "
8735	10-30-83	Guy Bartel (Newport)	128.00	" "
8766	11-22-83	Tracy Mathison (Hastings)	115.00	" "
8781	11-27-83	Julian Keeling (London, England)	120.00	" "
8787	12-2-83	Steve Lackner (St. Paul)	200.00	" "
8827	12-19-83	Terrance Halverson (Burnsville)	123.00	" "
8930	2-17-84	Steve Pommerening (Northfield)	115.00	" "
8934	2-27-84	Darlene Ives (Burnsville)	213.00	" "
8959	3-11-84	Debbie Delange (Sioux City, Iowa)	208.00	" "
8976	3-26-84	Douglas Nelson (Hastings)	190.00	" "
8977	3-27-84	Michael Wirt (Farmington)	223.00	" "
8999	4-8-84	Peter Otto (Hastings)	160.00	Filed bankruptcy
9009	4-13-84	George Newton (St. Paul Park)	223.00	Uncollectable
9042	5-7-84	Leta Bixby (deceased)	17.00	Balance after Medicare
9046	5-9-84	James Vogt (Apple Valley)	200.00	Uncollectable
9049	5-11-84	Paul Swandby (Hastings)	128.00	" "

INV. #	DATE	NAME	AMOUNT	REASON
9055	5-13-84	William Sandquist (St. Paul)	\$115.00	Uncollectable
9067	5-21-84	Loretta Limes (Scandia)	13.00	Balance after Medicare
9070	5-22-84	Scott Carpenter (Apple Valley)	168.00	Uncollectable
9102	6-2-84	James Murray (Hastings)	182.00	Filed bankruptcy
9137	7-4-84	Edward Bramstedt (Stillwater)	115.00	Uncollectable
9138	7-4-84	Gordon Wilson (Hastings)	17.20	Balance after Medicare
9151	7-9-84	Stella Morrison (St. Paul)	200.00	Uncollectable
9158	7-14-84	Reggie Patnode (Hastings)	159.75	Filed bankruptcy
9193	8-1-84	Leonard Nelson (deceased)	69.04	Balance after Medicare
9207	8-8-84	Charles Ploog (St. Louis Park)	136.00	Uncollectable
9223	8-16-84	Kenyon Johnson (Hastings)	136.00	" "
9224	8-16-84	" "	220.00	" "
9237	8-22-84	Leta Bixby (deceased)	30.60	Balance after Medicare
9262	9-1-84	Louise White (deceased)	26.20	" " "
9287	9-14-84	Catherine O'Brien (deceased)	30.60	" " "
9296	9-19-84	Louise White (deceased)	23.60	" " "
9431	11-12-84	Cleo Fuson (Hastings)	15.60	" " "
9448	11-22-84	John Allen (Hastings)	115.00	Uncollectable
9452	11-24-84	Thomas Tollas (St. Paul)	182.00	" "
9495	12-24-84	Judy L. Crewe (Black Duck, MN)	220.00	" "
9501	12-26-84	Sandra Siebenaler (Hastings)	115.00	" "
9557	1-21-85	Kenneth Erickson (Hastings)	220.00	" "
9618	2-19-85	Vera Rudolph (Clinton, Iowa)	123.00	" "
9623	2-21-85	Louise White (deceased)	23.60	Balance after Medicare
9681	3-23-85	Larry Denn (address unknown)	128.00	Uncollectable
9739	4-23-85	Richard Carpenter (Hastings)	220.00	" "
9745	4-30-85	Louise White (deceased)	36.60	Balance after Medicare
9750	5-5-85	" "	36.60	" " "
9762	5-10-85	Ivan Nordquist (address unknown)	115.00	Uncollectable
9842	7-12-85	William Whipple (Hastings)	136.00	Filed bankruptcy
9850	7-14-85	William Shanahan (address unknown)	400.00	Uncollectable
8436	4-30-83	Dennis Larson (Hastings)	72.80	" "
8684,85	9-25-83	Ronald Lee (Hastings)	310.00	" "
9214	8-13-84	Eugene Minor (Minneapolis)	136.00	" "

MEMO

TO: Mayor and City Council
FROM: Street/Water/Dutch Elm
DATE: September 11, 1986
SUBJECT: Uncollectible Invoices for cancellation

Listed below is a listing of invoices that are being submitted for cancellation after all resources of recovery have been attempted.

Staff is requesting that the City Council pass a resolution to cancel the uncollectible invoices.

Street	Faiser Construction	12-84	\$90.00
	Thomas Stokke	12-84	48.24
Water	Jerry's Foods	1985	188.77
	Dorothy Franzmeier	1985	64.11
Dutch Elm	Linda Penrose	9-84	160.00
	Richard Kelso	9-84	98.93

cl

9-8-86

TO - CHIEF PLATH

FROM - ISOB JUNICIN - AIRCOMM

RE; RECENT PROBLEMS WITH RADIOS

DEAR CHIEF

IN VIEW OF THE RECENT RADIO PROBLEMS INVOLVING THE USE OF TELEPHONE LINES, I THOUGHT IT ADVISABLE TO PRESENT TO YOU SOME ALTERNATIVE METHOD OF COMMUNICATING WITH YOUR CARS.

YOUR PRESENT SYSTEM UTILIZES A PAIR OF TELEPHONE LINES TO OPERATE A REMOTE TRANSMITTER AND RECEIVER. IT HAS BECOME INCREASINGLY APPARENT TO ME THAT THE RELIABILITY OF THIS METHOD OF CONTROL IS TROUBLESOME AND, AT LEAST TRANSIENTLY, UNRELIABLE.

WE ARE THEREFORE ^{PROPOSING} ~~RECOMMENDING~~ THE PURCHASE OF A BASE TRANSMITTER/RECEIVER THAT DOES NOT RELY ON OUTSIDE PHONE LINES FOR ITS OPERATION.

THIS PIECE OF EQUIPMENT WOULD BE PLACED SOMEWHERE IN YOUR BLDG AND CONTROLLED FROM THE EXISTING CONTROL POINTS IN YOUR OFFICES. TOTAL COST OF THE ADDITION IS ~~\$1,424.00~~ \$1,424.00. THE FOLLOWING IS A BREAKDOWN OF COST ITEMS.

- | | |
|--|------------|
| 1. JOHNSON SDL 6055 BASE/WITH POWER SUPPLY | \$1,000.00 |
| 2. 1-SECODE REMOTE ADAPTER FOR ABOVE | 141.00 |
| 3. 1-ASP 7A ANTENNA & COAX/WITH MAST | 133.00 |
| 4. INSTALLATION OF ABOVE EQUIPMENT | 150.00 |

I BELIEVE THAT THE ADDITION OF THE AFORE -
MENTIONED EQUIPMENT WILL INCREASE THE RELIABILITY
AND FUNCTION LEVEL OF THE EXISTING SYSTEM

THANK YOU

ROBERT R. JUNKIN
AREA TECHNICAL SERVICE
REPRESENTATIVE
AIRCOMM COMMUNICATIONS

Regina

MEDICAL COMPLEX
Hastings, Minnesota 55033
Phone: (612) 437-3121
August 28, 1986

Mayor Lou Stoffel
City Hall
100 Sibley St.
Hastings, Minnesota
55033

Dear Mayor,

I would like to introduce a valuable new community service that Regina Medical Complex is making available to members of our community. Beginning September 15, 1986, we will offer the "Regina Rescue Response System" to chronic care and elderly patients who wish for medical supervision in their own homes.

The system is designed to automatically dial emergency telephone numbers for individuals who experience medical emergencies when they are alone. We have felt a great need for such a service in our community and feel that it is every bit as important as our ambulance service - even skilled emergency room personnel: All the talent and dedication of these people is of little value to an individual who cannot communicate his or her need for their help.

The changes in health care today are compelling more and more people to choose home medical supervision instead of extensive stays in hospitals and nursing homes. With our service, we can offer these people greater independence and freedom. The Regina Rescue Line Response System provides peace of mind not only to the user, but to friends and relatives who care about them. It creates that most vital link between an individual in danger and the source of immediate medical care.

We have already notified local authorities, including the police and fire departments, as well as numerous public service organizations in our community, to obtain their support in the implementation of our program.

Your endorsement of this program would be most valuable to help promote it's success.

Respectfully,



Kate Seibert, RN
Director of Nursing Service
Regina Memorial Hospital

MEMO

TO: Mayor and City Council
FROM: Marty McNamara *Marty*
SUBJECT: Lions Club Request
DATE: September 10, 1986

Staff's recommendation is to approve the Lions Club request. In the past years the Lions have fulfilled its responsibilities.

ces



HASTINGS LIONS CLUB
Hastings, Minnesota 55033

August 29, 1986

Mr. Marty McNamara
Hastings Parks Department
100 Sibley Street
Hastings, Minnesota 55033

Dear Mr. McNamara:

The Hastings Lions Club would like to request permission to conduct a "Dunk the Klunk" contest on Lake Rebecca similar to that done last year. Money raised by sponsoring this contest would be used to help finance projects the Lions Club is already involved with in the Hastings community, particularly the Christmas Toys for underprivileged children.

We would propose to steam clean the vehicle and remove all fluids so as to eliminate the possibility of pollution. Arrangements would be made for proper access to remove the vehicle after sinking.

Tickets would be sold through local businesses and by Lions members with a cash prize awarded to the entrant guessing the date closest to the date of the sinking.

The Lions would very much appreciate your approval so that further plans can be made for the above described contest. If further input is needed, we would be glad to have our committee meet with your representatives.

Thank you for your prompt consideration.

Sincerely,

A handwritten signature in cursive script that reads "Alan J. Reiter".

Alan J. Reiter
1986 Dunk the Klunk Chairman.
1419 Blueberry Lane
Hastings, Minnesota 55033

August 28, 1986

Mr. Gary Brown
Administrator
City of Hastings
Hastings, MN 55033

RE: License Fee

Dear Mr. Brown:

In May of 1986, Hutch's Ice Cream Shop paid \$200.00 for a license to operate eight game and skill machines for a one-year period extending through May, 1987.

Due to my serious illness, we found it necessary to close the business. I would like to request a refund of the unused portion of the license fee, perhaps on a pro-rated basis if possible.

Thank you for consideration of this request. We enjoyed the opportunity and experience of doing business in Hastings.

I am presently concentrating on regaining my health.

Sincerely,

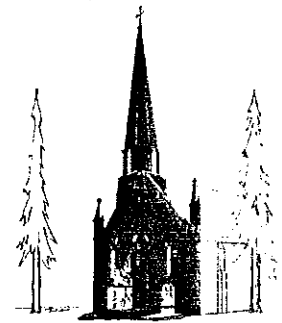


Darrell Hutchinson
20201 Lillehei Avenue
Hastings, MN 55033

V136

Saint Boniface Catholic Church

520 Ramsey Street
Hastings, Minnesota 55033
612/437-4254



September 9, 1986

City of Hastings:

As in the past we again ask your approval for a one day permit allowing us to sell beer at our annual Fall Festival scheduled this year for October 5, 1986.

Sincerely,

Fr. Florian Muggli, O.S.B.
Pastor

FM:ms

SURROUNDING CITIES	WAGES FOR COUNCIL AND MAYOR	
	COUNCIL	MAYOR
COTTAGE GROVE	4800	6600
Eagan	3600	4500
So. St. Paul	3600	4500
W. St Paul	2400	3000
Apple Valley	4800	5400
Oakdale	3876	4572
Inver Grove Heights	3300	2900
Lakeville	3840	4920

Same as Hastings they are also considering a raise

Oakdale population is 13510
Lakeville 17000

Metro Area Cities with nearly same population

Robbinsdale (14050)	4800	6000
Hopkins (15300)	3000	4500
Eden Prairie(16200)	3600	4800
Anoka (1500)	3520	4200

Cities around us in Metro area but less population

Shakopee (10900)	3600	4200
Savage (5600)	3120	3900
Mendota Heights (8000)	2400	3600
Prior Lake (9200)	3000	4200
Rosemount (6390)	3000	3600
Stillwater (12000)	2400	3600

receipts from sales of surplus property under this Section shall be placed in the General Fund, unless the property sold is dedicated park property, in which event the funds received shall be placed in the Park Fund.

Subd. 4. Persons Who May Not Purchase - Exception.

A. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an adviser serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.

B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

Source: Ordinance No. 76, Second Series
Effective Date: 11-9-78

SEC. 2.64. SALARIES OF MAYOR AND COUNCILMEN.

Subd. 1. The compensation paid to the Mayor for service as Mayor to the City shall, commencing January 1, 1981 be \$250.00 per month.

Subd. 2. The compensation paid to the Councilmen for service as Councilmen to the City shall, commencing January 1, 1981, be \$200.00 per month.

Source: Ordinance No. 113, Second Series
Effective Date: 11-6-80

SEC. 2.65. FRANCHISES.

Subd. 1. Definition. The term "franchise" as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

Subd. 2. Franchise Ordinances. The Council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privilege of placing in, over, upon, under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any

Police Department, but any person so appointed or promoted shall be a person certified as qualified by the Civil Service Commission of the City of Hastings. Upon appointment or promotion to fill a vacancy in the department, the City Council shall authorized compensation to said person. The Civil Service Commission of the City of Hastings shall function in accordance with State statute. The Mayor may, in his discretion appoint citizens, including councilmen, to a committee to advise him in police matters, but the authority of said committee shall only be advisory.

SECTION 3.07. MAYOR - VETO POWER. Every ordinance approved by the City Council shall, before it takes effect, be presented to the Mayor for his approval. If he approves of it, he shall sign the ordinance. If he disapproves of it, he shall return it to the City Council with his objections appended thereto by depositing the ordinance with his objections with the City Clerk, to be presented to the City Council for further considerations at its next regular meeting. Upon receipt of said ordinance from the Mayor with his objections, the City Clerk shall immediately enter said objections and date of receiving said objections in the minute book of the council. Upon the return to the City Council of any ordinance disapproved by the Mayor, the City Council may reconsider the passage of the ordinance notwithstanding the objections of the Mayor. If upon such reconsideration, the City Council shall reapprove the ordinance by an affirmative vote of three-fourths (3/4) of the entire council, it shall have the same effect as if it was approved by the Mayor. If an ordinance is not signed by the Mayor, and also not deposited by him with the City Clerk for referral back to the City Council for reconsideration prior to the next regular meeting of the City Council, this nonaction shall have the same effect as if the ordinance was approved by the Mayor.

SECTION 3.08. MAYOR AND COUNCIL COMPENSATION - MAYOR CONTINGENCY EXPENSE FUND. The Mayor shall receive such compensation as established in accordance with the Minnesota Statutes in such case made and provided. In addition, the Mayor shall also have placed at his disposal, a contingency expense fund in an amount to be established by the City Council by resolution. The Council may increase the Mayor's compensation but any increase so determined shall not be effective until after the next succeeding General Municipal election. Any increase shall be accomplished by ordinance.

SECTION 3.09. INTERIM INVESTIGATION, STUDY AND POLICY COMMITTEES. The Council by a majority vote, or the Mayor, shall have the power to make investigations into all City affairs, to subpoena witnesses, to administer oaths, to compel the production of books and papers, and to demand reports from department heads on their respective departments operations. The Council shall provide for a biennial audit of all funds, books, and accounts of the City to be conducted by the Public Examiner of the State of Minnesota or by a reliable Certified Public Accountant. In addition, the Council may at any time provide for an examination or audit of the accounts of any officer or department of the City Government

The Mayor may, at his discretion, appoint Council and or citizen committees to study specific issues.

MEMO

TO: Mayor and City Council
FROM: Gary E. Brown
DATE: September 11, 1986
SUBJECT: Visit to Turbine Manufacturing Plant Heidenheim, Germany

Approximately a month ago in an agenda item regarding the Water Department I mentioned a trip had been budgeted by the supplier of the turbines to send a City Representative to inspect our turbines in the Manufacturing Plant in Heidenheim, Germany. There apparently was some misunderstanding as to the purpose of the trip as it was assumed by some of the Councilmembers that the individual traveling to Heidenheim would be trained in the operation of a Hydro Electric Facility. This is not the case, as the purpose of the trip is to inspect the manufacturing of the turbines and to visit several operating low-head hydro electric facilities. The individual going would be required to ascertain the amount of training, number of individuals, hours of operation, types of breakdown, and possible revisions to our final design which may enhance the operation of the plant in Hastings. Another purpose of the trip is to establish the exchange which has been discussed by representatives of the Voith Hydro Turbines and the City which would facilitate the training of an individual in the operation of our Hydro Electric Facility.

What needs to be determined is whether or not an operator should be sent or conceivably the Superintendent or Foreman. We believe that this can be determined by discussing with operators of facilities in Germany. Although the United States has a great deal of Hydro Electric Plants, there are very very few low-head Hydro Electric Plants (less than 15 feet in drop). Europe has developed the technology in this area for about 30 years while the United States has had fairly cheap energy supplies and has not developed low-head hydro.

Please find attached a copy of job responsibilities for Jim Hansen and me that was passed out several months ago to the City Council during one of our meetings. I believe some Councilmembers had some questions as to the involvement of the City Administrator in this project. I am hereby requesting the City Council to allow me to make the trip on behalf of the City of Hastings for the above mentioned reasons, however, if there are any questions by Councilmembers that the City will not be receiving value from the trip I would be willing to use vacation days.

A decision on this must be made this evening as passports have to be arranged several weeks in advance for the anticipated trip in mid-October.

cl

Jim Hansens' Area of Responsibility
(Permit, Licenses, and Mechanical, Electrical Inspection)

- 1). Permits -
 - A). DNR (C) (See that contractor meets regulations)
 - B). PCA (C) (See that contractor meets regulations)
 - C). Army Corps (Permit) (C) (See that contractor meets regulations)
- 2). FERC License Requirements
 - A). Temporary Emergency Operation Plan (C)
 - B). Quality Assurance Program (C)
 - C). Emergency Action Plan
 - D). Feasibility study for additional generation (C)
- 3). Army Corps of Engineers.
 - A). Prepare Access Agreement (C)
 - B). Prepare Operating Agreement as it relates to daily control of facility.
- 4). Coordinate Voith, with City and Corps of Engineers operation plan and City operation of facility.
- 5). Coordinate operation which will take into account Fish and Wildlife Study (i.e. Fish Mortality, Dissolved Oxygen).
- 6). Coordinate Model Study results with Corps and other interested parties.
- 7). Approving work completed for Bond Trustee. (Requiring periodic on-site inspection).
- 8). Coordinate N.S.P. interconnect.
- 9). Inspect electrical, mechanical construction.

NOTE: (C) equals completed

City's Area of Responsibility
(Project Management and Supervision of Public's Work Construction)

- 1). Overall Project Management: Gary E. Brown
- 2). Daily Inspection
 - 1). Gary Brown, Jim Kleinschmidt and Tom Montgomery (Public Works)
 - 2). Merlin Wilbur and Jon Ludwig (Uniform Building Code and City Code)
- 3). Coordinate Lunda with Corps and FERC.
- 4). Coordinate First Bank of Minneapolis (Letter of Credit) and N.W. (Bond Trustee) with project up dates.
 - A). Keep First Bank's Engineer Consultant informed as to progress.
- 5). Process all pay requests through Banks.
- 6). Review Contract Status and enforce contract.
- 7). Submit Monthly reports to FERC.
- 8). Review all inspection reports and private test results (concrete, steel).

September 10, 1986

TO: Honorable Mayor and City Council Members of Hastings

Greetings,

It has been 21 months since the Hastings Sanitary Disposal, Inc., has had an adjustment in the home pickup rates in the City of Hastings. Since January 1985, many things have happened that have had a detrimental effect on the operation of Hastings Sanitary Disposal, Inc.

Among those happenings are the following:

1. Tipping Fees at the local landfills have gone from \$10.50 per ton in January 1985 to \$19.00 per ton on September 1, 1986. This equals a cost of \$3.20 per cubic yard on January 1985 to a figure of \$5.00 per cubic yards on September 1, 1986.
2. Insurances; hospitalization, fleet, liability, workmans compensation, etc., have spiraled at a rate in excess of 52%.

The following Table A shows the affect of Tipping Fees and Insurance on our total budget. Obviously, during the past 21 months our other costs have increased according to other increases of labor, equipment, mechanical maintenance and other items which are to numerous to mention.

TABLE A

	<u>84-85</u>	<u>85-86</u>	<u>86-87</u>
Tipping Fees	19.0%	22.3%	27.3%
Insurance	<u>6.01%</u> 25.01%	<u>7.35%</u> 29.65%	<u>10.06%</u> 37.36%

In consideration of the above mentioned, Hastings Sanitary Disposal is asking you, at this time, to consider an increase of \$1.50 per month, per home, effective October 1, 1986. We will be happy to answer any questions that you may have regarding this request either before your meeting on Monday or at your Monday night meeting on September 15, 1986.

Thanks for your time and consideration.

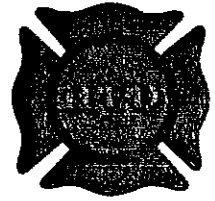
Respectively,
Hastings Sanitary Disposal, Inc.

John B. Kranz
John B. Kranz,

Patrick J. Sully
Patrick J. Sully



HASTINGS FIRE DEPARTMENT



DONALD C. LATCH, CHIEF
115 West 5th Street
Hastings, Minnesota 55033

Business Office (612) 437-5610

TO: Mayor Stoffel
Council Members

FROM: D.C. Latch - Fire Chief

SUBJECT: Surplus Property

DATE: September 11, 1986

As you are well aware, our new fire truck arrived on Wednesday of this week. This truck is replacing the 1959 International 1000 gpm pumper.

I recommend that the Council declare the 1959 International excess property, authorize staff to advertise for sealed bids, and set the minimum bid price at \$6,500. The money received for the sale of this truck would be placed in the Fire Truck Sinking Fund.

Thank you for your cooperation.

[Handwritten signature]
DCL:lh

MEMO

Date: September 11, 1986

To: Honorable Mayor and Members of the City Council

From: J.J. Kleinschmidt, City Engineer

Subject: Corner lot assessments for streets.

At the assessment hearings held this year some questions arose regarding corner lot assessments. Ordinance No. 171 states in part as follows: "For lots with street construction along the abutting frontage of the long side, the assessment shall be fifty per cent of the abutting frontage with the City paying the assessment on the remaining 50 per cent of the abutting frontages".

If lots were not resubdivided there would be no problem. However when lots are resubdivided there are some questions about whether staff is interpreting the policy correctly. The term "lot" is defined in Chapter 11 of the City Code. A copy of this sheet from the City Code is enclosed.

Also enclosed you will find a print of the property on the east side of Pine Street between 5th St. and 6th St. You will note that the existing lots on the east side were resubdivided so that the parcel at the southwest corner of 5th & Pine St. was assessed for the Pine St. improvement for 75 feet and the City paid for the remaining 75 feet. When 5th Street is improved, this owner will pay an assessment for 99 feet on 5th St.

Again referring to the enclosed sketch, the lots on the northeast corner of 6th & Pine were resubdivided as shown. The southern part of these lots were assessed for 84' for the Pine Street improvement. When 6th St. is improved, this owner will be assessed for 66 feet on 6th St. and the City will pay for 66 feet.

We think the above procedure is correct because we believe it is the Council's intention to give assessment relief to the property owner on a corner. We believe they recognize that he is paying for improvements on two streets and they want to give him some relief so the City will pay for 50 per cent of the long side frontage when the long side is improved.

jt

CHAPTER 11

SUBDIVISION REGULATION (PLATTING)

SECTION 11.01. PURPOSE AND SCOPE.

SUBD. 1. PURPOSE. The provisions of this Chapter are adopted to regulate the subdividing of land within the City so that new additions will be integrated with the Comprehensive Plan of the City and will contribute to an attractive, stable and wholesome community environment.

SUBD. 2. SCOPE. The regulations governing plats and the subdivision or development of land shall apply within the corporate limits of the City and the area extending two miles beyond its corporate limits, except a township which has adopted subdivision regulations, and which regulations are adopted pursuant to an act relating to municipal planning and development and providing for zoning, official maps, subdivision regulations and other official controls, being laws 1965. Chapter 670.

SEC. 11.02. DEFINITIONS. The following terms, as used in this Chapter, shall have the meanings stated:

SUBD. 1. The term "alley" means a public right-of-way less than 24 feet in width which normally affords a secondary means of vehicular access to abutting property.

SUBD. 2. The term "arterial street" means a street which provides for the movement of relatively heavy traffic to, from and through an urban area or between major parts of an urban area.

SUBD. 3. The term "collector street" means a street which collects and distributes internal traffic within an urban area, such as a residential neighborhood, between arterial and local streets. It provides access to abutting land.

SUBD. 4. The term "cul-de-sac" means a short street having but one end open to traffic and the other end being permanently terminated to a vehicular turn around.

SUBD. 5. The term "comprehensive plan" means that policy document which serves as a guide for the future physical development of the City and entitled "Comprehensive Plan, Hastings, Minnesota."

SUBD. 6. The term "half street" means a street having only one-half of its intended roadway width developed to accommodate traffic.

SUBD. 7. The term "local street" means a street of little or no continuity designed to provide access to abutting property and leading into collector streets.

SUBD. 8. The term "lot" means a piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.

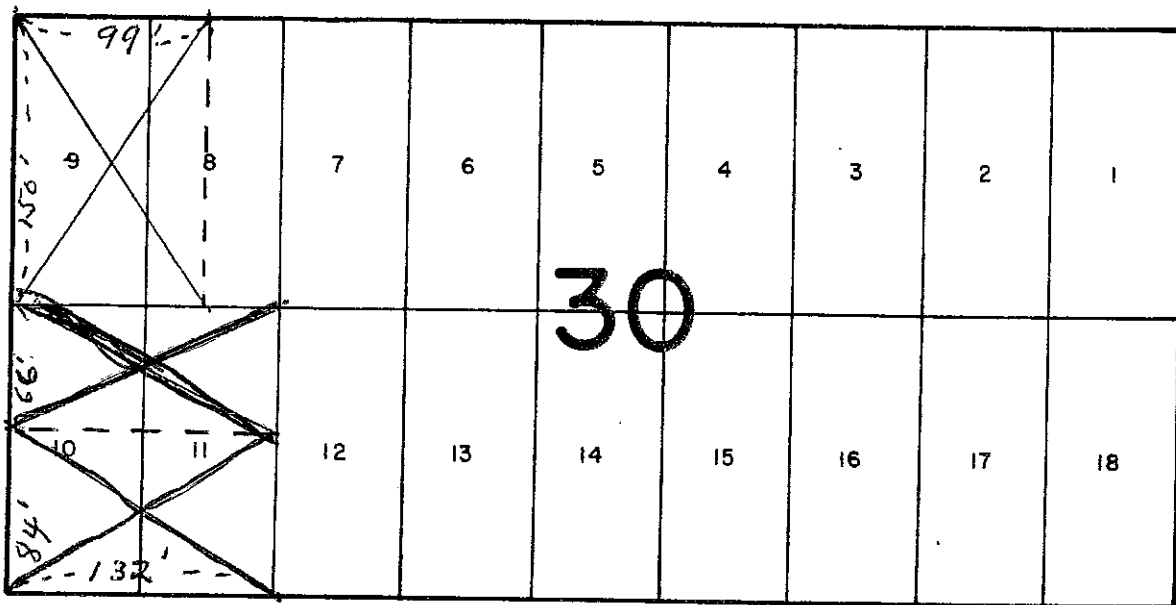
19	20
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ST.

10	11	12	13	14	15	16	17	18
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5TH ST

2	1
31	
19	20

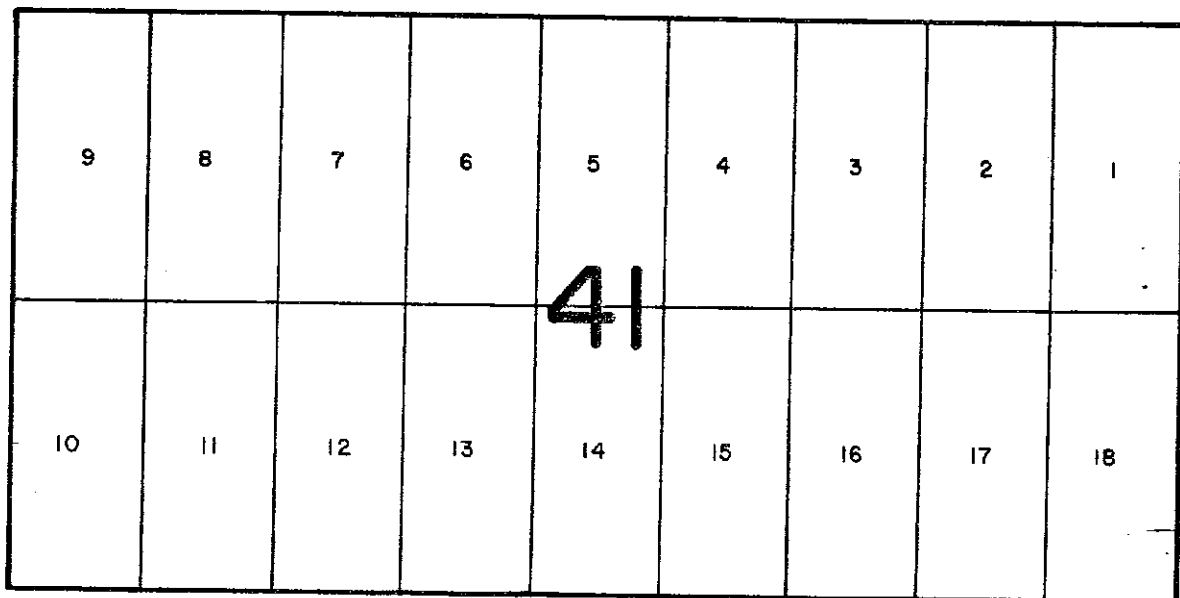


6TH

ST.

2	1
40	
19	20

PINE

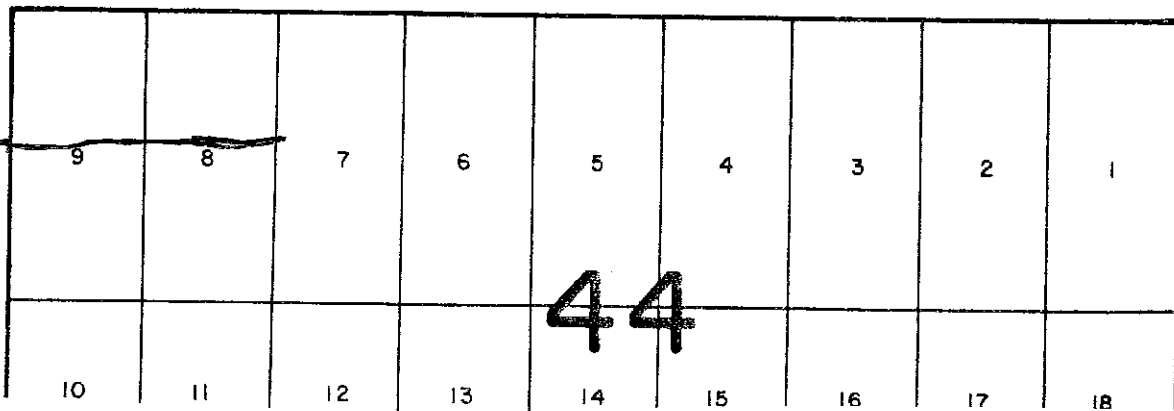
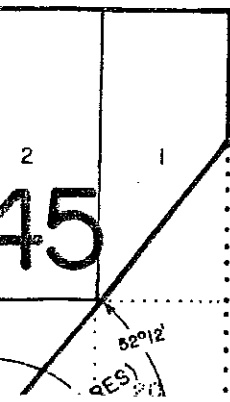


MAPLE

N 96° 06' 08" E 9

7TH

ST



Information

MEMO

TO: City Council and Cable Commission
FROM: Dianne Latuff *Dianne*
DATE: September 11, 1986
SUBJECT: System Specific questions for Cable transfer application

Attached please find the system specific questions prepared for the cable transfer application, to be completed by Coaxial Communications and Telephone and Data Systems.

If you have any further questions or any comments please contact me before Tuesday, September 16, 1986.

cl

The following questions and requests for information are intended to apply specifically for the City of Hastings, where applicable.

1. Please describe, in detail, the applicant's policies for repairing, replacing and maintaining public, educational and governmental access equipment.

2. Please describe, in detail, the applicant's commitment to maintaining a local office in the City of Hastings and staffed with adequate personnel to assure high-quality performance.

3. Does the applicant agree to be bound by the existing franchise? If not, please describe any amendments or modifications requested by the applicant. Unless modifications are granted, the City will expect the applicant to abide by all provisions of the franchise whether Hastings Cable TV Company, Inc. is presently in compliance or not.

4. Please provide identification and ownership interest for any individual, corporation, partnership, joint venture or other entity having any ownership interest in the applicant.

5. Please provide a copy of any agreement or agreements with School District 200 for studio space or other access related support.

6. In addition to the responses requested above, the City requests three (3) copies of the following documents.

- A. The Purchase Agreement
- B. Any limited partnership agreement, including amendments
- C. Any management agreement
- D. Any limited partner equity offering memorandum
- E. Any documents filed with or submitted to any federal or state agency, including, but not limited to, the FCC and SEC, having jurisdiction in respect to any matters affecting the acquisition and transfer of the system serving the City of Hastings.
- F. An audited financial statement, including a statement of income, balance sheet and sources and uses of funds together with any notes necessary to the understanding of the financial statement, for the last three (3) fiscal years for the applicant and any principal. For the purposes of this request, "principal" means any person, firm, corporation,

partnership, joint venture or other entity, who or which owns or controls five percent (5%) or more of the voting stock (or any equivalent voting interest of a partnership or joint venture) of the applicant.

- G. Any loan agreements or commitment letters.
- H. Proforma projections of annual operating data (i.e. homes passed, Basic Service subscriber, Basic Service rates, Premium Service subscribers and Premium Service rates) for the life of the franchise. (Hastings only)
- I. Proforma projections of annual revenue and operating expenses for the life of the franchise. (Hastings only)
- J. Proforma projections of annual capital expenditures for the life of the franchise. (Hastings only)
- K. Proforma projections of annual cash flow for the life of the franchise. (Hastings only)

Information

MEMO

TO: Mayor and City Council

FROM: Marty McNamara

DATE: September 11, 1985

SUBJECT: 1986 Fall Compost Program



The "Old Landfill Site" on Glendale Road will be open on Saturdays from 10:00 a.m. - 4:00 p.m. and on Wednesdays from 3:30 p.m. - 6:30 p.m. for Hastings Residents to drop off their leaves and garden debris. The site will be staffed by a veteran from the Vets Home at \$4.00 per hour. We will also give keys to Hastings Sanitary Disposal so that material can be dropped off during the day.

Dates Landfill will be open

Saturday, September 20	10:00 - 4:00 p.m.
Wednesday, September 24	3:30 - 6:30 p.m.
Saturday, September 27	10:00 - 4:00 p.m.
Wednesday, October 1	3:30 - 6:30 p.m.
Saturday, October 4	10:00 - 4:00 p.m.
Wednesday, October 8	3:30 - 6:30 p.m.
Saturday, October 11	10:00 - 4:00 p.m.
Wednesday, October 15	3:30 - 6:30 p.m.
Saturday, October 18	10:00 - 4:00 p.m.
Wednesday, October 22	3:30 - 6:30 p.m.
Saturday, October 25	10:00 - 4:00 p.m.

Also, Hastings residents may call City Hall to request delivery of compost material for their gardens. We will provide this service the week of October 6th - 10th and they must accept a minimum of five yards. We will be reimbursed by Dakota County for this expense under the landfill abatement program.