



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: John Hinzman, Community Development Director
Date: September 16, 2019
Item: Resolution: Type II Home Occupation Permit - Dean and Shirley Markuson - 201 East 7th Street

Council Action Requested:

Consider the attached resolution denying the Type II Home Occupation Permit for Dean and Shirley Markuson at the former Caturia Smidt Funeral Home at 201 East 7th Street. The property is currently owned by Katara Investments LLC. Adoption of the resolution requires a simple majority of the City Council.

Background Information:

Dean and Shirley Markuson seek to purchase the former funeral home as their primary residence and to operate Foss and Swanson, Veterans, Nonprofit IRS Organization. The Home Occupation is described as being a community center, museum and library. The Community Center would function similar to a VFW or Legion Hall and hold approximately 150 people and be rented out to organizations which may have food and alcohol catered in. Please see the attached Planning Commission Memo for further information.

Restrictions on any approval of the Home Occupation Permit would include an 8pm limitation on activities and a prohibition on providing services to the homeless. New Home Occupation Permits are issued under a one year provisional license. After one year, the license is reviewed again by the City Council to determine if a full five year license should be granted. Any intensification of the home occupation beyond the limits of the license and ordinance are grounds for revocation by the City Council.

Advisory Commission Discussion:

The Planning Commission voted 7-0 to recommend denial of the Home Occupation Permit at the September 9, 2019 meeting. Seven individuals provided comment during the public hearing and were not supportive of the home occupation. Those providing comment cited concerns about operation of the Community Center including service of liquor, hours of operation, parking, potential service to the homeless, and negative impact to the neighborhood. Planning Commissioners discussed the history of the proposed business and how it differs from the former funeral home operation.

Council Committee Discussion:

N/A

Attachments:

- Resolution for Denial
- Planning Commission Memo – September 9, 2019

HASTINGS CITY COUNCIL

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HASTINGS
DENYING A TYPE II HOME OCCUPATION PERMIT FOR DEAN AND
SHIRLEY MARKUSON AT 201 EAST 7TH STREET, HASTINGS, MN**

Council member _____ introduced the following Resolution and moved its adoption:

WHEREAS, Dean and Shirley Markuson. have petitioned for a Type II Home Occupation Permit to operate Foss and Swanson Veterans consisting of a community center, museum and library. The property is currently owned by KaTara Investments Inc. and located at 201 East 7th Street Sibley Street, legally described as Lots 5-6, Block 46, TOWN OF HASTINGS, Dakota County, Minnesota; and

WHEREAS, on September 9, 2019, review was conducted before the Planning Commission of the City of Hastings, as required by state law, city charter, and city ordinance; and

WHEREAS, the Planning Commission voted 7-0 to recommend denial of the Home Occupation Permit.

WHEREAS, The City Council has reviewed the request and concurs with the recommendation of the Planning Commission.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HASTINGS AS FOLLOWS:

That the City Council hereby denies the Type II Home Occupation Permit as presented based on the following findings of fact and conclusions:

- 1) Operation of the Home Occupation would cause additional parking and traffic than would be normally expected in a residential neighborhood. The proposed Community Center would provide events for up to 150 individuals.
- 2) Community Center operations proposed as part of the Home Occupation are more intensive than other allowable uses within the R-2 Zoning District and not consistent with the general residential nature of the area.

Council member _____ moved a second to this resolution and upon being put to a vote it was unanimously adopted by all Council Members present.

Adopted by the Hastings City Council on September 16, 2019, by the following vote:

Ayes:

Nays:

Absent:

ATTEST:

Mary Fasbender, Mayor

Julie Flaten, City Clerk

I HEREBY CERTIFY that the above is a true and correct copy of resolution presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the 16th day of September, 2019, as disclosed by the records of the City of Hastings on file and of record in the office.

Julie Flaten, City Clerk

(SEAL)

This instrument drafted by:
City of Hastings (JH)
101 4th St. E.
Hastings, MN 55033



Planning Commission Memorandum

To: Planning Commission

From: John Hinzman, Community Development Director

Date: September 9, 2019

Item: Type II Home Occupation Permit - Operation of a Veterans Service Facility - 201 East 7th Street - Dean and Shirley Markuson

Planning Commission Action

Review the Type II Home Occupation Permit Request of Dean and Shirley Markuson to operate a Veterans Service Facility located at the former Caturia Smidt Funeral Home at 201 East 7th Street. The property is currently owned by Katara Investments LLC. The former funeral home would be purchased by the Markuson's as their primary home and to operate the facility.

Exiting Condition

The existing 7,300 s.f. building was constructed in 1959 and has been used as a funeral home during most of its existence. Funeral operations were recently consolidated into the Starkson Family Life Celebration Chapel at 3075 Vermillion Street. The building contains living quarters as well as commercial space for the funeral services and related business.

Proposed Condition

Operation of a Type II Home Occupation. The building would serve as the primary residence for the Markuson's who would operate Foss and Swanson, Veterans, Nonprofit IRS Organization. The Home Occupation is described as being a community center and museum.

Zoning Classification

The site is zoned R-2 Medium Density Residence. Use of the building as a residence and a Home Occupation are permitted uses within the R-2 Zoning District.

Adjacent Zoning and Land Use

The following land uses about the site

Direction	Use	Zoning	Comp Plan
North	Single\Two Family Residential	R-2	Low Density Residential
East	Former Rosewood Inn	R-2	Low Density Residential
South	7 th Street E Two\Three Family Residential	R-2	Low Density Residential
West	Sibley Street St Luke's Church Parking Lot	R-2	Institutional

Home Occupation Regulations

Home Occupations are regulated under Chapter 155.07, Sub. D of the Zoning Code. Type I Home Occupations can be conducted without a permit. Home based businesses that utilize a garage, have employees working at the home not residing at the home, or that have more than one customer visit at a time are required to get a Type II Home Occupation License. These Type II Home Occupation Licenses require review by the Planning Commission and City Council.

The following are requirements of home occupations that must be followed in addition to any conditions placed on approval.

- (a) Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings, or the property itself for the purpose of a home occupation shall be prohibited.
- (b) Exterior display or storage of equipment or materials related to the home occupation is prohibited. No article for sale shall be visible from the street.
- (c) There shall be no indication of offensive noise, vibration, smoke dust, odors, heat, or glare at or beyond the property line.
- (d) The home occupation shall be conducted indoors and shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- (e) The use shall not generate sewage of a nature or rate greater than normally associated with a residential occupancy nor shall it generate hazardous waste or solid wastes at a rate greater than that normally associated with residential occupancy.

- (f) No home occupation shall be allowed which jeopardizes the health and safety of city residents.
- (g) Shipment and delivery of products, merchandise, or supplies shall be limited to between 8:00 am and 6:00 pm.
- (h) No home occupation causing additional parking or traffic than would be normally expected in a residential neighborhood shall be conducted between the hours of 8:00 p.m. and 7:00 a.m.
- (i) Only articles or services made or originating on the premises shall be sold to customers on-site, unless the articles are incidental to a permitted home occupation.
- (j) Only 1 vehicle and 1 trailer specifically used for a home occupation are permitted to be parked at the residence licensed for a home occupation. The parking of these vehicles must be off-street and in compliance with the parking regulations of the City Code.
- (k) Signage may consist of not more than 1 single faced unlighted wall sign per home with a maximum area of 2 square feet.

Proposed Home Occupation - Foss and Swanson Veterans Nonprofit IRS Organization

A Home Occupation Questionnaire providing more specific details on the operation has been completed by the applicant and is attached to this report. The summary of the operation below encompasses answers to the questionnaire along with conversations with the applicants.

- Uses include a museum, library, and community center.
- The Community Center would function similar to a VFW or Legion hall and hold approximately 150 people and be rented out to organizations which may have food and alcohol catered in. There would not be any gambling on the premises.
- People involved in the home occupation include Dean and Shirley Markuson, community service volunteers (curator, historical research, etc.), management and maintenance.
- The main floor would house the residence and community center, the basement would house the museum, restroom and showers.
- The garage would be used as the entrance to the museum and would include minor modifications.
- Hours of operation would be Sunday to Saturday 1pm to 8pm or by appointment.
- There are four parking spaces and two driveways available for parking.
- The museum and library would include artifacts and preservation equipment.
- Sale of patriotic items, T-shirts, and community and historical books would be offered.
- Anticipated duration of the facility is the applicants' lifetime.
- Interior alterations include main floor restrooms removal of interior walls.
- A sign would be used to advertise the home occupation, but no more than the current sign.

- A personal car, truck, and trailer would be used for the home occupation.
- Catering of Community Center events may involve alcohol service.
- Housing of the homeless would not occur, however service of food to the homeless and use of the bathroom for homeless people to shower may occur.

Staff Review

- The building has housed a funeral home for 60 years. The number of attendees at visitations was around 200, with 125-150 attendees for funerals. There were approximately 140 events per year.
- Business and traffic generated by the proposed home occupation appears to be less than that generated by the funeral home. The community center would be limited to 150 people, and the frequency of events is likely to be less.
- The site does not meet current parking requirements, however use of the building as a funeral home predates establishment of minimum parking standards. The number of parking spaces required for a funeral home is the same as that required for a hall or community service center.
- The applicants have indicated that they will not provide overnight accommodations for the homeless, however they may serve meals and offer showers. Providing services to the homeless is beyond the scope of a community center and should not be allowed as a home occupation.
- Operation of the community center would need to abide by the 8pm limit on operations.
- The applicants have indicated that there will not be any exterior home occupation activities; however, the Markuson's may plan to build a veteran's memorial on the property. Any outside memorials or structures cannot be part of the home occupation.
- The applicant's do not plan on serving alcohol, however caterers utilizing the Community Center Space may choose to serve of alcohol for events. The funeral home also utilized caterers that sometimes provided alcohol. Alcohol service by outside caterers is common with other rental hall operations but may not be suitable for a residential neighborhood. Service of alcohol would need to abide by City licensing requirements.

Comments from Neighbors

Notice has been sent to neighboring residents within 350 feet of the property. Staff has received questions seeking further information on the business and questioning the need for a community center.

Review Period

Licenses shall be issued for a one year probationary period from the date of City Council approval. The City Council shall consider issuance of a full license at the end of the probationary period. The term of a license shall be 5 years.

Fire Inspector Review

The fire inspector has inspected the property. In general, the proposed use as an assembly space is similar to the Home Occupation. Specific comments will be received under a separate cover.

Recommendation

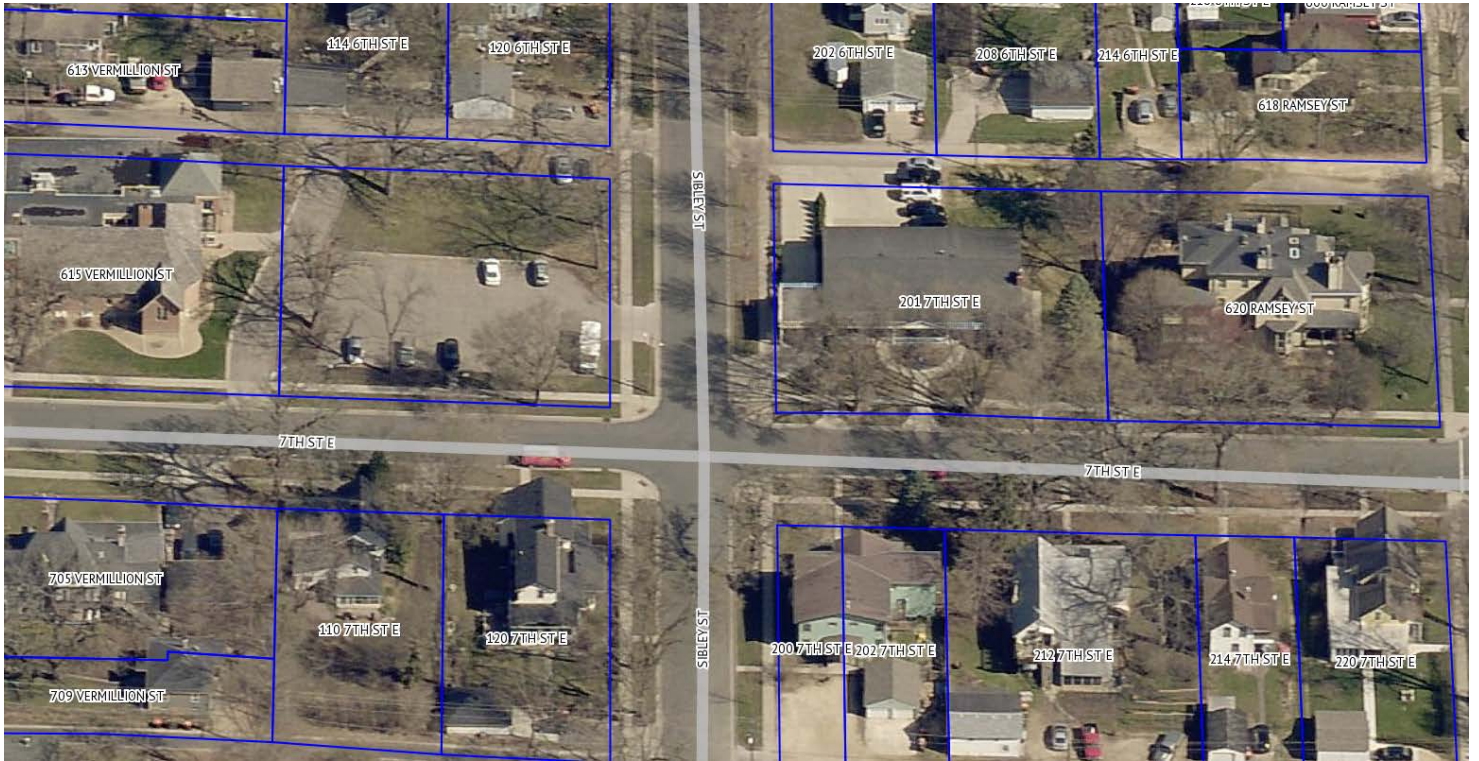
An approval of the Home Occupation Permit should be made contingent on the following conditions:

- 1) The Home Occupation must be operated consistent with the Planning Commission staff report dated September 9, 2019 and in accordance with the completed Home Occupation Questionnaire submitted with the Application of Home Occupation License dated August 29, 2019 unless further stipulated in the following conditions of approval. Failure to adhere to the provisions of the Home Occupation permit are grounds for revocation of the permit.
- 2) Any modifications to the use and operation of the Home Occupation must be approved by the City of Hastings.
- 3) The applicants must maintain a permanent residence in the structure and remain chiefly involved in the operation of the home occupation.
- 4) Use of the upstairs community center is limited to no more than 150 people.
- 5) Providing services to the homeless including overnight accommodations, meals, and bathing is not permitted as part of the Home Occupation Permit.
- 6) The number of employees or volunteers engaged in the Home Occupation on the site is limited to ___ individuals
- 7) The Home Occupation must be operated in compliance with the City Code including the Home Occupation, Nuisance, and Property Maintenance Codes.
- 8) Sale of items not manufactured on site including T-Shirts and books must be incidental to the Home Occupation.
- 9) Adhere to all building and fire permit regulations.
- 10) That the Type II license will be in a probationary status for one year. Following the probationary status, the Council will review the license and determine whether it should be issued for five years.

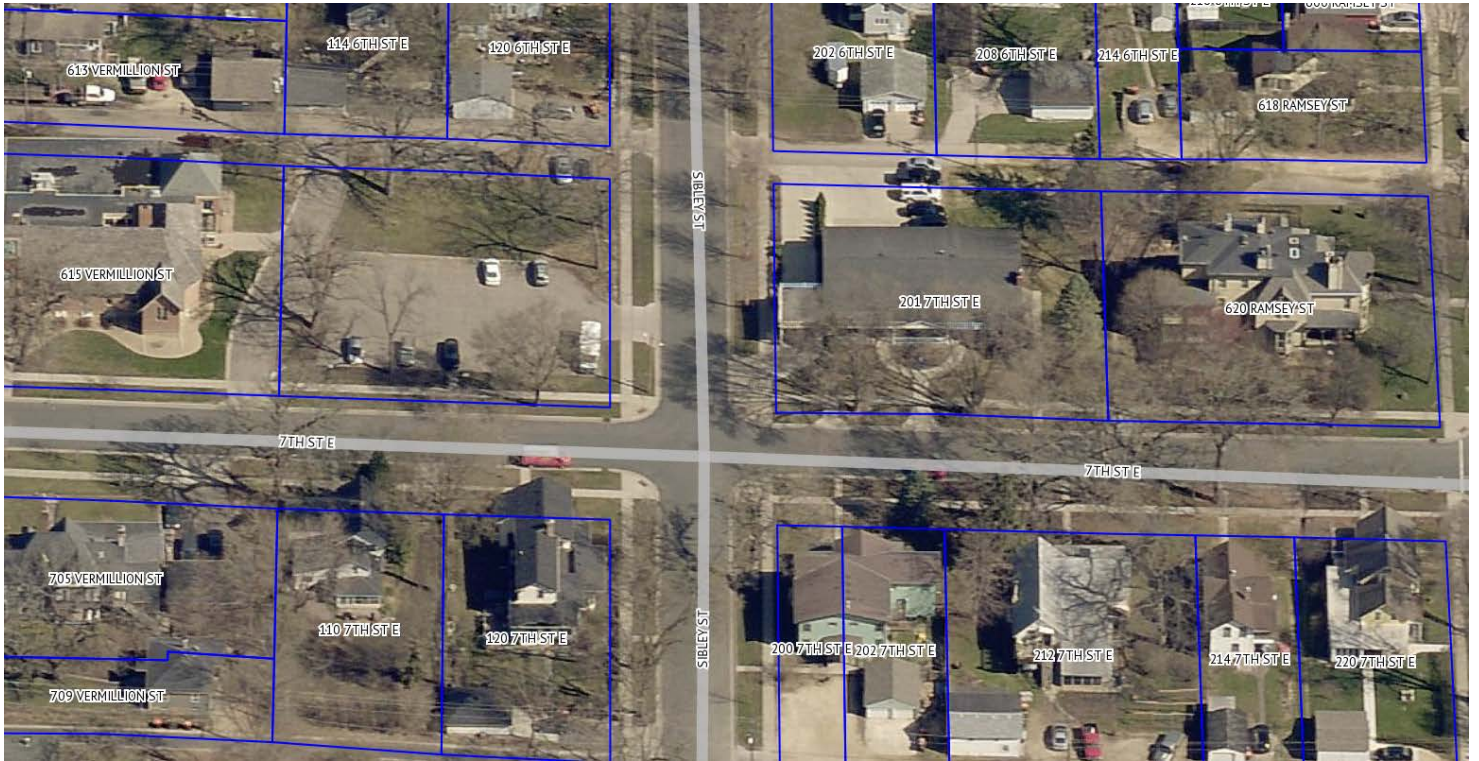
Attachments:

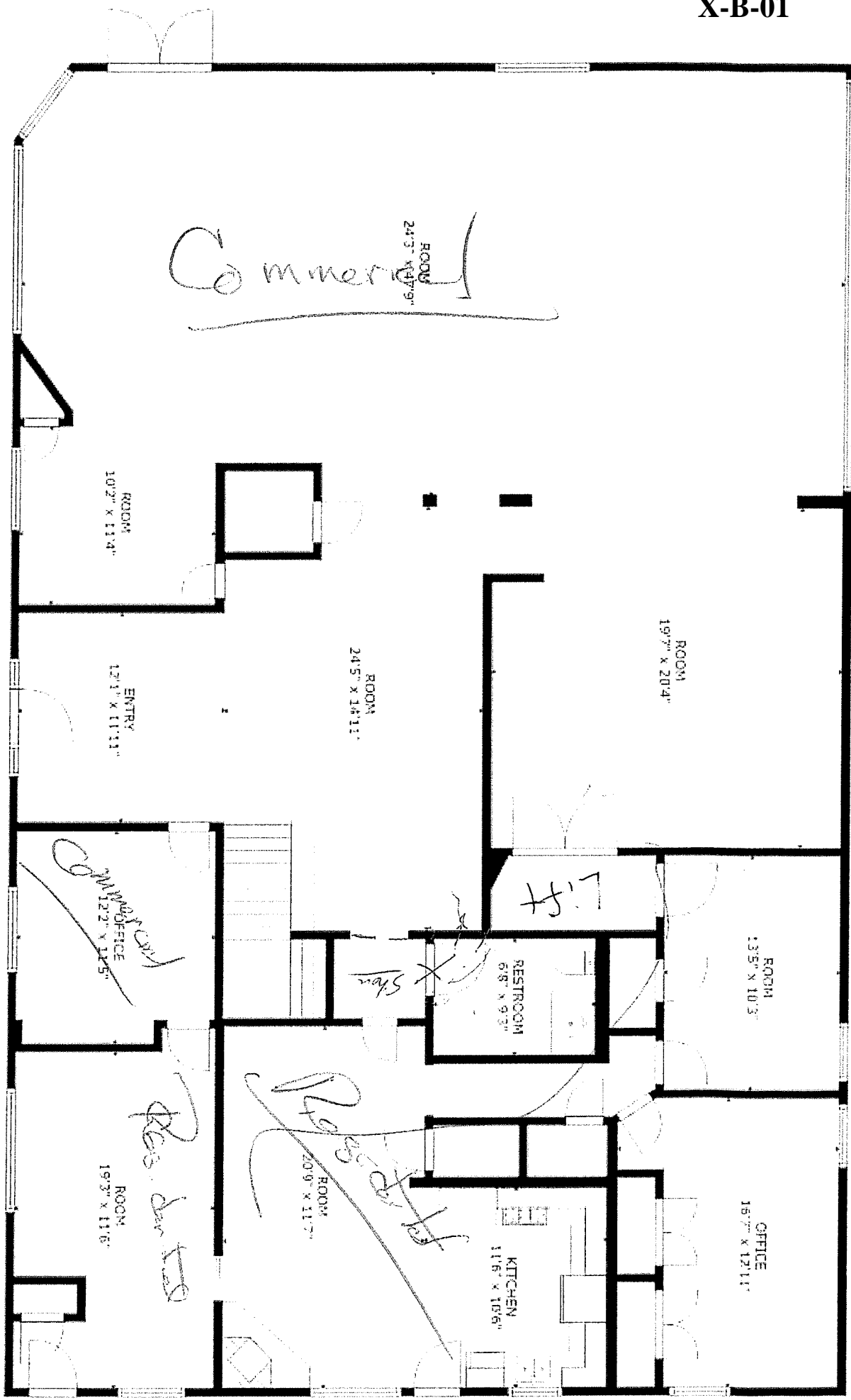
- Aerial Photograph
- House Plans
- Application

LOCATION MAP



LOCATION MAP





ROOM
24'3" x 14'7"

Commercial

ROOM
10'2" x 11'4"

ROOM
19'7" x 20'4"

ROOM
24'5" x 14'11"

ENTRY
12'1" x 11'11"

ROOM
13'5" x 10'3"

RESTROOM
6'8" x 9'3"

OFFICE
12'2" x 11'5"

OFFICE
15'7" x 12'11"

KITCHEN
11'6" x 10'6"

ROOM
10'9" x 11'7"

ROOM
19'3" x 11'6"

GRADE INTERNAL AREA
 FLOOR 1: 1942 sq ft, FLOOR 2: 3500 sq ft
 EXCLUDED AREAS: 2824 sq ft, 905 sq ft
 TOTAL: 5541 sq ft

Upper

A-B-01

GARAGE
34'10" x 23'2"

ROOM
40'2" x 22'11"

Workroom

Commercial

*Commercial
Retail*

HALL
19'2" x 3'8"

RESTROOM
9'6" x 5'1"

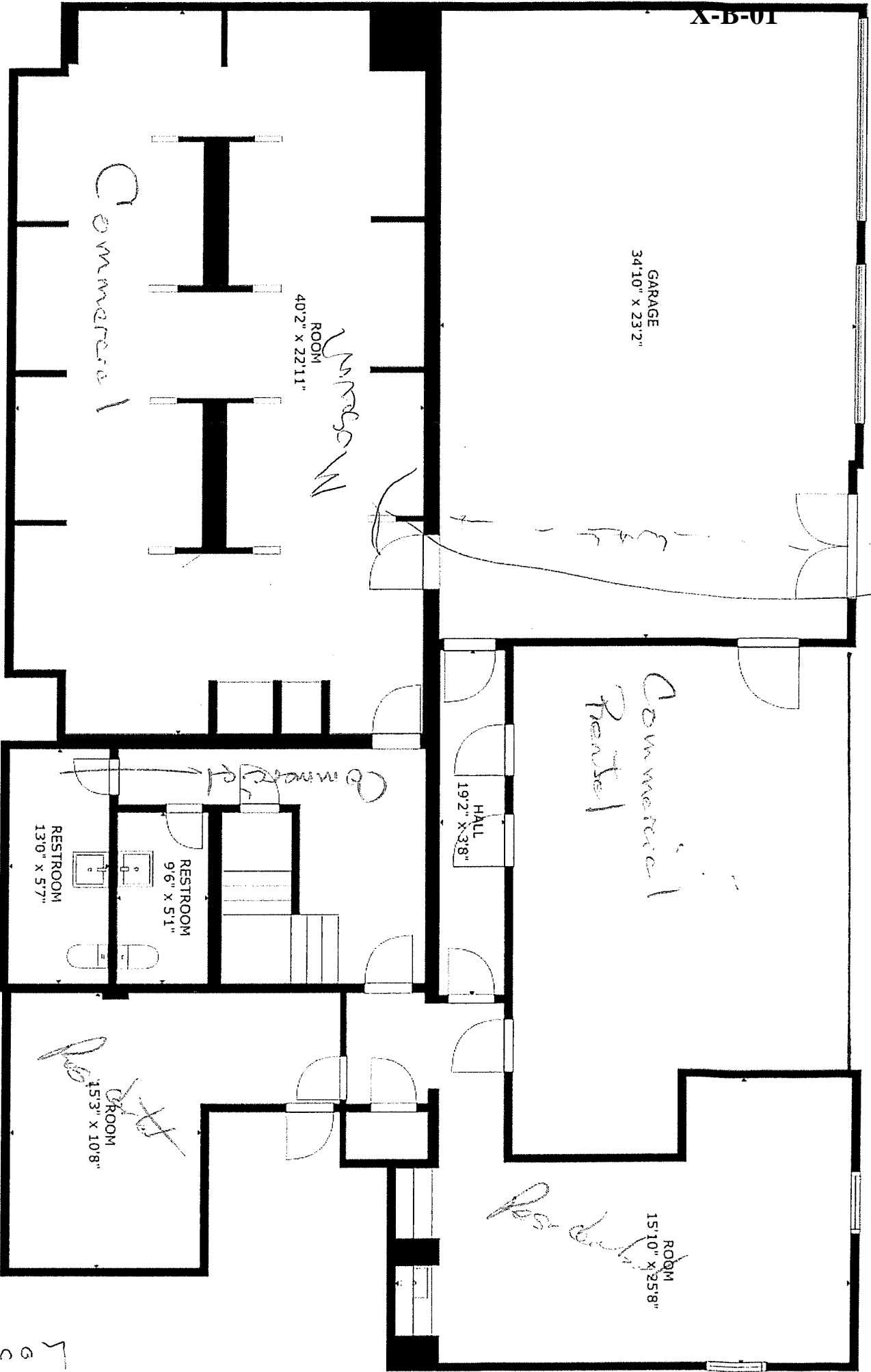
RESTROOM
13'0" x 5'7"

ROOM
15'3" x 10'8"

ROOM
15'10" x 25'8"

Retail

to view



GROSS INTERNAL AREA

FLOOR 1: 1941 sq ft, FLOOR 2: 3600 sq ft
EXCLUDED AREAS: GARAGE: 803 sq ft

TOTAL: 5541 sq ft



#2019-23-B-01

COMMUNITY DEVELOPMENT
101 4TH STREET EAST, HASTINGS, MN 55033
P. 651-480-2381 F. 651-437-7082
WWW.HASTINGSMN.GOV

Application for Home Occupation License

ADDRESS OR PROPERTY INVOLVED: 201 East 7th St (Formerly Caturia Funeral Home), Hastings, MN 55033

APPLICANT NAME: Dean & Shirley Markuson
ADDRESS: Currently: 436 Tiffany Drive
Hastings, MN 55033
PHONE: (651) 438-2208
FAX: None
EMAIL: deanrvvet@aol.com

PROPERTY OWNER: Dean and Shirley Markuson
ADDRESS: Currently: 436 Tiffany Drive
Hastings, MN 55033
PHONE: (651) 438-2208
FAX: None
EMAIL: deanrvvet@aol.com

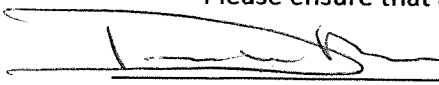

Business Name: Foss and Swanson, Veterans, Nonprofit IRS Organization

Do you own or rent this property? Purchase Argeement initiated

Please fill out this form and the attached questionnaire completely, and return it to the Planning Dept., along with the \$300 application fee (\$50 for renewal). The application review will not be scheduled for a Planning Commission meeting until all required materials have been provided.

By signing this application, I declare that I have read Chapter 10, Section 10.12 Subd. 2d of the Hastings City Ordinance, and that all of the information provided to the City of Hastings on this application, or as a part thereof, is true and accurate to the best of my knowledge.

Please ensure that all copies of required documents are attached.

	<u>8/29/19</u>		<u>8/29/19</u>
Applicant Signature	Date	Owner Signature	Date
<u>Dean W. Markuson</u>		<u>Dean W. Markuson</u>	
Applicant Name – Please Print		Owner Name – Please Print	

OFFICIAL USE ONLY

FILE # 200 REC'D BY: JHizman
FEE PAID: PPAIO RECEIPT # _____

DATE REC'D: 8/29/19
APP. COMPLETE complete

Check 1092, 29 Aug 2019

The City of Hastings distributes general city information and notices electronically through an electronic notification system. As an applicant for a new business license or for a renewal of an existing business license, you can sign up to receive notices through the city's electronic notification system by sending an email to OrdinanceAmendment-subscribe@hastingsmn.gov

Please return this Application so that I am fully aware of your receipt and payment of fee

CITY OF HASTINGS

Planning Dept. ~ 101 4th St E, Hastings MN 55033 ~ Phone 651.480.2381 ~ Fax 651.437.7082

Home Occupation Questionnaire

If additional space is needed to adequately answer any of the following questions, answer on a separate sheet of paper. Please number your answer to correspond with the question.

1. Describe the proposed home occupation:
Resident, Community Center Museum
2. Describe the character of the surrounding properties:
Residential, Rentals (Apartment) Church
3. Of those who reside in the home, who will be involved in the operations of this home occupation and what will their duties be?
Self, spouse, community service volunteers
Manage and maintain
4. Will there be any persons engaged in operation of the home occupation who do not live in the home? If yes, describe their numbers, duties, and hours of work.
Community Service Volunteers
As needed, Curator, Maintenance, Historian
Research (like the Pioneer Room)
5. In what part of the home will the home occupation be located? How will customers/employees access the area?
1st Floor, Gathering Space
Basement, Museum, Garage, Rest Rooms, Showers
Call General Access Areas
6. Will the home occupation be carried out in a garage, shed, or any other part of the property other than the home? If yes, describe what activities will take place in the garage/shed and/or what materials and in what quantity will be stored in the garage/shed:
Yes, Garage door entry is the entrance
way to the museum. Minor Model creation
Building Permit to be submitted ~~8 21 30~~
7. What are the intended days and hours of this home occupation?
~~TH~~ Sunday — Saturday 83.50
1 AM — 8 PM or by Appointment
8. How many customers will visit your home occupation at any one time, on any given day during any given week?
Up to the limit allowed by the
Fire Department Inspector Occupancy
Limits.

9. Do you have off-street parking available at your home occupation? Attach a detailed drawing showing the location, capacity, type of parking surface, and dimensions of parking area:

Yes - 4 parking spaces + (2) driveways

10. Will the home occupation require or involve any equipment not normally found in the home? If yes, describe the equipment:

Yes. Artifacts + Preservation Equipment

11. Will the home occupation involve the sale of merchandise over the counter that is produced off the property? If yes, describe the merchandise to be sold:

Yes - Patriotic Items, T-Shirts
"We Remember", Community Historical Books

12. How long do you anticipate the home occupation will be operated at this address?

Lifetime - legacy to Grand children if desired

13. Are there any interior or exterior alterations required for this home occupation? If yes, describe the interior and/or exterior alterations required:

Yes: Main Floor Restrooms - Full or 3/4 bath, Removal of false wall from the stairs to basement, wall-Entry Museum - general

14. Will the home occupation produce glare, noise, odor, or vibration that will be noticeable outside the home? If yes, describe:

Normal lighting that is currently there. No additional requirement

15. Do you plan on displaying any signs advertising your home occupation? If yes, attach a drawing of the proposed sign, including the size, materials, color and location of the sign.

Yes - No more than the current one

16. Are there any licenses or permits that are required from any government agencies to legally conduct this home occupation? If yes, list the licenses or permits below: Have to research if (General Business SOS - Registration, Assumed Name, Articles of Incorporation or Bylaw

17. May the City inspect the property during the time this application is being considered for approval?

Yes. they can By Appointment only -

18. List the number and type of vehicles that are used for the business that may be at the home:

Personal car + truck + trailer.

19. List any additional information concerning this home occupation that you believe is necessary for consideration of your application:

As Admstrator + Rental Fees
No Charge - Non Profit + Community Per orce Org
Governmental
\$100 < 100 > 100 - 299: \$300
> 300 \$500 donations Accepted

By signing this application, I declare that I have read Chapter 15, Section 15.07 Subd. (D) of the Hastings City Ordinance, and that all of the information provided to the City of Hastings on this application, or as a part thereof, is true and accurate to the best of my knowledge.

D W NO
Signature of Applicant

8/29/19
Date

Dean W. Markuson, CEO
Foss and Swanson, Veterans
436 Tiffany Drive
Hastings, MN 55033
(651) 438-2208
deanrvnvvet@aol.com

City Code and Ordinances-Home Occupation
Caturia Funeral Home, 201, East 7th St.

All Home Residents in the Vicinity of 201 East 7th Street
Residents of the City of Hastings, MN

Dear Homeowners;

I have initiated a purchase agreement of 201 East 7th st, formerly known at Caturia Funeral Home, for utilization as a home residence and a commercial business. The City Code and Ordinances establish the laws and regulations for the City of Hastings, including Zone Ordinances and Sub-divisions Ordinances pertaining to the use of a residence (home), in conjunction with a home (commercial) business.

One of the conditions, is that the purchase agreement is subject to getting a special permit from the City of Hastings for use as a community center, with a museum (Military and City Historical Society). If such a permit is not granted, my purchase agreement will be come null and void and all earnest money will be refunded to the buyers (myself and spouse?)

Therefore, if you have any objections/disagreements with this proposed purchase and utilization, it is required of you, to hand-carry or mail, your objections/disagreement to me and the City of Hastings, Building/Code Enforcement, John Hinzman, 101 4th St E., Hastings, MN 55033. That's the law of the City Code and Zone Ordinance of be physically present of the called City Council meeting, that will consider this matter and take a vote to approve and/or disapprove.

A handwritten signature in black ink, consisting of a large, stylized loop on the left and a long, horizontal stroke extending to the right.