



To: City of Columbus City Council

From: Ben Gutknecht, Associate Planner

Date: June 3, 2021:

Revised June 9, 2021, per comments from City Council Agenda Packet Review.

RE: Muddy Paws Conditional Use Permit and Text Amendment Application

Background:

Muddy Paws is an existing canine boarding and grooming business located within the I-35 freeway corridor of the City of Columbus. The operation was first approved in May of 2012. The initial approval was through the means of an Interim Use Permit for the reuse of a non-conforming business, then at a later date the City Code was amended to include “Reuse of legal nonconforming businesses located within the CR District on May 3, 2003 for Commercial Boarding” as a means to further bring the use into compliance. The original IUP expires May 9, 2022 and a new owner proposes to take over the business. Due to the temporary nature of an interim use permit, and discussions regarding future uses within the freeway corridor, the applicant is applying for a Conditional Use Permit and a Zoning Ordinance Text Amendment to allow small animal boarding and to continue the use of the existing canine boarding and grooming business with the addition of cat boarding. The proposal includes changes to the floor plan with addition of cat boarding locations otherwise little to no change in the interior layout and minor aesthetic and site changes.

The Planning Commission approved the following Finding of Fact and Recommendations for consideration of Conditional Use Permit and Proposed Zoning Ordinance Text Amendment application for the continuation of a small animal boarding and grooming business by the City Council.

MUDDY PAWS ZONING ORDINANCE TEXT AMENDMENT

Findings of Fact

1. The City received a complete Zoning Ordinance Text Amendment application from Joseph Lefto (Muddy Paws) on May 7, 2021.
2. The 60-day review deadline is July 6, 2021.
3. The 120-day review deadline is September 4, 2021.
4. The applicant proposes to continue the existing use on the property, which consists of a dog boarding and grooming facility, in addition, applicant proposed to board cats as well.

5. The “Property” in question is a total of 2.79 gross acres, located 15120 West Freeway Dr. NE, legally described as That Part of the Northwest Quarter of the Southeast Quarter Lying Southerly of the North 846 feet Thereof and Lying Westerly of Westerly Right-of-Way Line of Interstate 35; Subject to Easement of Record, Anoka County Minnesota (PIN: 24-32-22-42-0009).
6. The property currently supports a commercial dog boarding and grooming businesses, initially approved via Interim Use Permit and a Zoning Ordinance Amendment, followed shortly after with an additional Zoning Ordinance Amendment to allow existing use with anticipated veterinary activity as a Conditional Use for future business changes that had not yet materialized prior to end of the initial Interim Use Permit term.
7. The Property is zoned Commercial Retail (CR), which only allows Domestic animal veterinary clinics with commercial boarding facilities as a conditional use. The applicant has requested that the CR District be amended to allow small animal boarding, grooming or day care, with ancillary veterinary care and/or retail sales of pet supplies.
8. The proposed zoning ordinance is consistent with the existing use of the property and consistent with the direction for a forthcoming Zoning Ordinance Amendment, however, the text amendment allows for an immediate fix to any inconsistencies in the interim.
9. The zoning ordinance text amendment public hearing was held by the Planning Commission on June 2, 2021.

Recommendations

1. The Planning Commission should adopt the above Findings of Fact and recommend approval of the zoning ordinance text amendment to Section 7A-763 of the City Code, allowing small animal boarding, grooming or day care, with ancillary veterinary care and/or retail sales of pet supplies in the CR district.

MUDDY PAWS CONDITIONAL USE PERMIT

Findings of Fact

1. The City received a complete Conditional Use Permit (CUP) application from Joseph Lefto (Muddy Paws) on May 7, 2021.
2. The 60-day review deadline is July 6, 2021.
3. The 120-day review deadline is September 4, 2021.
4. The “Property” in question is a total of 2.79 gross acres, located 15120 West Freeway Dr. NE, legally described as That Part of the Northwest Quarter of the Southeast Quarter Lying Southerly of the North 846 feet Thereof and Lying Westerly of Westerly Right-of-Way Line of Interstate 35; Subject to Easement of Record, Anoka County Minnesota (PIN: 24-32-22-42-0009)
5. The Property is zoned Commercial Retail (CR).
6. The neighboring Property directly to the north consists of a similar sized vacant parcel, the neighboring properties to the west/ southwest consist of a horse racing track and hotel. To the east of the Property is County Highway 54 and Interstate 35.

7. The property is currently used as commercial dog boarding and grooming business, previously approved via Interim Use Permit.
8. The Property currently consists of an existing six thousand (6,000 s.f.) square foot building with an attached three thousand (3,000 s.f.) square foot fenced dog run in the rear and a three hundred (300 s.f.) square foot dog run to the front. Additionally, the current site includes an unscreened dumpster and a Class V gravel parking area.
9. The applicant proposes to continue to use the Property as a commercial dog boarding and grooming business with the addition of boarding cats.
10. The applicant is applying for a Conditional Use Permit to be compliant with the intent of Section 7A-763 (C) and continue to be in compliance with the intent of the forthcoming Ordinance Amendment, which currently proposes this use as a Conditional Use going forward. Further it allows the applicant a permanent use permit to reflect the investment on the Property.
11. The applicant does not intend on altering the day-to-day operations of the current operations such as small animal daycare, boarding, and grooming.
12. The existing building contains an indoor play area, introduction area, 29 kennels and a grooming room.
13. In addition, there are two bathrooms, an equipment room, a break room, office, lounge, and reception area.
14. The applicant stated that the proposed cat boarding would be in its own enclosure, as reflected on the revised floor plan dated 05.28.2021.
15. Typical hours include drop offs and pickups occurring between 6:00 a.m. to 7:00 p.m.
16. The applicant does propose to change the exterior color to a neutral color to be more harmonious with neighboring businesses. Additionally, the applicant proposes to aesthetically alter exterior signage with improvements to design and logo.
17. Further, the applicant proposes to improve on the pet related retail offerings and clean and aesthetically alter the interior for both human and animal benefit.
18. In the future, the applicant proposes to partner with neighboring businesses to offer pet care services in conjunction with their business.
19. The Property is currently serviced via private well water and an on-site septic system. Further the building is heated by a geothermal system based off the private well.
20. The applicant has requested to continue the use of the private well for the geothermal system. Additionally, the applicant requests 36 months to hook up to public sewer and septic.
21. Section 7A-767 of the City Ordinance requires no use shall be approved in the CR district without connection to public utilities. Additionally, Section 14-305 requires sewer and water connection for all existing buildings that it is available to.
22. There are no proposed changes to the landscape plan.
23. There are 20 parking spaces indicated on the Site Plan located within the application packet dated 05.07.2021. This appears to be adequate based on the number of pet stations, size of dog grooming area, and reception/future retail area.
24. The parking area is currently non-conforming per City Ordinance Section 7A-812, which requires all access drives and required parking areas for all businesses, attached

residential dwellings, churches, and schools shall be surfaced with bituminous or concrete.

25. All dimensional standards for existing and proposed uses are met.
26. The Planning Commission held the required public hearing on the Muddy Paws application on June 2nd, 2021.

Recommendations

Based upon the above Finding of Fact and Planning Commission recommendation, the Muddy Paws CUP should be approved, subject to the following conditions:

1. Approval of the CUP is contingent upon recommendations and comments made by the City Engineer.
2. Approval of the CUP is contingent upon recommendations and comments made by the Fire Marshal/Fire Chief, Building Official and an annual fire department inspection.
3. Approval of the CUP is contingent upon recommendations and comments made by the City Attorney.
4. Approval of the CUP is contingent upon requirements by the Anoka County Highway Division.
5. Approval of the CUP is contingent upon requirements by Rice Creek Watershed District.
6. All dogs and cats allowed in day care or overnight care require up-to-date rabies and any other required vaccinations.
7. A maximum of sixty (60) total cats and dogs are allowed on premises for boarding, daycare, and grooming.
8. ~~A maximum of sixty (60) animals are allowed for boarding.~~
9. ~~A maximum of sixty (60) animals are allowed for daytime care.~~
10. The keeping of more than one dog or cat in an individual kennel is permitted for pets from the same owner, when requested by the pets' owner.
11. Dogs shall only be allowed out of doors in fenced-in areas and under employee supervision.
12. All boarding kennels shall be indoors.
13. The facility shall be structurally sound, maintained in good repair, and designed to protect the cats and dogs from injury and restrict the entrance of other animals.
14. Each cat and dog shall be provided with adequate floor space to allow such animal to turn about freely and easily stand, sit and lie in a comfortable and normal position.
15. Facility shall be sufficiently heated or cooled when necessary.
16. Outdoor facilities shall be constructed to provide shelter from excessive sun, rain, snow, wind, temperature, and other elements. It shall also be sufficient space to provide proper exercise and movement of each dog contained and enclosed by walls or fences sufficient to keep dogs within and prevent entrance of other animals.
17. The dogs and cats shall have access to clean water all times and be fed nutritious foods on a daily basis. Further, food and water shall be stored in sanitary conditions and contains sufficient to prevent pests or vermin infestation.

18. Dogs and cats shall be kept in safe clean conditions and treated a manner promoting the dogs' health and comfort.
19. Dog and cat excrement shall be removed from indoors and outdoors containment areas on a daily basis and disposed of in a manner consistent with approved solid waste disposal regulations.
20. Conduct of the business shall be consistent with the application and additional materials received and deemed complete by the City on May 7, 2021 and May 28, 2021.
21. A the dog and cat daycare and boarding facility may not house an animal, dog, or cat declared dangerous or potentially dangerous by any jurisdiction.
22. The dog and cat daycare and dog and cat boarding facility cannot rescue animals, dogs, or cats or house recused animals, dogs, or cats.
23. The applicant shall connect to public utilities as required per Section 14-305 no later than July 30, 2022, prior to September 30, 2021.
24. One handicapped accessible parking stall and sign shall be located on the Property.
25. The applicant shall bring their property access and parking lot into compliance per standards outlined in Section 7A-812. Due to this being a Conditional Use Permit for an existing use approved previously via Interim Use Permit, Planning Commission staff recommends the City Council allows the applicant until July 30, 2023, 12-24 months to complete the required improvements.
26. All site lighting shall be downcast and shrouded.
27. There are to be no chemicals, gasses, hazardous wastes, fumes, or odors including that of composting organic material, on the Property as a result of this business.
28. Any and all uses allowed in the CUP shall be constructed, maintained, and practiced consistent with all applicable federal, state, and local laws and regulations, including but not limited to air quality, water quality, noise standards, odor regulations, and proper animal boarding procedure.
29. The Applicant must maintain valid certification received from all relevant State of Minnesota regulatory agencies for all permitted uses on the property.
30. Approval of the Conditional Use permit does not absolve the applicant of any other permitting requirements such as Building, Watershed District, County, etc.
31. The applicant shall reimburse the City for all out-of-pocket expenses incurred in the review and issuance of the CUP and for all ongoing inspections and enforcement actions required for the CUP.
32. The CUP, once issued, may be revoked upon a finding by the City Council that the property and/or use is not in compliance with the conditions for approval of such use, following notice and hearing.
33. The IUP approved on May 9, 2012 for Jessica Evers on the Property is terminated upon approval of the CUP.
34. The applicant shall install the required dumpster enclosure as required by Section 7A-813 (C) no later than September 30, 2021.

Please do not hesitate to contact me should you have any questions.

Memorandum

To: City Council, City of Columbus

From: Jacob W. Steen

Date: June 7, 2021

Re: Thurnbeck Preserve Third Addition - Title Review
Our File #: 22274-04

We have reviewed the title commitment issued by Stewart Title Guarantee Company, dated April 19, 2021 (the “Commitment”), the preliminary plat dated September 12, 2019, and the final plat (the “Final Plat”), for Thurnbeck Preserve Third Addition prepared by E.G. Rud & Sons, Inc., land surveyor, submitted by Buy Back, Inc. (the “Applicant”). The purpose of this title review is to assure that the ownership and legal descriptions of the property to be platted as Thurnbeck Preserve Third Addition, Anoka County, Minnesota (the “Property”) are consistent with the City’s preliminary approval and the reports of various City offices and consultants, as well as to assure that there are no easements of record which conflict with any rights to be granted to the City of Columbus (the “City”).

1. Fee Title. As of the date of the Commitment, fee title to the Property is shown to be vested in Thurnbeck Family Limited Partnership, subject to the vendee’s interest of Buy Back, Inc., pursuant to a contract for deed. **If Thurnbeck Family Limited Partnership retains any interest in the Property when the Final Plat is signed, Thurnbeck Family Limited Partnership must execute the Final Plat. Alternatively, a deed from Thurnbeck Family Limited Partnership to Buy Back, Inc., a Minnesota corporation must be executed and recorded against the Property prior to recording the Final Plat.**
2. Legal Description. The legal description for the Property on the Final Plat does not match the legal description on the Commitment. The Final Plat references Section 11, Township 32, Range 22, whereas the Commitment references Section 11, Township 35, Range 22. **The discrepancy between the legal descriptions on the Final Plat and the Title Commitment must be reconciled prior to recording of the Final Plat.**
3. Tax Information. The Commitment states that at the time of the Commitment, the 1st half 2021 real estate taxes due May 15, 2021 had not been paid. **Any taxes, levied or pending special assessments, penalties and interest for the Property which are due**

and payable in 2021 must be paid prior to, or contemporaneously with, the recording of the Final Plat.

4. Mortgages. The Commitment states that there are no mortgages on the Property; however, the Final Plat identifies Premier Bank as signatory. If a mortgage with Premier Bank is in effect at the time of signing, this can remain. Otherwise, the signature block for Premier Bank should be removed.
5. Right-of-Way Dedications. The Final Plat identifies right-of-way dedications for Furman Street NE and a proposed street to be named 169th Avenue NE.
6. Development Agreement. The Final Plat approval is contingent on the execution of a development agreement with the City. **The development agreement must be signed by the Applicant prior to release and recording of the Final Plat.**
7. Reimbursement of Expenses. Applicant must reimburse the City for all expenses associated with plat review, processing, and approval (“Expenses”). **Applicant must reimburse the City for any outstanding Expenses incurred to date prior to release of the Final Plat.** Within 60 days of City approval, the City will prepare a final invoice (“Final Invoice”) to include any remaining un-reimbursed Expenses and any outstanding utility fees. The Final Invoice will be due upon receipt.

C-571

DEED

CLASS "A" LAND EXCHANGE

394891

Issued Pursuant to M.S.A., §§ 94.342 and 94.343

KNOW ALL MEN BY THESE PRESENTS, THAT

WHEREAS, The land hereinafter described is Class "A" land owned by the State of Minnesota, and the exchange thereof was unanimously approved by the Minnesota Land Exchange Commission on December 4, 1972, pursuant to the applicable provisions of the State Constitution and statutes, and JAMES R. SMITH and EDNA D. SMITH, husband and wife, having fully complied with all the terms and conditions of the proposal for exchange approved as aforesaid on their part to be performed, are now entitled to a conveyance of said land from the State;

NOW, THEREFORE, in consideration of the premises and pursuant to the statutes in such case made and provided, the State of Minnesota does hereby grant, bargain, sell and convey unto the said JAMES R. SMITH and EDNA D. SMITH, their heirs and assigns, Forever, the following described land situated in the County of Anoka, State of Minnesota, to wit:

The North two (2) rods of the West One Hundred Seventy (170) rods of Section Six (6), Township Thirty-two (32), Range Twenty-two (22).

Containing 2.1 acres more or less.

subject to the following:

- (1) Reservations to the State of Minnesota of all minerals and mineral rights and all water power rights on said land as provided by law;
- (2) Prior mineral reservations of record and roadways and easements of record;

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Notary
Robert
of Minn
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(3) M.S.A. § 110.13 where applicable.

Consideration includes the exchange of lands herein conveyed for the following described land in Anoka County, Minnesota:

The East four (4) rods of the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4), Section Thirty-one (31), Township Thirty-three (33), Range Twenty-two (22).

Containing two (2) acres more or less.

Excepting and reserving all minerals and mineral rights and subject to all easements, reservations, and restrictions of prior record.

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, unto the said JAMES R. SMITH and EDNA D. SMITH, their heirs and assigns, Forever.

IN TESTIMONY WHEREOF, The State of Minnesota has caused this conveyance to be executed in its name by the Commissioner of Natural Resources at the City of Saint Paul, County of Ramsey, and State of Minnesota, this 21 day of March, 1973.

STATE OF MINNESOTA

In Presence of

W. E. McDonald
[Signature]

[Signature]
ROBERT L. HERBST
Commissioner of Natural Resources

EXEMPT FROM STATE DEED TAX

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

On this 21 day of March, 1973, before me a Notary Public within and for said county, personally appeared Robert L. Herbst, Commissioner of Natural Resources of the State of Minnesota; to me known to be the person described and who executed the foregoing instrument and who acknowledged that he executed the same as the free act and deed of the State of Minnesota.

W. E. McDonald
Notary Public, Ramsey County, Minn.
My Commission Expires Aug 20, 1976

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Ag

LAW OFFICES
THORSON & BERG
A PROFESSIONAL ASSOCIATION
Suite One
9353 Jefferson Highway
Maple Grove, Minnesota 55369-4239

Steve O. Thorson
Jeffrey A. Berg

Telephone (612) 493-3999
Facsimile (612) 493-9055

October 21, 1994

MEMORANDUM

COPY

TO: Columbus Town Board of Supervisors
FROM: Steve Thorson
RE: Outlot A, HANKE'S ADDITION / Building Permit Application for DeWayne Eberhardt

HANKE'S ADDITION was allowed to be platted with Outlot A as part of the design of the plat. Current subdivision regulations for the township would not permit this design to occur. On first review, Outlot A appears to be a legal but nonconforming lot. DeWayne Eberhardt is the prospective purchaser of this property from Al Hanke. Mr. Eberhardt would like to purchase the property if he can obtain a building permit from the township. In order to obtain a building permit, he needs to demonstrate that he has proper access to the lot.

Proper access to the lot under current zoning regulations is either a fee title access (usually frontage on a public road) or a recorded access easement. The recorded access easement is acceptable if the easement provides access to only one dwelling. There is an access easement available to serve Outlot A, but it is owned by Shirley Cadman and it is used by Shirley Cadman as her access to her dwelling (approximately 1500 feet east of Outlot A). Please refer to the enclosed illustration. Between the Cadman property and Outlot A is a parcel owned by Yul Yost and another parcel owned by Mr. Lund. Mr. Yost has an easement over Ms. Cadman's access. If Outlot A is also granted an easement over Ms. Cadman's access, then there would be two properties "on the easement."

I have discussed the problem of proper access with both Mary Ann Hoyt and with Larry Brynestad, attorney for Mr. Eberhardt. A solution has come out of these discussions which will, in my opinion, not violate the spirit and intent of the current zoning regulations. The solution involves these thoughts:

1. There is no dwelling on the Yost parcel.
2. In terms of recorded public access, both the Lund parcel and the Yost parcel are served by the easterly extension of 182nd Lane (Docs. No. 725976 and 727725). The township has not actually constructed a proper road in the extension, but the recorded access exists. If a dwelling is ever constructed on the Yost parcel, it could, theoretically, be served by 182nd Lane.
3. If Ms. Cadman gives (sells) Mr. Eberhardt the westerly 1000 feet of her fee titled access strip, reserving an access easement over that same part, then:
 - a. Outlot A would have fee title access to a public road;
 - b. Outlot A would not be the second dwelling "on an easement":

- c. Ms. Cadman's dwelling would still have good access (the same access that she enjoys now, except that it would be titled differently);
- d. Ms. Cadman's dwelling would be the only dwelling on the easement; and
- e. Outlot A would have the access which is a prerequisite for obtaining a building permit.

I am recommending to you that you find this to be an acceptable solution to the access problem for Outlot A. If the property owners cannot obtain the township's consent to this arrangement, then they may be compelled to submit a cartway petition to obtain public access.

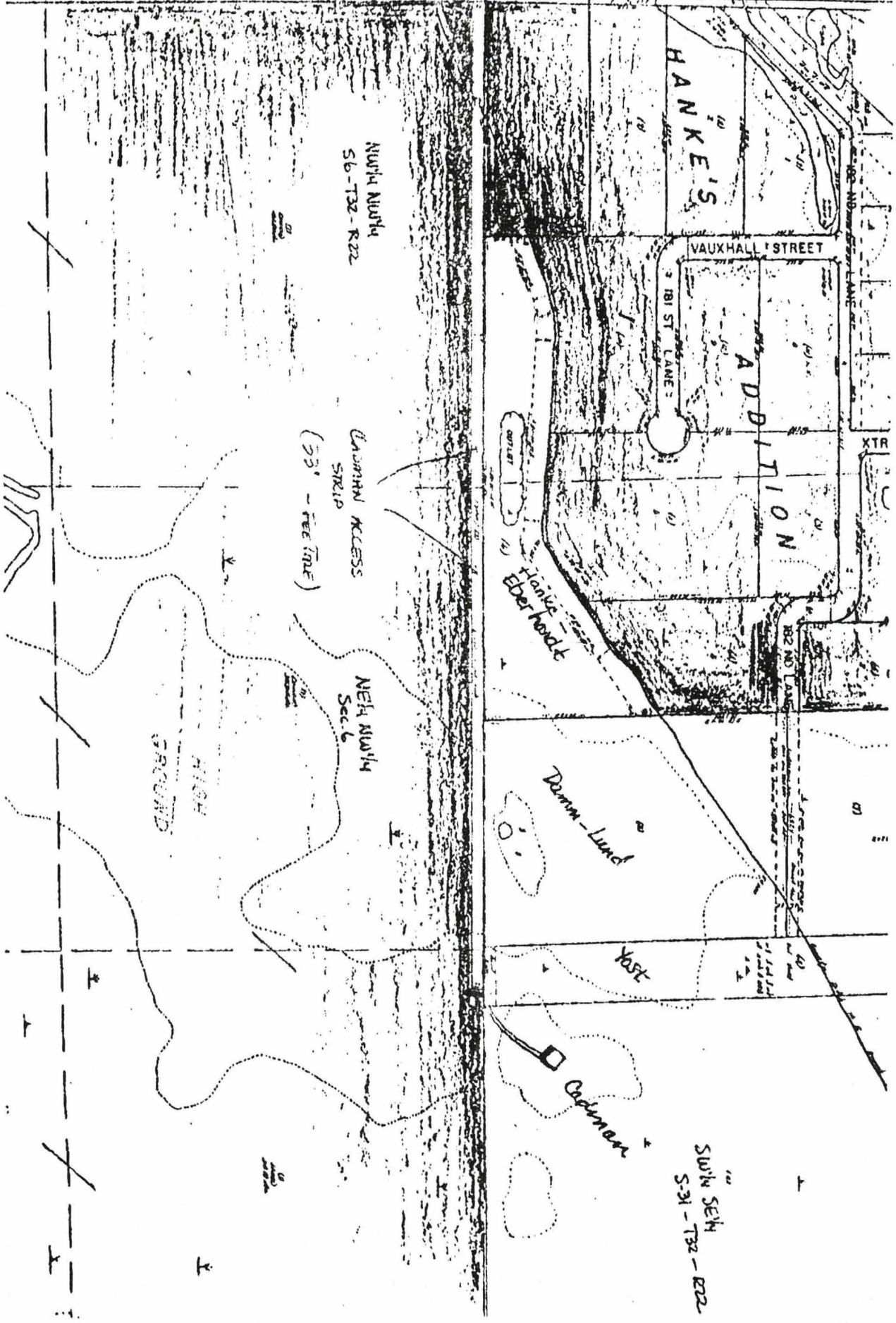
This memorandum has focused only on the access problem. I have not been requested to review other prerequisites for the building permit, e.g., Buildable Area requirements or wetlands impact, etc.



SGT:ms

pc: Mary Ann Hoyt, Town Manager and Zoning Administrator
Barbara A. Masteller, Town Clerk
Loren Q. Brynestad, Attorney for DeWayne Eberhardt

[108-9-1.]



END