

June 10, 2019

TO: Chairperson Carter, Planning Commission Members, & Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
SUBJECT: Existing Use at 961 Meridian Street South.

The use of property at 961 Meridian Street South (Outlot B Wildflower Ridge Second Addition) has historically been blended agricultural and commercial, including a ground lease for a telecommunications tower, storage of agricultural products & equipment, and trucking business. The blended use, except the tower, was to be discontinued by December 31, 2011.

The property is now for sale and questions pertaining to potential use of the property have arisen. The current property owner seeks clarification of use of the property so as to adequately represent the property for sale. The Planning Commission is asked to provide input and recommend a definitive and specific action as to a finding that the blended use nonconformance has sunset or how to define operational parameters of a nonconforming use.

Property use history:

- In 1998 the property was guided to highway commercial development transitioning to residential use. The property was annexed in 2002 and designated B-2 Highway Commercial District. The 2006 official zoning map illustrates the property as B-2 Highway Commercial. Trucking operations are not allowed in the B-2 District.
- The 2030 Comprehensive Plan (2008) guided the property to medium to high density residential use. The official zoning map was amended to be consistent with the guided use as required by the Metropolitan Land Planning Act. The property was rezoned to R-3 medium to high density residential development.
- The 2040 Comprehensive Plan continues to guide the property to medium to high density residential development.
- A local bank foreclosed on property and the bank now owns the property. Bank is listing property and requesting clarification of nonconforming use standard so as to define market.
- A residential dwelling was split from the subject parcel in 1996 prior to annexation. Since the principal dwelling was split from the parcel there is no principal structure on the subject site.



- As a condition of final plat approval for Wildflower Ridge Second the former property owner was to remove barns, sheds, silos, bins, and granaries located on the subject property by December 31, 2011. The plat was approved on March 4, 2002. The barns, sheds, silos, bins, and granaries were never removed from the property; operations may have expanded. The Council discussed compliance with removal standards at several worksessions in 2012 and 2014. Minutes from two worksessions are attached. No definitive action can be documented resulting from worksessions.

Options for consideration:

1. Find nonconforming status pertaining to agricultural and trucking use expired with plat approval. The City Attorney finds this to be a legally defensible position. This option prioritizes changing of use to planned use.
2. Define nonconforming use through resolution by limiting agri-business use based on limiting trucks (e.g. five total housed on site), prohibiting further expansion of operations/structures, and curtailing outdoor storage (e.g. requiring all storage occur indoors). The City Attorney finds this to be a legally defensible position. This option attempts to find a middle ground between prioritizing planned use and providing for continuation of existing use.
3. Define nonconforming use in a manner that would provide for trucking operation. This option prioritizes continuation of existing use over conversion to planned use.

Attachments:

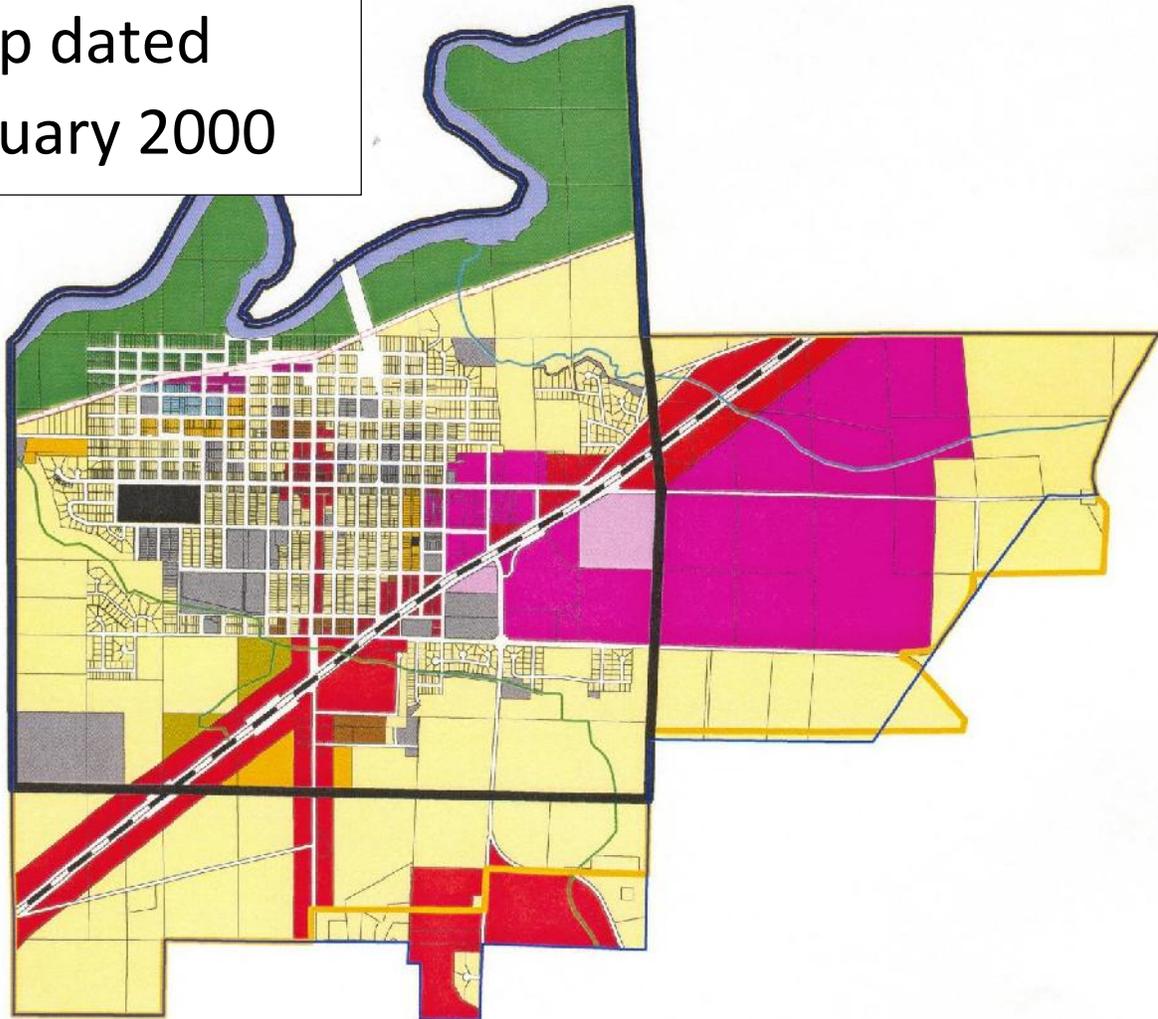
- 1998 planned land use
- 2006 official zoning map
- 2030 Comprehensive Plan future land use and 2040 Comprehensive Plan future land use
- Current official zoning map
- Resolution 02-021 approving final plat Wildflower Ridge, March 4, 2002 meeting minutes, and minutes from worksessions post deadline for removing site operational items.
- Ordinance 02-02 rezoning subject property to B-2 Highway Commercial (upon annexation)
- Historic aerial photos
- Information memo League of MN Cities – Nonconforming Uses

Request:

The Planning Commission is asked to review the potential approach to land use at the site and recommend an action to the City Council.

City of Belle Plaine Ultimate Land Use Plan

Map dated
January 2000



1 0 1 Mile

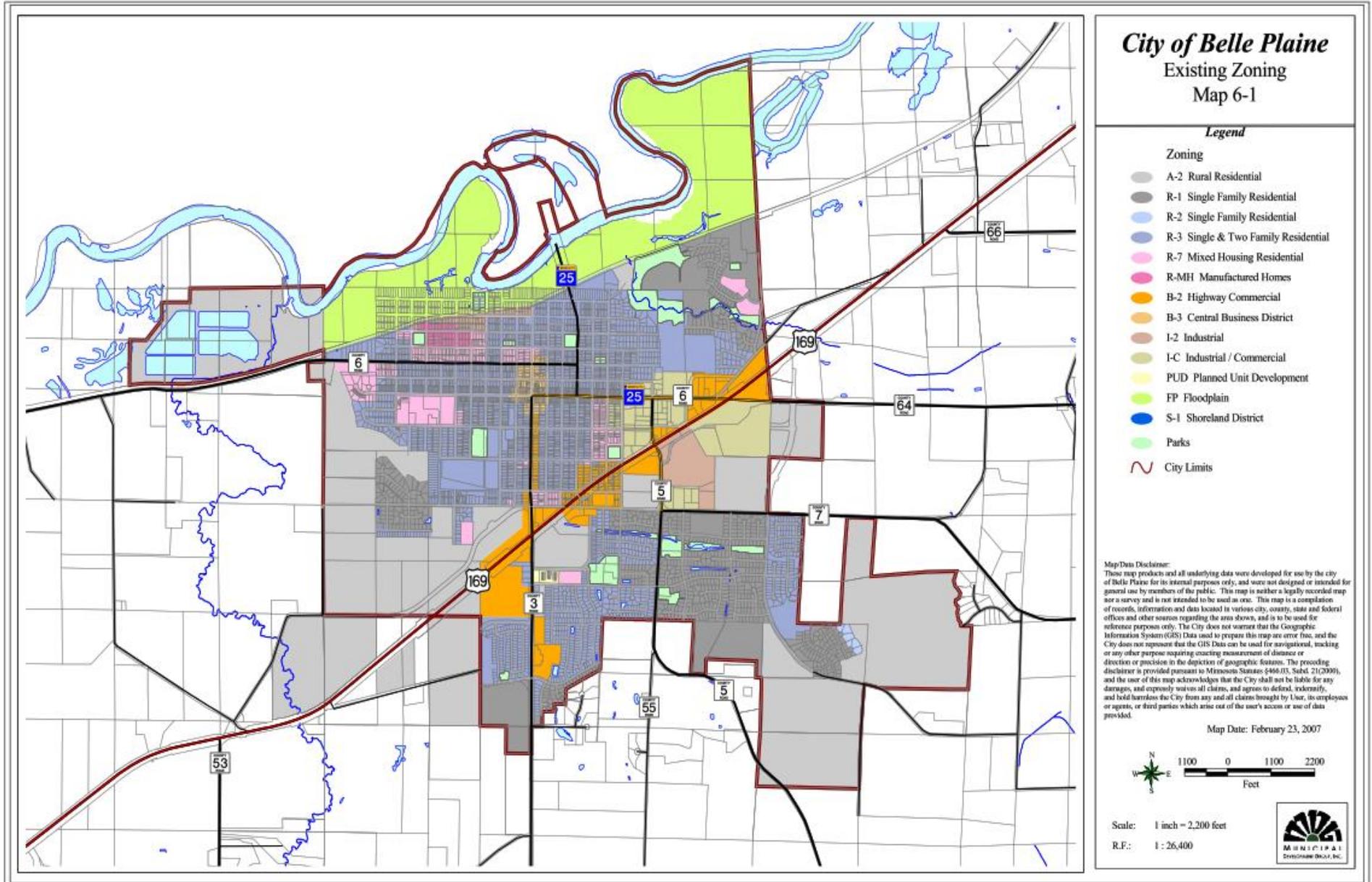
- | | | | |
|--|------------------------------|--|---------------------------------|
| | Brewery Creek | | Medium-High Density Residential |
| | South Creek Ravine | | High Density Residential |
| | Minnesota River | | Manufactured Housing |
| | Chicago Northwestern Railway | | Planned Unit Development |
| | Highway 169 | | Commercial |
| | City Limits | | Commercial-Industrial |
| | Proposed MUSA | | Industrial |
| | Orderly Annexation Line | | Flood Plain |
| | Low Density Residential | | Public Use |
| | Medium Density Residential | | |



Map not to scale

Prepared By: John Anderson, City Planner,
Belle Plaine, MN (January, 2000)

2006 OFFICIAL ZONING MAP



City of Belle Plaine Existing Zoning Map 6-1

Legend

- Zoning**
- A-2 Rural Residential
 - R-1 Single Family Residential
 - R-2 Single Family Residential
 - R-3 Single & Two Family Residential
 - R-7 Mixed Housing Residential
 - R-MH Manufactured Homes
 - B-2 Highway Commercial
 - B-3 Central Business District
 - I-2 Industrial
 - I-C Industrial / Commercial
 - PUD Planned Unit Development
 - FP Floodplain
 - S-1 Shoreland District
 - Parks
 - City Limits

Map/Date Disclaimer:
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Map Date: February 23, 2007



Scale: 1 inch = 2,200 feet

R.F.: 1 : 26,400



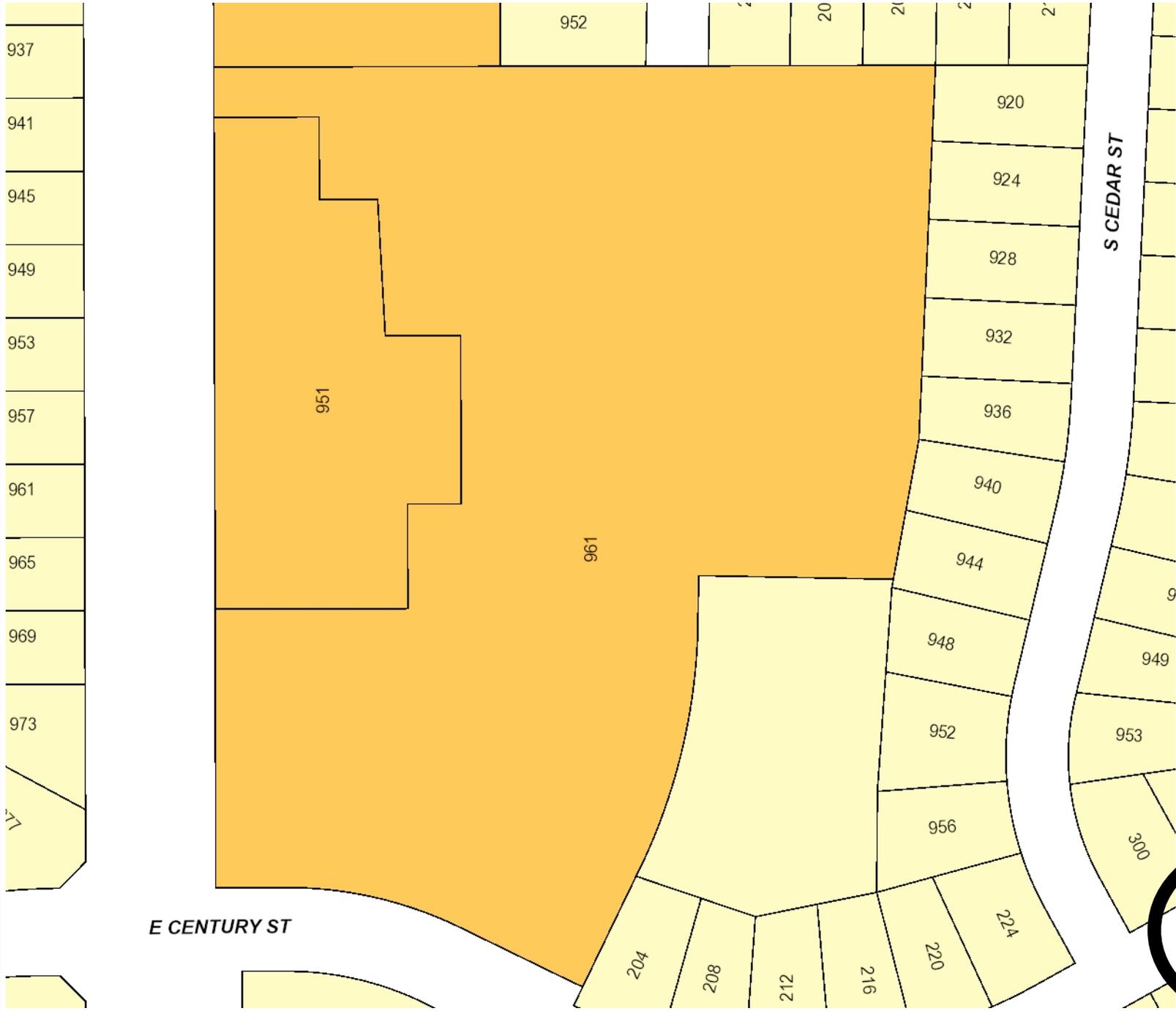
2030 PLANNED LAND USE





Legend

- City Limits
- MUSA 2040
- Parcels (5/7/2019)
- Lot Lines
- Minnesota River
- Protected Waters**
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse
- Future Land Use**
- SRF - Single Family
- MRF - Multi-Family Residential
- MUCR - Mixed Use Commercial/Residential
- COM - Commercial
- IND - Industrial
- MUIC - Mixed Use Industrial / Commercial
- PUB - Institutional
- PARK/OPEN SPACE
- FLOODPLAIN
- ROW



**2040 Planned
Land Use**

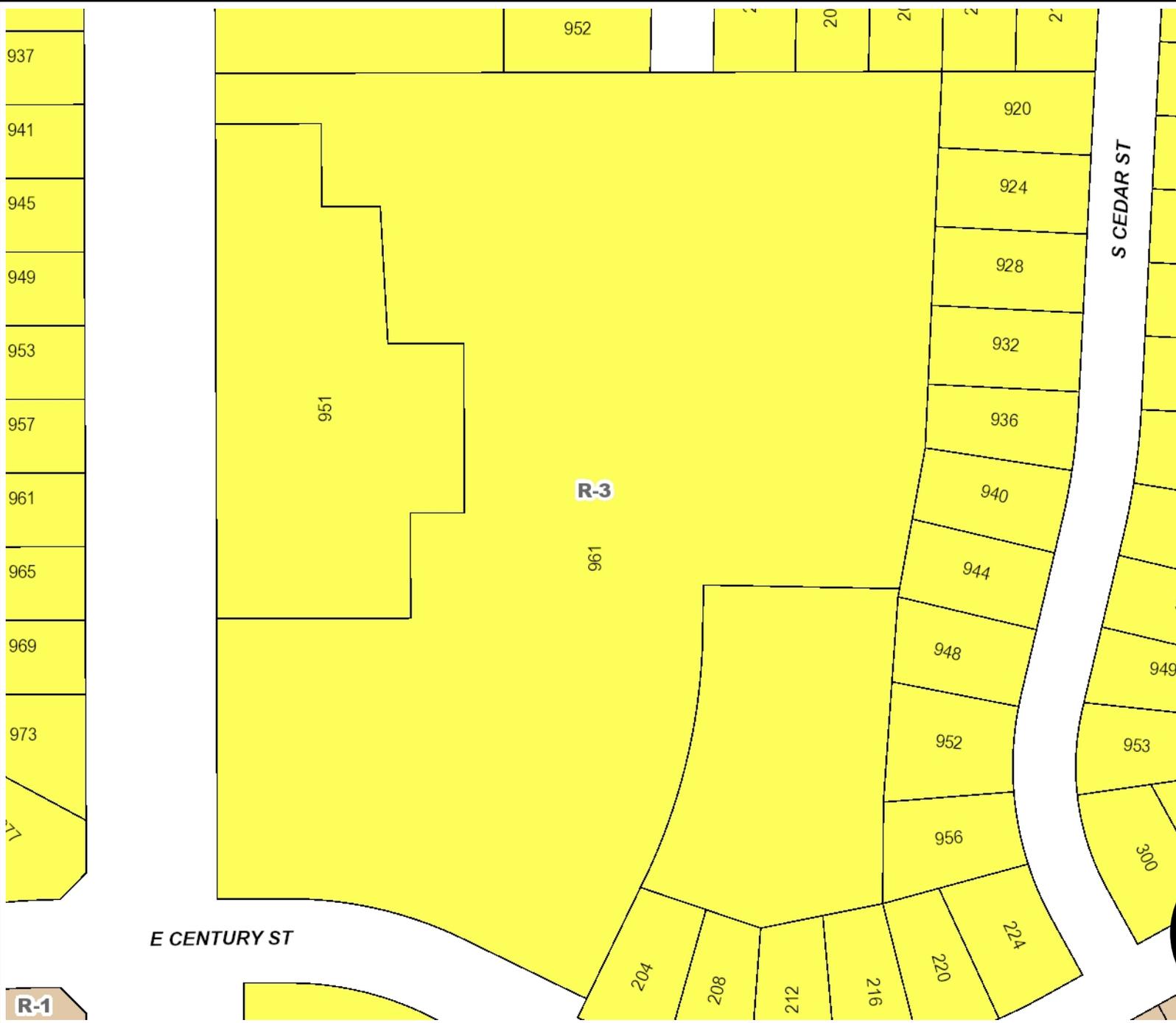


Disclaimer:
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Legend

- City Limits
- Parcels (5/7/2019)
- Lot Lines
- Minnesota River
- Protected Waters**
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse
- Zoning**
- Park
- A-2 Rural Residential
- R-1 Single Family - Low Density: (12,000 sf. minimum)
- R-2 Single Family - Low Density: (20,000 sf. minimum)
- R-3 Single and Two-Family - Low to Medium Density
- R-7 Mixed Housing - Medium to High Density
- R-MH Manufactured Housing
- B-2 Highway Commercial
- B-3 Central Business District
- I-2 General Industrial
- I-C Industrial/Commercial
- PUB Institutional
- PUD Planned Unit Development
- PUD Overlay
- FP Flood Plain
- S-1 Shoreland



Current zoning

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**BELLE PLAINE CITY COUNCIL
RESOLUTION 02-021**

**RESOLUTION GRANTING CONDITIONAL APPROVAL
OF A FINAL PLAT FOR WILDFLOWER RIDGE SUBDIVISION NO. 2**

WHEREAS, TDR, LLC, has requested approval of a final plat for the development of 77 lots which includes 61 residential lots to be zoned R-3, Single and Two Family; 14 residential lots to be zoned R-1, Single Family, and two commercial lots to be zoned B-2, Highway Commercial; and

WHEREAS, the proposed subdivision is legally described as:

Wildflower Ridge Second Addition

Part of Outlot B, Prairiehills, part of Outlot A, Prairiehills Second, and part of the Southwest Quarter of Section 7, Township 113 North, Range 24 West, all in Scott County, Minnesota described as: Beginning at the Northwest Corner of said Outlot B; thence South 88 degrees 37 minutes 14 seconds East (bearings based on Wildflower Ridge Subdivision No. 1) on the North line of said Outlot B, 1062.98 feet to the Northwest corner of Wildflower Ridge Subdivision No. 1; thence South 03 degrees 11 minutes 19 seconds West, on the West line of Wildflower Ridge Subdivision No. 1, a distance of 1325.54 feet; thence South 28 degrees 41 minutes 52 seconds East, on said West line, 262.40 feet to the southerly line of Outlot B, Prairiehills; thence South 61 degrees 18 minutes 08 seconds West on said southerly line, 342.89 feet to the Northeast Corner of Outlot A, Prairiehills Second; thence South 02 degrees 55 minutes 47 seconds West on the East line of said Outlot A, 365.00 feet to the Southeast Corner of said Outlot A; thence North 89 degrees 27 minutes 55 seconds West on the South line of said Outlot A, 279.91 feet to the Southwest Corner of said Outlot A; thence North 30 degrees 19 minutes 00 seconds West, 261.75 feet; thence North 10 degrees 15 minutes 34 seconds East, 236.11 feet; thence westerly 137.39 feet on a 560.00 foot radius nontangential curve to the right having a central angle of 14 degrees 03 minutes 24 seconds and a 137.04 foot chord which bears North 70 degrees 51 minutes 26 seconds West; thence North 63 degrees 49 minutes 44 seconds West tangent to said curve, 113.43 feet; thence westerly 136.11 feet on a 300.00 foot radius tangential curve to the left, having a central angle of 25 degrees 59 minutes 43 seconds; thence North 89 degrees 49 minutes 27 seconds West tangent to said curve, 67.55 feet to the West line of said Outlot B; thence North 00 degrees 10 minutes 33 seconds East on said West line, 346.34 feet; thence South 89 degrees 49 minutes 27 seconds East, 185.00 feet; thence North 00 degrees 10 minutes 33 seconds East, 100.00 feet; thence South 89 degrees 49 minutes 27 seconds East, 51.38 feet; thence North 00 degrees 10 minutes 33 seconds East, 161.00 feet; thence North 89 degrees 49 minutes 27 seconds West, 72.38 feet; thence North 02 degrees 54 minutes 27 seconds West, 130.19 feet; thence North 89 degrees 49 minutes 27 seconds West, 56.00 feet; thence North 00 degrees 10 minutes 33 seconds East, 79.00 feet; thence North 89 degrees 49 minutes 27 seconds West, 101.00 feet to the West line of said Outlot B; thence North 00 degrees 10 minutes 33 seconds East on said West line, 705.25 feet to the point of beginning.

WHEREAS, the Planning and Zoning Commission and City Council conducted public hearings on the preliminary plat on December 12, 2001 and December 16, 2001, respectively, following mailed and published notice; and

WHEREAS, the City Council has reviewed the plat as it relates to the City's Subdivision Ordinance.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: The Final Plat of Wildflower Ridge Subdivision No. 2 is hereby approved contingent upon the following:

1. That the agricultural storage facilities, including, but not limited to, barns, sheds, silos, bins, granaries, located on the Roger/Brad Stier farmsite are removed no later than December 31, 2011.
2. The final grading plan, which indicates the course of storm water overflow, shall be approved by the Public Works Department and City Engineer.
3. The utility plan shall be approved by the Public Works Department and City Engineer.
4. Pad elevations shall be approved on the final grading plan and the Developer agrees to disclose to any potential buyer(s) the required pad elevations in accordance with the City's Subdivision Ordinance.
5. The developer shall indicate if the property is torrens or abstract property.
6. A fee-in-lieu of park land be paid in the amount listed on the City's annual fee schedule at the time the Developer's Agreement is executed.
7. Century Street be paved at a minimum width of forty (40) feet, as it will serve as an east-west collector street.
8. Incorporation of comments by the Scott County Highway Department.
9. Cul-de-sacs be placed at all truncated roadways.
10. Review of water and sewer plat is completed by Fire Chief and City Engineer
11. That the conditions are met by the developer described in the enclosed memo prepared by the City Engineer.
12. That the lots beyond Century Street to the south are to be zoned R-1.
13. Accesses off Century Street are limited or eliminated where possible.
14. Right of way be increased to 80 feet at the intersection of County Highway 3 and Century Street with turn lanes constructed.
15. Filing of a mylar copy of the plat, as approved by the City, with the County Recorder 90 days after approval of the plat by the City Council.
16. Furnishing of a complete set of as-built construction drawings for public improvements to the City within 120 days after construction is complete and approved by the City.
17. Furnishing of a disk of the recorded plat in Autocadd format for inclusion in the City's base map.
18. Execution of a developer's agreement between TDR, LLC and the City of Belle Plaine.
19. Access to Lot 3, Block 1, must be from South Chestnut Street and access from County Road 3 will be prohibited.

Adopted by the City Council of the City of Belle Plaine, Scott County, Minnesota, this 4th day of March, 2002.

Maynard Harms
Mayor

Motion by: Trost
Second by: Spalding

ATTEST:

Holly J. Kreft
Interim City Administrator

Spalding: Aye
O'Brien: Aye
Trost: Aye
Tikalsky: Aye
Lange: Not Present
Harms: Aye

Community Services Director Nelson Ladd was not present.

The Council acknowledged receipt of the Community Services report.

C. Community Development Department.

Community Development Director Holly Kreft was present and provided an update on the E-H Partners bankruptcy process. She stated the assets remaining in the Excelsior-Henderson building will be removed starting on March 5, 2002 and it is anticipated that Ryan Companies will take possession of the building in the near future.

The Council acknowledged receipt of the Community Development report.

D. City Administration Department.

Interim City Administrator Holly Kreft informed the Council that there will be an additional charge from S.E.H. Engineering to complete the Public Facilities Authority application for funding.

The Council acknowledged receipt of the City Administration report.

E. Engineer Report.

City Engineer Joe Duncan was present.

The Council acknowledged receipt of the Engineer report.

V. PUBLIC HEARINGS.

A. ANNEXATION OF LAND FROM BELLE PLAINE TOWNSHIP FOR WILDFLOWER RIDGE NO. 2. The City Council will accept input on a request by Roger Stier and TDR, LLC, for annexation of approximately 43 acres from Belle Plaine Township for the purpose of a residential subdivision. The proposed area is adjacent to the east side of County Road 3 and west of Wildflower Ridge No. 1.

Mayor Harms referenced a memo from City Planner Rew dated March 4, 2002 regarding the request for approval of the annexation and final plat for Wildflower Ridge No. 2 from TDR, LLC and Roger Stier.

City Planner Rew provided an overview of the annexation which involves 42.76 acres currently located in Belle Plaine Township and includes the Roger and Brad Stier farm. The final plat for Wildflower Ridge No. 2 indicates 77 lots. The home of Brad Stier is not included in the plat. The zoning includes R-1, single family, for 14 lots south of Century Street, R-3, single and two-family for 61 lots, and B-2, highway commercial, for two lots. City Planner Rew explained Roger Stier has requested the farm buildings allowed to remain for a minimum of ten years.

Mayor Harms opened the public hearing at 7:24 p.m. and asked for public comment.

Tom Gonyea, developer, TDR, LLC, was present and requested approval of the annexation, final plat and final rezone.

Public Works Superintendent Krick stated the City has received complaints from adjacent residents about the noise and dust generated from the operation of Roger Stier's grain bins and recommended the farming operation cease sooner than ten years.

MOTION by Councilmember Trost, second by Councilmember Spalding, to close the public hearing at 7:26 p.m. ALL VOTED AYE. MOTION CARRIED.

The Council reviewed the annexation area and the final plat.

1. Resolution 02-020 Approval of Annexation of Land from Belle Plaine Township for Wildflower Ridge No. 2.

MOTION by Councilmember Trost, second by Councilmember Spalding, to approve Resolution 02-020 Approval of Annexation of Land from Belle Plaine Township for Wildflower Ridge No. 2. ALL VOTED AYE. MOTION CARRIED.

2. Resolution 02-021 Granting Approval of the Final Plat for Wildflower Ridge No. 2.

MOTION by Councilmember Trost, second by Councilmember Spalding, to approve Resolution 02-021 Granting Approval of the Final Plat for Wildflower Ridge No. 2. ALL VOTED AYE. MOTION CARRIED.

3. Second and Final Reading, Ordinance 02-02, Amending the Zoning Ordinance by Amending the Official Zoning Map to Rezone Property from A-2, Agricultural Transition, to R-3, Single and Two Family District, R-1, Single Family, and B-2, Highway Commercial.

MOTION by Councilmember Spalding, second by Councilmember Trost, to approve Second and Final Reading, Ordinance 02-02, Amending the Zoning Ordinance by Amending the Official Zoning Map to Rezone Property from A-2, Agricultural Transition, to R-3, Single and Two Family District, R-1, Single Family, and B-2, Highway Commercial. ALL VOTED AYE. MOTION CARRIED.

VI. BUSINESS.

A. Presentation of Claims.

1. Pay Request No. 2 to Ceres Environmental for \$87,436.10 for Dike Construction.

MOTION by Councilmember Trost, second by Councilmember Spalding, to approve the Presentation of Claims and Pay Request No. 2 to Ceres Environmental for \$87,436.10 for Dike Construction. ALL VOTED AYE. MOTION CARRIED.

B. Resolution 02-029 Providing for the Sale of \$985,000 G.O. Improvement and Water Revenue Refunding Bonds, Series 2002A.

1. Mark Ruff, Financial Advisor, Ehlers and Associates.

Mayor Harms referenced a memo dated March 4, 2002 from Finance Director Meyer regarding the proposed \$985,000 General Obligation Improvement and Water Revenue Refunding Bonds, Series 2002A.

Mayor Harms welcomed Mark Ruff, Financial Advisor, Ehlers and Associates.

Mr. Ruff provided a brief overview of the proposed bond sale, scheduled for March 18, 2002. His report was included in the Council's packet.

MOTION by Councilmember O'Brien, second by Councilmember Spalding, to approve Resolution 02-029 Providing for the Sale of \$985,000 G.O. Improvement and Water Revenue Refunding Bonds, Series 2002A. ALL VOTED AYE. MOTION CARRIED.

C. 2002 Improvement Project.

1. Resolution 02-025 Approving Plans and Specifications and Ordering Advertisement for Bids for the 2002 Improvement Project.

It was the consensus to have Staff prepare a list of the necessary steps in the CSAH 3 area bridge project. This issue will be added to an upcoming council work session. City Attorney Vose advised that he would prepare a response to the property owners adjacent to the project area.

3.4. Update on Episcopalian Church – Scott County Historical Society Lease Agreement.

Interim City Administrator Meyer explained that at their meeting on June 18, 2014 the Episcopalian Church Restoration Committee made a recommendation to the City Council to consider terminating the 99-year lease agreement with the Scott County Historical Society. If the City Council is interested in terminating the lease agreement, it is appropriate to authorize staff work with the City Attorney regarding this issue.

Councilmember Coop, a member of the Episcopalian Church Restoration Committee, explained the City has been successful in recent grant awards to restore the Church. He recommended the City terminate the lease with the Scott County Historical Society.

It was the consensus of the Council to direct Staff to proceed with the termination of the lease with Scott County Historical Society. City Attorney Vose explained the Scott County Historical Society had sent a letter in 2006 indicating their desire to withdraw from the 99-lease agreement. The City's response will be to acknowledge termination of the lease agreement with the Scott County Historical Society.

3.5. Discussion on Stier Farm Operation.

Mayor Pingalore requested this issue be discussed. He submitted photos of debris within the neighborhood caused by the nearby Stier Farm operation and described the corn stalks and leaves that are generated from the farm activities. Councilmember Trost commented the City Council took action to have the farming operation cease previously and asked that Staff provide the Council with the letter that was directed to be sent by the Community Development Director. Councilmember Chard noted that there is a farming operation and also a trucking operation. City Attorney Vose commented that a trucking operation can be identified as a violation of the Zoning Ordinance and that a conditional use permit would be necessary to allow the business to operate. Councilmember Coop inquired as to what is the real issue. He commented that no action should be taken until a complaint is received from a resident.

It was the consensus of the Council to have Staff forward a copy of the letter sent to Roger Stier in 2012 from the Community Development Director regarding the request to cease farming operations. This issue will be placed on a future work session agenda for further discussion.

3.6. Compensation Study.

Mayor Pingalore recommended an employee compensation study be ordered. He referenced the recent hiring process for the City Administrator position and believes a compensation study would help determine the appropriate wages for city staff. Councilmembers Trost and Chard were opposed. Councilmember Coop suggested the compensation study include the household average income in an effort to compare salaries of neighboring cities. In reference to Councilmember Schneider's absence, Mayor Pinglaore asked that this issue be placed on a future work session agenda when the full council is present.

4. ADJOURN.

MOTION by Councilmember Coop, second by Councilmember Chard, to adjourn at 9:30 p.m. ALL VOTED AYE. MOTION CARRIED.

Respectfully submitted,

Patricia Krings
Recording Secretary

BELLE PLAINE CITY COUNCIL
WORK SESSION
SEPTEMBER 2, 2014

1. CALL TO ORDER. 1.1. Roll Call.

The Belle Plaine City Council met in a work session on Tuesday, September 2, 2014 at 7:05 p.m. in the council chambers of City Hall, 218 North Meridian Street, Belle Plaine, MN. Mayor Michael Pingalore called the meeting to order with Councilmembers Gary Trost, Cary Coop, Paul Chard and Scott Schneider present.

Also present were City Administrator Holly Kreft, Finance Director Dawn Meyer, Community Development Director Chelsea Alger, Police Chief Tom Stolee and City Attorney Bob Vose.

2. APPROVAL OF AGENDA.

MOTION by Councilmember Coop, second by Councilmember Schneider, to approve the agenda and to accept Councilmember Trost's request to add "Comments by Councilmember Trost." ALL VOTED AYE. MOTION CARRIED.

3. DISCUSSION ITEMS.

3.1. Stier Trucking Business.

Community Development Director Alger explained that concern has been expressed over the accumulation of corn stalks and leaves on residential properties in the Wildflower Ridge Subdivision, generated by the adjacent Stier Farm operation. At Mayor Pingalore's request, this issue was discussed at a previous workshop. He submitted photos of debris within the neighborhood showing the accumulation of materials. It was noted at the workshop by Councilmember Chard that, along with the farming operation, there is also a trucking operation. Councilmember Coop commented that no action should be taken until a complaint is received from a resident. Councilmember Trost commented the City Council took action to have the farming operation cease previously and asked that Staff provide the Council with the letter that was directed to be sent by the Community Development Director at the time. Finance Director Meyer subsequently provided the Council members with the letter sent to the Stiers from then Community Development Director Rosenfeld. No further direction was provided at that time. Subsequent to the workshop, Mayor Pingalore has been contacted by local residents inquiring as to the status of the farm operations and outcome of the discussion from the previous workshop. As such, the following updates have been prepared and Staff is asking for Council's direction on any desired next steps in the process.

City Attorney Vose reviewed the matter relating to the conditions of approval for the final plat of Wildflower Ridge and provides the following feedback:

State law and relevant provisions of the City Code, Sections 1102.01- 1102.03, indicate that a "use," such as a farming operation, legally established under applicable law at the time of establishment may be continued despite subsequent zoning changes that would prohibit such use. Such uses are legal nonconforming or "grandfathered." The Stier farm operation was legal when established; so the farm is "grandfathered" even though the land was rezoned residential some years ago. When the owner sought to subdivide a portion of the Stier farm property, the City sought to eliminate the grandfathered farming use, by conditioning approval of the plat on removal of the farm by the end of 2011. Resolution 02-021 dated March 4, 2002 states: "*That the agricultural storage facilities, including, but not limited to, barns, sheds, silos, bins, granaries, located on the Roger/Brad Stier farm site are removed no later than December 31, 2011.*" Read literally, this condition would mean that the City's approval of the final plat was not effective if the farm remained as of 2012. But the plat was filed/recorded in 2002 or 2003 and lot buyers have relied on the approved subdivision since. Therefore, the City cannot reasonably take the position that the failure

to comply with this condition renders the recorded plat and land subdivision ineffective. There is no law or court decision supporting this view. The City could consider other possible approaches to enforce this condition such as arguing that the resolution and recorded plat formed a contract or a quasi-contract. By failing to comply, the owner has breached such "contract." There may be other arguments.

Expansion of nonconforming uses: Regardless of the aforementioned condition of plat approval, under applicable law, legal nonconforming (grandfathered) uses may not be expanded without City approval. Generally, it appears that the Code refers to an expansion as a use that is "enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except in compliance with this section" (*Zoning Ordinance, Sec. 1102.01*). A person seeking expansion must obtain City approval in the form of either a variance or an expansion permit depending on the nature of the requested expansion (*Zoning Ordinance Secs. 1102.02 and .03*).

Community Development Director Alger further explained that if the trucking operation has been added as part of the farm operations since the use became legal nonconforming, this portion of the operation would be considered new or an expansion of the use; and if the new or expanded use is not permitted by the Zoning Ordinance, it is not "grandfathered." It is simply a new use that violates the Zoning Ordinance and is therefore illegal. As such, the owner would need to take the necessary steps to bring the property into compliance, either in ceasing the violating operations or, if applicable, receiving necessary approvals for operating an expanded nonconforming use. If the City is unable to determine what particular operations of the use existed prior to rezoning the property to R-3 (the time in which it became legal nonconforming) it may be difficult to determine whether an expansion of the use has occurred. Regardless, the accumulation of materials from the farming operations being deposited onto neighboring properties could potentially be considered a violation of the Nuisance Ordinance and the City could seek to enforce its Code regarding any such activity. The typical approach is to send notice to the property owner identifying the violation and providing the property owner a reasonable period of time in which to comply. In the event the owner does not comply, the City could cite the violator for a Code violation and then prosecute if the activity does not cease.

City Attorney Vose explained the City endeavored to remove the Stier farming operations at the time of the platting of the Wildflower Ridge subdivision, however, the City had approved the final plat and it would be difficult now to require the farming operation to cease. However, new uses are not included, therefore the City can require the Stier Trucking business to cease if it was not existing at the time of the filing of the plat. The farming debris spreading onto residential properties can be considered a nuisance and is in violation of the City ordinances. Councilmember Trost commented that the grain dryers were not existing at the time of the platting process. Councilmember Chard commented that it was a mistake to approve the Wildflower Ridge subdivision with the existing farming operation. Mayor Pingalore suggested the Mr. Roger Stier be contacted about the nuisance. Councilmember Schneider inquired as to how many complaints the City has received. Community Development Director Alger replied that she is aware of only the issue brought forward by Mayor Pingalore. Mayor Pingalore explained that a resident had complained to him. Councilmember Schneider suggested the complainant go through the normal procedure. Mayor Pingalore concluded that he will contact the complainant and advise him to submit a formal complaint by writing a letter or contacting City Staff directly. Upon receipt, City Staff will contact Mr. Stier to address the nuisance complaint.

3.2. Marketing the City's Vacant Parcel Adjacent to Public Works Facility.

Mayor Pingalore referenced a memo dated September 2, 2014 from Community Development Director Alger regarding the marketing of the City's vacant parcel.

Community Development Director Alger explained that in 2008, the City of Belle Plaine purchased industrial property from two separate owners; comprising slightly over 6-acres in the northeast corner of Laredo St and South St (west of the Public Works facility) for a total cost of just over \$1 million. The purpose of the purchase was for a future Public Works site; however subsequent to this time the adjacent

**CITY OF BELLE PLAINE
SECOND AND FINAL READING ORDINANCE 02-02**

**AN ORDINANCE AMENDING THE OFFICIAL BELLE PLAINE ZONING
MAP BY REZONING PROPERTY DESCRIBED AS WILDFLOWER RIDGE SUBDIVISION NO. 2 FROM
A-2 AGRICULTURAL TRANSITIONAL TO R-3 SINGLE AND TWO-FAMILY DISTRICT, R-1, SINGLE
FAMILY FOR LOTS SOUTH OF CENTURY STREET, AND B-2, HIGHWAY COMMERCIAL
FOR LOT 3, BLOCK 1 AND OUTLOT B.**

Pursuant to a request submitted by TDR, LLC and Roger and Marie Stier, and public hearings on December 12, 2001 and December 17, 2001 by the Planning and Zoning Commission and City Council, respectively, following published and mailed notice; and

Pursuant to the property legally described as:

Part of Outlot B, Prairiehills, part of Outlot A, Prairiehills Second, and part of the Southwest Quarter of Section 7, Township 113 North, Range 24 West, all in Scott County, Minnesota described as: Beginning at the Northwest Corner of said Outlot B; thence South 88 degree 37 minutes 14 seconds East (bearings based on Wildflower Ridge Subdivision No. 1) on the North line of said Outlot B, 1062.98 feet to the Northwest corner of Wildflower Ridge Subdivision No. 1; thence South 03 degrees 11 minutes 19 seconds West, on the West line of Wildflower Ridge Subdivision No. 1. a distance of 1325.54 feet; thence South 28 degrees 41 minutes 52 seconds East, on said West line, 262.40 feet to the southerly line of Outlot B, Prairiehills; thence South 61 degrees 18 minutes 08 seconds West on said southerly line, 342.89 feet to the Northeast Corner of Outlot A, Prairiehills Second; thence South 02 degrees 55 minutes 47 seconds West on the West on the East line of said Outlot A, 365.00 feet to the Southeast Corner of said Outlot A; thence North 89 degrees 27 minutes 55 seconds West on the South line of said Outlot A, 279.91 feet to the Southwest Corner of said Outlot A; thence North 30 degrees 16 minutes 57 seconds West, 391.65 feet; thence North 10 degrees 39 minutes 30 seconds East. 143.61 feet; thence North 63 degrees 49 minutes 44 seconds West, 167.59 feet to the point of curvature of a 300.00 foot radius curve to the left, having a central angle of 25 degrees 59 minutes 43 seconds; thence easterly on said curve, 136.11 feet; thence North 89 degrees 49 minutes 27 seconds West tangent to said curve, 67.55 feet to the West line of said Outlot B; thence North 00 degrees 10 minutes 33 seconds East on said West line, 346.34 feet; thence North 89 degrees 49 minutes 27 seconds West 50.00 feet to the West line of the Southwest Quarter; thence North 00 degrees 10 minutes 33 seconds East on said West line 470.00 feet; thence South 89 degrees 49 minutes 27 seconds East, 50.00 feet to the West line of said Outlot B; thence North 00 degrees 10 minutes 33 seconds East, 705.25 feet to the point of beginning. Said parcel contains 43.13 acres of land being subject to and together with any and all easements of records.

Pursuant to the First Reading of the ordinance rezoning the property on December 17, 2001 and the second and final reading on March 4, 2002.

THE CITY COUNCIL OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA HEREBY DOES ORDAIN AS FOLLOWS:

Section 1. That the official Zoning Map adopted March 7, 1988, be hereby amended to rezone property known as Wildflower Ridge Subdivision No. 2 from A-2, Agricultural Transitional to:

1. R-1, Single Family Residential, for lots south of Century Street.
2. B-2, Highway Commercial for Lot 3, Block 1 and Outlot B.
3. R-3, Single and Two-Family Residential, for all remaining property.

Section 2. This Ordinance shall take effect upon:

1. Approval of the Final Plat.
2. Publication in the official newspaper of the City of Belle Plaine.

Ordained by the City Council of the City of Belle Plaine, Scott County, Minnesota, this 4th day of March, 2002.

Maynard Harms
Mayor

Motion by: Spalding
Second by: Trost

ATTEST:

Holly J. Kreft
Interim City Administrator

Spalding: Aye
O'Brien: Aye
Trost: Aye
Tikalsky: Aye
Lange: Not Present
Harms: Aye

Published in the BP Herald on 3/13/02



Legend

- City Limits
- Parcels (5/7/2019)
- Lot Lines
- Minnesota River
- Protected Waters
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse
- Boundary
- Footprint
- Image**
- Red: Red
- Green: Green
- Blue: Blue

2018 Aerial



Disclaimer:
 This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Belle Plaine is not responsible for any inaccuracies herein contained.





Legend

- City Limits
- Parcels (5/7/2019)
- Lot Lines
- Minnesota River
- Protected Waters
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse

2016 Aerial



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Legend

- City Limits
- Parcels (5/7/2019)
- Lot Lines
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2015 Aerial



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0 132 Feet





INFORMATION MEMO

Land Use Nonconformities

Learn what the city can and cannot do about land uses, structures or lots that do not comply with the city's current zoning ordinance. Read about statutory restrictions and the city's role in administering nonconforming uses.

RELEVANT LINKS:

[Minn. Stat. § 462.357 subd. 1e\(c\).](#)

See MNDNR web page, [National Flood Insurance Program.](#)

I. Nonconformities

Nonconformities are simply any land uses, structures or lots that do not comply with the current zoning ordinance of a city.

A. Legal nonconformities

Legal nonconformities are those that were legal when the zoning ordinance or amendment was adopted, in that they complied with then existing ordinance and law. Legal nonconformities generally have a statutory right to continue. The rights of legal nonconformities are often referred to as grandfather rights.

B. Illegal nonconformities

Illegal nonconformities are those that were not permitted when established. In contrast to legal nonconformities, illegal nonconformities do not have the rights associated with legal nonconformities. Illegal nonconformities may exist because a prior zoning ordinance was not enforced as written. Failure by the city to enforce a prior zoning ordinance does not give a landowner the legal right to continue an illegal nonconformity. Before assuming a particular nonconformity is entitled to the statutory right to continue, it is important to consider whether the nonconformity ever complied with existing ordinance or law.

C. Floodplain nonconformities

Legal nonconformities in floodplain areas have more limited rights. Cities may regulate the repair, replacement, maintenance, improvement or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain community eligibility for the National Flood Insurance Program (NFIP).

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[Minn. Stat. § 462.357, subd. 1e.](#)

[Minn. Stat. § 462.357 subd. 1e\(a\)\(1\).](#)

[Minn. Stat. § 462.357 subd. 1e\(a\)\(2\).](#)

[Minn. Stat. § 462.357 subd. 1c.](#)

II. Statutory rights of legal nonconformities

In Minnesota, any legal nonconformity generally has a statutory right to continue. Specifically, legal nonconformities may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. These rights were once limited to repair and maintenance, but in 2004 the legislature afforded the rights to replacement, restoration or improvement but not expansion.

A. Who benefits from nonconforming rights

The rights of legal nonconformities attach to and benefit the land and are not limited to a particular landowner. If the benefited property is sold, the new owner will have the continuance rights.

B. Loss of nonconforming rights

The right to continue a legal nonconformity can be lost if the use is discontinued or destroyed.

1. Discontinuance

There is an exception to continuance rights when a nonconforming use is discontinued for more than one year.

2. Destruction

There is an exception to continuance rights when a nonconforming structure is destroyed by more than 50% of its assessed market value, and no building permit is applied for within 180 days. This exception is known as the 50% rule and used to have greater impact before the 2004 legislature provided that applying for a building permit within 180 days of destruction defeats the exception.

3. Phasing out

Historically, the theory behind legal nonconformities was that the property would eventually comply with the zoning ordinance. The statutory right to continue was more limited, and cities could phase out nonconformities over time through a process called amortization. Current law prohibits amortization, except for adult uses.

RELEVANT LINKS:

[Minn. Stat. § 462.357 subd. 1d.](#)

III. City role in administering nonconformities

The rights of legal nonconformities to continue does not depend on local ordinance, and so a city often has little role administering nonconformities. A landowner may assert their continuance rights in response to city enforcement of a zoning ordinance. The burden is on the landowner to establish their property qualifies for nonconforming rights.

A. Zoning ordinances

Some cities choose to address nonconformities in their zoning ordinance either by merely codifying the statutory rights, or sometimes by setting up systems to register legal nonconformities. If a zoning ordinance covers nonconformities, cities should carefully review the ordinance provisions and make sure they are consistent with the current state statute.

B. Expansion of nonconforming uses

The statutory right of legal nonconformities to continue specifically provides that the right does not include expansion of the use. Because the state statute does not define expansion, some cities choose to define expansion in the city zoning ordinance. The definition could refer to any physical expansion of the nonconforming use, or even intensifying the use.

C. Violation of other city ordinances

Despite their right to continue without complying with the current zoning ordinance, it is important to keep in mind that all legal nonconformities must generally comply with all other city ordinances, such as a nuisance ordinance or a licensing ordinance.