

PUBLIC HEARING – CONDITIONAL USE PERMIT

Application: **Conditional Use Permit to allow an Excavating Business in the Commercial Zone**

Applicant: **Eric’s Excavating, Inc.**

Agenda Item: **3.1**

Background Information: The applicant is requesting a Conditional Use Permit to allow an excavation business on property located along Lilac Drive, Royce Street and Patriot Avenue. The subject property is 6.8 acres and is in the Commercial zoning classification. The property is vacant.



The applicant intends to construct a 70’ X 120’ heated shop with a 14’ lean-to and a 24’ X 88’ building for dry storage. The heated shop will contain space for an office.

Applicant proposes to relocate his excavating business and equipment from its current location on County Road 11. Applicant employs 6 – 10 employees. Hours of operation are Monday through Friday, 7:00 AM to 6:00 PM with 5 to 6 trucks in and out per day. Applicant states during the summer months, trucks and trailers will be parked outside. Applicant plans to utilize the heated building to service the trucks and equipment.

A new private sewer system will be constructed to serve the proposed heated structure and office. Applicant proposes to have a new drilled water well.

Applicant indicates 7 designated parking spaces along the south side of the proposed heated structure for customers and employee parking. There is ample room for additional parking, if necessary.

Applicant proposes to install a chain link fence around the perimeter of the subject property, meeting all setbacks. Applicant also plans to construct a berm along the north property line to create a barrier to the neighboring commercial property. Existing trees will remain along the east and south property lines as buffers. The Land Use and Subdivision Ordinance states in Section 17-5.10 (4 C) that “all sites shall be heavily landscaped to provide 50% screening from the road or any non-residential parcel”.

Applicant indicates access to the property from Lilac Drive on the east and an exit to Royce Street on the south. The adjacent property to the north is zoned Commercial. The subject property is bounded on the east by Patriot Avenue.

While the site plan does not indicate proposed impervious coverage, the site plan includes 2 stormwater basins along the north property line and a stormwater pond in the southwest corner of the subject property.

Applicable Regulations:

Section 17-5.10 COMMERCIAL (C)

1. Purpose and Intent: To provide a zoning classification for commercial uses oriented around the automobile. Parcels are larger than in the Downtown Mixed-Use zone in order to provide on-site parking, on-site stormwater facilities as well as on-site water supply and sewage treatment where municipal utilities are not immediately available.
2. Compatibility: The Commercial zone should be established as a transition zone between the Downtown Mixed-Use zone or the Light Industrial Zone and the surrounding residential zones. The zone may not be established in an area where it is completely surrounded by residential zones.
3. Lot, Use and Density Requirements.

Lot width– feet, minimum	50
Buildable lot area (sewered) – square feet, minimum	10,000
Buildable lot area (unsewered) – square feet, minimum	20,000

Setback, right of way, City road- feet, minimum	30
Setback, right of way, County or State road, feet, minimum	30
Setback, between buildings – feet, minimum	10
Setback, side next to residential district – feet, minimum	30
Setback, side yard – feet, minimum	10
Setback, rear – feet, minimum	10
Setback, parking from lot line – feet, minimum	10
Setback, sign – feet, minimum	1
Setback, wetland – feet, minimum	30
Setback, unplatted cemetery or archeological site	50
Impervious surface – percent, maximum	25%
Building height – feet, maximum	25
Flag Pole Height – feet, maximum	60
Building above highest groundwater level – feet, minimum	3

4. Performance Standards. The following performance standards apply to all development in this zone:

A. Impervious Coverage. Impervious coverage may be increased by up to 25%, not to exceed 50% of the property, through a conditional use permit if the following is provided and approved by the City:

- (1) A storm water retention plan showing containment of the 10-year, 24-hour storm event on the parcel.
- (2) Direct runoff of stormwater to adjacent properties and wetlands shall be eliminated through the use of berms, infiltration ponds, swales, filtration strips or other permanent means.

B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.

C. Parking. Off-street parking shall be provided as per Section 7.10. On-street parking is not allowed under any circumstances. To reduce the visual impacts and amount of surface parking, shared parking and surface parking shall be located behind or to the side of a building. Additionally, suitable trees and shrubs shall be

planted between parking lots and all adjacent sidewalks, roads, lots and buildings.

- D. Screening. All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 50% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Lights approved with signs must be turned off at the close of business each day.
- F. Fire Lanes. Fire lanes shall remain unobstructed at all times.
- G. Fences. Fences not exceeding 84 inches in height may be constructed. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is prohibited, except where specific approval has been given by the Planning Commission.

Section 17-11.6 CONDITIONAL USE PERMITS

- A. The following must be met:
 - (1) The use or development is an appropriate conditional use in the land use zone.
 - (2) The use or development, with conditions, conforms to the comprehensive land use plan.
 - (3) The use with conditions is compatible with the existing neighborhood.
 - (4) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
 - (5) For Conventional Subdivisions, the property contains physical constraints which make it unable to be developed by the Conservation Subdivision method.

- B. The following must be considered:
- (1) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 - (2) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - (3) The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - (4) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
 - (5) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - (6) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
 - (7) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
 - (8) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

Staff Findings: Staff provides the following Findings of Fact for consideration by the Planning Commission:

1. The conditional use permit request is to allow an excavation business. The proposed development, with conditions, is an appropriate conditional use in the Commercial zone.
2. The subject property is a conforming parcel. The property is vacant.

3. As determined by the planning commission at their meeting on August 20, 2020, the proposed “use” is considered “Commercial Use (Other, Not Classified)” and requires a conditional use permit.
4. Signage will be applied for under separate Land Use Permit meeting Section 17-7.1 of the City Code.
5. The proposed use conforms to the Comprehensive Plan. The Future Land Use map identifies the subject property as Commercial.
6. The neighborhood surrounding the subject property consists of commercial properties. The proposed use, with conditions, is compatible with the surrounding neighborhood.
7. The proposed use, with conditions, will not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
8. The proposed use will not be injurious to the use and enjoyment of neighboring properties nor diminish or impair property values in the immediate vicinity.
9. The adjacent property to the north is zoned Commercial. The subject property is bounded on the east by Patriot Avenue, on the south by Royce Street, and on the west by Lilac Drive. The proposed use will not impede development of surrounding vacant property.
10. There will be no public facilities or services for the proposed use. Applicant will install a private sewer system and a private drilled water well.
11. The subject property is accessed via Lilac Drive. There will not be a significant increase in traffic due to the proposed use. The public cost for facilities and services for the proposed development will not be detrimental to the economic welfare of the community.
12. The proposed use, with conditions, will not generate any offensive odor, fumes, dust, noise or vibrations that will be a nuisance to neighboring properties.
13. The proposed use will not destroy any natural or scenic features. There are no known historical features of major significance on the subject property.
14. The proposed use, with conditions, will not impact ground and surface waters.
15. Applicant proposes 7 designated parking spaces for customer and employee parking. There is ample room for additional parking, if necessary. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.

Planning Commission Direction: The Planning Commission can approve the Conditional Use Permit, deny the application, or table the request if additional information is needed. If the motion is for approval or denial, Findings of Fact should be cited.

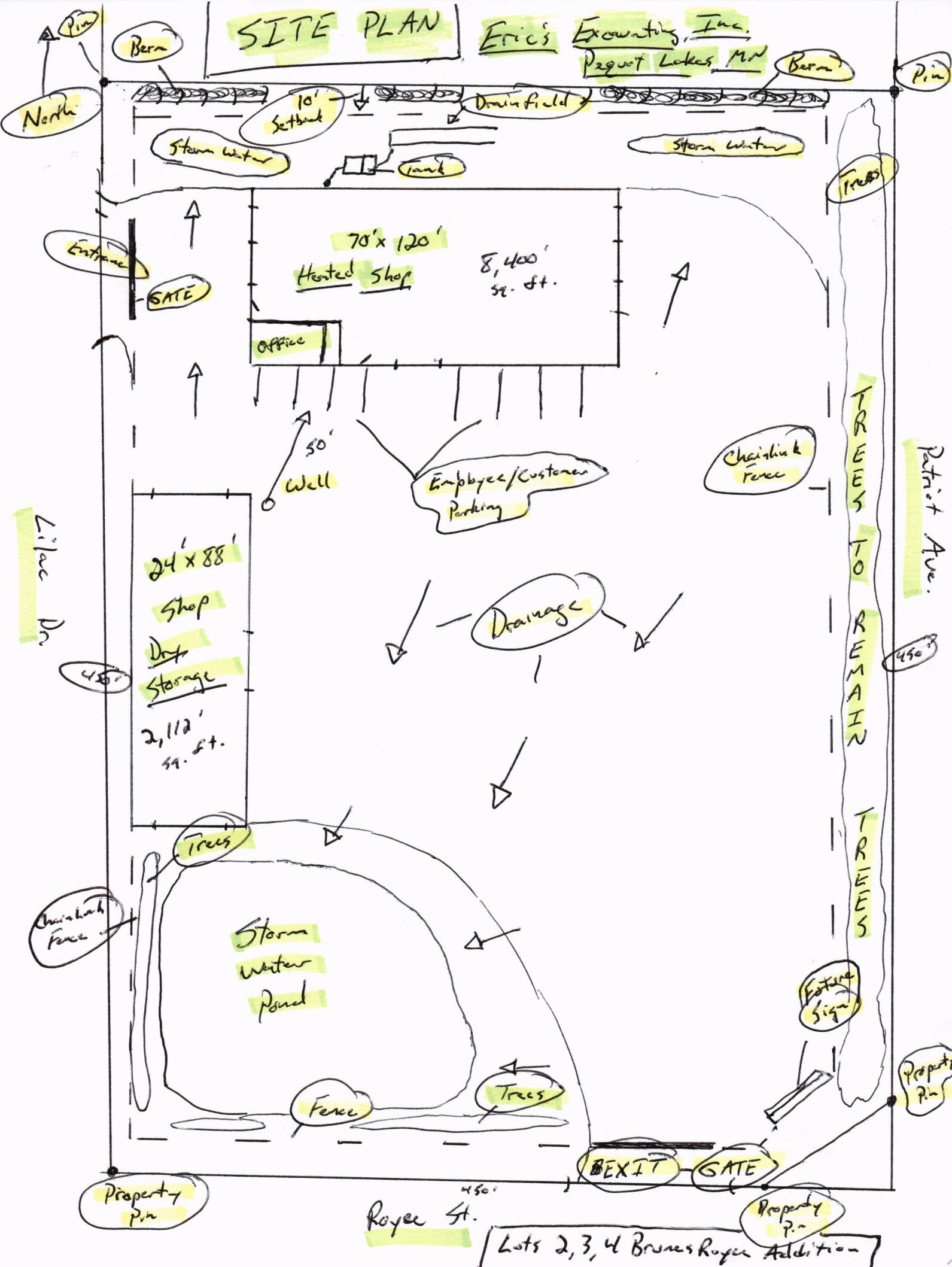
Staff Recommendation: The subject property is suited well for the proposed use. We recommend the application be approved with the following conditions:

1. The property shall maintain a neat and orderly appearance.
2. The trees and vegetation shall remain along the east property line to provide 50% screening.
3. All hazardous waste from servicing vehicles and equipment shall be stored and disposed in accordance with Minnesota Pollution Control Agency standards.
4. Signage shall be permitted by separate application.
5. All work on equipment shall be conducted within an enclosed structure.
6. A floor drain/sediment trap shall be installed in the repair area in accordance with Minnesota Department of Health's best management practices. The floor drain shall be connected to a holding tank and pumped regularly. The holding tank system shall be designed by a licensed plumber. A copy of a maintenance/pumping contract shall be submitted to the city.
7. All exterior lighting shall be projected downward.

If the Planning Commission approves the Conditional Use application, the Planning Commission should adopt the attached Resolution by motion also.

SITE PLAN

Eric's Excavating, Inc.
Piquet Lakes, Md



Lots 2, 3, 4 Bruce Royce Addition

**CITY OF PEQUOT LAKES
PLANNING COMMISSION RESOLUTION 20-__**

**A RESOLUTION APPROVING THE REQUEST FOR A CONDITIONAL USE
PERMIT TO ALLOW AN EXCAVATING BUSINESS IN THE COMMERCIAL
ZONE**

WHEREAS, the applicant, Eric’s Excavating, Inc., seeks a Conditional Use Permit under City Code Section 17-11.6 to allow an excavating business along Lilac Drive, legally described on the attached Exhibit A (the “Property”), which is zoned Commercial; and,

WHEREAS, the Planning Commission conducted a public hearing on September 17, 2020, and received public testimony regarding the proposed Conditional Use Permit; and

WHEREAS, all required notices regarding the public hearing were properly made; and

WHEREAS, the Planning Commission, having reviewed and considered the application, staff analysis and public testimony regarding the proposed Conditional Use Permit at its meeting of September 17, 2020, does hereby resolve the Conditional Use Permit application as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF PEQUOT LAKES, MINNESOTA, that it adopts the following findings of fact related to the requested Conditional Use Permit.

A. Mandatory Criteria:

1. Criteria #1: The use or development is an appropriate conditional use in the land use zone.

Finding #A1: The conditional use permit request is to allow an excavation business. The proposed development, with conditions, is an appropriate conditional use in the Commercial zone.

2. Criteria #2: The use or development, with conditions, conforms to the comprehensive land use plan.

Finding #A2: The proposed use conforms to the Comprehensive Plan. The Future Land Use Map identifies the subject property as Commercial.

3. Criteria #3: The use with conditions is compatible with the existing neighborhood.

Finding #A3: The neighborhood surrounding the subject property consists of commercial properties. The proposed use, with conditions, is compatible with the surrounding neighborhood.

4. Criteria #4: The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.

Finding #A4: The proposed use, with conditions, will not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.

B. Additional Criteria:

1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.

Finding #B1: The proposed use will not be injurious to the use and enjoyment of neighboring properties nor diminish or impair property values in the immediate vicinity.

2. The conditional uses will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Finding #B2: The adjacent property to the north is zoned Commercial. The subject property is bounded on the east by Patriot Avenue, on the south by Royce Street, and on the west by Lilac Drive. The proposed use will not impede development of surrounding vacant property.

3. The conditional requirements at public cost for public facilities and services will not be detrimental to the economic welfare of the community.

Finding #B3: There will be no public facilities or services for the proposed use. Applicant will install a private sewer system and a private drilled water well.

4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.

Finding #B4: The subject property is accessed via Lilac Drive. There will not be a significant increase in traffic due to the proposed use. The public cost for facilities and services for the proposed development will not be detrimental to the economic welfare of the community.

5. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.

Finding #B5: Applicant proposes 7 designated parking spaces for customer and employee parking. There is ample room for additional parking, if necessary. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.

6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.

Finding #B6: The proposed use, with conditions, will not generate any offensive odor, fumes, dust, noise or vibrations that will be a nuisance to neighboring properties.

7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.

Finding #B7: The proposed use will not destroy any natural or scenic features. There are no known historical features of major significance on the subject property.

8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

Finding #B8: The proposed use, with conditions, will not impact ground and surface waters.

BE IT FURTHER RESOLVED that, in accordance with the Planning Commission's findings of fact above, the Conditional Use Permit to allow an excavating business in the Commercial zone at the Property is hereby approved with the following conditions:

1. The property shall maintain a neat and orderly appearance.
2. The trees and vegetation shall remain along the east property line to provide 50% screening.
3. All hazardous waste from servicing vehicles and equipment shall be stored and disposed in accordance with Minnesota Pollution Control Agency standards.
4. Signage shall be permitted by separate application.
5. All work on equipment shall be conducted within an enclosed structure.

6. A floor drain/sediment trap shall be installed in the repair area in accordance with Minnesota Department of Health's best management practices. The floor drain shall be connected to a holding tank and pumped regularly. The holding tank system shall be designed by a licensed plumber. A copy of a maintenance/pumping contract shall be submitted to the city.
7. All exterior lighting shall be projected downward.

BE IT FURTHER RESOLVED that, in accordance with City Code Section 17-11.5, any person aggrieved by the Planning Commission's resolution of the Conditional Use Permit application herein may appeal such resolution to the City Council by filing written notice of intent to appeal with the City Clerk within fifteen (15) days of the date of this Resolution indicated below.

Passed by the Planning Commission of the City of Pequot Lakes, Minnesota this 17th day of September, 2020.

Andrew Birch
Chair

ATTEST:

Dawn Bittner
Zoning Specialist

EXHIBIT A

Lots 2, 3, and 4, Block 4, Bruner Royce Addition, Section 15, Township 136, Range 29,
Crow Wing County, Minnesota.

APP # 20-79
SF # _____
Date 8-24-2020
(for office use only)

**CITY OF PEQUOT LAKES
CONDITIONAL USE APPLICATION**

Name of Applicant Eric's Excavating, Inc. Phone 318-851-1134
Mailing Address 25557 East Clark Lake Rd. Email etjohnson80@hotmail.com
City, State, Zip Nisswa, MN 56468

Applicant is:
Legal Owner
Contract Buyer
Option Holder
Agent
Other _____

Title Holder of Property:
Tom & Lois Johnson
(Name)
20980 Snowshoe Trail
(Address)
Brainerd MN 56401
(City, State, Zip)

Signature of Owner, authorizing application (required): [Signature] Lois R. Johnson
(By signing the owner is certifying that they have read and understood the instructions accompanying this application.)

Signature of Applicant (if different than owner): [Signature]
(By signing the applicant is certifying that they have read and understood the instructions accompanying this application.)

Location of property involved in this request:
Northwest corner of Patriot Ave and Royce St.
29115 004002009

Parcel ID No. 29150548/29150549/29150550 Zoning District Commercial

Legal Description (if metes and bounds, attach sheet): Lots 2, 3, 4 Bones Royce Addition

State nature of request in detail: (What are you proposing for the property?)
To construct a 70'x120' w/ 14' lean-to heated shop
and 24'x88' dry storage building. To be fenced in for
security purposes. In order to run Eric's Excavating business
operations

What changes (if any) are you proposing to make to this site?
Heated Shop

Building: 70'x120' w/ 14' lean to, 24'x88' dry storage

Landscaping: Clear cut building areas/driveway, Trees to remain in Row

Parking/Signs: Employee parking, customer parking

Pursuant to the Pequot Lakes City Ordinance, Section 170.050, the applicant should be prepared at the public hearing to discuss the following issues by explaining how the proposed Conditional Use will cause no significant adverse effects.

- (1) Describe the impact on the use and enjoyment of other property in the immediate vicinity. If there is no impact, explain why.
No impact, All work will be contained on listed property

- (2) Describe character of the area and the existing patterns and uses of development in the area. How is this proposal consistent with those patterns and uses?
The area we are looking at is in close location of other area commercial businesses in the Pequot Lakes area. Easy on/off traffic from Patriot Ave to Hwy 371.

- (3) Describe the impact on the capacity of existing or planned community facilities (sewer, drainage, other). Describe if additional facilities will be required.
All storm water will be treated on site. An ISTD sewer system to be installed for 1-bathroom. And a drilled well for water. No City Sewer needed for this project.

- (4) Describe the impact on the character of the neighborhood in which the property is located.
Minimal impact on the neighborhood. No residential building in area. Will be a buffer on North side of property to Kline Funeral Home.

- (5) Describe the impact to traffic on roads and highways in the vicinity, and expected traffic generated by this application. Is there adequate parking available to accommodate the proposal?
Impact on roads will be minimal. Expected traffic will be minimal approx 6-10 employees working will be only generated traffic. Parking accommodations included on site plan

- (6) Discuss any environmental limitations of the site or area.
Only environmental limits would be lot clearing/Tree Removal

CITY OF PEQUOT LAKES
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING
FOR A CONDITIONAL USE PERMIT
TO ALLOW AN EXCAVATING BUSINESS
WITHIN THE COMMERCIAL
ZONING CLASSIFICATION
SEPTEMBER 17, 2020
6:00 PM
AT
CITY HALL
4638 MAIN STREET

TO WHOM IT MAY CONCERN:

The following will be the subject of a public hearing on September 17, 2020, beginning at 6:00 PM.

Hearing: Conditional Use Permit.

Applicant: Eric's Excavating, Inc.

Property Description: Property is located along Lilac Drive. Parcel ID are: 29150548 - 29150550.

Purpose: Application is for a Conditional Use Permit to allow an excavating business in the Commercial zoning classification. All interested persons are invited to attend these hearings and be heard or send written comments to City Hall. Copies of the permit, maps, drawings and staff report are available at City Hall at least one week prior to the hearing date. Copies of the Staff Report regarding this application are available at City Hall or on-line at www.pequotlakes-mn.gov.

Property Owners Please Note: Notice relative to the above listed request is sent to all property owners within 350' of the applicant's property. Please share this information with your neighbors in the event that any property owner has been overlooked or is not contained in our records.

Dawn Bittner
Zoning Specialist
City of Pequot Lakes

"This institution is an equal opportunity provider and employer"