

**Planning Commission**  
**2021 September Planning Commission Meeting**  
**Vergas Event Center and Zoom - Meeting ID 2670942170 password: 56587**  
**6:00 PM on Monday, September 27, 2021**

- 1. Call to Order**
- 2. Agenda Additions or Deletions**
- 3. Minutes - Aug. 23, 2021**
- 4. Status of Council Recommendations**
- 5. Construction Permits**
  - a. 105 Main St, building
  - b. 830 E Schaft Ave, crushed asphalt driveway
- 6. Old Business**
  - a. Nuisance Properties
  - b. Grass Ordinance
- 7. New Business**

Townline Road

# Table of Contents

3. Minutes - Aug. 23, 2021.....	3
Albright reviewed the following Council action: Council has proceeded with Townline Road dedication by holding a public hearing on Tuesday, August 10, 2021, at 6:30 pm. Council did not act on the dedication of Townline Road. Commissioners requested La....	4
Construction Permits.....	4
Motion by Pinke, seconded by Wothe to approve construction permit for 1120 E Scharf Ave to remove large rocks, stumps and shoreline with the conditions of section 5.3 of Shoreline Ordinance and the high waterline marked by DNR. Motion passed unanimo....	4
Motion by Pinke, seconded by Wothe to approve construction permit for 401 W Lake Street for 5 windows and 2 storm doors. Motion passed unanimously....	4
Motion by Bruhn, seconded by Jacoby to approve construction permit for 108 Park View Ave for siding, windows, shingles and a 121x12 shed with the conditions of section 5.3 of Shoreline Ordinance , the high waterline marked by DNR and the conditions of....	4
Motion by Pinke, seconded by Jacoby to approve construction permit for 121 Linden Street for cement pad. Motion passed unanimously.....	4
Old Business:.....	4
Comprehensive Plan Steering Committee was discussed. Motion by Pinke, seconded by Wothe for the following members to proceed as the Steering Committee for the Comprehensive Plan: Julie Lammers, Julie Bruhn, Mike DuFrane, Robert Jacoby, Neil Wothe and.....	4
Nuisance property located at parcel 82000500034000 of an old trailer house was discussed and letter has been sent with no response from property owner. Lammers will update planning commissioners regarding property at 350 Pelican Avenue. An inspection.....	4
Follow Up Actions:.....	5
Albright to prepare a draft grass ordinance.....	5
Actions Completed and Removed from Follow up:.....	5
Council recommendations:.....	5
Council to dedicate Townline Road and discuss the road plans with Hobart Township. (Albright emailed after meeting requested Hobart Township come to planning commission on September 27, 2021.).....	5
5. Construction Permits.....	6
6. Old Business.....	13
7. New Business.....	19

**Planning Commission**  
**2021 September Planning Commission Meeting**  
**Vergas Event Center and Zoom - Meeting ID 2670942170 password: 56587**  
**6:00 PM on Monday, September 27, 2021**

**3. Minutes - Aug. 23, 2021**

---

**Files Attached**

---

- 08-23-2021 Planning Commission Meeting minutes.pdf

## CITY OF VERGAS PLANNING COMMISSION MINUTES

Monday, August 23, 2021

6:00 pm

Event Center & Zoom Meeting

The City of Vergas Planning Commission was held on Monday, August 23, 2021, at 6:00 pm at the Vergas Event Center and on Zoom with the following members present Bruce Albright, Van Bruhn, Robert Jacoby, Neil Wothe and Paul Pinke. Absent: None. Also, present: Clerk- Treasurer Julie Lammers and Emily Reno.

Bruce Albright opened the meeting at 6:00 pm.

Construction permit for 121 East Linden was added to the agenda.

Motion by Pinke, seconded by Jacoby to approve the minutes of the July 26, 2021, meeting. Motion passed unanimously.

### **Status of Council Recommendations**

Albright reviewed the following Council action: Council has proceeded with Townline Road dedication by holding a public hearing on Tuesday, August 10, 2021, at 6:30 pm. Council did not act on the dedication of Townline Road. Commissioners requested Lammers invite a Hobart Township representative to come to a City Council meeting to discuss the road. Motion by Pinke, seconded by Jacoby for the Council to dedicate Townline Road. Motion passed unanimously.

### **Construction Permits**

Motion by Pinke, seconded by Wothe to approve construction permit for 1120 E Scharf Ave to remove large rocks, stumps and shoreline with the conditions of section 5.3 of Shoreline Ordinance and the high waterline marked by DNR. Motion passed unanimously.

Motion by Pinke, seconded by Wothe to approve construction permit for 401 W Lake Street for 5 windows and 2 storm doors. Motion passed unanimously.

Motion by Bruhn, seconded by Jacoby to approve construction permit for 108 Park View Ave for siding, windows, shingles and a 121x12 shed with the conditions of section 5.3 of Shoreline Ordinance, the high waterline marked by DNR and the conditions of the water-oriented accessory structure ordinance. Motion passed unanimously.

Motion by Pinke, seconded by Jacoby to approve construction permit for 121 Linden Street for cement pad. Motion passed unanimously.

### **Old Business:**

Comprehensive Plan Steering Committee was discussed. Motion by Pinke, seconded by Wothe for the following members to proceed as the Steering Committee for the Comprehensive Plan: Julie Lammers, Julie Bruhn, Mike DuFrane, Robert Jacoby, Neil Wothe and Paul Pinke. Motion passed unanimously.

Nuisance property located at parcel 82000500034000 of an old trailer house was discussed and letter has been sent with no response from property owner. Lammers will update planning commissioners regarding property at 350 Pelican Avenue. An inspection will be done by the September meeting. No new nuisance properties were discussed.

Albright is reviewing grass ordinances from other communities and questions from the Weed Inspector Mayor Julie Bruhn.

Albright stated he has done quite a bit of research (maybe looked at 4-6 other towns). There's everything out there from a 1/2 page to 10 pages, some with 20 some different definitions, varying grass lengths, etc. Albright will meet with Mayor Bruhn to discuss Vergas ordinance and provide information at the September meeting.

### **New Business**

None.

Meeting adjourned at 6:50 pm.

Secretary,

Julie Lammers, CMC  
Clerk-Treasurer  
City of Vergas

**Follow Up Actions:**

Albright to prepare a draft grass ordinance.

Lammers contacts the county regarding building by the lake.

**Actions Completed and Removed from Follow up:**

Lammers send letter to parcel 82000500034000 regarding nuisance mobile home.

**Council recommendations:**

Council to dedicate Townline Road and discuss the road plans with Hobart Township. (Albright emailed after meeting requested Hobart Township come to planning commission on September 27, 2021.)

**Planning Commission**  
**2021 September Planning Commission Meeting**  
**Vergas Event Center and Zoom - Meeting ID 2670942170 password: 56587**  
**6:00 PM on Monday, September 27, 2021**

**5. Construction Permits**

---

- a. 105 Main St, building
- b. 830 E Schaft Ave, crushed asphalt driveway

**Files Attached**

---

- Construction Permit - 105 E Main St.pdf
- Construction Permit - 830 E Scharf Ave.pdf
- 105 Main St Variance.pdf

Permit Number: \_\_\_\_\_ Date Received: 9/13/21 Parcel Number: \_\_\_\_\_

## Construction Permit Application

To the City Council of the City of Vergas in the County of Otter Tail, State of Minnesota:  
Application is hereby made by the undersigned for a Construction Permit as provided by City Ordinance as adopted by the City of Vergas.

- GOPHER STATE ONE CALL MUST BE NOTIFIED 48 HOURS PRIOR TO ANY DIGGING, CALL 1-800-252-1166 AS REQUIRED BY MINNESOTA STATE LAW.
- THE CITY OF VERGAS WILL CHECK ALL SETBACKS ON ANY NEW CONSTRUCTION. IT IS THE APPLICANT'S RESPONSIBILITY TO HAVE ALL PROPERTY LINES LOCATED. ALL NEW CONSTRUCTION REQUIRES THE APPLICANT TO MARK THE PROPOSED BUILDING SITE AND PROPERTY LINES BEFORE THE BUILDING PERMIT WILL BE APPROVED.
- **All Electrical work MUST have an electrical permit, which must be obtained separately from a MN State Contract Electrical Inspector (218)342-3345 or (218)849-6059.**

Property Description: (NEW CONSTRUCTION ONLY)

Lot \_\_\_\_\_, Block \_\_\_\_\_, Addition \_\_\_\_\_

Property: Width \_\_\_\_\_ feet, Length \_\_\_\_\_ feet

Must supply City with a \$1,000 deposit for tar break up. City will reimburse \$1,000 when project complete and street is approved by Utilities Superintendent.

**PLEASE NOTE: WITH ANY NEWLY CONSTRUCTED HOME, THERE ARE FEES FOR START UP OF UTILITIES. WATER HOOK-UP ASSESSMENT IS \$750.00. SEWER IS \$750.00.**

Name of Applicant: John M. Sieling

Address of Construction Project: 830 E. Scharf Av.

Mailing Address: 830 E. Scharf Av. Phone: 218-849-8088

Name of Owner (If not the Applicant): John & Julie Sieling

Address of Owner (If not the Applicant): Same

1. Permit to (CIRCLE ONE)

Build

Install

Addition

Alter

Move

Demolish

Repair

Remodel

Description of work to be done:

HAULING IN CRUSHED ASPHALT TO DRIVEWAY - WAS  
10 YARDS, REMOVED 10 YARDS OF GRAVEL 1ST

2. Proposed use of building: (CIRCLE ONE) Residential Commercial

3. **VALUATION** (not just your cost) of work being completed: \$ 854.00 total

Building Contractor:

Name: PRO GRADE EXCAVATING License Number: \_\_\_\_\_ Phone: 218-849-4078

Plumber: (must have MN License)

Name: \_\_\_\_\_ License Number: \_\_\_\_\_ Phone: \_\_\_\_\_

Electrician:

Name: \_\_\_\_\_ License Number: \_\_\_\_\_ Phone: \_\_\_\_\_

Form approved by City of Vergas Council 09/12/2017

Permit Number: \_\_\_\_\_

Date Received: 8/25/21 Parcel Number: 82-000990068 000

## Construction Permit Application

To the City Council of the City of Vergas in the County of Otter Tail, State of Minnesota:  
Application is hereby made by the undersigned for a Construction Permit as provided by City Ordinance as adopted by the City of Vergas.

- GOPHER STATE ONE CALL MUST BE NOTIFIED 48 HOURS PRIOR TO ANY DIGGING, CALL 1-800-252-1166 AS REQUIRED BY MINNESOTA STATE LAW.
- THE CITY OF VERGAS WILL CHECK ALL SETBACKS ON ANY NEW CONSTRUCTION. IT IS THE APPLICANT'S RESPONSIBILITY TO HAVE ALL PROPERTY LINES LOCATED. ALL NEW CONSTRUCTION REQUIRES THE APPLICANT TO MARK THE PROPOSED BUILDING SITE AND PROPERTY LINES BEFORE THE BUILDING PERMIT WILL BE APPROVED.
- **All Electrical work MUST have an electrical permit, which must be obtained separately from a MN State Contract Electrical Inspector (218)342-3345 or (218)849-6059.**

Property Description: (NEW CONSTRUCTION ONLY)

Lot 10, 11, 12, 13, Block \_\_\_\_\_, Addition \_\_\_\_\_Property: Width 75 feet, Length 140 feet

Must supply City with a \$1,000 deposit for tar break up. City will reimburse \$1,000 when project complete and street is approved by Utilities Superintendent.

PLEASE NOTE: WITH ANY NEWLY CONSTRUCTED HOME, THERE ARE FEES FOR START UP OF UTILITIES. WATER HOOK-UP ASSESSMENT IS \$750.00, SEWER IS \$750.00.

Name of Applicant: Siz PropertiesAddress of Construction Project: 105 E Main St. Vergas, MN 56587Mailing Address: 49605 Co Hwy 17 Vergas, MN Phone: 218-841-8643Name of Owner (If not the Applicant): Jeff Zitzow : Tyler SchmittAddress of Owner (If not the Applicant): 49605 Co Hwy 17 Vergas, MN

1. Permit to (CIRCLE ONE)

☒ Build  
Move☐ Install  
Demolish☐ Addition  
Repair☐ Alter  
Remodel

Description of work to be done:

Build New Mixed Use Building with commercial and residential space

2. Proposed use of building: (CIRCLE ONE)

☒ Residential☐ Commercial3. **VALUATION** (not just your cost) of work being completed: \$2,000,000.00

Building Contractor:

Name: Andy Petrow Const License Number: \_\_\_\_\_ Phone: \_\_\_\_\_

Plumber: (must have MN License)

Name: Hanson's Plumbing License Number: \_\_\_\_\_ Phone: \_\_\_\_\_

Electrician:

Name: Zitzow Electric License Number: \_\_\_\_\_ Phone: \_\_\_\_\_

Form approved by City of Vergas Council 09/12/2017

4. Attached a "Site Plan", showing the proposed location of any new building in reference to the property including existing buildings. If you have a copy of a professionally prepared site plan, attach a copy for review by the City's Site/Zoning Inspector. Blueprint or Design Drawings must be submitted for any new construction, addition, or remodel.

5. Certification: I hereby certify that I am the applicant herein and that the information given above and/or any exhibits submitted herewith is in all respects true and accurate to the best of my knowledge and belief, and further, if this permit is granted, said construction will comply with plans and specifications herewith submitted and applicable requirements of the City of Vergas.

6. I am the (CIRCLE ONE) OWNER LESSEE PURCHASER AGENT

7. APPLICANT'S SIGNATURE: [Signature] DATE: 8/20/21

\*\*\*\*\*

**FOR OFFICE USE ONLY**

\$ \_\_\_\_\_ Water Hook-up

\$ \_\_\_\_\_ Sewer Hook-up

\$ \_\_\_\_\_ Permit Fee

\$ \_\_\_\_\_ Tar Break Up Deposit

\$ \_\_\_\_\_ Total Fees

*Waived / EDA*

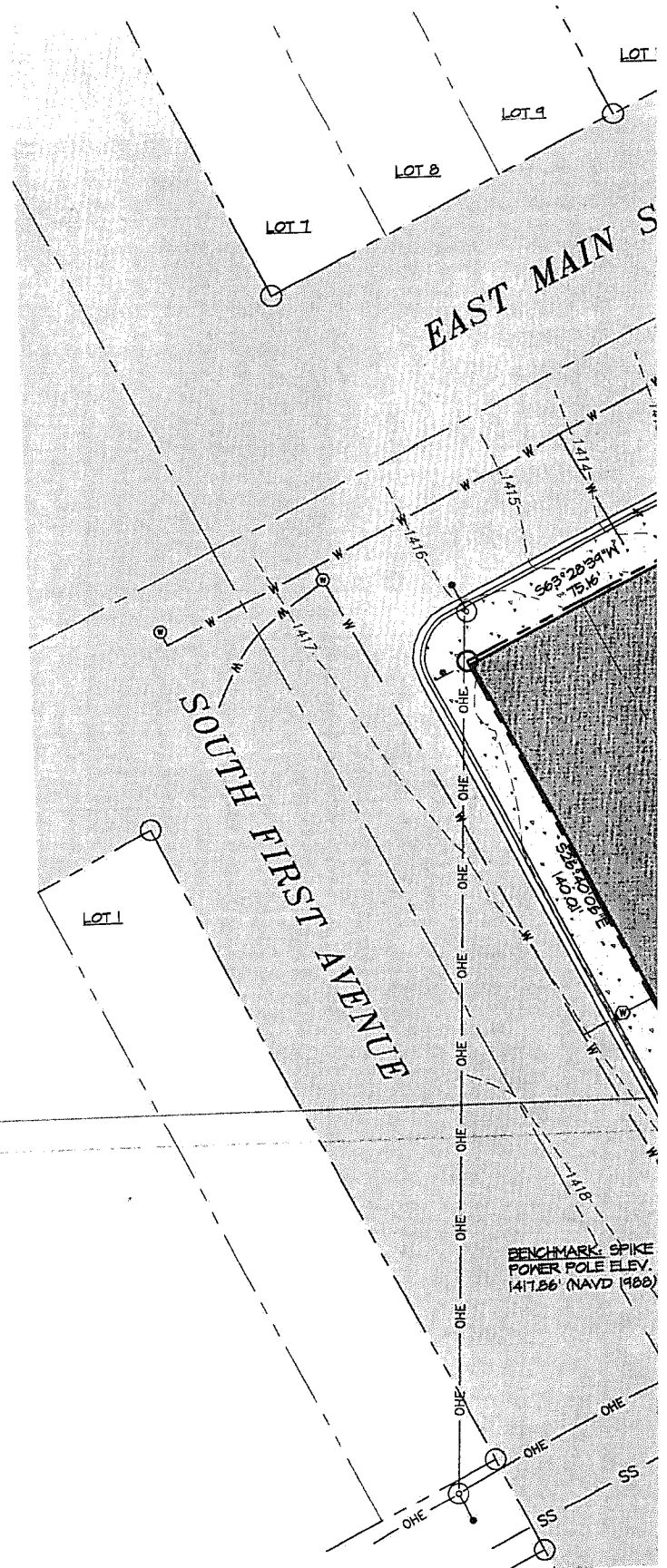
Receipt # \_\_\_\_\_ Date Paid \_\_\_\_\_, 20\_\_

\_\_\_\_ Form given to client to display the permit to be visible from the street & to notify office of completion.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_, 20\_\_  
(Permitting Authority)

Date Approved by Council: \_\_\_\_\_, 20\_\_

Permit expires in one year if project is not complete please reapply for permit.

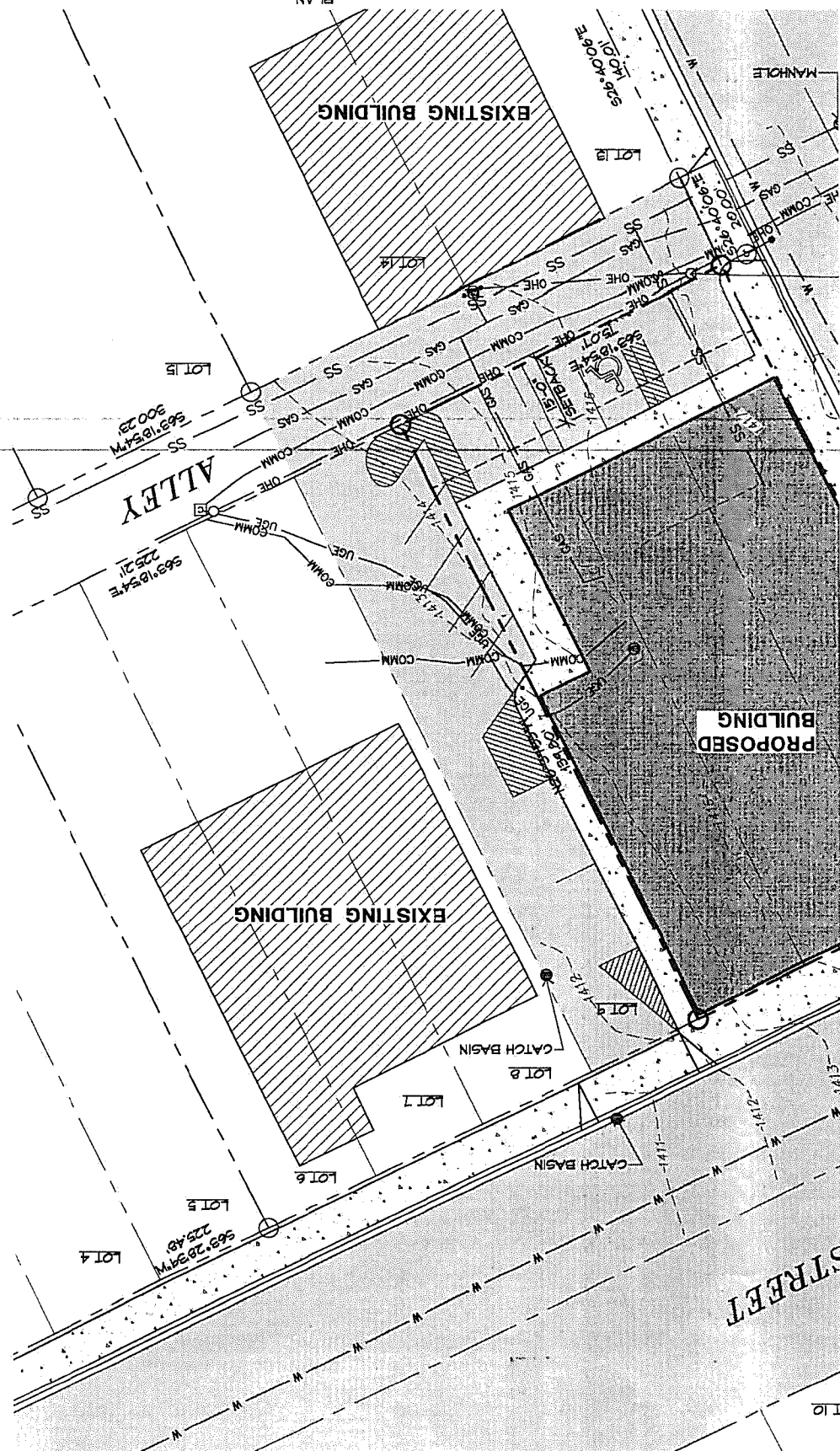


**PROPOSED SITE**

SCALE - 1" = 20'-0"

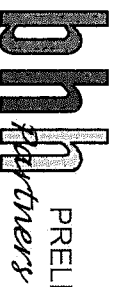


DUMPSTER



A-1.1

SHEET NUMBER:



PRELIMINARY NOT FOR CONSTRUCTION

PLANNERS / ARCHITECTS

P.O. BOX 185, 650 3RD AVE SE, SUITE #10, PERHAM, MN 55773 (218) 346-4505



S & Z BUILDING  
VERGAS, MINNESOTA

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATIONS OR RECORD HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ARCHITECT/ENGINEER IN THE STATE OF MINNESOTA. THE DATE OF THIS CERTIFICATION IS THE DATE OF THE LAST REVISION TO THE PLAN.  
ANTHONY J. STOLL  
DATE: 08/12/21  
PROJECT: S&Z BUILDING, 22284

FILE NAME: 2143\_A11.DWG  
JOB NO: 42145  
DATE: 08/12/21  
DRAWN BY: ALS  
CHECKED BY: ALS  
REVISIONS:  
© 2021 THIS DRAWING IS COPYRIGHTED AND SHALL NOT BE REPRODUCED WITHOUT ARCHITECT'S WRITTEN PERMISSION

**Application for Variance**  
 City of Vergas -County of Ottertail  
 111 E Main Street -PO Box 32  
 Vergas MN 56587  
 218-342-2091

Application Fee \_\_\_\_\_  
 Receipt Number \_\_\_\_\_  
 Accepted By/Date \_\_\_\_\_

Applicant's Name Siz Properties Telephone Home: \_\_\_\_\_ Cell: 218.541-8643

Address: 49605 Le Hwy 17 Vergas, MN 56587

Property Owner's Name Tyler Schmidt ; Jeff & Jean Telephone Home: \_\_\_\_\_ Cell: 218.234-1734

Location of Project: 105 E. Main St. Parcel # B2-000-99-0046-000

Legal Description: Lots 191 & 12 Block 3

Section 25 Township 137 Range 041 Lake Number: \_\_\_\_\_ Lake Name \_\_\_\_\_ Lake Class \_\_\_\_\_

Description of Proposed Project: Constructing Mixes Use Building; Commercial ; Residential

Specify the section of the ordinance from which a variance is sought:

Parking

Explain how you wish to vary from the applicable provisions of the ordinance:  
We have an issue with current parking spaces to follow the ordinance and  
would like to apply for a variance  
 Please attach a site plan or accurate survey as may be required by ordinance.

Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purpose and intent of the ordinance? Yes ☒ No ☐ Why or why not?  
your ordinance requiring a certain number of parking spots per residential/commercial  
spaces and we don't have enough
2. In your opinion, is the variance consistent with the comprehensive plan? Yes ☒ No ☐ Why or why not?  
looking to bring new housing to Vergas along with businesses
3. In your opinion, does the proposal put property to use in a reasonable manner? Yes ☒ No ☐ Why or why not?  
we are improving the space, creating new commercial spaces
4. In your opinion, are the unique circumstances to the property not created by the landowner? Yes ☐ No ☒ Why or why not?  
The site of our building creates the parking issues
5. In your opinion, will the variance, if granted, alter the essential character of the locality? Yes ☐ No ☒ Why or why not?

The Planning Commission must make an affirmative finding on all the five criteria listed above in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied.

The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of the City Code and other applicable ordinances.

Applicant's Signature: [Signature] Date: 9/22/21

**Planning Commission**  
**2021 September Planning Commission Meeting**  
**Vergas Event Center and Zoom - Meeting ID 2670942170 password: 56587**  
**6:00 PM on Monday, September 27, 2021**

**6. Old Business**

---

- a. Nuisance Properties
- b. Grass Ordinance

**Files Attached**

---

- 370 S Pelican Avenue Tree Complaint.pdf

**We have had a complaint regarding a tree at 370 S Pelican Avenue  
Neighbor is stating the tree is dead and she is concerned the tree will fall on her house.  
Insurance company has stated they will not cover damage if tree falls on her house as it has  
done damage to her home already once.**

## **92.02 TREE DISEASES AND SHADE TREE PEST CONTROL.**

(A) Declaration of policy. The health of the trees in the city is threatened by shade tree pests, and the loss or ill health of trees growing upon public and private property substantially depreciates the value of property within the city and impairs the safety, good order, general welfare and convenience of the public. In addition to and in accordance with M.S. " 89.001, 89.01 and 89.51 through 89.64, as those sections may be amended from time to time, the provisions of this section are adopted to attempt to control and prevent the spread of these shade tree pests.

(B) Jurisdiction. The city shall have control of all street trees, shrubs, and other plantings now or hereafter in any street, park, public right of way or easement, or other public place within the city limits, and shall have the power to plant, care for, maintain, remove, and replace such trees, shrubs and other plantings.

(C) Declaration of a shade tree pest. The Council may declare any vertebrate or invertebrate animal, plant pathogen, or plant threatening to cause significant damage to a shade tree or community forest in the community, to be a shade tree pest and prescribe control measures to effectively eradicate, control or manage the shade tree pest including necessary timelines for action.

(D) Public nuisances declared. A shade tree pest declared by Council occurring within a declared control zone is a public nuisance.

(E) Shade tree pest nuisances are unlawful. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in this section.

(F) Definition of control areas. Upon declaring a shade tree pest, the Council may define one or more locations within the geographic boundaries of the city to be within a shade tree pest control area provided such locations are characterized by biologic, composition, environmental and size factors favorable to successful application of the control measures prescribed by Council.

(G) Tree Inspector. The Council may appoint a Tree Inspector to coordinate the activities of the city relating to the control and prevention of damage by shade tree pests. The Tree Inspector will recommend to the Council the details of any program for the declaration, control and prevention of shade tree pests. The Tree Inspector is authorized to enforce or cause to be enforced the duties incident to such a program adopted by the Council. The term TREE INSPECTOR includes any person designated by Council or the Tree Inspector to carry out activities authorized in this section.

(H) Abatement of shade tree pest nuisances.

(1) In abating a nuisance declared by ordinance under divisions (B) and (C), the organism, condition or plant and any tree, wood or material identified as injurious to the health of shade trees shall be removed or effectively treated so as to destroy and prevent as fully as possible the spread of the shade tree pest. Such abatement procedures shall be carried out in accordance with the control measures and areas prescribed by ordinance according to divisions (C) and (K) and (O) .

(2) In addition, should the appropriate abatement procedure be removal and the tree(s) and/or hedge(s) be within the limits of a highway in a rural area within the city's jurisdiction, M.S. ' 160.22, as it may be amended from time to time, shall be complied with as necessary.

(I) Reporting discovery of shade tree pest. Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of public nuisance caused by a shade tree pest as defined under division (C) shall report the same to the city.

(J) Registration of tree care firms. Any person, firm or corporation that provides tree care, tree trimming or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the

Minnesota Commissioner of Agriculture under M.S. ' 18G.07, as it may be amended from time to time.

(K) Inspection and application of control measures.

(1) The Tree Inspector is authorized to cause premises and places within the city to be inspected to determine whether shade tree pests exist thereon and to investigate all reported incidents of shade tree pests. The Tree Inspector shall have the power to take all reasonable precautions to prevent the maintenance of public nuisances and may enforce the provisions relating to abatement in this section. Diagnosis of shade tree pests may be by the presence of commonly recognized symptoms or by tests as may be recommended by the Commissioner of the Minnesota Department of Agriculture or the Commissioner of the Minnesota Department of Natural Resources.

(2) Except in situations of imminent danger to human life and safety, the Tree Inspector shall not enter private property for the purpose of inspecting or preventing maintenance of public nuisances without the permission of the owner, resident or other person in control of the property, unless the Tree Inspector has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

(3) No person, firm, or corporation shall interfere with the Tree Inspector acting under his authority while engaged in activities authorized by this section.

(L) Standard abatement procedure. Except as provided in divisions (M) and (O), whenever a Tree Inspector determines with reasonable certainty that a public nuisance as described by this section is being maintained or exists on premises in the city, the Tree Inspector is authorized to abate a public nuisance according to the following procedure.

(1) The Tree Inspector will notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice must be given in person or by mail. Failure of any party to receive the mail does not invalidate the service of the notice. A copy of the notice shall be filed with the City Clerk.

(2) The notice of abatement shall state that unless the public nuisance is abated by the owner or occupant, it will be abated by the city at the expense of the owner or occupant. The notice shall specify the control measures to be taken to abate the nuisance, and provide a reasonable amount of time to abate the nuisance. The notice will also state that the owner or occupant has the right to appeal the determination that a public nuisance exists by submitting a request in writing to the City Clerk within seven days after service of the notice, or before the date by which abatement must be completed, whichever comes first.

(3) If no timely appeal is submitted, and the notice of abatement and its prescribed control measures are not complied with within the time provided by the notice or any additional time granted, the Tree Inspector or designated person shall have the authority to obtain permission or an administrative search warrant, enter the property and carry out abatement in accordance with the notice of abatement.

(M) High cost abatement. If the Tree Inspector determines that the cost of abating a nuisance will exceed \$5,000 based on a reasonable, good faith estimate, the written notice referred to in division (L) must provide that if the nuisance is not abated within the reasonable amount of time provided, the matter will be referred to the City Council for a hearing. The date, time, and location of the hearing must be provided in the notice.

(N) Appeal procedure. If the City Clerk receives a written request for a hearing on the question of whether a public nuisance in fact exists, the City Council shall hold a hearing within seven calendar days following receipt by the Clerk of the written request. At least three days notice shall be given to the individual who made the written request for the hearing. The Council may modify the abatement

notice or extend the time by which abatement must be completed. Each owner, agent of the owner, occupant and lienholder of the subject property or properties in attendance, if any, shall be given the opportunity to present evidence at the hearing. After holding the hearing, the City Council may issue an order requiring abatement of the nuisance.

(O) Abatement procedure in event of imminent danger.

(1) If the Tree Inspector determines that the danger of infestation to other shade trees is imminent and delay in control measures may put public health, safety or welfare in immediate danger, the Tree Inspector may provide for abatement without following (L) or (M). The Tree Inspector must reasonably attempt to notify the owner or occupant of the affected property of the intended action and the right to appeal the abatement and any cost recovery at the next regularly scheduled City Council meeting.

(2) Immediate Abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

(P) Recovery of cost of abatement; liability and assessment.

(1) The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(2) After notice and hearing as provided in M.S. ' 429.061, as it may be amended from time to time, the City Clerk may list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. ' 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then certify the charges against the property under that statute and other pertinent statutes to the County Auditor for collection along with current taxes the following year or in annual installments as the City Council may determine in each case.

(Q) Penalty.

(1) Any person, firm, or corporation who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this section, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(2) Upon conviction of a misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(3) The failure of any officer or employee of the city to perform any official duty imposed by this section shall not subject the officer or employee to the penalty imposed for a violation.

(4) In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this section, the City Council or any official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

(R) Declared shade tree pests, control measures and control areas.

(1) Oak Wilt. Oak Wilt is declared a shade tree pest and is defined as any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Quercus* existing within the control area defined that has bark attached and that exceeds three inches in

diameter or ten inches in circumference and contains to any degree any spore or reproductive structures of the fungus *Ceratocystis fagacearum*. Control measures prescribed for abating Oak Wilt Disease are:

(a) Installation of a root graft barrier. A root graft barrier can be ordered installed to prevent the underground spread of Oak Wilt Disease. The city will mark the location of the root graft barrier. The barrier disrupts transmission of the fungus within the shared vascular systems of root grafted trees. The barrier is created by excavating or vibratory plowing a line at least 42 inches deep between any oak tree infected with Oak Wilt Disease and each nearby and apparently healthy oak tree within 50 feet of the infected tree.

(b) Removal and disposal of trees on property zoned for residential and commercial use. On property that is zoned residential and commercial the city may mark for removal trees that have the potential to produce spores of the fungus *Ceratocystis fagacearum*. After, and in no case before the installation of the root graft barrier and no later than May 1 of the year following infection all marked trees must be felled. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked. If, however, after the city prescribes the location for a root graft barrier, the city determines that installation of the barrier is impossible because of the presence of pavement or obstructions such as a septic system or utility line, the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(c) Removal and disposal of trees on all other property. On all other property the city may mark for removal all oak trees whether living or dead, infected or not and located between an infected tree and the marked barrier location. These marked trees must be felled and disposed of no later than May 1 of the year following infection. The stump from such felled trees must not extend more than three inches above the ground or, if taller, must be completely debarked.

(d) Wood disposal. All wood more than three inches in diameter or ten inches in circumference from such felled trees must be disposed of by burying or debarking or chipping or sawing into wane free lumber or by splitting into firewood, stacking the firewood and immediately covering the woodpile with unbroken 4 mil or thicker plastic sheeting that is sealed into the ground until October 1 of the calendar year following the calendar year in which the tree was felled or by burning before May 1 of the year following infection. Wood chips from infected trees may be stockpiled or immediately used in the landscape.

(e) The control area for Oak Wilt Disease is defined as all lands within the boundaries of the city.

(2) Emerald Ash Borer. Emerald Ash Borer is declared a shade tree pest and is defined as an insect that attacks and kills ash trees. The adults are small, iridescent green beetles that live outside of trees during the summer months. The larvae are grub or worm like and live underneath the bark of ash trees.

(a) Control measures prescribed for abating Emerald Ash Borer are those provided in the document, Minnesota Emerald Ash Borer Science Advisory Group Recommendations on Preparing for Emerald Ash Borer in Minnesota.

(b) Definition of control areas. The control area for Emerald Ash Borer is defined as all lands within the boundaries of the city.

(3) Dutch Elm Disease. Dutch Elm Disease is declared a shade tree pest and is defined as a disease of elm trees caused by the fungus *Ophiostoma ulmi* or *Ophiostoma novo ulmi*, and includes any living or dead tree, log, firewood, limb, branch, stump or other portion of a tree from any species of the genus *Ulmus* existing within the control area defined that has bark attached and that exceeds three inches in diameter or ten inches in circumference and could contain bark beetles or any spore or reproductive structures of the fungus *Ophiostoma ulmi* or *Ophiostoma novo ulmi*.

(a) Control measures prescribed for abating Dutch Elm Disease are:

1. Use of fungicide. Fungicides may be effective in preventing Dutch elm disease when injected into living trees that do not already show symptoms of Dutch elm disease. Fungicide injections on private lands are optional and, if performed, are at the landowner's expense.

2. Removal and disposal of trees. Prompt removal of diseased trees or branches reduces breeding sites for elm bark beetles and eliminates the source of Dutch elm disease fungus. Trees that wilt before July 15 must be removed within 20 days of detection [alternative: 30 days]. Trees that wilt after July 15 must be removed by April 1 of the following year. Diseased trees not promptly removed will be removed by the city at the landowner's expense. Wood may be retained for use as firewood or sawlogs if it is debarked or covered from April 15 to October 15 with 4mm plastic. The edges of the cover must be buried or sealed to the ground.

**Planning Commission  
2021 September Planning Commission Meeting  
Vergas Event Center and Zoom - Meeting ID 2670942170 password: 56587  
6:00 PM on Monday, September 27, 2021**

**7. New Business**

---

Townline Road