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# ALEXANDRIA TOWNSHIP

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## BOARD OF ADJUSTMENT

MEETING PACKET FOR  
March 19, 2018





## **AGENDA**

**Alexandria Township Board of Adjustment  
March 19, 2018  
6:00 p.m. - Township Conference Room**

### **Call to Order**

### **Adopt Agenda**

### **Public Hearing**

1. Variance to subdivide land within the sanitary sewer district that will be served with private sewer systems (ALASD sanitary sewer required). Evan Amundson, applicant. David and Susan Nelson, owners. Property is located along Geneva Road NE. Parcel No. 03-0032-000.

### **Adjournment**

\*\*\* NOTE: This is a preliminary agenda, subject to change at any time.



## STAFF REPORT

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**Application:** Variance to subdivide land within the sanitary sewer district that will be served with private sewer systems (ALASD sanitary sewer required).

**Applicant:** Evan Amundson

**Agenda Item:** 4(a)

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**Background:** The applicant, Evan Amundson, is requesting a variance relative to a proposed preliminary plat which would split 5 acres from a larger lot owned by David and Susan Nelson. The variance would allow Amundson to pursue plans for a new tree trimming business on a parcel located within the ALASD sewer district without having to extend sewer lines to the property, as is required by ordinance for any subdivision that is located within the ALASD sewer district. Instead, the applicant would design and install a private septic system suitable to his purposes for the business (likely a holding tank or possibly a full system including a drainfield).

Amundson has received approval for a Conditional Use Permit to use the property for a tree trimming business – primarily as a location to park work vehicles and store brush, branches and stumps until they are chipped. He states that while not in any immediate plans, he could anticipate constructing a shop/storage building that would include sinks/bathroom facilities at some point in the future.

The property was rezoned from a residential zoning classification (Urban Residential) to a commercial zoning classification (Commercial – Rural) late last year at the request of the same applicants.

The property would be an approximate 5 acre split off of a 29+ acre parcel of land located along Geneva Road NE a little more than ¼ mile from the northern boundary of the Township. The property is currently a mix of wetland, meadow and tilled field located just north of a 5.63 acre parcel with a residential dwelling on it.

Tim Sukke Excavating has reviewed the site and provided a letter stating the site is suitable for two private septic systems.

Approval of the variance would be necessary for the applicant to proceed with the platting process and his plans for the business.

**Location:**

- Property address: None (Property is located immediately north of 3408 Geneva Road NE).
  - Sec/Twp/Range: 3-128-37
  - Partial legal description: SE4NW4 E OF RR EX 5.52 AC. AC 29.15.
  - Parcel number(s): 03-0032-000
- **Zoning:** Commercial – Rural (C-R)
  - **Surrounding Zoning:** Commercial-Urban (C-U) to the north and west (across Highway 29), Urban Residential to the East and South.

- **Lot size:** Approx. 5 acres to be split from an approx. 29 acre parcel
- **Septic System Status:** There is no septic system on the property. The property is not currently served by ALASD sewer, although it is within the sewer district. The nearest existing sewer line is located approx. 0.3 miles to the southwest on Carneva Road, which would require boring or excavating under the rail line and State Highway 29.
- **Natural Features:**
  - Floodplain: The property is not located within a floodplain.
  - Bluff/Steep Slopes: The lot does not contain a bluff or steep slopes.
  - Wetlands: There does appear to be some wetlands on the property, but there is sufficient high ground to allow for anticipated uses.
- **Permit History:**
  - None

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**Applicable Statutes/ Ordinances:** The following portions of the Alexandria Township Zoning and Subdivision ordinances are relevant to the requested variance (other ordinances and policies may apply):

**ALEXANDRIA TOWNSHIP COMPREHENSIVE PLAN**

**Goals & Policies - Land Use**

**Agriculture**

- Alexandria Township will follow a policy of phased, orderly growth patterns that discourages costly and scattered development in productive agricultural areas and that allows for the efficient expansion of roads, sewer, and other public infrastructure.

**Commercial/Industrial**

- Alexandria Township will carefully locate commercial and industrial uses in identified industrial parks or other suitable locations – primarily along or near major roadways and intersections – so as to minimize conflicts with surrounding uses and ensure their efficient and orderly expansion.

**Goals & Policies - Infrastructure & Public Services**

- Alexandria Township will develop in an orderly manner that maximizes the use of existing infrastructure and services and provides new infrastructure and services in an efficient, well-planned manner.

**SUBDIVISION ORDINANCE**

## Section 1. General Provisions

### 1.10 Variances.

1. **Board of Adjustment and Appeals.** The Alexandria Township Board of Adjustment and Appeals shall have the exclusive power to order the granting of variances from the terms of this Ordinance, including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of this ordinance, in cases when there are practical difficulties or particular hardships. With the application for a variance, the applicant has the burden of describing the hardship which exists that justifies the variance. Hardship in the granting means:
  - a. The property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.
  - b. The plight of the landowner is due to circumstances unique to his/her property not created by the landowner.
  - c. The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owner or owners in the same area.
  - d. The variance, if granted, will not alter the essential character of the locality.
  - e. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do, nor for any other reason than a proved hardship. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this ordinance.
  - f. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
2. **Conditions.** The Board of Adjustment and Appeals may impose conditions in granting a variance to insure compliance and to protect adjacent properties and the public interest.

## Section 5. Subdivision Design Standards

- 5.1 **General.** The following principles, standards and requirements will be applied by the Township in evaluating proposed subdivisions. These are the minimum principles, standards and requirements for the promotion and protection of the public health, safety, morals, and general welfare and shall not preclude the Township from requiring stricter standards or requirements when the conditions merit:
  7. **Adequate Public Facilities.** No preliminary plat shall be approved

unless the Township Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities shall include roads, electric utilities, telecommunications, stormwater, sanitary sewer (when located in any sanitary sewer district), gas or other energy service, or other public services necessary to serve the development as determined by the Township Board.

**5.5 Sewage Disposal.** Each lot shall be provided with a sewage disposal system by either a public sanitary sewer system or a private on-site system.

1. **Public sanitary sewer systems<sup>1</sup>.** Sanitary sewer shall be required as a condition of all subdivisions located within public sanitary sewer district boundaries and the Urban Residential district. This requirement for sanitary sewer shall apply to all classes of subdivisions. The following also apply:
  - a. All plans shall be designed and approved in accordance with the rules, regulations, and standards of the public sanitary sewer district and other appropriate agencies.
  - b. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted.
2. **Private on-site systems.** In subdivisions where municipal sewer services are not presently available, the Township may impose such restrictions and requirements as it deems necessary for the protection of the public health, safety and general welfare. All on-site systems must comply with the regulations and standards of the Township, the Minnesota Department of Health, and Minnesota Rule 7080 of the Minnesota Pollution Control Agency. The Township will consider alternative designs for individual sewage treatment systems (ISTS) such as cluster systems. For more information on delineating ISTS, please see Section 6.3 (7)(d).

## MINNESOTA STATUTES

### **462.358 (2013) OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.**

#### **Subd. 6. Variances.**

Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances

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<sup>1</sup> Amended 7/2/2007

may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

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**Staff Findings:** We propose the following findings for consideration by the Board of Adjustment:

**1. Can the property in question be put to a reasonable use if used under the conditions allowed by this Ordinance?**

**No.** Within the stated intention of the parcel being for parking and storage purposes and the excavator's statement that building a few small private septic systems is sufficient, there does not appear to be a need to connect to the district sewer system. Indeed, the high cost of extending sewer this far would make most uses of the property (except for agricultural or open space use) unfeasible.

Without a variance, the applicant will likely be unable to proceed with his plans due to the significant and prohibitive cost of extending sewer to the property. The only option would be to find a suitable property that did not require subdivision and locate the business there.

**2. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?**

**Yes.** The owner has no control of his location in relation to the ALASD sewer district boundaries, nor the requirement that the subdivision of land require connection to the ALASD sewer.

While this is not an uncommon situation given that other adjacent and nearby landowners face similar issues, this new parcel is about 0.3 miles away from a sewer connection as measured along the road right-of-way.

**3. Is the variance necessary to secure a right or rights enjoyed by other owner(s) in the same area?**

**Needs discussion.** It does not appear that the applicant needs a variance to secure rights enjoyed by other owners in the area in terms of the use of land.

Given the distance to an existing sewer line, costs for the owner to extend sewer service would be expected to be prohibitive. The financial burden to extend sewer would definitely be greater than for other Township residents located within the ALASD sewer district boundaries.

**4. Will the variance, if granted, not alter the essential character of the locality?**

**No.** Being a commercial use in an area that is primarily agricultural, the character of the locality would change somewhat though the usage is not in question here, the Commercial Rural rezoning and the conditional use having previously been considered and approved by the Board of Adjustment. This variance from the requirement to connect to district sewer would not alter the essential character of the locality.

5. **Are economic considerations the only reason the applicant cannot meet the strict requirements of the ordinance?**

**Needs discussion.** The primary reason for the variance request appears to be the prohibitive cost of extending the sewer lines approximately 0.3 miles to service the property. If the sewer line were running directly adjacent to these properties, it seems unlikely that the variance request would have been made. Over time, the district sewer system could be extended with further new growth along the Highway 29 corridor with less cost the applicant to connect, though when this may occur is uncertain and he is ready and anxious to begin his new business now.

The applicant lacks the financial resources to connect to the district system and has stated with the rezoning and conditional use requests that his intent is simply to be allowed his chipping operation along with some storage and parking. If successful, the only addition to this may be a small shop or storage building perhaps some time in the future and that could be accommodated with his plans for a private septic system.

6. **Will the variance not allow a use that is prohibited in the zoning district in which the subject property is located?**

**Yes.** The Commercial Rural zoning district allows for the platting of a lot of this size and the potential commercial use of the property is also allowed. There is no concern with a prohibited use being allowed by the granting of this variance request.

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**Board of Adjustment Direction:** The Board of Adjustment can approve the request, deny the request, or table the request if additional information is needed. If the decision is for approval or denial, findings of fact should be cited.

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**Staff Comments:** As of the writing of this staff report, Staff has not received any correspondence or comment from ALASD. Generally, the ALASD notes that variance decisions such as this are left to the zoning authority.

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**Staff Recommendation:** Based on the criteria by which the ordinance requires review of variance requests to the Subdivision Ordinance, this may be an instance - given the prohibitive cost of extending the sewer lines, that only one additional lot is being created, and that the proposed use would not generate significant sewage even if a building is constructed, that a variance from the requirement to connect to ALASD sewer would be justified. This would allow the applicant reasonable use of the property that is consistent with how other properties are used in the immediate area and consistent with the agreed terms for conditional use. It does appear, though, that a primary reason for the request is due to the financial cost of extending the sewer line.

After having reviewed this application and researching and considering this issue, Staff would suggest that the Board of Adjustment has at least three options:

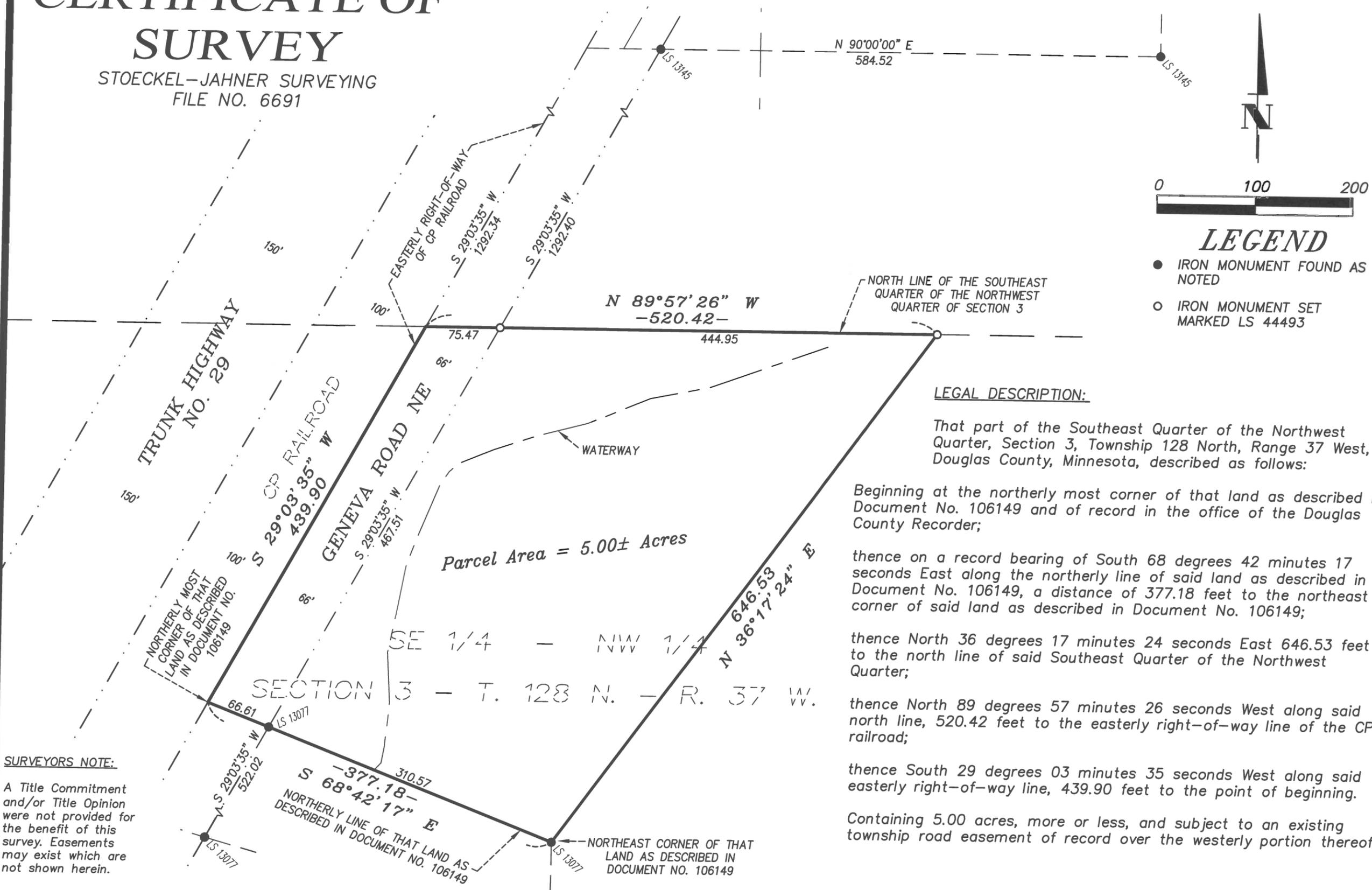
1. Deny the variance request and not allow subdivision of the property without connection to ALASD sewer.
  - a. Staff feels that this would be consistent with an analysis that the application does not meet the required criteria for granting of a variance (i.e. the only factor that creates the need for the variance is the high economic cost).
2. Grant a variance as requested, to allow a one-lot commercial subdivision without connecting to sanitary sewer. The findings would essentially be that the distance from the existing sewer lines makes the cost prohibitive to the point where almost no use of the property would be feasible and the proposed use would not generate any sewage initially, and only minimal amounts if a building is constructed. Any potential future use of the property that would generate significant amounts of sewage could be denied, if a public hearing is required, or would present the same cost challenges that would likely prevent a landowner from wanting to extend sewer to the site anyways.
3. Grant a variance to allow for a subdivision without connecting to ALASD sewer, but only on the condition that the use of the lot be limited to uses that would not generate more than 450 gallons of wastewater per day and would not generate any wastewater of unusual strength or that would have high levels of greases.

If the Board of Adjustment does decide to grant the requested variance, Staff would recommend consideration of the following conditions of that approval:

1. Any future subdivision of the property shall require newly created lots to be connected to the centralized sewer system, or a separate variance.
2. If the centralized sewer system becomes readily available, the subject property shall be connected to the system on a timeline as required by ALASD ordinances or other official requirements.

# CERTIFICATE OF SURVEY

STOECKEL-JAHNER SURVEYING  
FILE NO. 6691



## LEGEND

- IRON MONUMENT FOUND AS NOTED
- IRON MONUMENT SET MARKED LS 44493

### LEGAL DESCRIPTION:

That part of the Southeast Quarter of the Northwest Quarter, Section 3, Township 128 North, Range 37 West, Douglas County, Minnesota, described as follows:

Beginning at the northerly most corner of that land as described in Document No. 106149 and of record in the office of the Douglas County Recorder;

thence on a record bearing of South 68 degrees 42 minutes 17 seconds East along the northerly line of said land as described in Document No. 106149, a distance of 377.18 feet to the northeast corner of said land as described in Document No. 106149;

thence North 36 degrees 17 minutes 24 seconds East 646.53 feet to the north line of said Southeast Quarter of the Northwest Quarter;

thence North 89 degrees 57 minutes 26 seconds West along said north line, 520.42 feet to the easterly right-of-way line of the CP railroad;

thence South 29 degrees 03 minutes 35 seconds West along said easterly right-of-way line, 439.90 feet to the point of beginning.

Containing 5.00 acres, more or less, and subject to an existing township road easement of record over the westerly portion thereof.

**SURVEYORS NOTE:**  
A Title Commitment and/or Title Opinion were not provided for the benefit of this survey. Easements may exist which are not shown herein.

SEC. TWP. RNG: 03-128-37  
DATE: 12-27-17  
DRAWN BY: DLS  
CHECKED BY: MFJ  
FILE NUMBER: 6691

**DAVID NELSON**

MARK F. JAHNER - LICENSE NO. 44493  
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PREPARED FOR:  
**STOECKEL JAHNER SURVEYING INC.**

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*(Signature)*  
44493 License No.  
12-27-17 Date

