SPECIAL MEETING AND PUBLIC HEARING
CITY OF CROSSLAKE
MONDAY, JANUARY 10, 2011
6:00 P.M. – CITY HALL

The Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, January 10, 2010. The following Council Members were present: Mayor Darrell Schneider, Steve Roe, Rusty Taubert, John Moengen and Dean Swanson. Also present were City Administrator Tom Swenson, Clerk/Treasurer Jenny Max, Community Development Director Ken Anderson, Public Works Director Ted Strand, Park and Recreation Director Jon Henke, Police Chief Bob Hartman and City Attorney Mike Couri. John Foy was present via telephone for the hearing. There were approximately 7 people in the audience. (Sign-in sheet attached)

Mayor Schneider called the Public Hearing to order at 6:00 P.M. and stated the purpose of the meeting was to consider Appeal 2010-003, an appeal of the Planning and Zoning Commission denial of C2010-010 as submitted by John Foy. MOTION 01PH1-01-11 WAS MADE BY JOHN MOENGEN AND SECONDED BY RUSTY TAUBERT TO OPEN THE PUBLIC HEARING. MOTION CARRIED WITH ALL AYES.

Community Development Director Ken Anderson addressed the Council and stated the Planning and Zoning Commission conducted a public hearing on November 19, 2010 on an application for a conditional use permit, C2010-010, submitted by John Foy. This was a request to construct a 1,500 square foot storage structure with a mid-peak roof height of 16 feet, 3 inches in the R-1, Low Density Residential zoning district. The Planning and Zoning Commission denied the request based upon the Findings of Fact and Decision listed in the Resolution No. PZ2010-024 included in the Council packet. Mr. Anderson reviewed the site plan with the Council showing where the proposed structure would be in relation to the layout of Mr. Foy's lot. Mr. Anderson also noted that he received letters in opposition of the CUP from Mr. Koshiol and Ms. Zook along with a letter from Mr. Foy and that information has been included in the packet.

John Foy was present via telephone and stated that no conditional use permit is required to construct the same size building he is requesting if the mid-peak roof height was 15 feet high as opposed to his request of 16 feet, 3 inches. Mr. Foy also noted that one Commission member always votes against this type of request based on her own personal opposition to the structure. Mr. Anderson commented that Ms. Addington does have a personal objection to storage structures based on the possibility of living quarters being added to them after the permit is approved. Mr. Anderson also added that with the scissor trust design of Mr. Foy's proposed structure it would not be possible to add living quarters in that space. Mr. Foy is requesting to have a storage structure with a mid-peak roof height of 16 feet, 3 inches due to his large boat that cannot fit in a building with a 15 foot mid-peak roof height.

William Pohl of 35423 West Shore Drive was present and stated his preference would be to not allow the structure as it may have a negative effect on the land value of the area.

The structure is also being built very close to the neighbor's property and would be a detriment to the neighborhood.

Mr. Foy commented that he is willing to plant trees around the building to help disguise it and will make sure there are no drainage issues. His personal opinion is that he'd rather see a building instead of various shrink-wrapped boats sitting on the property. Mr. Anderson added that the setback of twenty feet is allowed within the R-1 zoning district and having a detached garage in the location chosen by Mr. Foy would not interfere with any possible future building of a home on the remaining area of the site.

There being no further public comment, MOTION 01PH1-02-11 WAS MADE BY JOHN MOENGEN AND SECONDED BY RUSTY TAUBERT TO CLOSE THE PUBLIC HEARING. MOTION CARRIED WITH ALL AYES.

Councilmember Taubert stated it seems most of the opposition is for the building as opposed to the height of the building which is the real issue. Councilmember Moengen asked Mr. Anderson what the history of approval or denial is for this type of application, to which Mr. Anderson replied that over the past five years there have been twelve CUP applications submitted similar to this and they were all approved. Councilmember Moengen expressed a concern that a precedent has been set in the past to allow this type of CUP and what a good reason would be to not allow it. City Attorney Couri noted that each application should be reviewed on its own face value and not considered in relation to what has been done in the past.

Discussion followed by the Council regarding the height and location of the structure. Following discussion, MOTION 01PH1-03-11 WAS MADE BY DEAN SWANSON AND SECONDED BY STEVE ROE TO APPROVE RESOLUTION NO. 11-01 TO DENY APPEAL 2010-003 FOR JOHN AND LOIS FOY. MOTION CARRIED 4:1 WITH COUNCILMEMBER MOENGEN OPPOSED.

MOTION 01PH1-04-11 WAS MADE BY DEAN SWANSON AND SECONDED BY STEVE ROE TO ADJOURN THE SPECIAL MEETING AT 6:49 P.M. MOTION CARRIED WITH ALL AYES.

Respectfully Submitted,

Jennifer Max
City Clerk/Treasurer

Deputy Clerk/Minutes/1-10-11 Foy Hearing.doc

RESOLUTION NO. 11-01

CITY OF CROSSLAKE
COUNTY OF CROW WING
STATE OF MINNESOTA

Parcel ID Number: 120191300C00009
Case Number: Appeal 2010-003 of Conditional Use Permit application 2010-010
Property Owner: John T. and Lois A. Foy
Legal Description: The property is described as Part of Lot 5, Block 1, Westwood Estates, and part of the SW ¼ of the NE ¼, Section 19, Township 137 North, Range 27 West, Crosslake, MN.

Pursuant to due call and notice thereof, a special meeting and public hearing of the City Council of the City of Crosslake, Minnesota, was held on the 10th day of January, 2011. Mayor Darrell Schneider and Council Members John Moengen, Steve Roe, Rusty Taubert, and Dean Swanson were present.

Dean Swanson introduced the following Resolution No. 11-01 and moved its adoption:

WHEREAS, the applicant John Foy is requesting approval of Appeal 2010-003 which is an appeal of the Planning and Zoning Commission's denial of Conditional Use Permit application 2010-010, and

WHEREAS, the applicant John Foy had requested the Planning and Zoning Commission's approval of Conditional Use Permit 2010-010 to build a 1,500 sq. ft. accessory building with a mid-peak height of 16 feet, 3 inches, which is a conditional use in the R-1, Low Density Residential zoning district and the R-3, Medium Density Residential zoning district, and

WHEREAS, City Ordinance allows accessory structures with a mid-peak roof height of 15 feet to 20 feet with the approval of a Conditional Use Permit in the R-1, Low Density Residential zoning district, and

WHEREAS, the purpose of the Conditional Use Permit is to construct a garage at a mid-peak roof height of 16 feet, 3 inches which would allow the applicant the garage door height necessary to allow access for storage of personal property including, but not limited to, a 1986 Sea Ray boat that the applicant stated requires a 14 ft. high overhead door, and

WHEREAS, an area map showing the location of the property is attached hereto as EXHIBIT A, and

WHEREAS, a site plan showing the location of the proposed garage is attached hereto as EXHIBIT B, and

WHEREAS, the public hearing notice was published and mailed per ordinance requirements and said notice was forwarded to the Minnesota Department of Natural Resources and comments were received from 1) Joe Oschwald, Area Hydrologist, dated November 4, 2010, in which he stated "No major concerns that I can see. Stormwater Management perhaps, or screening of structure??," and 2) Kevin Mott, Fisheries Specialist, dated November 18, 2010, in which he stated "Below are comments for the DNR-Fish and Wildlife regarding CUP 2010-010. The property is adjacent to Pleasant Lake, which is one of only a few natural lakes managed for stream trout in the Brainerd Lakes area. These lakes are sensitive to lakeshore development which can impact the lakes ability to support trout (to have oxygen rich cool water). That being said, it appears that this project is not likely to have significant impacts to fish and wildlife habitat and the division has no opposition to the project. Thanks for the opportunity to make comments," and

WHEREAS, the Planning and Zoning Commission public hearing was held and conducted as scheduled on November 19, 2010, and all public comment was heard by the Commission in writing and/or in person.

WHEREAS, on November 19, 2010, the Planning and Zoning Commission adopted Resolution No. PZ-2010-024 ***denying*** Conditional Use Permit 2010-010 on a three to two (3 to 2) vote, and

WHEREAS, the application to appeal the Planning and Zoning Commissions action to deny the Conditional Use Permit request was forwarded to the City of Crosslake by Mr. John Foy on November 23, 2010, and

WHEREAS, the City Council of the City of Crosslake met on December 13, 2010, and as required by ordinance set the Special Meeting and Public Hearing for Appeal 2010-003 at 6:00 P.M. on Monday, January 10, 2011, and

WHEREAS, the City Council public hearing was held and conducted as scheduled on January 10, 2011, and all public comment was heard by the Council in writing and/or in person, and

WHEREAS, additional written comments were made part of the record in opposition to Appeal 2010-003 that were received and from Mel Koshiol on January 6, 2011 and Mary Zook on January 7, 2010, and

WHEREAS, William Pohl, 35423 West Shore Drive, testified in person in opposition to Appeal 2010-003, and

WHEREAS, the applicant, John Foy, addressed the City Council during the public hearing from out of the State of Minnesota via speaker phone.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Crosslake makes the following findings of fact and decision:

FINDINGS OF FACT

1. Due to the size and height of the building the proposed garage would be injurious to the appearance of the neighborhood and the use and enjoyment of other property in the immediate vicinity.
2. The height and location of the proposed garage structure will alter the essential character of the locality.

DECISION

Accordingly, based on the findings of fact set out above and the records before it the Crosslake City Council hereby DENIES Appeal 2010-003 of Conditional Use Permit 2010-010, for John Foy to build a 1,500 sq. ft. accessory building with a mid-peak height of 16 feet 3 inches, which is a conditional use in the R-1, Low Density Residential zoning district.

The motion for adoption of the foregoing Resolution was duly seconded by Steve Roe and upon vote being taken thereon, the following voted in favor thereof: Dean Swanson, Steve Roe, Rusty Taubert, and Darrell Schneider.
The following voted against: John Moengen.
The following abstained from the vote: None.

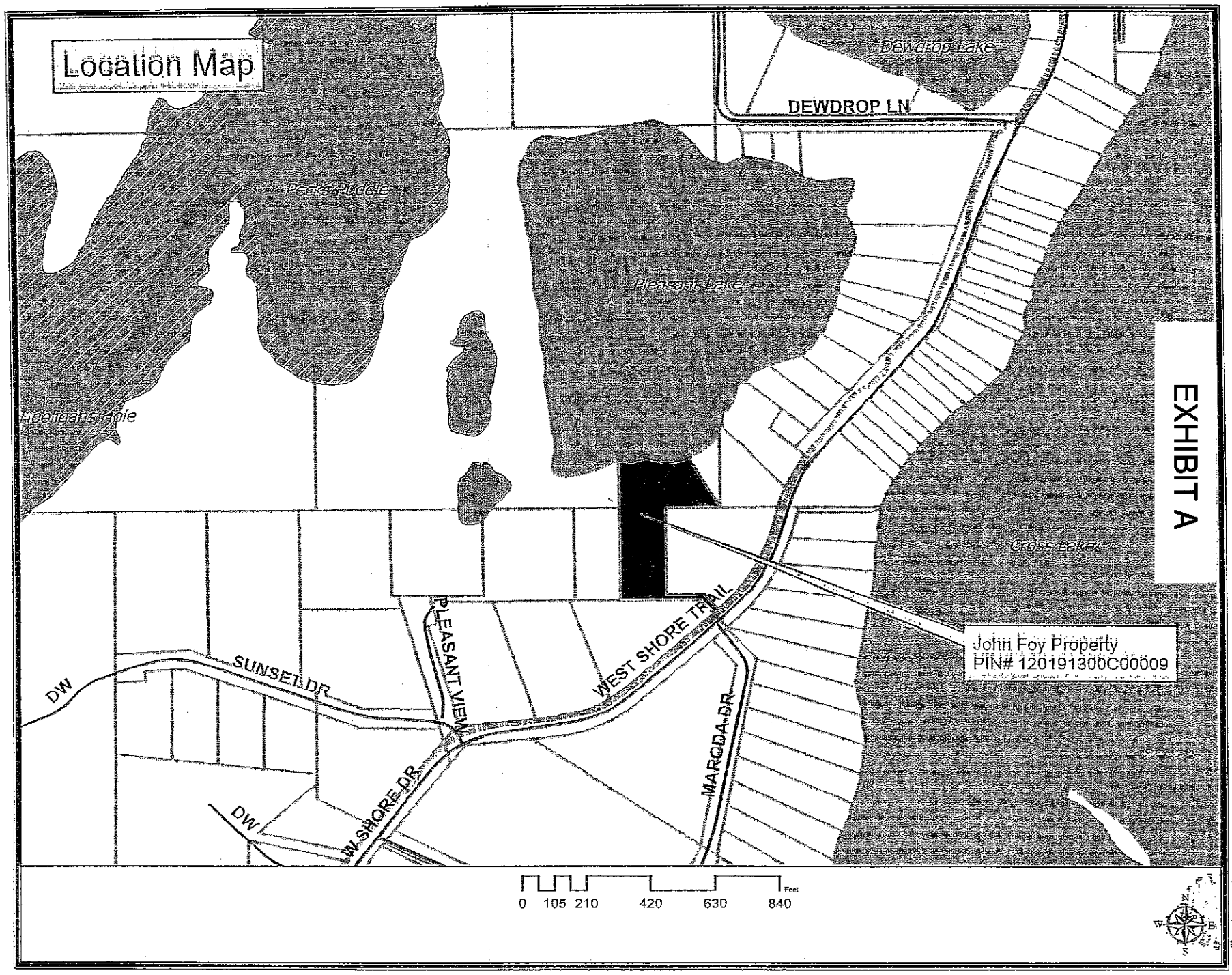
This resolution was approved and adopted on January 10, 2011, by a 4/5ths vote of the City Council of the City of Crosslake.

Darrell Schneider, Mayor

ATTEST:

Jennifer D. Max, City Clerk

Attachments: EXHIBIT A and EXHIBIT B


Location Map
Dewdrop Lake
DEWDROP LN
Pecks Puddle
Pleasant Lake
Hooligan's Hole
Cross Lake
EXHIBIT A
John Foy Property
PIN# 120191300C00009
WEST SHORE TRAIL
PLEASANT VIEW
SUNSET DR
DW
W SHORE DR
DW
MARODA DR
0 105 210 420 630 840
Feet

1 LO-191-300-000-009

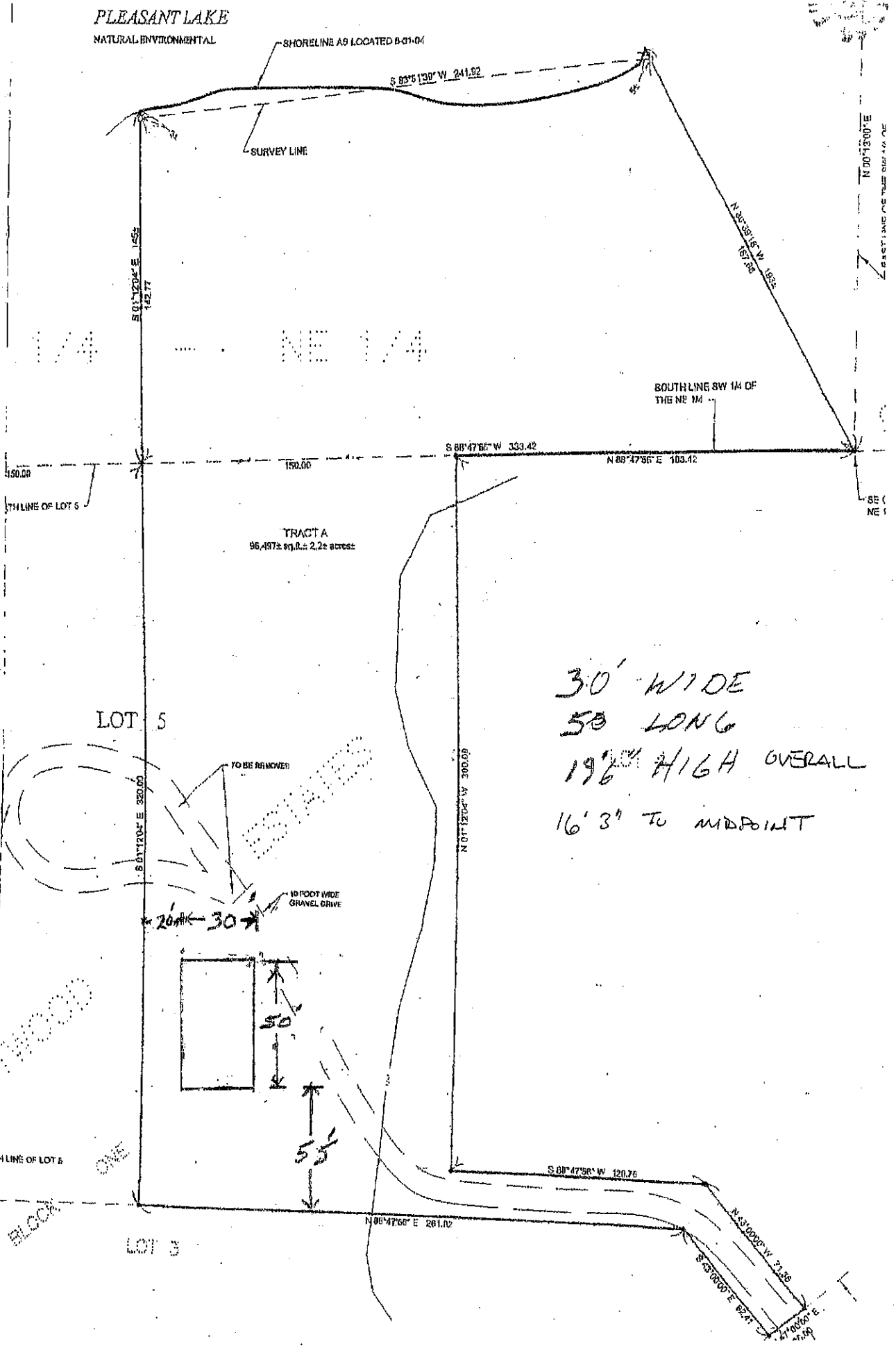



EXHIBIT B