Board of Adjustment
December 18, 2025
VAR-25-021

S:\3. BOA-PAC\2025\12. 18 December 2025\5. BOA - 1 Item\1. 09-0333-000 Whittemore Platting - VAR-25-021\3. Staff Report\BOA V.B.1 Whittemore-VAR-24-021 - Staff Report.docx

STAFF REPORT

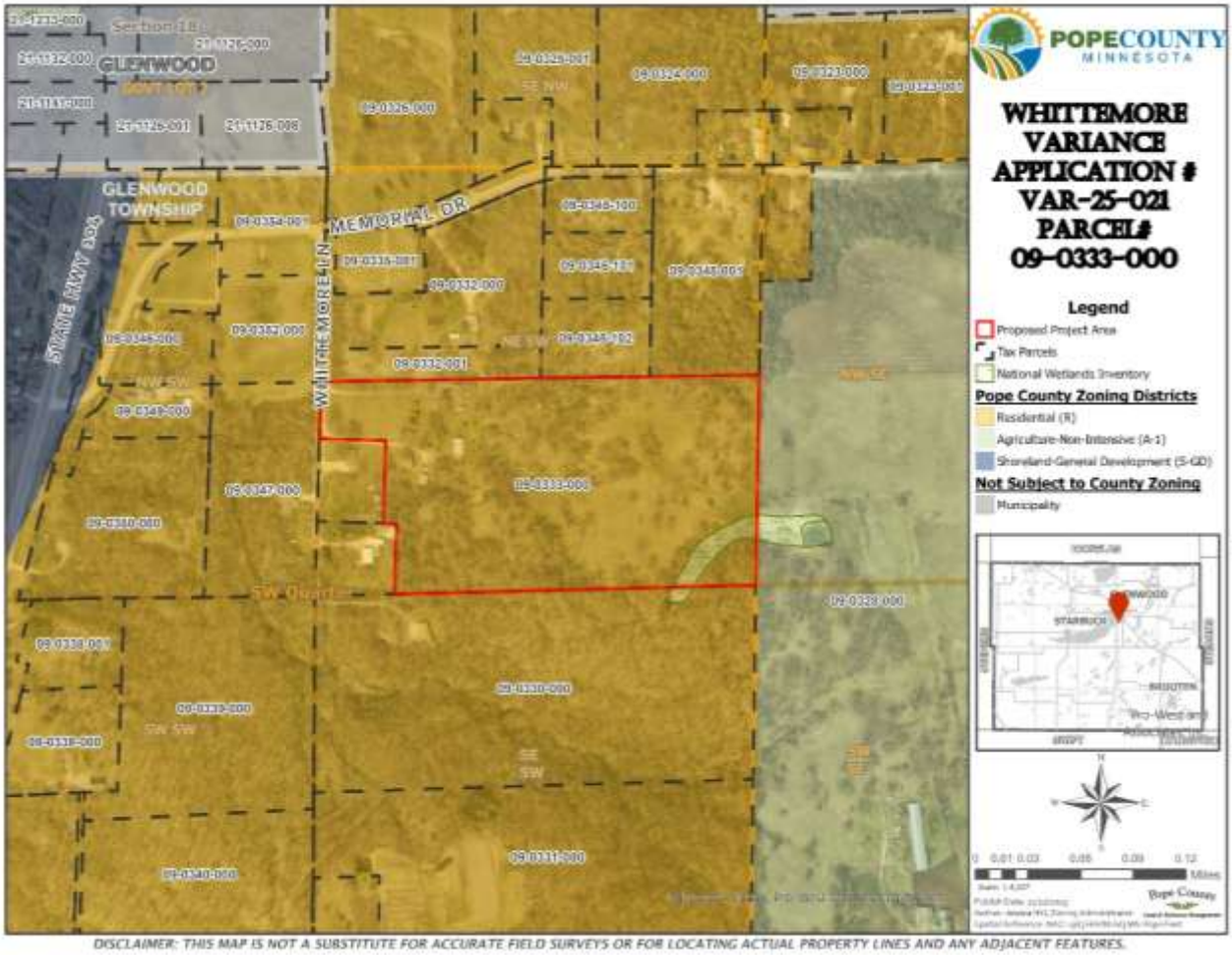
Applicant Information

Applicant: Janis Whittemore and Ruth Smith

Application: Variance (VAR-25-021)

Zoning: Residential (R)

Location: Lot 3 and part of Lot 4 of the plat of the Subdivision of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼), Section 18, Township 125 (Glenwood), Range 37, Pope County, Minnesota.



DISCLAIMER: THIS MAP IS NOT A SUBSTITUTE FOR ACCURATE FIELD SURVEYS OR FOR LOCATING ACTUAL PROPERTY LINES AND ANY ADJACENT FEATURES.

Background

The applicant is proposing to subdivide a 17.16 acre parcel located in the Northeast Quarter of the Southwest Quarter, Section 18 of Glenwood Township. The parcel is located in the Residential zoning district and is proposed to be subdivided into three lots, a 1.24 acre lot and 1 acre lot as well as a 14.92 acre Outlot (see Attachment 4). As this parcel is located in the Residential zoning district and the proposed parcels are less than 5 acres in size, the subdivision would be required to be completed by a plat in accordance with MN Statutes 505 and 515B. According to the Pope County Land Use Controls Ordinance, Section 10.25.3.D.8:

8. *Platting Requirement: All parcels of land created as a result of the subdivision of land shall be platted in accordance with MN Statutes 505 or 515B, except where otherwise allowed as a Registered Land Survey or one of the Minor Subdivision options as defined in Section 10.25.3.D.5 of this Ordinance. All subdivisions of land located in shoreland and residential zoning districts, unless exempted by Section 10.25.1 E, shall be processed as a plat if such subdivision results in either:*
   a. One or more lots less than five (5) acres in size; or
   b. One or more lots with a buildable area, as defined in Section 10.25.2.8, that is less than the minimum lot size specified for the relevant zoning district.

As the applicant is in a long-term care facility and needs the funds to pay for the care, the family is seeking to subdivide the parcel in a more efficient and cost-effective method, so as to continue funding the long term care that Janice requires. Extras expenses and time associated with the platting process will only serve to reduce available funding for her care and potentially create a time delay as well.

Therefore, as the applicant is proposing to subdivide the parcel 09-0333-000 through a minor subdivision, as provided for in the Pope County Land Use Controls Ordinance, Section 10.25.3.E.5 instead of that which is required as noted above, a variance to the local standard is required.

Applicable Statutes

Local Ordinance

- Pope County Land Use Controls Ordinance
  - Section 10.25 Subdivision Controls Ordinance
    - 10.25.3 Subdivision Application and Approval Process

      D. Application Completeness, Accuracy and Sufficiency

8. *Platting Requirement: All parcels of land created as a result of the subdivision of land shall be platted in accordance with MN Statutes 505 or 515B, except where otherwise allowed as a Registered Land Survey or one of the Minor Subdivision options as defined in Section 10.25.3.D.5 of this Ordinance.*

   All subdivisions of land located in shoreland and residential zoning districts, unless exempted by Section 10.25.1 E, shall be processed as a plat if such subdivision results in either:

   a. *One or more lots less than five (5) acres in size; or*

   b. *One or more lots with a buildable area, as defined in Section 10.25.2.8, that is less than the minimum lot size specified for the relevant zoning district.*

- Section 11.6 Variance from Standards

State Statute/Rule

- MN Statute Chapter 394 Planning, Development, Zoning *(enabling legislation)*
  - 394.27 Subdivision 7. *Variances; practical difficulties*
- MN Statute Chapter 505. Plats; Coordinates; Surveys
- MN Administrative Rules Chapter 6120, *Shoreland and Floodplain Management*
  - 6120.3300 Zoning Provisions
  - 6120.3900 Subp. 3 Variances: *Variances may only be granted in accordance with Minnesota Statutes, chapters 394 or 462, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.*
  - 6120.3500 Subp. 2 Platting. *All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size must be processed by local governments as plats in accordance with Minnesota Statutes, chapter 505. Local governments must not record parcels or issue building or sewage permits for lots created after enactment of official controls under parts 6120.2500 to 6120.3900 that are not part of officially approved subdivisions.*

Staff Comments

Staff offers the following comments for consideration:

Based on Minnesota Statute 394.27 subd. 7: A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a Three Factor Test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.

1. **Reasonableness**

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, in this variance application, the owner is seeking to subdivide the piece of land through alternate methods prescribed in the ordinance where platting is required. The focus should be on whether or not it is reasonable for the property owner to subdivide the property utilizing those alternate methods.

2. **Uniqueness**

The second factor to consider is: is that the landowner's problem is due to circumstances unique to the property not caused by the landowner? The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance to develop a non-conforming parcel, the focus of this factor is whether there is anything physically unique or pre-existing, such as sloping topography or lot line boundaries which were previously drawn. For example, when thinking of this variance there are factors to consider including; is the parcel useable in its current configuration?

3. **Essential Character**

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting parcels will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Staff Recommendation

Having reviewed and considered the application, local ordinances, state statutes, and all comments received, staff ***does not object*** to the issuance of a variance in this case. However, the public hearing as well as the applicant may offer additional facts that are not yet evident for the Board of Adjustment to consider. If the Board of Adjustment does grant a variance to the applicant, Staff recommends that the following conditions be considered:

1. That the property owner is responsible for reaching out to the Township to assure compliance with any Township standards.
2. That County staff may enter onto the property at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules and ordinances.

Staff Findings

The Staff proposes the following findings of fact for consideration by the Board of Adjustment:

1. **Variance request consistent with purposes and intent of the official controls and the comprehensive plan:**

   Findings: The intent of the official control is to provide for a variety of land use options that meet the needs of County residents. The County will do this by managing new and existing development and current land uses such that adverse impacts to the environment and the creation of nuisances are minimized. Specific to this particular parcel, the subdivision of this parcel will create three separate parcels with two already having existing residential structures. By subdividing this property, the number of residences, and therefore the use of the parcels, will not change at this time. If the land use does not significantly change, then there is no conflict with the official controls or comprehensive plan. If there is further residential development, then it is appropriate that it conforms with the zoning district designation.

2. **Use of property/structure is a reasonable use:**

   Findings: Allowing this parcel to be subdivided by the alternate methods prescribed in the Land Use Controls Ordinance is reasonable.

3. **Character of locality and detriment to neighboring properties:**

   Findings: There is no anticipated change in use or densities therefore there is no impact as it relates to neighborhood character. The neighborhood will remain primarily recreational and residential in nature and use.

4. **Plight of the landowner is due to circumstances unique to the property and not self-created:**

   Findings: The circumstances contributing to the need for the variance are that the landowner is seeking to subdivide this parcel via more efficient and cost effective methods instead of the required platting requirement as described in the Subdivision Controls Ordinance. This alternate method is being sought due to the landowner's need to split the parcel in order to pay for a long-term care facility.

REPORT APPENDIX

- **Routing Sheet** *(Comments, concerns and conditions)*
- **Public Notice**
- **Supplemental Information**
  - **Attachment 1:** *Variance Application (Janis Whittemore and Ruth Smith, 14 November 2025)*
  - **Attachment 2:** *Exhibit A, Certificate of Survey (Stoeckel Jahner Land Surveying, 16 November 2025)*
  - **Attachment 3:** *Exhibit B, Existing Parcel (Stoeckel Jahner Land Surveying, 16 November 2025)*
  - **Attachment 4:** *Exhibit C, Proposed Parcels (Stoeckel Jahner Land Surveying, 16 November 2025)*
  - **Attachment 5:** *Site Visit Photos (L&RM Staff, 8 December 2025)*

Routing Sheet

Comments, Concerns and Conditions

County Department

Assessor	*COMMENTS: None* *PROPOSED CONDITIONS: None*
Attorney	No comment received.
E911 Addressing	*COMMENTS: Parcel #09-0333-000 appears to have an address assigned to the two residential structures on site,18592 Whittemore Ln for the northern structure, and 18622 Whittemore Ln for the southern structure. Existing addresses attached to each residential structure should be utilized and transferred to the new resulting parcels upon subdivision.*
Recorder	No comment received.
Surveyor	*COMMENTS: By granting this type of variance, I always have concerns of setting a precedent. How do you handle the next similar request? I don't believe age or financial status are factors of a hardship. All similar requests need to be handled equality and fairly. So be careful.*
WCA Specialist	*COMMENTS: There is a relatively small area of wetland in the SE corner of the proposed outlot, but it seems unlikely that it would present serious obstacles to development. From a WCA standpoint, I have no concerns about the subdivision proposal. Likewise, as Ag Inspector, I have no concerns with the proposal.*

Municipality

Glenwood	No comment received.

Township

Glenwood	*COMMENTS: The Glenwood Township Planning Commission reviewed VAR-25-021 on November 25, 2025:* *Variance from Glenwood Township Zoning Ordinance No. 202501 must be obtained and approved by the Township Board before the split is recorded.* *PROPOSED CONDITIONS: Outlot Recommendation:* *Township recommends that any proposed Outlot be labeled non-buildable unless platted through a future formal subdivision process.*

Other Comments Received

No comment received.

Public Notice

POPE COUNTY LAND & RESOURCE MANAGEMENT
POPE COUNTY COURTHOUSE
130 E. MINNESOTA AVENUE
GLENWOOD, MINNESOTA 56334
(320) 634-7791

POPE COUNTY BOARD OF ADJUSTMENT
NOTICE OF PUBLIC HEARING FOR
VARIANCE REQUEST

Notice is hereby given that a Public Hearing will take place in conjunction with the Board of Adjustment meeting to be held at 6:00 pm or shortly thereafter on Thursday, December 18th, 2025 in the Pope County Courthouse, 3rd Floor Board Room, to consider the following variance request.

Description of Request: Variance hearing on the application by Janis Whittemore and Ruth Smith (VAR-25-021, Parcel#09-0333-000), if granted would allow applicants relief from the subdivision platting requirement in a Residential (R) zoning district per section 10.25.3.D.8 of the Pope County Land Use Controls Ordinance.

Legal Description/Site Location: Lot 3 and part of Lot 4 of the plat of the Subdivision of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼), Section 18, Township 125 (Glenwood), Range 37, Pope County, Minnesota.

Public participation will include an opportunity to:

1) submit written concerns and comment prior to the scheduled meeting. All such communications will be shared with the Board of Adjustment prior to or during the meeting;
2) submit concerns and comments via Pope County's Public Comment web map, go to https://www.popecountymn.gov, at the top of the page hover over Government, then under Board of Adjustment/Planning Advisory Commission, select Submit a Public Comment or type in the following link to access the Public Comment web map: (https://popecounty.maps.arcgis.com/apps/webappviewer/index.html?id=22a203912a864a77b4cdabe672e35e3f)
3) opportunity to review the staff prepared report via Pope County website;
4) observe and/or participate by providing verbal comments in the Public Hearing portion of the Board of Adjustment meeting.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. ***Notices of Decision*** *will be posted* ***online*** *shortly after decision making at the following Pope County webpage:*

- *https://www.popecountymn.gov/land-resource-management/boa-pac-notices-of-decision/*

Thank you for your patience and consideration in this matter.

Dated: November 26, 2025
By: Jessica Hill, Zoning Administrator, Land & Resource Management

Supplemental Information

Supplemental Information Attachment 1:

Variance Application
(Janis Whittemore and Ruth Smith, 14 November 2025)

VAR-25-021

POPE COUNTY MINNESOTA

VARIANCE APPLICATION

L&RM FORM 18

S:\0 ADMIN\1 Forms\Form 18 Variance Application\L&RM Form 18 Variance Application.docx

VARIANCE APPLICATION

A variance allows a modification or variation of the provisions of the Pope County Land Use Controls Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of any provision of the ordinance would cause the landowner "practical difficulty" (see Practical Difficulty Test on the following page).

Variances from official zoning controls are defined under Minnesota Statute 394.27 and require the landowner to prove the property could not otherwise be used or enjoyed in the proposed way by complying with the Pope County Land Use Controls Ordinance and there will be no negative impact on surrounding properties.

Prior to submission of this application, please discuss your variance request with the Land and Resource Management department.

Applicant Information

Applicant Names	Janis Whittemore and daughter, Ruth Smith
[redacted]	

Property Description

Property Address	18592 (and 18622) Whittemore Lane	City	Glenwood	State	MN	Zip	56334
Township Name	Glenwood	Section	18	Twp	125	Range	37
Parcel No.	09.0333.000	Associated Parcel No.					

Project Narrative

What is the variance application for?	Circumventing the 10.25.3.C.8 platting requirement for subdivision of property

Provide written justification for request including discussion of how any potential conflicts with existing nearby land uses will be minimized:

Janis Whittemore owns a 17.16 acre parcel. See attached property survey on Exhibit A: Survey.

There are 2 homes on this parcel, each with a separate driveway off of Whittemore Lane.
See attached Exhibit B: Existing Parcel.
The addresses of the 2 homes on this parcel are 18592 Whittemore Lane and 18622 Whittemore Lane.

Janis is 96 years old, and this fall, has entered into a long term care facility. The cost of her care is $10,000.00 a month, and will increase as her needs for care increase.
Janis is at the poverty level for income and has exhausted her savings. She needs to sell her homes to pay for her care.
She is needing to subdivide her property, so as to sell her homes to pay for her care.
See attached Exhibit C: Proposed Parcels.

This variance is requesting that Janis' parcel with the rule of 10.25.3.C.8. be allowed as a minor subdivision application for Administrative approval through a Certificate of Survey (Meets and bounds) instead of a Plat.

A Plat will take away money that is needed to pay for Janis' care, and will require more time to subdivide and sell. The Plat requirement will be a financial burden on Janis and will delay the time of getting it available to sell.

There are no potential conflicts with existing nearby land uses by allowing this variance. This variance is solely asking for permission to subdivide property in a more cost saving way for Janis, who is in need of money for her care.

Please allow this minor subdivision to be done by application for Administrative approval through a Certificate of Survey (Meets and bounds) instead of a Plat.

Practical Difficulty Test

A variance may be granted if enforcement of the zoning ordinance as applied to a particular piece of property would cause the landowner "practical difficulties." There is a three factor test for establishing practical difficulties. If the applicant does not satisfy all three factors of the test, then the variance should not be granted.

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance.

2. Uniqueness

The second factor is that the landowner's problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner.

3. Essential Character

The third factor is that the variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area.

Questions	Yes/No
Does your project satisfy all three factors of the Practical Difficulty Test?	Yes
Please state how your project satisfies all three factors in the space provided below:	

Reasonableness:
It is reasonable to subdivide a parcel that currently has 2 homes on one parcel. Pope County will probably benefit by increased tax revenue, with no change in current use of the parcel. It is reasonable to allow a 96 year old to subdivide her parcel in the most cost effective way for her, as she is in need of paying for her care.

Uniqueness:
Her parcel is unique in that she has 2 homes on one parcel. She is 96 and at the poverty level for income. Her expenses relating to her care are necessitating the sale of her property in the most cost effective and least time consuming way.

Essential Character:
No essential character of the area is changed by this variance. There are currently 6 homes/parcels on Whittemore Lane, and this proposed minor subdivision will not change the look or the character of the area. The 3 new parcels will be in character (similar) to the 5 other current parcels on Whittemore Lane.

Pope County Land & Resource Management
130 East Minnesota Ave. | Glenwood, Minnesota 56334 |
Phone: (320) 634-7791 | Email: pub.lrm@popecountymn.gov
Website: https://www.popecountymn.gov/land-resource-management/

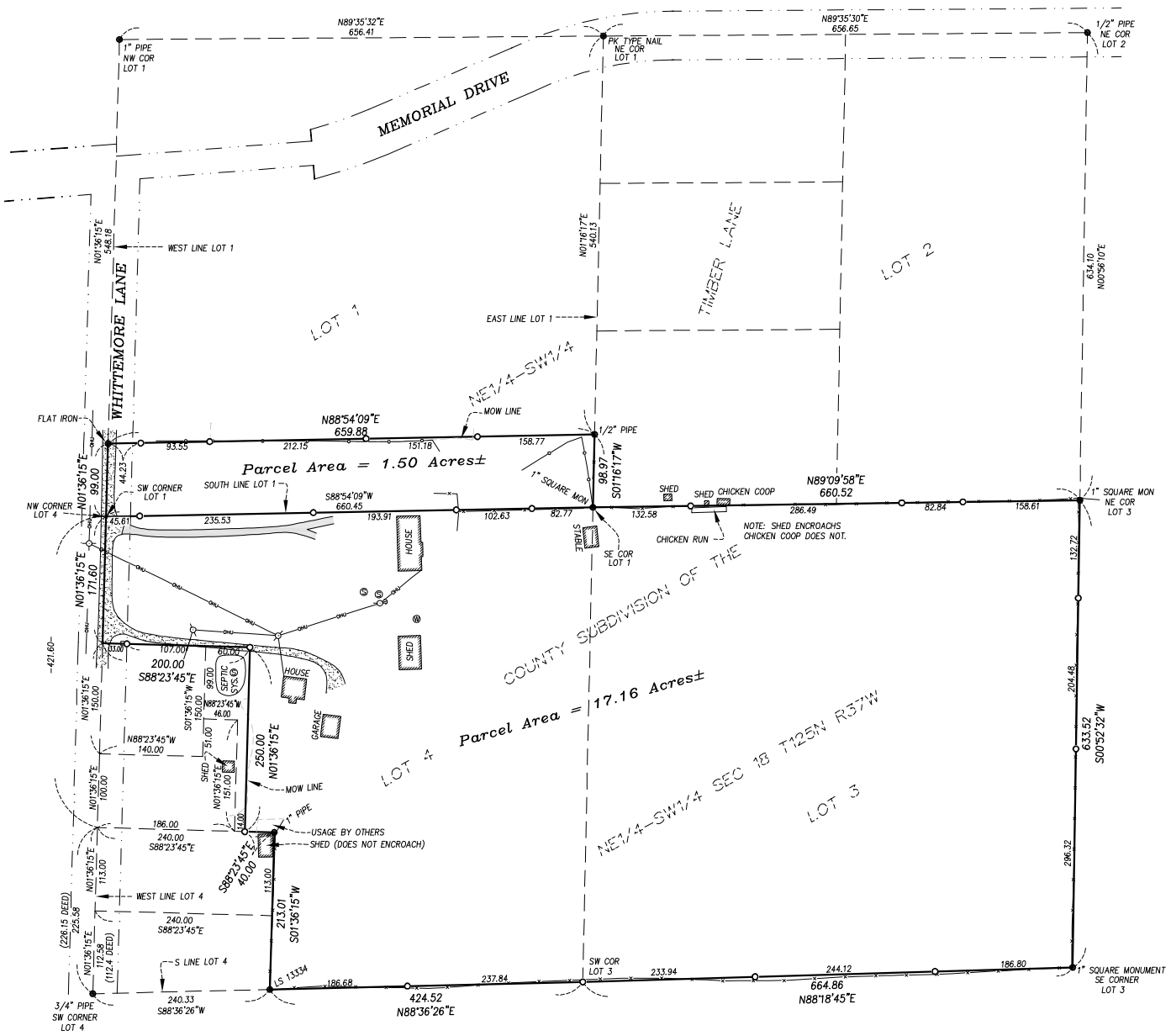
Supplemental Information Attachment 2:

Exhibit A, Certificate of Survey
(Stoeckel Jahner Land Surveying, 16 November 2025)

CERTIFICATE OF SURVEY

STOECKEL–JAHNER SURVEYING FILE NO. 25–15832

Exhibit A : Survey



LEGEND

- IRON MONUMENT FOUND
- 1/2" PIPE SET MARKED LS 44493 & LS 56115
- POWER POLE
- OVERHEAD UTILITIES
- GUY WIRE
- TELECOMMUNICATIONS RISER
- SANITARY CLEANOUT
- ELECTRIC FENCE
- WIRE FENCE
- GRAVEL SURFACE
- BITUMINOUS SURFACE

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

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.

TYLER H. DAHLHEIMER

License No. 56115 Date 09-17-25

STOECKEL JAHNER LAND SURVEYING ...a division of JSD

PREPARED FOR: JANIS WHITTEMORE

1206 3rd Avenue East Alexandria, MN 56308
Phone 320-763-6855
Website: mnsurveying.com Email: mark@mnsurveying.com

SEC, TWP, RNG:	18-125-37
DATE:	09-16-25
DRAWN BY:	JN
CHECKED BY:	MFJ
FILE NUMBER:	25-15832

Supplemental Information Attachment 3:

Exhibit B, Existing Parcel
(Stoeckel Jahner Land Surveying, 16 November 2025)

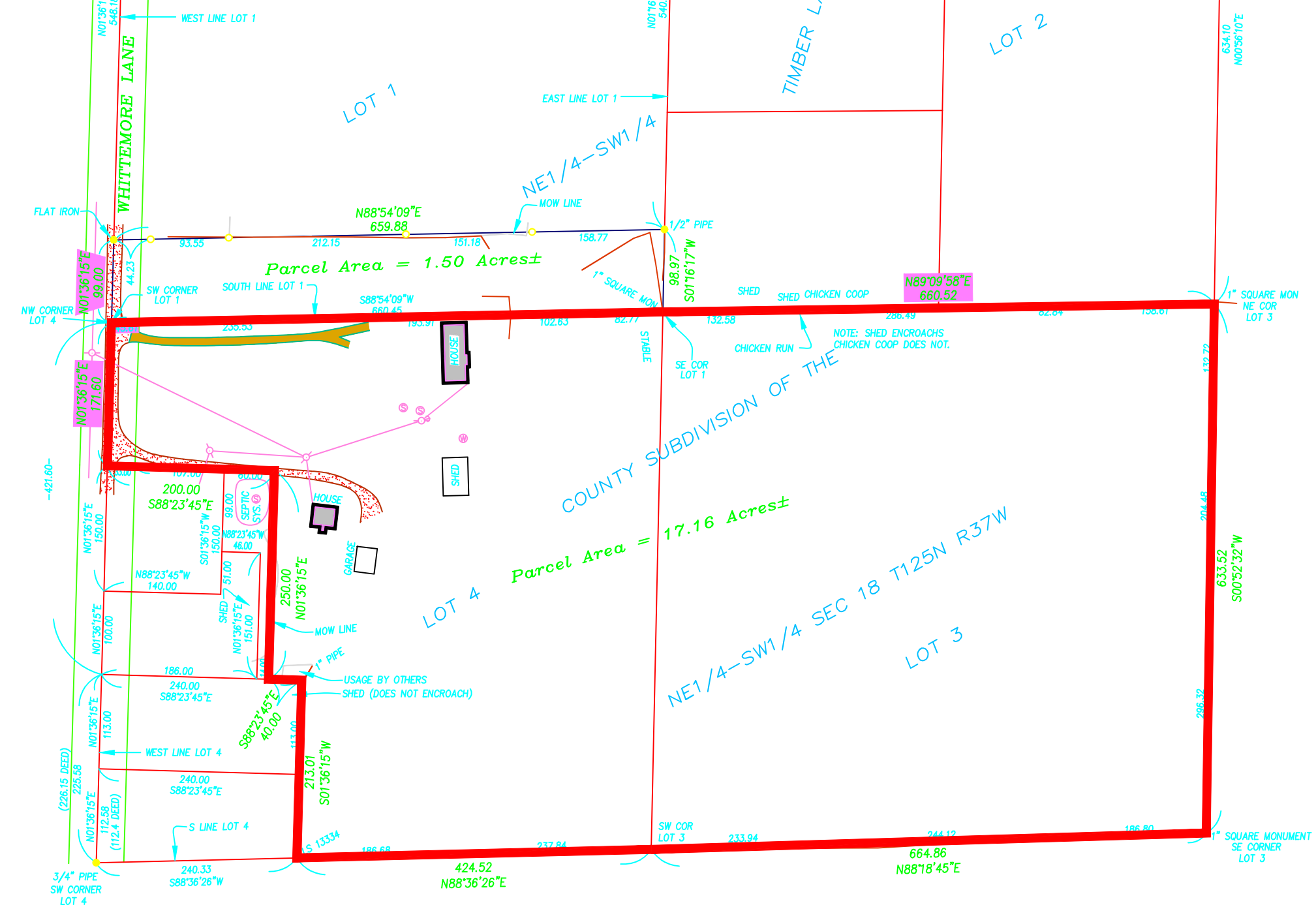


Exhibit B: Existing Parcel

Supplemental Information Attachment 4:

Exhibit C, Proposed Parcels
(Stoeckel Jahner Land Surveying, 16 November 2025)

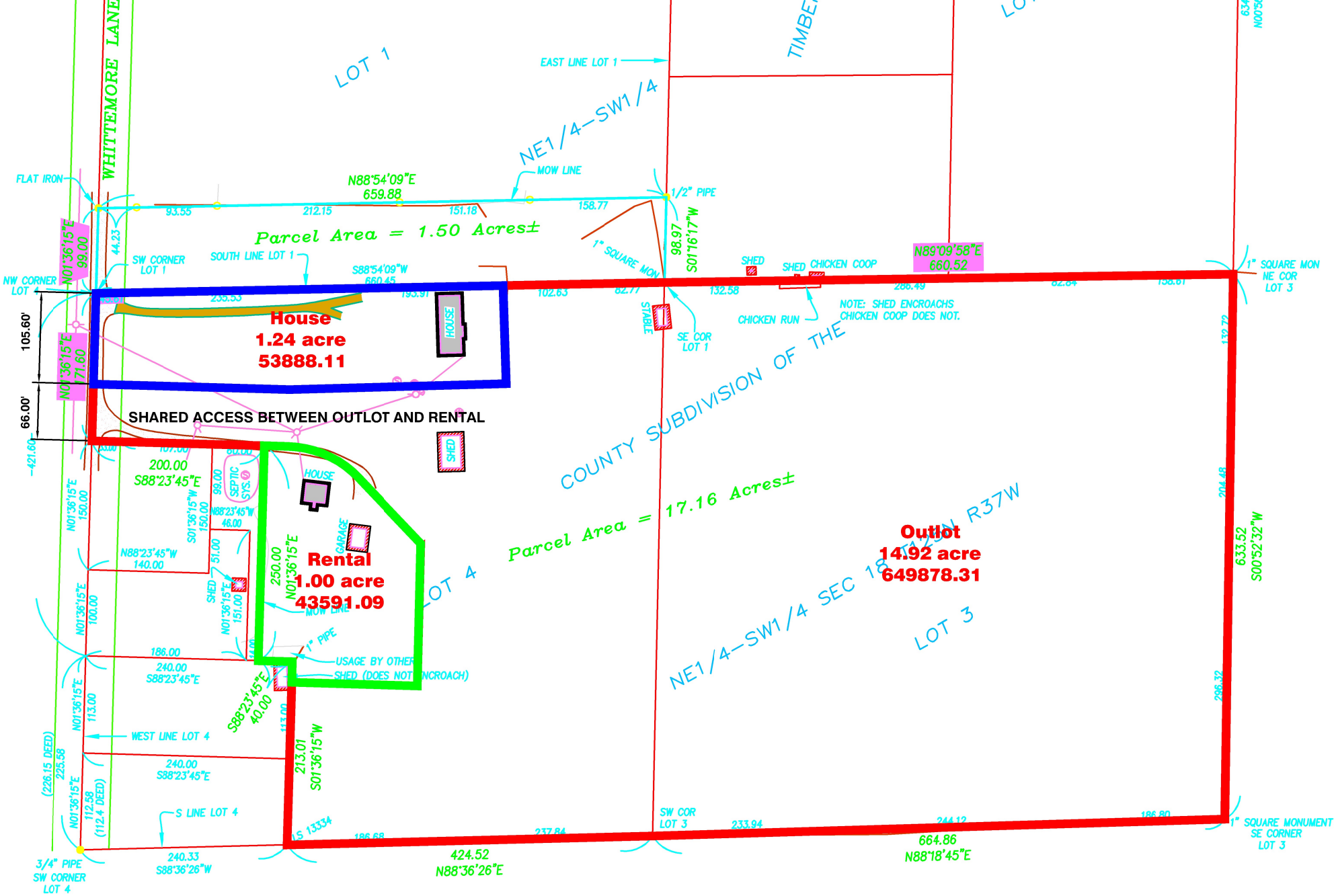
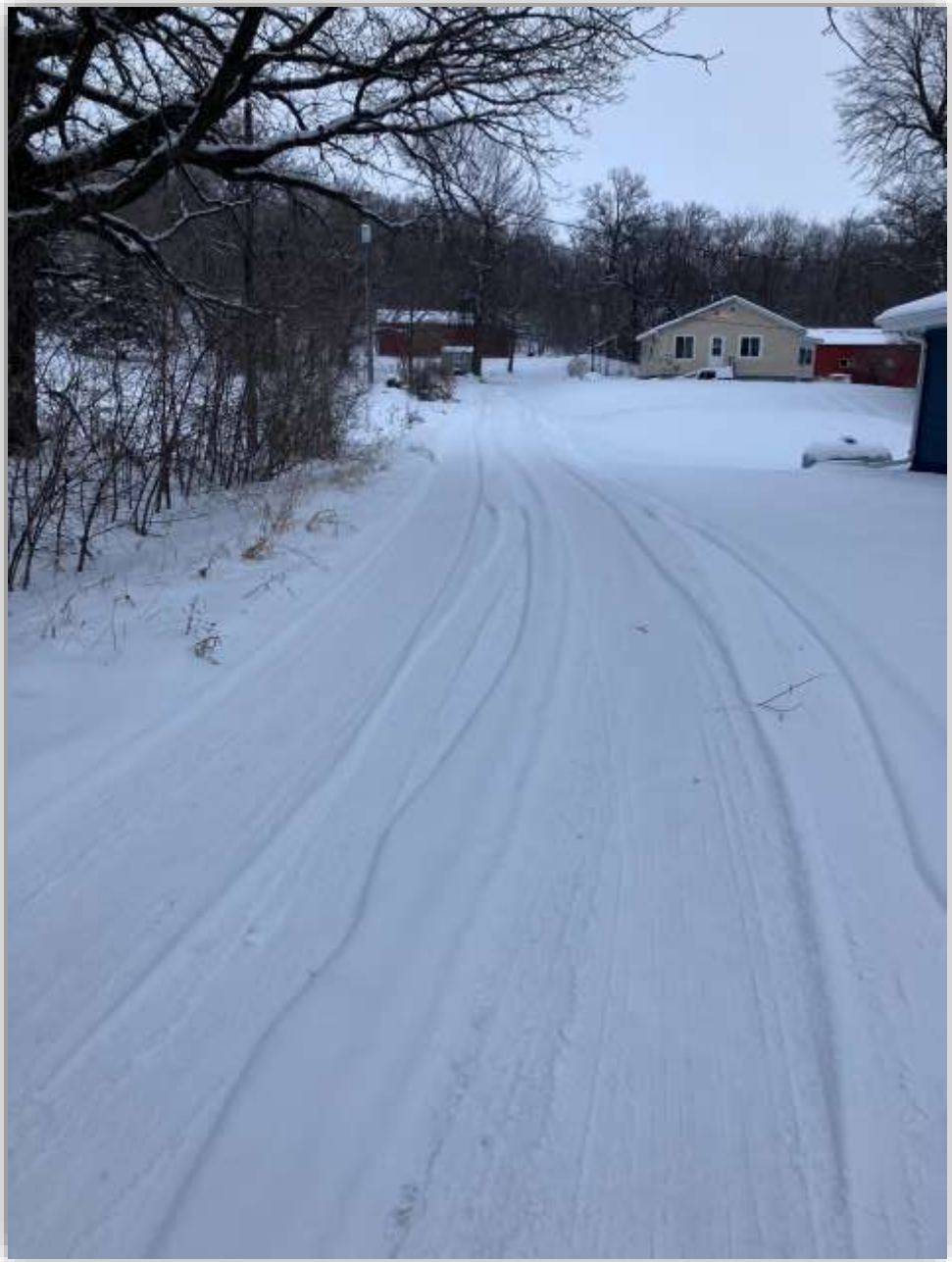


Exhibit C: Proposed Parcels

Supplemental Information Attachment 5:

Site Visit Photos
(L&RM Staff, 8 December 2025)

18622
MATTHEISEN