

# BAXTER



"A Growing Community"

## Planning and Zoning Commission Agenda October 11, 2016 @ 6:00 p.m.

1. Call to Order
2. Roll Call
3. Approval of regular meeting minutes from September 13, 2016
4. Commission Comments and Questions.

**ALL OLD AND NEW BUSINESS ITEMS ARE OPEN FOR PUBLIC COMMENT**

5. Old Business  
None

6. New Business

- A. PUBLIC HEARING. Conditional Use Permits for grading related to the construction of a new home within a shoreland overlay district and to allow the construction of a detached accessory structure with cumulative square footage greater than 1,800 square feet for property located at 4587 Joler Road, Baxter, MN. (LOT 2, BLOCK 1, JASPER HEIGHTS) (City file 16-26)

Requested by: Jeff Pewitt, PO Box 81, Finley, ND 58230.

7. Other Business
8. Adjournment

**PLANNING & ZONING COMMISSION MINUTES**  
**September 13, 2016 - 6:00 p.m.**

**CALL TO ORDER**

The regular meeting of the Planning and Zoning Commission was called to order at 6:00 p.m.

MEMBERS PRESENT: Commissioners Howie Oswald, Bob Ryan and Council Liaison Steve Barrows

MEMBERS ABSENT: Chair Bob Kinzel, Commissioners Steve Lund and Gwen Carleton

STAFF PRESENT: Planner Matthew Gindele

OTHERS PRESENT: Jacob Bahr

**APPROVAL OF MINUTES**

**MOTION** by Commissioner Oswald, seconded by Council Liaison Barrows to approve the minutes from the August 10, 2016 meeting as presented. Motion carried unanimously.

**PUBLIC HEARINGS**

*All items under old and new business items will go to City Council on  
September 20, 2016 if not tabled, continued or otherwise noted.*

Acting Chair Ryan stated that this Commission is advisory and the final approval/denial is given at the City Council Meeting on September 20, 2016 at 7:00 pm.

**OLD BUSINESS**

None

**NEW BUSINESS**

1. PUBLIC HEARING. Conditional Use Permit to place up to 60 yards of black dirt on a lot within the shoreland overlay district and up to 15 yards within the shore impact zone on White Sand Lake for property located at 13821 Kenwood Court, Baxter, MN. (LOT 4, BLOCK 1, WILLOW BEND) (City file 16-25)

Requested by: Backyard Reflections, 24142 Smiley Road, Nisswa, MN 56468

Acting Chair Ryan asked Planner Gindele to start with the staff report. Planner Gindele stated this is a request for a conditional use permit (CUP) to place up to 60 yards of black dirt on a lot within the shoreland overlay district and up to 15 yards within the shore impact zone on White Sand Lake for property located at 13821 Kenwood Court. Planner Gindele gave the history of the lot, previous owners had taken down trees and turned the area in question into a sandy beach without DNR approval. The new owners would like to take some of the beach area away and return it to a grassy area. Being this is within the shoreland overlay district the applicant needs a CUP, per code for anything over 50 yards. The applicant is looking to bring 60 acres of black dirt, thus the CUP is required for the amount and the

grading. Planner Gindele reviewed the site plan and indicated that the fire pit has been removed from the request and the proposed landscaping and stone steps are allowed per the Code. Planner Gindele also informed the Commission that there is a small existing retaining wall near the beach that will remain and act as the boundary between the beach that is to remain and the soon-to-be grassy area above the wall. Acting Chair Ryan clarified that the retaining wall is not technically a true retaining wall since it does not meet the building code height standard to be a true retaining wall; Planner Gindele confirmed that is correct.

Planner Gindele stated that staff is recommending approval of the CUP application with the findings and conditions noted in the draft resolution. Planner Gindele noted that an updated resolution was passed out to the Commission prior to the start of the meeting.

Acting Chair Ryan opened the public hearing.

Mr. Bahr, Backyard Reflections representing the owners stated that Planner Gindele explained the request thoroughly and they had no concerns with the conditions.

Council Liaison Barrows asked if there was going to be any silt fencing; Mr. Bahr indicated that there would be silt fencing installed.

Acting Chair Ryan closed the public hearing.

**Motion** by Commissioner Oswald, second by Council Liaison Barrows to recommend the City Council approve the conditional use permit to place and grade up to 60 yards of black dirt on a lot within the shoreland overlay district and up to 15 yards within the shore impact zone on White Sand Lake for property located at 13821 Kenwood Court as presented by staff in the draft resolution. Motion carried unanimously.

**OTHER BUSINESS**

None

**ADJOURNMENT**

**MOTION** by Council Liaison Barrows, seconded by Commissioner Oswald to adjourn the meeting at 6:10 p.m. Motion carried unanimously.

Approved by:

Submitted by:

\_\_\_\_\_  
Acting Chair Bob Ryan

\_\_\_\_\_  
Shanna Newman CD Administrative Assistant



**TO:** Baxter Planning and Zoning Commission

**FROM:** Matthew Gindele, Planner

**DATE:** October 11, 2016 Planning and Zoning Commission Meeting

**REQUEST:** **PUBLIC HEARING. Conditional Use Permit** to allow cumulative accessory building square footage to exceed 1,800 square feet and to allow grading within a shoreland area for property located 4587 Joler Rd.

**APPLICANT:** Jeff Pewitt

**ZONING:** R-1, Low Density Residential

**1. Application Request**

The applicant/owner of the subject property (Jeff Pewitt) has submitted an application proposing to construct a 1,152 square foot detached garage in addition to a proposed 882 square foot attached garage and is requesting a conditional use permit (CUP) to allow cumulative accessory building square footage to exceed 1,800 square feet. The applicant is also requesting a CUP to allow grading related to the construction of the accessory structure and the new home within the shoreland zoning district of unnamed lake 18-382.

**2. Context**

**Adjacent Land Use and Zoning**

	<b>Adjacent Land Use</b>	<b>Zoning</b>
<b>North</b>	Vacant/Residential	R-1, Low Density Residential
<b>East</b>	Vacant Residential	R-1, Low Density Residential
<b>South</b>	Vacant/Unnamed Lake 18-382	R-1, Low Density Residential
<b>West</b>	Vacant Residential	R-1, Low Density Residential

*Characteristics of the Site*

The subject property is heavily wooded and has lakefront on an unnamed lake southwest of Rush Lake. The property contains high ground near Joler Road with primarily coniferous trees on the east side of the lot and deciduous on the west side. The high ground extends approximately 215 feet into the lot from the road where a slight ridge exists and the property falls off into lower ground that is wooded with deciduous trees. The property then transitions from the wooded low ground to marshy wetland that is vegetated with emergent aquatic vegetation in the back of the property; this is part of

the lake that the property fronts. The ordinary high water level (OHWL) is beyond the subject property where the emergent vegetation transitions to open water. Setbacks from the OHWL are not a factor with this CUP application as the setbacks from the OHWL are beyond the rear lot line of the subject property. The lake also functions as a wetland and a floodplain.

### **3. Analysis of Request**

#### Conditional Use Permits

The applicant is requesting a CUP to allow cumulative accessory building square footage to exceed the maximum 1,800 square feet. The applicant is proposing to construct a new home with an 882 square foot attached garage. In addition, the applicant is proposing to construct a 1,152 square foot detached accessory structure which would put the total accessory structure square footage at 2,034 square feet when the Code allows only 1,800 square feet. The Code does, however, allow, by CUP, for accessory structure square footage to exceed 1,800 square feet on lots greater than 2.5 acres in the R-1 district, subject to the following conditions:

1. The accessory building shall be a minimum of fifty feet (50') from both side and rear lot lines.
2. The accessory building is located rearward of the front line of the principal structure.
3. The accessory building meets all of conditional use permit standards in this chapter and chapter 7 of this title.

The location of the proposed accessory structure is not situated rearward of the front line of the principal structure. However, the Code identifies lake lots as having a front yard on both the street side and the lake side of the home. Furthermore, the Code states that in the shoreland overlay district, the Zoning Administrator shall determine the orientation of the principal structure as to determine where detached accessory structures may be placed. Criteria for this determination are: the distance from the principal structure to the road right of way and ordinary high water mark, pattern of development of adjacent properties, screening and other relevant site information. Based on these criteria, staff has determined existing screening and the proposed setbacks are sufficient enough for the detached accessory structure to be placed forward of the principal structure as shown in the site plan.

A review of the general CUP standards is included at the end of this report.

The applicant is also requesting a CUP to allow grading/filling in a shoreland area for the construction of a detached accessory structure and for filling/grading related to the construction of the new home. The Shoreland Overlay District allows grading and filling with a conditional use permit, subject to the following conditions:

1. The smallest amount of bare ground is exposed for as short a time as feasible;
2. Temporary ground cover, such as sod, is planted;
3. Methods to prevent erosion and trap sediment are employed;
4. Fill is stabilized to accepted engineering standards.

A CUP shall not be issued until the city determines how to protect the river by mitigating erosion and stormwater drainage during and after construction, visual impacts or any other impact caused by construction. The applicant shall be required to submit a best management practices (BMP) plan for staff's review and approval to identify the methods to protect the river during construction.

Staff has also reviewed the request against the general CUP standards. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. *Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.*

The proposed use will not create a burden on existing parks, schools, streets and other public facilities because the surrounding area has already been developed and the proposed use matches the surrounding residential development pattern.

- B. *Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.*

The use is compatible with adjacent residential land uses and will not depreciate adjacent property value.

- C. *Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.*

The proposed use will not have an adverse effect on adjacent properties because it will be consistent in appearance with the proposed home and the surrounding area.

- D. *Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.*

The use is consistent with the city's land use plan for the property and meets overall needs.

- E. *Consistent With Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.*

Accessory structures are a permitted accessory use in the R-1 zoning district and therefore, the proposed use is consistent with the purpose of the R-1 zoning district. The applicant has submitted a plan that meets the city's zoning requirements with the granting of this CUP as long as all conditions are met.

- F. *Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.*

The use is not in conflict with the comprehensive plan of the city.

- G. *Traffic: The use will not cause traffic hazard or congestion.*

The use will not cause a traffic hazard or congestion.

- H. *Facilities: The use shall have adequate utilities, access roads, drainage and necessary facilities.*

The site has adequate utilities, access, drainage and necessary facilities.

#### **4. Recommendation**

Staff recommends approval of the conditional use permit subject to the findings and conditions in the attached resolution.

**Attachments**

1. Draft Resolution Approving the CUP
2. Site Location Map
3. Site Plan
4. Grading and Drainage Plan
5. Elevations

**CITY OF BAXTER, MINNESOTA  
RESOLUTION 16-\_\_\_\_**

**RESOLUTION APPROVING CONDITIONAL USE PERMITS FOR GRADING AND FILLING  
WITHIN A SHORELAND DISTRICT TO UNNAMED LAKE 18-382 AND TO ALLOW  
CUMULATIVE BUILDING SQUARE FOOTAGE TO EXCEED 1,800 SQUARE FEET FOR A  
1,152 SQUARE FOOT DETACHED ACCESSORY STRUCTURE AND AN 882 SQUARE  
FOOT ATTACHED GARAGE FOR PROPERTY LOCATED AT 4587 JOLER ROAD (CITY  
FILE NUMBER 16-26)**

WHEREAS, Jeff Pewitt ("the applicant") has requested approval of conditional use permits for property legally described as follows:

Lot 2, Block 1, Jasper Heights, Section 14, Township 133, Range 29, and;

WHEREAS, the Planning and Zoning Commission has reviewed the request at a duly called Public Hearing on October 11, 2016 and recommends approval, and;

Whereas, the City Council considered the Planning and Zoning Commission recommendation at their October 18, 2016 meeting;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAXTER, MINNESOTA, that it should and hereby does approve the request for conditional use permit subject to the following findings and conditions:

1. The conditional use permit allows for grading related to the construction of a new home with an attached garage and for grading related to the construction of a 1,152 square foot detached accessory structure within the shoreland overlay district of Unnamed Lake 18-382, in accordance with the application and plans received by the city on September 1, 2016, except as may be amended by this resolution, based on the finding that all applicable conditional use permit standards have been met.
2. The conditional use permit allows for the construction of a 1,152 square foot detached accessory structure as well as an 882 square foot attached garage to exceed the maximum allowed cumulative square footage of 1,800 square feet, in accordance with the application and plans received by the city on September 1, 2016, except as may be amended by this resolution, based on the finding that all applicable conditional use permit standards have been met.
3. **Prior to issuance of a building permit** the applicant shall submit an erosion control best management practices plan providing sufficient protection of the lake from erosion. At a minimum, the applicant shall install a silt fence on the property. Erosion control

must be maintained on the property throughout construction until the ground cover is established.

4. Other erosion control methods such as temporary ground cover shall be used as necessary to prevent erosion and trap sediment.
5. Any fill shall be stabilized to accepted engineering standards.
6. The graded areas shall be sodded or hydro-seeded and shall be established to at least 90% ground coverage prior to receiving a certificate of occupancy. Direct seeding may only be used in areas that have an irrigation system.
7. The detached accessory structure shall be compatible in design, color, materials, and construction type of the principal structure.
8. The detached accessory structure shall be a minimum of 50 feet from the side and rear property lines and shall meet the district standards for the front yard setback.
9. Building permits are required prior to beginning construction.
10. Approval shall expire within one year of the date of approval unless the applicant commences the authorized use and completes the required improvements.

**Whereupon, said Resolution is hereby declared adopted on this 18th day of October, 2016**

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**Darrel Olson, Mayor**

**ATTEST:**

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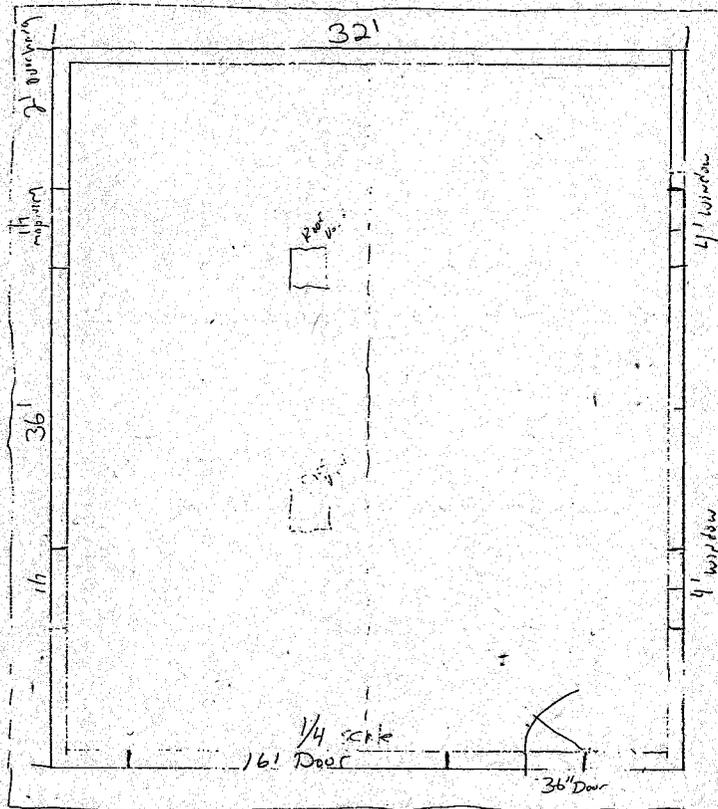
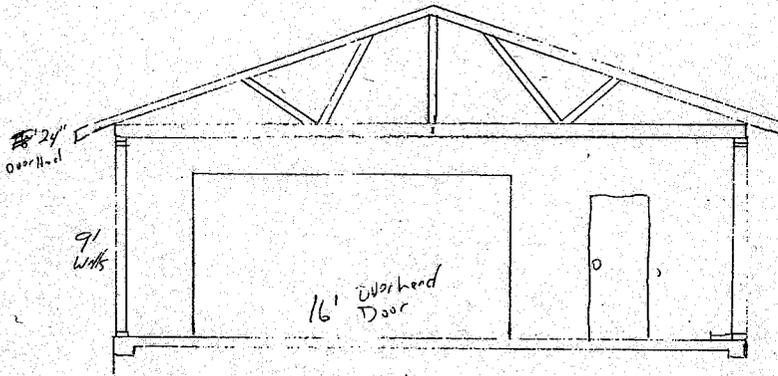
**Kelly Steele, City Clerk**

***City Seal***



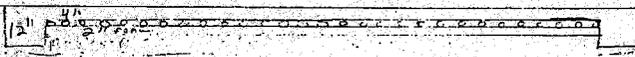




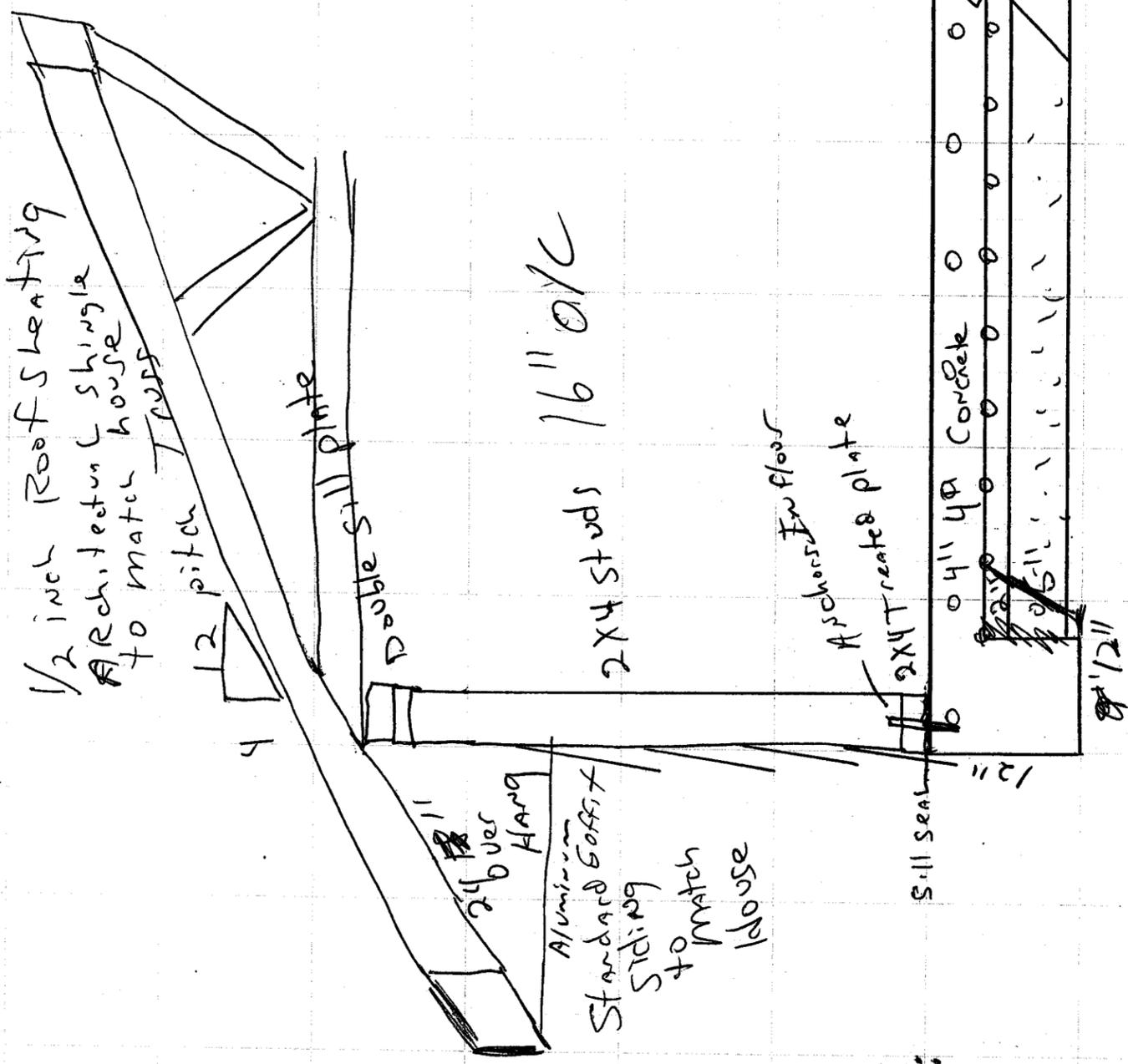


Jeff Pawff

Reinforced Br.  
One 1" x 1" Spun



4" Slab concrete  
12X12 Timber post  
In floor - 4" dia.  
2" concrete insulation  
6" Gravel



1/2 inch Roof Sheathing  
 Architectural Shingle  
 to match house

12 pitch  
 Truss

Double Sill plate

2x4 studs 16" o/c

2x6 over  
 Hang  
 Aluminum  
 Standard Goffix  
 Siding  
 to match  
 house

Architectural Floor

2x4 Treated plate  
 4" concrete  
 5" sand gravel  
 2" Styrofoam insulation  
 12" thick edge

Sill seal

Bar grid 18"

12x4 Thick edge  
 6" in floor Tubing  
 2" Styrofoam insulation  
 5" sand gravel  
 Base

1190

1192

1194

1196  
1198  
1200

1196

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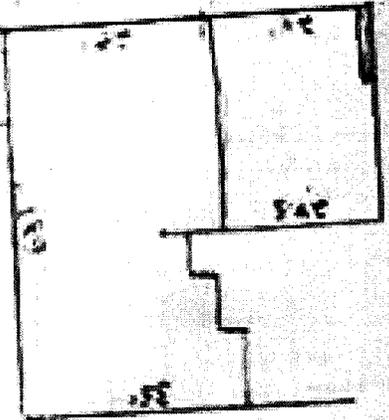
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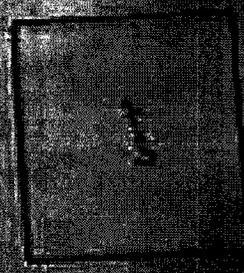
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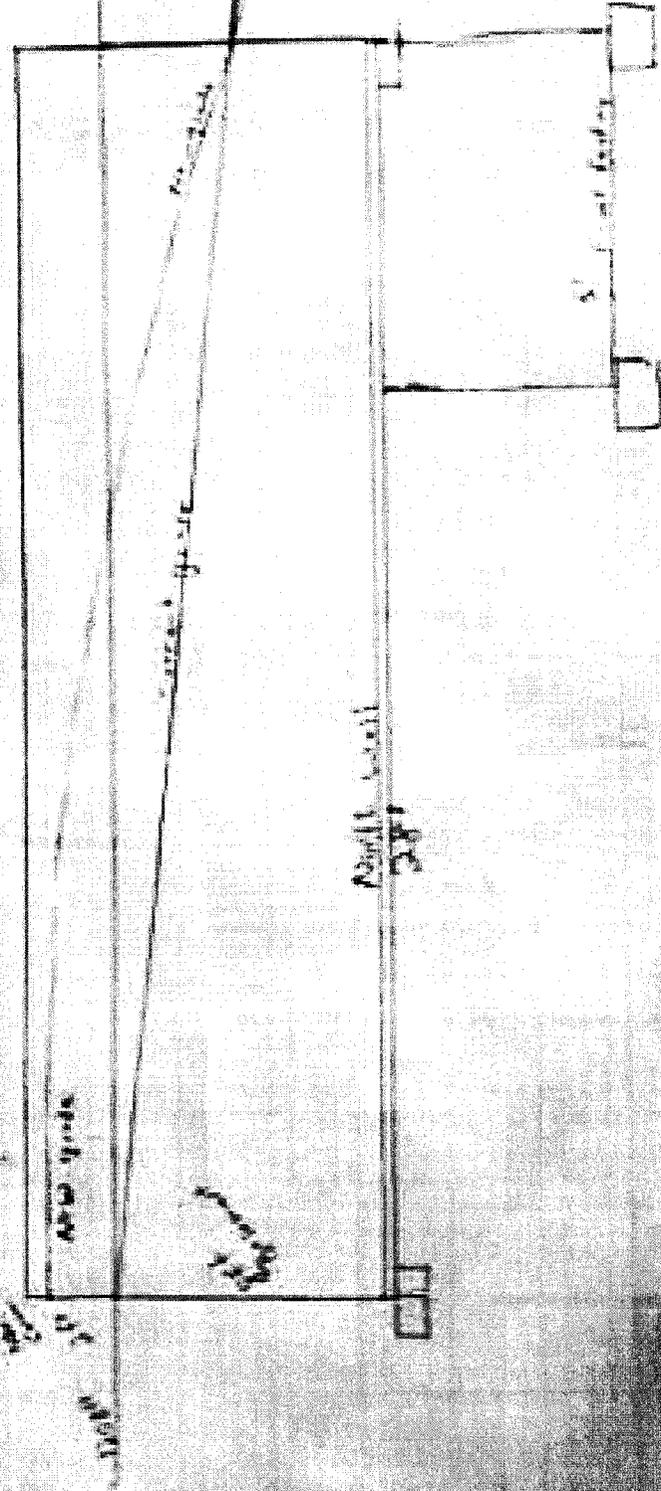


1191





Pewitt Lane Rd



Lot 100 x 100  
100' x 100'

100' x 100'  
100' x 100'  
100' x 100'



100' x 100'

# Pewitt Jolere d

