



CITY OF FAIRMONT – 100 Downtown Plaza – Fairmont, MN 56031

Phone (507) 238-9461

www.fairmont.org

Fax (507) 238-9469

TO: Board of Zoning Appeals

FROM: Peter Bode, Planner/Zoning Official

DATE: February 24, 2022

SUBJECT: Agenda – Regular Meeting
Tuesday, March 1, 2022 at 4:30 p.m.
Fairmont City Council Chambers, 100 Downtown Plaza

- 1) Approval of Agenda
- 2) Approval of Minutes – February 1, 2022

New Business

- 3) Public Hearing – Variance for 1326 E Blue Earth Ave

Old Business

None

- 4) Adjournment

MINUTES OF THE FAIRMONT BOARD OF ZONING APPEALS

Regular Meeting

February 1, 2022 at 4:30 p.m.

City Council Chambers, City Hall, 100 Downtown Plaza

Members present: Mike Jacobson, Susan Krueger, Jay Maynard, Adam Smith, Council Liaison Wayne Hasek, Council Liaison Bruce Peters

Members absent: Mike Klujeske

Staff present: City Administrator Cathy Reynolds, Planner & Zoning Official Peter Bode

Chair Krueger called the meeting to order at 4:30 p.m.

Approval of Agenda: Motion by Maynard and second by Jacobson to approve the agenda as presented. Motion carried.

Approval of Minutes: Motion by Maynard and second by Smith to approve the January 4, 2022 meeting minutes as presented. Motion carried.

New Business: *None*

Continue - Variance Request for 2319 Albion Ave: The Board continued its discussion of a request by Troy and Jadee Menke at 2319 Albion Ave for variances to allow a 2-foot in lieu of 50-foot OHWL setback from Hall Lake and a 0-foot in lieu of 30-foot front yard setback from Albion Avenue. Bode stated that the DNR indicated to staff that a public waters work permit had not been applied for relating to the overhanging deck.

The Board discussed the proposal.

Motion by Maynard and second by Jacobson to deny the variance for a 2-foot in lieu of 50-foot OHWL setback and a 0-foot in lieu of 30-foot front yard setback. Motion carried.

The Board's reason for denial was that the request was inconsistent with the purpose of the City's shoreland management ordinance. Additionally, the circumstance was neither unique nor reasonable because similar areas of land are unbuildable throughout the city.

Adjournment: Motion by Maynard and second by Smith to adjourn. Motion carried and the meeting adjourned at 4:43 p.m.

*Respectfully submitted,
Peter Bode*

GENERAL INFORMATION

Applicant: Scott A. Vaubel

Property Owner: Double Trouble Treats, LLC

Purpose: To allow a 20-foot in lieu of 30-foot corner yard setback requirement

Address: 1326 E Blue Earth Ave

Parcel Number: 23.074.0050

Zoning: B-3 General Business

Surrounding Land Use: General business, single family home

Application Date: January 28, 2022

Review Date: March 1, 2022

BACKGROUND

This general business (B-3) lot is approximately 100 feet wide by 115 feet long. The lot is part of Blue Earth Avenue's eastern business corridor, located at the intersection of Burton Lane. A single-family home lies to the south of the property. A drive-through service restaurant, Dairy Queen, exists on the property approximately 10 feet from eastern corner yard property line.

The applicant proposes to demolish the restaurant and replace it with an improved drive-through service restaurant 20 feet from the eastern property line. Improvements will include a walk-up window and seating to the north of the restaurant, as well as a rerouted service lane to alleviate vehicle queues from backing up into Blue Earth Avenue.

POLICY CONSIDERATIONS

The Fairmont Comprehensive Plan guides the use of this corridor to be commercial. The parcel is zoned B-3, of which restaurants are permitted.

Zoning Code requires a 30-foot setback for structures from corner property lines. Even though the new structure is proposed to be placed further from the corner property line than the current structure, the proposed structure is still subject to contemporary setback requirements.

REVIEW OF VARIANCE STANDARDS

City Code Section 26-101 guides the Board of Zoning Appeals in how to review variance requests:

No variance shall be granted to allow a use not permissible under the terms of this chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this chapter and when the terms of the variance are consistent with the comprehensive plan. In granting a variance the board may prescribe appropriate conditions in conformity with this chapter. When such conditions are made part of the terms under which the variance is granted, violation of the conditions is a violation of this chapter. A variance shall not be granted by the board of appeals and adjustments, or by the city council on appeal, unless it conforms to the following standards.

- (1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved that cause practical difficulties in complying with the requirements of this chapter and do not result from the actions of the petitioner. Economic considerations alone shall not constitute practical difficulties.**

Staff find that a special circumstance exists in which an existing structure is less complying than a proposed replacement. Use of the lot, which is limited by its corner location and relatively small area, would be improved by the request.

- (2) Literal interpretation of the provisions of this chapter would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this chapter and the granting of the variance will not alter the essential character of the locality.**

Staff find that literal interpretation of the Zoning Code would deprive the petitioner of rights commonly enjoyed by other restaurants in the district. The corridor's essential character will not be impacted.

- (3) Granting the variance will not confer on the petitioner any special privilege that is denied by this chapter to other lands, structures, or buildings in the same area and the petitioner proposes to use the property in a reasonable manner.**

Staff find that the applicant proposes to use the property reasonably. The proposed setback would improve the non-conformity, while also allowing traffic entering and passing the lot more safety with an improved service queue

- (4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

Staff find that granting the request will not impair supplies of air or light to adjacent property, or otherwise impact the public welfare or property values.

RECOMMENDATION

Staff recommend that the Board of Zoning Appeals consider the legal standards set forth by **Minnesota Statute 462.357(6)** when considering variance applications. This includes a three-factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?**
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner, that creates the circumstance?**
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?**

The landowner proposes to use the property in a reasonable manner, improving an existing nonconformity and allowing for a safer flow of traffic entering and passing by the property. The lot's location on a corner, as well as its relatively small area, creates a circumstance that is improved by the request. Blue Earth Avenue's eastern corridor is home to other commercial uses, and the proposed restaurant would not be out of scale or place.

Considering applicable statute and code, staff's findings support the request for a variance to allow a 20-foot in lieu of 30-foot corner yard setback requirement.

Respectfully submitted,

Peter Bode

Planner & Zoning Official

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230740050

230740060

23 07 40020

230740050



LLC,DOUBLE TROUBLE TREATS
1326 BLUE EARTH AVE E
Value \$52600 Note:

[View: Parcel Report](#) | [Soil Report](#) | [Pictometry Imagery](#)

**CITY OF FAIRMONT
Planning & Zoning
Application Form**

NOTE TO APPLICANT: This is a comprehensive application form. Only those items related to your specific type of development are to be completed. All items applicable must be included prior to acceptance of the application.

Name of Applicant: Scott Vanbel Address: 34933 700th Ave St James MN Phone# [REDACTED]

Street Address of Proposal: 1326 East Blue Earth Ave

Legal Description of Property: parcel ID# 230740050 / Barton 5180, N 115.16' of lot 1 & 2 BLK 2

Existing Use of Property: Dairy Queen

Proposed Use of Property: Dairy Queen

| Type of Application | Fee | Submission Requirements (Attached) |
|---|----------|------------------------------------|
| <input type="checkbox"/> Appeal/Code Amendment | \$150.00 | 7 |
| <input type="checkbox"/> Administrative Appeal | 50.00 | 8 |
| <input type="checkbox"/> Conditional Use Permit | 150.00 | 4, 6(d-g) |
| <input type="checkbox"/> Home Occupation Permit | 30.00 | 9 |
| <input type="checkbox"/> Minor Plat | 90.00 | 2(a), 5 (a-b) |
| <input type="checkbox"/> Planned Unit Development | 150.00 | 1, 4, 6(d-g) |
| <input type="checkbox"/> Preliminary Plat | 150.00 | 5 (b), 6 |
| <input type="checkbox"/> Rezoning | 150.00 | 1 |
| <input checked="" type="checkbox"/> Variance | 90.00 | 2,3 |

I HEREBY CERTIFY THAT THE INFORMATION AND EXHIBITS HERewith SUBMITTED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Scott A Vanbel [Signature]
Owner's Name(Printed) Owner's Signature

Scott A Vanbel [Signature]
Applicant's Name (Printed) Applicant's Signature

| City Staff Use Only | |
|--|----------------|
| DATE FILED: | <u>1-28-22</u> |
| DATE FEE PAID: | <u>1-28-22</u> |
| MEETING DATE: | <u>3-1-22</u> |
| NOTICES SENT (DATE): | _____ |
| NOTIFICATION OF EXTENSION (LETTER SENT): | _____ |

January 20, 2022

City of Fairmont Planning & Zoning
RE: Request for variance of property line setback

Hello –

My Name is Scott Vaubel and I am the owner of the Dairy Queen located at 1326 Blue Earth Avenue East. I am considering the possibility of rebuilding the existing DQ building on the same property. The current DQ building was built in 1967 and is approximately 728 square feet. In addition to the DQ building, there is a separate storage garage on the property used to supplement the limited amount of storage area we have inside the main DQ building.

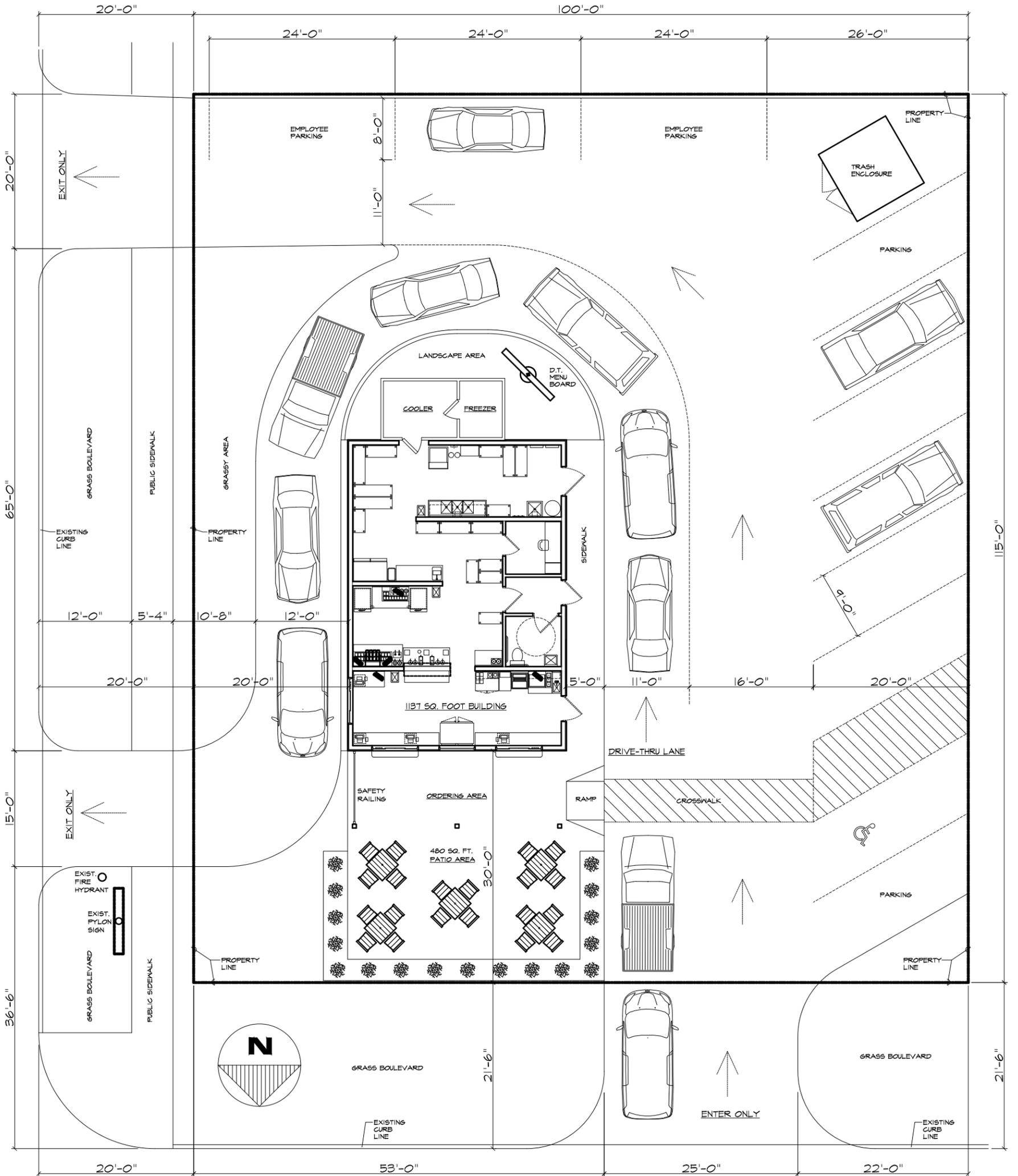
The primary reasons for rebuilding would be to increase the overall size of the building and upgrade the exterior image & character. A slightly larger building would allow us to eliminate the additional storage garage on the property and increase/consolidate our storage into one location. The additional space would also help to improve the food & treat preparation areas as well as refine the flow of products to the customer service points. The need for safe, efficient drive thru service has never been more important than it is currently. Many customers just feel more comfortable utilizing the drive-thru rather than other service options. The existing DQ drive thru lane is currently limited to three vehicles which causes a potential fourth vehicle to be unable to completely exit Blue Earth Avenue causing a dangerous situation. The new proposed Dairy Queen building would have the drive thru service window located such that it would allow for as many as 9 vehicles in the drive thru queue while still allowing adequate parking and customer flow around the property.

The new proposed building would maintain the existing setback off of Blue Earth Avenue, but would require a variance for the setback on the Burton Lane side of the property. Being a corner property and having street frontage on two adjacent sides creates a situation where the required setbacks limit the portion of the property that is buildable. City ordinance requires a 30'-0" setback from the Burton Lane side property line. The existing DQ building currently sits 5'-0" off of the Burton Lane side property line. The new proposed building would need to be allowed a 20'-0" setback (variance) from the Burton Lane side property line. By granting the 20'-0" setback (variance) the new proposed building would be 15'-0" further away from the Burton Lane side property line than the existing building currently sits. If the 30'-0" setback on the Burton Lane side of the property is adhered to it will cause a decrease in the overall amount of parking that can be provided and will result in falling short of the required amount. The relocation of the building as well as the removal of the additional storage garage will help create a more visually pleasing corner. The new facility will ultimately create very little change to the function and use of the existing property, but will provide many benefits toward the success and growth of my business, while improving the aesthetics of this corner and the overall safety of the property.

Thank you for your consideration!

Scott Vaubel
Dairy Queen
1326 Blue Earth Avenue East
Fairmont, MN 56031

Burton Lane



Blue Earth Avenue East / Co. Hwy. 26



Phone (507) 238-9461

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**CITY OF FAIRMONT
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Fairmont Board of Zoning Appeals will meet at the City Council Chambers, 100 Downtown Plaza, Fairmont, MN 56031 at 4:30 p.m. on Tuesday, March 1, 2022 to conduct a Public Hearing to review the following item:

Double Trouble Treats, LLC (Dairy Queen)
1326 E Blue Earth Ave (Parcel ID 23.074.0050)
Side yard setback requirement 20 feet in lieu of 30 feet

Members of the public wishing to provide public comment may attend the meeting. Written comments can also be submitted to City of Fairmont, attention Patricia Monsen, 100 Downtown Plaza, Fairmont, MN 56031.

Questions about the proposal can be directed to Peter Bode, Planner & Zoning Official at pbode@fairmont.org or 507-238-3940.

Patricia Monsen
City Clerk
(Published in Fairmont Sentinel on February 16, 2022)



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Patricia Monsen
City Clerk

You are receiving this notice by mail as a neighboring property owner who could be affected by the proposed request. You have the right to provide public comment.

ABEL,GREG & MARY
1405 WEBSTER
FAIRMONT, MN 56031

ANDERSON,LINDA M
1321 WEBSTER
FAIRMONT, MN 56031

BULFER,DEBRA J
753 SUMMIT DR
FAIRMONT, MN 56031

CRONK JR,RALPH
1315 WEBSTER ST
FAIRMONT, MN 56031

DAY PLUMBING & HTG & COOLING, INC
1410 E BLUE EARTH AVE
FAIRMONT, MN 56031

DEVRIES,CORNELIUS J
212 BURTON LN
FAIRMONT, MN 56031

EISENBACHER,SUSAN DIANE, DAVID LA
302 BURTON LANE
FAIRMONT, MN 56031

FREITAG,COREY M & DANIELLE
107 HODGMAN AVE
FAIRMONT, MN 56031

HALL LAKE CABINS & RENTALS LLC
1012 4TH ST EAST
FAIRMONT, MN 56031

HAWKINS,THOMAS A & KATHRYN A
1304 BLUE EARTH AVE E
FAIRMONT, MN 56031

HAWKINS,THOMAS A & KATHRYN A
1304 E BLUE EARTH AVE
FAIRMONT, MN 56031

HIGGINS,CAROLYN
1309 WEBSTER ST
FAIRMONT, MN 56031

HINZ,CALVIN, CATHERINE HINZ
1020 N MAIN ST
FAIRMONT, MN 56031

ILIFF,CHERYL R
1327 WEBSTER ST
FAIRMONT, MN 56031

KOCH,EUGENE L
872 PRAIRIE S
FAIRMONT, MN 56031

KRUMHOLZ RENTALS LLC
1410 E BLUE EARTH AVE
FAIRMONT, MN 56031

LLC,DOUBLE TROUBLE TREATS
34933 700TH AVE
SAINT JAMES, MN 56081

MADAY,MEREDITH M (EICHOLZ)
1404 E WEBSTER
FAIRMONT, MN 56031

MEIXELL,MARTIN G & KATHY J
1314 WEBSTER
FAIRMONT, MN 56031

POETTER,JOHN M & SYLVIA
42324 110TH ST
BLUE EARTH, MN 56013

ROTHFUS,RICHARD E, KAREN K ROTHFU
1316 WEBSTER ST
FAIRMONT, MN 56031

SCHWAB,RALPH E & AUDREY D
1302 WEBSTER
FAIRMONT, MN 56031

SHELSTAD,KAREN N
1402 E WEBSTER
FAIRMONT, MN 56031

SIDLES,GREGORY A, LINDSY A SIDLES
1407 WEBSTER ST
FAIRMONT, MN 56031

SMITH,JEFFREY A
1080 SIOUX AVE
FAIRMONT, MN 56031

STRIEMER,DOUGLAS H & D D, DEANNA
1308 WEBSTER
FAIRMONT, MN 56031

SW LEASING LLC
231 SOUTHDALE ST SE
SLEEPY EYE, MN 56085

UNKE,RYAN W, REID UNKE
805 HOME ST
FAIRMONT, MN 56031

WARD,A L & C E INC
204 LAKE AVE STE 201
FAIRMONT, MN 56031