



Inver Grove Heights Planning Commission
Wednesday, September 6, 2023 at 7:00 PM
8150 Barbara Avenue, Inver Grove Heights, MN 55077

AGENDA

NOTICE TO RESIDENTS: Individuals may submit written public comments in advance of the meeting by emailing comments to Stacy Bodsberg (sbodsberg@ighmn.gov). Comments received prior to 4:00 p.m. on Wednesday, September 6, 2023, will be provided to the Council at or before the September 6, 2023 meeting.

1. **Call to Order**
2. **Roll Call**
3. **Consent Agenda**
 - A. Minutes of the August 2, 2023, Planning Commission Meeting
 - B. Minutes of the August 15, 2023, Planning Commission Meeting
4. **Public Hearing**
 - A. Request for a Variance to construct a pool and perimeter walkway within the shoreland setbacks of Rosenberg Lake at property located at 8450 Alta Ave. (Jongbloedt-23-35V)
 - B. Request for the Vacation of Drainage and Utility Easements within Outlot A and Outlot B, Robert Curve Fourth Addition. (IGH Partners-23-36SPUD)
5. **Regular Business**
6. **Adjourn**

This document is available upon a three (3) business day request in alternate formats such as braille, large print, audio recording, etc. Please contact Stacy Bodsberg, Community Development Support Specialist, at 651.450.2545 or sbodsberg@ighmn.gov.

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Wednesday, August 2, 2023 - 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. CALL TO OFFICE

Chair Niemioja called the Planning Commission Meeting to order at 7:00 p.m.
The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioners Present: Elizabeth Niemioja (Chair)
Scott Clancy (Vice Chair)
Jonathan Weber (Secretary)
Dennis Wippermann
Aida Schaefer
Jason Teiken
Lance Twedt
Tricia Presley
Robert Heidenreich

Staff Present: Heather Botten, Associate Planner
Stacy Bodsberg, Community Development Support Specialist

4. CONSENT AGENDA

A. Approval of the July 18, 2023 Planning Commission Meeting Minutes.

The minutes were approved as presented.

Chair Niemioja noted it looked like, at the end of the minutes, that the meeting originally scheduled on National Night Out and Election Night was changed from August 1st. She meant those meetings were changed separately. National Night Out would be pushed for this meeting (to Wednesday) and would not be pushed in November on Election Night. There was no election on August 1st.

5. PUBLIC HEARINGS

A. Consider a Comprehensive Plan Amendment to change the land use from CC, Community Commercial to LI, Light Industrial, Rezoning from B-3, General Business District to I-1, Limited Industry District, and a Conditional Use Permit for a contractor's yard with outdoor storage for the property located at 9150 Jefferson Trail. (Corey Dotas - Case No. 23-28ZC).

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice. The notices were mailed to 19 property owners on July 19, 2023.

Presentation of Request

Associate Planner Heather Botten discussed the request for property located on the corner of Jefferson Trail and Rich Valley Boulevard, zoned B-3, General Business District. The applicant purchased the property in December 2021, and is currently using it to operate his tree service business. This type of use is considered a contractor's yard with outdoor storage in the zoning code. The recommendation is to get the request in compliance with what the applicant is

currently using it for. The lot is 1.14 acres with an existing home that was built in 1926 along with a couple of detached accessory buildings. The home is not allowed to be used for residential purposes. It could be used for an office, meeting room, break rooms, or anything else related to a business.

If this request is denied, the use of a residential lot has lost its grandfathering rights as it has been vacant and not used as a residential house for longer than 1 year. The property is currently zoned commercial. The applicant plans to change the land use to Light Industrial and the zoning to I-1, Limited Industry District. Existing commercial zoning and land use is spot zoning, there are no other commercial zones in the area. The property is unique as it is tucked between two major roads making access a challenge. Any high traffic use would not be a good fit for the property. The proposed industrial use is a low impact use. There is other industrial property to the north. The property is screened with vegetation to the south and east, to the west there is almost 200 feet of space and right of way that includes a highway and a railroad up to residential properties.

Staff believes the proposed zoning and land use change would be compatible with existing land uses in the neighborhood. There are no building additions at this time. The applicant has added landscaping to the property and proposes to add trees to the east for additional screening to the residential home. The applicant has moved the main access to Rich Valley Boulevard. The contractor's yard would not generate noise inconsistent with I-1 zoning. The site drains into MnDOT right-of-way. The applicant has received their MnDOT drainage permit. The City Engineering Department takes no exception to the request. Staff recommends approval of all 3 requests with the conditions listed in Alternative A. Staff has heard from two residents; one inquired about the site, the other concern was about possible contamination and inquired if there was a spill prevention plan in place. Associate Planner Botten stated that she checked with the Inspections Department and the Fire Marshal, nothing like that is required with this type of use. If there is more than a 5-gallon spill, there are reporting requirements from the landowner. They would have to work with the Fire Department for an illicit discharge and the Minnesota Pollution Control Agency.

Planning Commission Discussion

Chair Niemioja asked if the spill plan was applicable in other zoning areas.

Associate Planner Botten responded in the affirmative.

Opening of the Public Hearing

Corey Dotas, 13261 Couchtown Court, Rosemount, Applicant, stated he has read and understands the staff report.

Commissioner Wippermann complimented Mr. Dotas on the improvements he has made to the property.

Chair Niemioja asked Mr. Dotas how long his business has been operating.

Mr. Dotas replied he has owned the business since 1995. They were in Apple Valley for a while. This property came along and was a good fit. He fixed everything up and realized it was not zoned for his sort of business.

Paul Johnson, 9163 Rich Valley Boulevard, stated that his property is located close to Mr. Dotas' property. He said he was the one that brought up the spill prevention plan. He mentioned he has been around the trucking industry for about 35 years and worked for UPS. If there was any

type of spill, they had to take care of it. He is aware of what can happen. He asked Mr. Dotas what his plan was if there was a leak. He mentioned there is another business in the neighborhood, Windscares, right across from the property. They have some big trucks and equipment, which could leak, but are on blacktop which is easier to contain to spill. There was another business, Fast Repair, which was road ready and has about 20-40 semis in there. His concern was if there was a spill prevention plan. It was a lot of antifreeze and oil that could contaminate all area wells.

Chair Niemioja stated that the Commission did not have information on those businesses tonight. He could call the city. She said it was stated that most areas have to have some type of reporting process after a 5-gallon spill.

Mr. Johnson mentioned that the applicant has cleaned up the property. He said sometimes cities make people put up boards against the fence line if someone doesn't like it. His last concern was if Mr. Dotas decided to sell, the next person comes in, brings in 15 semis and the Planning Commission finds out a year or two later. He said it was like Fast Repair, it is something that is a concern. He asked the Commission to check on the storm planning within the neighborhood.

Chair Niemioja asked Associate Planner Botten if there was a board requirement on fencing.

Associate Planner Botten replied there is not a requirement with boards. If fencing is a requirement sometimes a solid fence is done. In this case there is screening. Staff believes there is enough landscaping for the property to the south with additional trees to fill in spots to the east.

Mr. Dotas addressed spill prevention stating there are a couple of trucks there. At the end of the day, it's what is in the gas tank. If someone were to drill a hole in it, it would leak out. He does not have fuel tanks on site, they do not change their own oil, that gets done at the shops.

Chair Niemioja closed the Public Hearing.

Planning Commission Discussion

Commissioner Weber said this was pretty straightforward. He does not have a problem with it. He drives by several times a day, it looks better. He said he was willing to make a motion to approve.

Commissioner Schaefer said she was unsure if the same principles apply for a proposed change to the Comprehensive Plan as for a Variance request.

Commissioner Weber responded no.

Commissioner Schaefer said if this were a Variance request, the plight of the landowner would be a consideration and a practical difficulty. She said it seemed a change to the Comprehensive Plan or a change to zoning would be better than a Variance, but sounded like a Variance has a stricter set of rules.

Commissioner Weber questioned if the Met Council would have to approve a Comprehensive Plan change.

Associate Planner Botten replied that was correct. When a Comprehensive Plan change goes to the City Council it requires a 4/5 vote. A Rezoning and a Variance requires a 3/5 vote. The Variance is where a practical difficulty is needed. With a Rezoning and Comprehensive Plan change, they look to see if the request is compatible with the uses in the neighborhood, if there is a benefit to the city, and if it meets the best physical interest and development of the city. A practical difficulty or hardship is not needed in this case.

Chair Niemioja stated there is a concept that the Comprehensive Plan is not completely static. The plan is supposed to develop and grow. She said she thought there is supposed to be some flexibility in where the city is going and how are they getting there.

Associate Planner Botten said in this specific case, it is currently zoned and guided for commercial. If the Commission believes a commercial use is better for this property, they would not support the change to industrial.

Commissioner Schaefer replied she would. She asked if another way to achieve the purpose of allowing the operation to continue if a Conditional Use Permit would work.

Associate Planner Botten responded that a Conditional Use Permit is part of this request. The contractor's yard with outdoor storage is not allowed in the B-3 District. It must be changed to I-1 zoning first and then the Conditional Use Permit comes along with it. It is not just a permitted use in the I-1 district. Some uses are permitted and others like this one, still need a Conditional Use Permit to be approved. That is one of three parts in front of the Commission.

Commissioner Weber questioned if it was about two years ago that the Comprehensive Plan was reviewed and all B-3's were looked at. Several were moved to I-1 partially due to mini storages and outdoor storages.

Associate Planner Botten responded in this case the property was overlooked, she was unsure why. In her opinion, it didn't make sense to be commercial. If the Commission felt like it could be a commercial use, the Rezoning and Comprehensive Plan could be denied.

Chair Niemioja mentioned historically the Commission would never deny a Conditional Use Permit if it met the standards. If moving forward on the Comprehensive Plan Amendment and Rezoning, if standards are met for a Conditional Use Permit, it would be moved forward. It's a process of notification so everyone knows this would be happening and have the opportunity to come and speak.

Chair Niemioja reopened the Public Hearing.

Mr. Johnson said his home was zoned light commercial when he moved into his place 23 years ago. After a few years he received a letter from the city stating they wanted to rezone it to residential. At that time he had a discussion and asked if the city would give him money for the loss he would take. The city told him they were going to leave it. Years went by and the last time he checked the city took it away from him. He said he was told 20 years ago that the city would never allow a business south of Rich Valley. Today the city is allowing another business to go in, but took away his light commercial property. He would like the Commission to look into this and offer an explanation.

Chair Niemioja replied this evening the Commission is not looking into his parcel; they do not have the history or information about it. She mentioned the Planning Commission makes the assessment as to whether or not these are good decisions. What was decided 20 years ago is not necessarily going to make it today. The Commission and Council will make a decision.

Chair Niemioja closed the Public Hearing.

Chair Niemioja stated there were three action items to take:

- Comprehensive Plan Amendment
- Rezoning
- Conditional Use Permit

If doing a white ballot, it means taking all of the above with the rationale stated by whoever makes the motion. They can also be separated out.

Planning Commission Recommendation

Motion by Weber, Second by Clancy, to Approve the Comprehensive Plan Amendment from Community Commercial to LI, Light Industrial, subject to the two (2) conditions; Approval of the Rezoning of the property from B-3, General Business District, to I-1, Limited Industry District; and Approval of the Conditional Use Permit for a contractor's yard with outdoor storage subject to the five (5) conditions for property located at 9150 Jefferson Trail.

Ayes: 9

Nays: 0 Motion carried. Item goes before City Council tentatively August 28, 2023.

B. Consider a Variance for an accessory structure exceeding the allowable square footage on the property at 1565 82nd Street West. (Tim Hill - Case No. 23-32V).

Reading of Public Notice

Commissioner Weber read the Public Hearing Notice. The notice was mailed to 6 property owners on July 20, 2023.

Presentation of Request

Associate Planner Botten discussed the request located east of Argenta Trail, north of 82nd Street, zoned Agricultural. The request is for a Variance to allow an accessory structure 3,704 square feet in size whereas 2,400 square feet is the maximum square footage allowed. The applicant's property is 13 acres that includes a single-family home with an attached garage and a barn with a portion of it converted to temporary living space. It is the applicant's desire to add principle living space to the backside of the barn and utilize the original homestead for an accessory building. In order to do that, the applicant is requesting a Variance. Based on Dakota County information, including the garage size as the square footage of the building equals 3,704 square feet. Rural residential properties greater than 5 acres are allowed to have up to 2,400 square feet. The applicant has stated that they need the space to store their own personal items. This would be in compliance with other zoning requirements such as impervious surface, setbacks, and exterior building materials. The city recognizes that larger accessory structures may be appropriate for large lot residential properties. Regulations are in place to limit the massing of structures and aesthetics.

Associate Planner Botten stated that the City Council has directed staff to review the accessory structure ordinance for lots larger than 5 acres. That code amendment would be brought before the Planning Commission later this year. At this time there is no specific maximum allowed or

what the recommendation would be. Staff does not believe the size of the proposed accessory building is consistent with the current ordinance as presented. The property owner has created the need for the Variance request by choosing to add the addition of the principle living space behind the barn instead of demoing the existing house or adding onto the existing house. Utilizing the existing home for an accessory building could be considered more of a convenience to the applicant and not a practical difficulty. Properties surrounding the area are mostly large lot residential. Due to the size of the lots, existing vegetation, and the fact that the structure exists, it does not appear to alter the neighborhood. Based on the information presented and the reasons listed in Alternative B, staff recommend denial of the Variance request as presented. Staff has not heard from any of the abutting property owners.

Planning Commission Discussion

Chair Niemioja asked when the original house was built.

Associate Planner Botten replied she did not know; the applicant could respond.

Commissioner Weber asked if staff will be proposing to change to the ratio used with 2.5-5 acre lots.

Associate Planner Botten replied she was unsure. The City Council discussion spoke of a maximum and maybe going back to a range like the smaller lot sizes. This will be up for discussion at a future meeting.

Commissioner Weber mentioned as noted in the property to the east of this property where they split the lot for a garage and a house and made it two residential lots. He said it was hard for him to turn something like this down when they could go through an application process, split a lot out for 2.5 acres, and keep the house on the lot.

Associate Planner Botten replied the property is located in the northwest area. In order to do a subdivision like the one to the east, a minimum of 20 acres is needed. This lot does not meet that requirement and would need a separate Variance to do so and is unsure if a lot split would be approved.

Commissioner Teiken questioned if what was being proposed is beyond what the City Council is proposing.

Associate Planner Botten replied that any proposed change to the Ordinance would come to the Planning Commission for a recommendation. Staff is unsure what the maximum would be. She suggested the Commission look at what is in front of them at this time. The applicant could decide to table it and wait until the amendment is done, or if denied, she would present to the Council that at some point the structure would have to be removed. Staff would make sure the date is after the Council changed the Ordinance just in case it ends up being approved, then it would be allowed.

Commissioner Teiken asked if there was a risk of this going on the back burner and not happening, or if it is believed to happen.

Associate Planner Botten stated that it could and has happened with Ordinance Amendments in the past. This is one that is a priority and will make it through the process.

Commissioner Teiken said he would hate to think it would happen and then it never does. Chair Niemioja mentioned the Commission sees this issue a lot. The Council is aware this needs to be addressed for the community.

Opening of the Public Hearing

Mark Welch, 14070 Highway 52 S.E., Chatfield, G-Cubed Engineering, Consultant representing the Applicant. Mr. Welch stated that the applicant purchased the property in 2019 and looked at a different location on the property to build a house. Things changed and they made temporary occupancy within the barn area expecting that they would be able to continue to build onto that. Mr. Welch stated that it came up that they may have to tear the house down to do the addition. Splitting the property isn't something they can do. The property is also in an area that could be developed in the future if utilities come out, there is also other flexibility that could be done on the property. Timing is an issue. They have been through the process of trying to move forward with an architect to do the plans for the addition on the barn but cannot get the building permit because of the structure being considered non-compliant. Mr. Welch stated they were not aware that the city would be looking to review the square footage of allowed accessory structures on large lots. He wasn't sure they wanted to table the item at this time because they have standing that shows it's not the hardship of the owner wanting to move forward with building an addition on the property. One of the hardships is that the property is located in the northwest area which requires 20 acres in order to split the lot. If they could split the house off, that could be an opportunity, there are other options out there. At this point they may be able to get the Variance and move forward based on the fact that it is not an accessory building being constructed, the structure is already there. It would be more of a hardship to tear the structure down considering the value it has and the cost to remove.

Chair Niemioja asked if the practical difficulty would be the other Variance. She was trying to understand what their practical difficulty stated.

Mr. Welch replied the northwest area requires 20 acres for a lot split.

Chair Niemioja stated it would also require another Variance.

Mr. Welch agreed and stated that they could request the Variance and create the split, but the Applicant was not ready to bring that house up to Building Code standards.

Chair Niemioja asked if there was a different practical difficulty other than the other Variance.

Mr. Welch stated the practical difficulty was that they don't have 20 acres. The property was split in 1995, prior to the northwest area being created. The northwest area ordinance requires 20 acres, the property is under that criteria. All of the other criteria required for splitting the property is there. There is plenty of land, septic areas, and locations for it.

Chair Niemioja wanted to make sure Mr. Welch understood that what he just said would also require another Variance.

Mr. Welch stated that the other Variance could be the hardship. The creation of the second parcel would also require well and septic. The existing house is disconnected from that. The applicant isn't ready to bring that house up to residential standards. This would allow them time to make the improvements they want with the addition. It gives time to find out how the city would further develop in the area and gives the applicant time to assess what they want to do

with that structure. Moving forward now, if denied, there would be a request to tear the house down, that is a hardship. He mentioned in 2019 when they proposed a new house, a letter was sent from the city consultant at the direction of the prior City Engineer that had requirements for potential streets. There would be a requirement for an 80 foot right-of-way on the east side of the property in addition to the 50-foot easement for Xcel Energy's current power line, and an additional right-of-way would be dedicated on the south side where a second street and easements for drainage could be. It would be the same easements required if platting the property. The 2019 letter stated they would not require platting but would have to require all easements the same as platting. This became a hardship too because they were giving up road right-of-way on the east side of the property when it was unknown if there would ever be a need for the road. That steered them away from building a new house. This makes all structures closer together. If the property is developed, being able to do the addition off the existing barn area and maintain the house there keeps the building massing in one location as opposed to being spread throughout the property. That was another component to the timeline and is why they are asking for the Variance.

Chair Niemioja questioned how old the house was to be used as an accessory.

Mr. Welch replied 1967. He mentioned there were other potential options that they have not explored because they would either split the house off with the Variance or request a Variance for the accessory structure. The accessory structure Variance seemed like the most straightforward.

Chair Niemioja asked if building would commence immediately if possible.

Mr. Welch replied the applicant needs to start with an architect before construction can begin.

Chair Niemioja closed the Public Hearing.

Planning Commission Discussion

Chair Niemioja stated she was looking for a practical difficulty that was not reliant on the code. It is a tough precedent to set. She mentioned she was hoping for a more historical building, as that has been used in the past.

Commissioner Schaefer asked if it was possible the practical difficulty could be because of the size of the lot, under the 20 acres needed to do the split his neighbor has, and the easements which further limit the ability to construct a house. She commented it makes sense where he is proposing to expand. In her opinion it was consistent with the character in the area. She mentioned that the applicant has planted close to 100 trees to create a fence around the entire property, creating a rural home. These are citizens that have invested in their place and want to stay and live there. She said she felt it was a residential request; the size of the lot and the easements cannot be changed and are well beyond the landowner's control. If knowing there would be a change to the future code for ADU's, some type of approval could be done with a condition that if the resulting code change makes it that the ADU is compliant, the applicant would have to come back for a variance or have it torn down.

Associate Planner Botten clarified when mentioning the easements on the easterly property line, that was a requirement in 2019 from the previous city staff member. Seven documents were created to enter into an agreement with the applicant, but those were never signed or completed. Those easements were never given to the city, there are no easements along the

eastern property line at this time. Associate Planner Botten mentioned that an ADU is a different use, it's an Accessory Dwelling Unit, which is allowed on a property, but with a maximum size of 1,000 square feet. If going that route, the applicant would still need a Variance for an ADU. Going through a Variance for minimum lot size in the northwest area would be another route. There are different routes that could be chosen, all require Variances. What is in front of the Commission is for an accessory structure, like a garage, but using the original homestead.

Commissioner Schaefer corrected herself stating it could not be an accessory dwelling unit because it does not have a septic system, it's an accessory structure.

Commissioner Schaefer stated it was 1,500 square feet too big on 15 acres.

Commissioner Weber stated it was 1,304 over on 13 acres.

Commissioner Schaefer stated it was 15 acres due to the easement.

Commissioner Weber replied there is no easement off of the property.

Associate Planner Botten stated that Dakota County includes the right-of-way of 82nd Street, which is why it could be 14.75 acres. Looking at buildable area, they exclude current right-of-way. It is not a future or proposed right-of-way. 1.75 acres is under right-of-way. It's a 13-acre lot when looking at buildable acreage.

Commissioner Weber questioned when looking at full lot size, for example, the lot on Barnes Avenue had a lot that was into the street. He asked if they used road right-of-way.

Associate Planner Botten replied they do not use road right of way when looking at lot size.

Chair Niemioja asked Commissioner Weber what the calculation was using the formula.

Commissioner Weber replied he always uses the ratio they came up with when doing the 2.5 to 5 acres. Based on a buildable area of 13.01, this allows for 6,244 square feet of structure, making this an allowable non variance type issue. He said he was guessing the city would never use the ratio all the way up to 20-acre parcels. He mentioned that sometimes the Commission has looked at agricultural land in a different light. He can think of 7 agricultural properties in the city way over their allowed size. He questioned if storing hay or chickens on the property have been a reasonable use for agricultural.

Associate Planner Botten responded it has to be the primary use of the structure.

Commissioner Weber mentioned he struggles with a property like this, someone is taking actual care of the property, maintaining, and bringing it up to a high-level standard. He struggles with allowing for storing hay and building it larger than allowed, then someone that wants to use it for a reasonable use has to tear it down or put their life on hold for a bit because there is an opportunity coming. If knowing the opportunity is coming, he wished there was a way to sunset this and find a way for the applicant to move forward with his project. He suggested having a backup in the event city code doesn't change. He said the practical difficulty could be the fact that the city knows this is up for discussion and if it could be reeled back if allowing this to move forward.

Commissioner Clancy asked if there has been any history of using a time-based contract to say for example: "if x happens, y can proceed, if x doesn't happen, y has to be rescinded". He said they could possibly get through the permitting process in the time it takes and as they learn about the potential amendment.

Associate Planner Botten replied if denying, they could have a date that it has to be removed after Council action of the code amendment. For example: 30 days after the 3rd Reading to remove the structure if the Ordinance Amendment doesn't, then the structure could be allowed.

Commissioner Wippermann stated there were sunset clauses in temporary use permits; for example, after three years.

Commissioner Teiken commented the nature request helps inform whether or not to break the precedent with certain things. Maybe it wasn't always the nature of something that should have us break that precedent. They don't want to alienate residential, businesses, or agriculture. He said he is interested in the dichotomy of the nature requests versus the value of the precedent and where to hold both on the scale. He said the applicant stated something he felt was key, that was this may be the most forward Variance available. It may not be the best one. He said he did not care for the other options.

Chair Niemioja asked if he had a practical difficulty.

Commissioner Teiken replied no. He said he wish he knew what the Council was considering for a new ordinance.

Chair Niemioja stated she appreciated knowing that the Council was working on this. She said if the Commission didn't know that the Council was working on this, she didn't believe the Commission would be debating it for this long. She was not sure she was comfortable saying that she doesn't understand what the Council is doing so that will be a practical difficulty. She appreciates the concept of requesting if they were to deny, she doesn't see a legal practical difficulty. She said she would request there be some sort of delay on requiring the applicant to remove the building.

Commissioner Wippermann mentioned that the Council has more latitude on these kinds of issues than the Planning Commission. He was not able to come up with a practical difficulty. As a Planning Commission, he felt they should probably be following what the guidelines are. If the Council feels there is reason to make a change, they have the latitude to do so.

Commissioner Clancy stated that in the past the Commission has rejected or followed up by a note stating they highly encourage the Council to take a look at their own upcoming agendas and changes planned. He said the Council was elected into the position, if knowing this is something coming, to use that foresight to weigh in on this proposal. He believed that to be an excellent way to close out this evening.

Commissioner Twedt said he would support this because he thinks it's a logical step for the applicant to make in order to do some of the things that he wants to do on his property. It gives the City Council and the applicant the opportunity to evaluate their options. He said this seems logical for them to make their request and make further requests down the line.

Chair Niemioja asked if Commissioner Twedt had a practical difficulty.

Commissioner Twedt replied he does not.

Commissioner Clancy questioned if the practical difficulty could be at the time of this date, the Planning Commission was under the impression that this potential amendment was coming, so in the future if that amendment never came or was shot down, the Commission could refer back to the same precedent. He asked Commissioner Twedt if he was thinking in terms of that direction.

Commissioner Twedt confirmed, but he also didn't want to put words in the City Council's mouth.

Commissioner Heidenreich mentioned the Commission has denied these in the past, he believes they will have to deny this tonight and not set the precedence. He would be in favor of the applicant getting their way but doesn't believe the Planning Commission should do that. He said as it was stated, the City Council has more latitude, know that possible changes are coming, and can overrule any decision this Commission makes. He said to maintain standards and not provide bad precedence, to deny the request.

Commissioner Weber referenced the League of Minnesota Cities that has a section called "Other Considerations" for practical difficulties. One of them "is the Variance in harmony with the purposes and intent of the ordinance". He said to that he would say yes. Another stated "the purpose puts the property in use in a reasonable manner".

Chair Niemioja replied that was not a practical difficulty, it was a standard for a Variance.

Commissioner Weber said when you read through it further it is part of one of their practical difficulties. He said he would love to say yes, but agrees it's a slippery slope for the Commission. He said the Commission has denied six properties that were between 2.5-5 acres until the ordinance changed. They no longer see those Variance applications anymore because people stay within those bounds. He said it is unfortunate with this one, but the timing is off.

Chair Niemioja reopened the Public Hearing.

Mr. Welch stated the practical difficulty is the timing. It was not just because the city is entertaining changes to the ordinance, it's the timing of other development in the area. The letter from 2019 made assumptions of development and requires easements be granted for public roadways that were not planned. The practical difficulty across the board for all Variances is timing. He said they know this property could be developed with public sewer and water which would change the scope. In the meantime, they are trying to build on an addition without having to tear down the existing house. He said if the Commission cannot make a strong recommendation for approval or denial, he suggests they make a non-recommendation to the City Council.

Chair Niemioja closed the Public Hearing.

Associate Planner Botten stated that when the City Council met at the July 10th meeting, the amendment to the accessory structure ordinance was discussed and staff was given the direction to go forward and go through the public hearing process. It is not in the Council's hands, it's in staff's hands. Staff is meeting with the City Attorney in 2 weeks to go through the entire accessory structure ordinance and determine what parts need to be amended. There are

other parts of the code that talk about accessory structures as well. The next step would be to come before the Planning Commission for a public hearing. After the Planning Commission and staff's recommendation it would go to the City Council. The City Council may not have an idea of what they want to see yet. It will depend on discussions and recommendations. Staff was given direction to go forward with the ordinance amendment.

Ms. Botten stated that where the applicant is today with the property is unique in the fact that they started in 2019 with one plan, came back again in 2020 with another plan, and now the current request that is in front of the Commission. There was another version that demoed the house. There have been three versions; the first couple versions never had two principal structures on a property. Staff has normally seen, in other parts of the city and other properties, a request to build a second primary building on a property, but want to keep one until the other is complete. Staff makes them sign a legal document with the city stating they can do that, but after the new house is complete the applicant would have to demo the original house.

Commissioner Weber asked if the applicant could enter into an agreement with the city that they would sign something like that unless the ordinance changed where they could transfer or change this into an accessory use building.

Associate Planner Botten replied where things stand now, they would go back and draft it and say they want to be able to keep the principal structure until they add the other one and then figure out what happens with the code amendment. Going through the variance process and denying it means there would be time after the code amendment. It would probably be easier, cheaper, and shorter than having the attorney draft the agreement and go to Council and get approved. If denying the variance, they would still have a date to remove the structure after going through the process to amend the accessory structure ordinance.

Commissioner Weber questioned if Associate Planner Botten said they should deny the variance. The applicant would go back to staff and state they are proposing to do a new principal structure, maintain the current existing principal structure until the new one is complete at which time, they would demo 6 months out. He said if a caveat could be placed stating if the code were to change in that amount of time, they could keep the second structure as an accessory building.

Associate Planner Botten replied this request is unique because there is a different living space within the barn that was granted as temporary living space as they were supposed to demo the house and rebuild. She questioned if Commissioner Weber was asking to keep the structure until the other one is done.

Commissioner Weber replied they are trying to build a new principal home. In the process of building the new principal structure, they continue to hold the old structure. When they receive their Certificate of Occupancy on their new principal structure, they have 30, 60, 90 days from that point either the code changes to be able to keep it as an accessory structure or they would have to demo it. He questioned if the Commission denies the request, if the applicant could come to staff with something like that in a proposal instead of having to go through the Variance process.

Associate Planner Botten believed they were getting the same outcome. What is in front of the Commission is already in the works, the other would have to go to legal, another agreement would have to be drafted, and then go to Council.

Commissioner Teiken said they are less certain of a timeline for any potential development as mentioned by Mr. Welch. A denial of this Variance, keeping with the Commission precedence, does not eliminate options for the applicant moving forward. Not everything would be over if denying the Variance.

Chair Niemioja said timing as a practical difficulty is not one the Commission goes with. The Commission is looking at a denial, but a recommendation. She mentioned the Commission frequently makes recommendations when it goes outside the scope of their powers, such as this request. It would be recommended there be some sort of agreement to begin construction and a hold in place that this building would be able to be open while the process is going through.

Commissioner Twedt said what could happen if approving the request is that the City Council does not act on increasing the square footage, but may say no, but could do this. Making the decision to approve does not mean the Council cannot do their work and approve or deny later.

Chair Niemioja reopened the Public Hearing.

Tim Hill, 1585 82nd Street West, Applicant, mentioned the reason they didn't go with their first plan was because 50% of their property was going to be taken away with easements. The second idea was living in an old house with six kids, but wasn't suitable. They had space in what used to be a horse barn, tore the old horse barn out and redid it. It is about 2,300 square feet with the idea that they would redo the other home and build up. He said the architect had mentioned, based on the 2019 proposal, there would be a road within 30 feet of the home. That is when they decided to stop and do the addition onto the barn. He said they were looking for more house in the region, and may have to tear down a 50-60-year-old home. He said it seems odd as they are looking for more housing density.

Chair Niemioja said the Commission has to look for a practical difficulty with a legal standard. There are other people who come to the Commission asking for the same thing. The Commission is trying to apply the current rules.

Commissioner Teiken said he did not believe anyone on the Commission wanted Mr. Hill to have to tear anything down. They are trying to determine what the step would be in order to be able to maintain compliance before the ordinance changes.

Chair Niemioja stated the City Council has more latitude to take that into consideration because of the practical difficulty factor.

Chair Niemioja closed the Public Hearing.

Chair Niemioja said she cannot recall a time when they failed to make a decision. The Commission could table, but typically make a recommendation to deny or approve.

Associate Planner Botten agreed. There have been split votes, tonight that could not happen unless someone abstains.

Planning Commission Recommendation

Motion by Weber, Second by Presley, to Deny the request based on the factors and fact that the Planning Commission cannot come up with a practical difficulty with the following recommendations: Deny the Variance application with the three-rationale listed in the staff

report.

Move forward with a Recommendation that the Denial of the Variance request to allow the accessory structure of 3,704 in size whereas 2,400 square feet is the maximum size shall include the condition that the original home be demolished and removed by the property owner. If the City Council moves forward with this because of the potential of the future ordinance change, to delay demolishing, if it does meet criteria, they would not have to demolish at all for property located at 1565 82nd Street West.

Ayes: 9

Nays: 0 Motion carried. Item tentatively goes before City Council August 28, 2023.

5. REGULAR BUSINESS None.

6. ADJOURN

Motion to adjourn the Planning Commission Meeting at 8:11 p.m.

Respectfully submitted, Sheri Yourczek, Recording Secretary

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, August 15, 2023 - 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. CALL TO ORDER

Chair Niemioja called the Planning Commission Meeting to order at 7:00 p.m.
The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioners Present: Elizabeth Niemioja (Chair)
Scott Clancy (Vice-Chair)
Jonathan Weber (Secretary)
Robert Heidenreich
Dennis Wippermann
Aida Schaefer
Jason Teiken
Lance Twedt
Trisha Presley

Staff Present: Alan Hunting, City Planner
Stacy Bodsberg, Community Development Support Specialist

3. CONSENT AGENDA None.

4. PUBLIC HEARINGS

A. Consider a Comprehensive Plan Amendment, Rezoning from I-1, Limited Industrial to I-2/PUD, General Industrial/Planned Unit Development; and a Preliminary & Final Plat for a two-lot subdivision; and Preliminary & Final PUD Plan for a 5,600 square industrial building on property located at 8245 Argenta Trail. (Bulk Fluid Systems - Case No. 23-29S) Item was tabled at the Tuesday, July 18, 2023, Planning Commission meeting.

Presentation of Request

City Planner Hunting presented a review summary of the staff report.

Planning Commission Discussion

Commissioner Weber recused himself from this item and took a seat in the audience.

Public Hearing (Stayed Open from July 18, 2023)

Chris Wilke, 820 Concord Street North, So. St. Paul, President, Bulk Fluid Systems, Applicant, stated that he apologizes for missing the July 18, 2023, Planning Commission meeting. Bulk Fluid Systems was started in 1998 by his father and supplies windshield wiper fluid to gas stations for bulk use. Minnesota is the company's largest market. The company is rather small and has only 11 employees. Two tanker trucks and a couple of pick-up trucks are used to service and install. So, there will not be a lot of traffic. The company is very conscientious about spills. Explains how the methanol breaks down. The request for the larger tank size is so that the trucks do not need to come onsite as often. That size isn't ideal to place inside the building, but rather outside. The tanks will be installed by a licensed contractor and inspected by the Fire Marshal.

They have never had a tank spill. The employees follow a process to avoid spilling access liquid when distributing from tank to truck.

Commissioner Teiken questioned where tanks are located at their other locations. Mr. Wilke stated that they are located outside and have similar setups.

Commissioner Clancy questioned if a bollard system will be used around the tanks to prevent any clashes with the trucks. Mr. Wilke stated that there will be a solid bollard wall with screening.

Commissioner Schaefer inquired what the risks would be for the nearby neighborhood. Mr. Wilke stated that the chance of an explosion is small, because of the required safety standards that are all followed. It's ventilated properly and all City and State guidelines are followed. Commissioner Schaefer inquired what would entail if the 25,000-gallon tank exploded. Mr. Wilke stated that would be difficult to imagine because of the safety standards put in place. A malicious act would have to be done for that to happen. Commissioner Schaefer inquired if the vapors would have an impact on the surrounding animals and residents. Mr. Wilke stated that methanol is a simple alcohol, and our earth is set up to break it down within days. There is no smell to it, and there would be no effects to neighbors. You would have to be in extremely close contact, inhaling and you would get dizzy.

Commissioner Heidenreich stated that there are additional sprinklers and fire hydrant required by the Fire Marshal, and questioned is there a reason the hydrant cannot be located on your own property. Mr. Wilke stated that he would be happy to accommodate and move the location of the fire hydrant. Hunting stated that the existing water utilities are located on the east side of the road, that would be why the hydrant is located where it is located.

Motion by Teiken, Second by Clancy, to accept the three received resident emails onto the agenda and minutes for the meeting.

Ayes: 8

Nays: 0

Motion carried.

Jonathan Weber, 10394 Andrea Trail, stated that he would like to request that the fire hydrant be moved off the cemetery property.

Ralph Taylor, 8334 Argenta Trail, stated that there are residents that live about 600 feet from the proposed tanks. HUD specifications recommend that tank storage be one mile from residents. There are other properties within Inver Grove Heights that are less populated and would be a better option.

Chair Niemioja questioned if it is a HUD law or recommendation that we are not aware of. Hunting stated that it must be a recommendation, as HUD doesn't have regulatory authorization. Niemioja questioned whether the applicant had looked at other available properties throughout the City of Inver Grove Heights and maybe located closer to the refinery. Mr. Wilke stated that two years ago along with the City Fire Marshal they started to look at different properties. This site works well because their mechanic is the current owner of the property.

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Elizabeth Peterson, 33 Summit Court, St. Paul, questioned why this location and so close to other residents. There are many different properties available throughout Minnesota that are not located next to a residential neighborhood in case something bad happened. Ms. Peterson held a sign that read "Flammable liquids and families don't mix".

Monica Pitterle, 9096 Altman Court, stated that six or eight additional employees will not have an impact on the neighborhood traffic. The addition of tanker trucks may have an impact on the flow. Ms. Pitterle read from a google search that methanol is very toxic to inhale and poisonous.

Marta Haynes, 9408 Aladin Trail, stated that she lives in the neighborhood and boards her horse at nearby RM Ranch. Surprised that the risk of having the tanks at this location and so close to residential properties, that there has to be some sort of economic impact. Ms. Haynes stated that she appreciated Commissioner Schaefer's comment on how would you comfort a horse owner, and the explanation that was given from the applicant for that question wasn't comforting. The HUD recommendation will hopefully be taken into consideration.

Kassandra Fries, 7920 Alberta Way, stated that the location is their homes. Would like to know what the City's future plans are. Would like to see this area stay preserved. If the zoning is changed for this application, could see future properties change zoning as well.

Sarah Myer, 1712 82nd Street West, stated that there is concern for the vapor that will be in the air and the unknown fumes. What if the methanol gets into their well water, they don't test the well every year and would possibly not know right away.

Chris Wilke, 820 Concord Street North, So. St. Paul, Applicant, stated that methanol is dangerous to humans and is a toxic chemical. The Department of Transportation requires if there is a spill of 800 gallons of pure methanol, that it is reported, and the Minnesota Pollution Control Agency has stricture requirements on spills and reporting. The company has safety policies that are submitted to the Fire Marshal and to the Minnesota Pollution Control Agency.

Liz Dylan, 3630 Winter Drive, Eagan, stated that she is not a resident but that her horses are boarded at RM Ranch in Inver Grove Heights. Concerned about rezoning, and how that could open doors.

Public Hearing closed at 7:48 p.m.

Planning Commission Discussion

Chair Niemioja stated that gas tanks are located near residential properties, seems similar, people know that they shouldn't smell the gas tanks or light a match because they will blow up. Would suggest to City Council that the application be pending on approval of further review by the potential risk from the City Engineer.

Commissioner Clancy stated that going to the far reach of the potential of something catastrophic happening. The Rezoning wouldn't be out of character for this site, with the zoning of the surrounding sites. Would support approval of the application.

Commissioner Wippermann stated that he is not in support of approving, because after the Rezoning there is no limit of how many gallons can be stored on site.

Commissioner Heidenreich stated that he is in favor. The prevailing winds run north and west and would then blow anything over unpopulated parcels. Methane does dissipate very quickly. Lives near the refinery and would feel safe living near this site as well.

Commissioner Schaefer stated that there are concerns about the rezoning and that the buffer between the existing industrial and residential properties would be removed. The economic advantage to the applicant is the reason he is selecting this parcel and not looking at parcels located further away from residents.

Commissioner Teiken stated that the parcel is already zoned industrial, and the rezoning is only going up one industrial zone. But concerned about what Commissioner Wippermann stated on that there is no limit to the gallons of tanks on the property.

Commissioner Presley stated that she agrees the parcel is already industrial and moving the zoning up industrial, she would approve.

Commissioner Twedt stated that the Fire Department has been consulted, and do not have concerns. Supports this reasonable request.

Planning Commission Recommendation

Motion by Clancy, Second by Presley, to Approve the Comprehensive Plan Amendment, Rezoning, Preliminary & Final Plat, and Preliminary & Final PUD with conditions listed in the staff report, plus review moving the fire hydrant from the east side of Auburn Path to the west side of Auburn Path.

Ayes: 5

Nays: 3 Teiken, Schaefer, Wippermann. Motion carried.

Item tentatively goes before City Council September 11, 2023.

B. Consider a Variance for a fence that is higher than the allowed 42 inches at 6790 River Road and identified as 20-00200-57-010. (Jeremy Clark - Case No. 23-33V)

Reading of Public Notice

Secretary Weber read the Public Hearing Notice. The notice was mailed to 3 properties on July 27, 2023.

Presentation of Request

City Planner Hunting presented a summary of the staff report on behalf of Associate Planner Botten.

Opening of the Public Hearing

Jeremy Clark, 3500 Dodd Road, Eagan, Applicant, stated that he read and understands the staff report. Is available for questions.

Public Hearing closed at 8:08 p.m.

Chair Niemioja stated that there are multiple practical difficulties for this application, the bedrock situation, the location of the parcel being next to the city park that is unique.

Planning Commission Recommendation

Motion by Weber, Second by Heidenreich, to Approve a Variance to construct a fence within the shoreland setbacks subject to the condition listed in the staff report and the rationale used for the Variance Practical Difficulty.

Ayes: 9

Nays: 0 Motion carried.

Item goes before City Council tentatively September 11, 2023.

Chair Niemioja moved to recess at 8:09 p.m. for a five-minute break.

Meeting reconvened at 8:14 p.m.

C. Consider a Comprehensive Plan Amendment to change the Land Use of the easterly 2.37 acres of Outlot D, Argenta Hills from Regional Commercial to High Density Residential to allow for a multi-family development at PID No. 20-12050-00-040. (BJ Baas - Case No. 23-30CPA)

Reading of Public Notice

Secretary Weber read the Public Hearing Notice. The notice was mailed to 139 properties on July 27, 2023.

Presentation of Request

City Planner Hunting presented a summary of the staff report.

Planning Commission Discussion

Commissioner Clancy questioned if this would be the last step for the developer to start building. Hunting stated that the applicant would have to come back and apply for Rezoning, Preliminary and Final Plat and Site Plan applications.

Commissioner Weber inquired if the water retention on Outlot D would be utilized by Outlot C. Hunting stated that the original stormwater plan would still have to be followed. This topic would be part of the Site Plan review if it would get to that point.

Motion by Weber, Second by Twedt, to accept the twenty-one received resident emails onto the agenda and minutes for the meeting.

Ayes: 9

Nays: 0 Motion carried.

Opening of the Public Hearing

David Fisher, 6718 Cove Point Road, Minnetrista, Applicant, presented a PowerPoint providing further detailed information on the proposed project.

Chair Niemioja questioned what the total height of the proposed apartment building would be. Mr. Fisher stated that it would have underground parking, and four floors above ground would be 60 feet. The two-story townhomes would be 20 feet, three-story section of the apartment building 40 feet and the southernmost section of the apartment building will be four stories and

would be in the higher 50's - 60 feet high.

Commissioner Teiken inquired about the contaminated soil section of the parcel, and if it's considered unbuildable, what it would they do with it. Mr. Fisher stated that a structure cannot be placed in that section. A playground or gazebo would be an option that the soil would be able to hold.

Commissioner Clancy questioned when the soil borings were last done. Mr. Fisher stated that they were done in the last couple of years.

Commissioner Twedt inquired if the development needed the additional 2 acres. Mr. Fisher stated that the acreage is not needed. It needs to be done to clean up the plat and for future buyers and lenders.

Nick Monson, 8953 Almquist Way, Chief Operating Officer, Hemple Real Estate, stated that the properties were purchased about a year ago. The builder that has been chosen is long term, they aren't looking to build and flip. Confident that as this project moves forward the surrounding outlots will get developed as well.

Commissioner Clancy inquired if there was information on the soil directly east on Outlot C. Mr. Monson stated that the soil on Outlot C is good. Soil borings have been done and have come back fine.

Commissioner Weber inquired to Mr. Hunting if the parcel to the west is large enough to hold a big box store. Hunting stated that there are power lines that run through and is not sure how many acres are buildable. Mr. Monson stated that they believe that at least half of the lot is buildable.

Keith Carlson, 7634 Addisen Path, questioned if Outlot C is still zoned for commercial. Mr. Hunting stated that it is. Mr. Carlson questioned if in the future Outlot C would be changed to residential as well. Mr. Hunting stated that if this proposal were approved, with the number of rooftops, it would probably stay commercial. Mr. Carlson questioned if the unbuildable space on Outlot D, would it be able to hold a park, baseball field, or soccer field. Mr. Carlson questioned if the 2018 CUP has an expiration date. Hunting stated that it does not.

Samantha Fitzgerald, 7668 Addisen Path, stated that there are no other areas for retail, it has been stated that this area has been wanted to stay as commercial. For many years the surrounding residents and the City Councils have fought to keep this area zoned commercial. The high density also does not fit in this neighborhood, with apartments abutting directly to single-family homes. Would ask you to deny the proposed change.

Lisa Nathe, 7650 Addisen Path, stated that with the size of the proposed apartment building and the addition of the vehicles. The traffic would increase greatly. Would like to see the property be green space, a park, or retail and places to shop.

Katie Pluff, 7670 Addisen Path, stated that they have been involved in the process of the potential changes to these lots since the beginning. Confused by the fact that they thought the lot was only high density if the last developer came back with a plan application, and they did not. Finds it hard to think that 200-unit apartment building would make a difference, with the surrounding development that is currently happening. Agrees that the traffic will increase and would not be good. Doesn't want to look at a 60-foot-tall apartment building.

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Commissioner Weber stated that if a regional commercial development were to build a building, they would be able to build a 60-foot-tall building without needing to come through this process.

Heather Thornton, 7621 Addisen Path, stated that she is torn and would like clarification on the past approval of the conditional approval, and how even when the property has changed owners, the conditional approval is still in place.

Senior Planner Hunting stated that the City Attorney has stated that this sort of approval is tied to the land and not to the property owners. The conditional approval is that the City Council is supportive of the change, but the site plan has to be approved and then the designation will be changed on the zoning maps.

Ms. Thornton reiterated that as the property is zoned today it is still commercial, but the conditional approval is for high density residential, and today's request is for the small strip of the 2 acres to be added to the conditional approval that would still be subject to the approval of a Site Plan.

Commissioner Weber clarified that regional commercial is still what this property is zoned. The item tonight is cleaning up the conditional approval of high density residential, so that the applicant can apply for a Site Plan and that would still have to come before the Planning Commission and the City Council. Mr. Hunting confirmed that is correct.

Chair Niemioja questioned how having the apartments built makes a difference in getting other commercial opportunities to the surrounding outlots. Mr. Monson stated that as a developer if they could sell acre by acre to commercial users they would, financially, be beneficial. The current commercial buildings have vacancies from 2011, from when the building was built. Implementing higher density into commercial areas helps with bringing the commercial areas work. Retail patterns have also changed in the last five years.

Commissioner Weber inquired if the design of the apartment building was ever considered to include retail on the first floor, and then the apartments on the upper floors. Mr. Monson stated that those sorts of buildings are very expensive and not economically successful. There is still a lot of acreage left in this area for commercial use. Mr. Fisher stated that the developer perspective is that that type of building is very difficult to manage. The tenants are completely different and have many different needs. They work better in a downtown location.

Commissioner Teiken stated that in the past there have been conversations about what type of retail can be attracted to this area. Mr. Monson stated that the OEA with Target gets less restrictive the further away the property is from Target. Mr. Monson stated that he does have a memo from the City Attorney that explains why the conditional approval is still valid on the property.

Jince Joseph, 7674 Addisen Court, stated that selected his home because it is a 196-school district. Is concerned that bringing a large apartment building will raise the class sizes at their schools. Concerned that there are no parks nearby.

OyeSpa, 7741 Alman Trail, stated that the business has been at this location for almost three years, business has been okay, but not enough traffic. Having the apartment building will help the surrounding businesses and bring in additional commercial.

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Commissioner Schaefer inquired if a condition on a stipulation for what the unbuildable area of the parcel can be used for can be added. Mr. Hunting stated that there is no authority to tell future developers what they can do with their land. There wouldn't be a rationale to add that kind of condition. Ms. Schaefer stated that listening to the comments of the neighbors and that they would like more green space and park land near their homes. Mr. Hunting stated that would be reviewed during the Site Plan review process. The developer is not required to provide anymore green space, that has already been met. The Planning Commission could make a recommendation to City Council but that would be made during the Site Plan process.

Mr. Fisher stated that as the developer they are upfront with their plans and ideas for the property. There will be an empty space and that will be included in our site plan. Discussions will be had in the future as to what it will be.

Samantha Fitzgerald, 7668 Addisen Path, stated that Mr. Fisher stated in an email that the open space would not be for the public, but for the residents of the apartment building. Wouldn't be helpful for the surrounding neighborhood.

Mr. Fisher clarified that was said in the email to Ms. Fitzgerald because the land will be open space, but legally am not sure of the liability of having the space available for public use. The discussion will be had further in the future.

Public Hearing Closed at 9:31 p.m.

Planning Commission Discussion

Commissioner Teiken stated that he is in support and was in attendance during the 2021 development discussions and was in support of the need for housing. Any number of additional housings is helpful. The proposed development is a lot less intense than the 2021 development and the Planning Commission approved it 6-3. The land hasn't changed, there is still a struggle to get commercial to this area. We can be assisting with two large issues, housing and bringing additional traffic to current and potential future commercial.

Commissioner Weber stated that his point of view is they're cleaning up something so that the developer can market the land properly.

Commissioner Schaefer stated that she would like to see the memo from the City Attorney for reference.

Chair Niemioja stated that cleaning up the guidance and the potential development to come, is in favor.

Planning Commission Recommendation

Motion by Weber, Second by Clancy, to Approve the Comprehensive Plan Amendment subject to the conditions listed in the staff report, and the additional condition of adding the memo from July 9, 2021, from the City Attorney to the City.

Ayes: 8

Nays: 0 Motion carried. Schaefer Abstained from Voting.

Item goes before City Council tentatively September 11, 2023.

5. REGULAR BUSINESS

A. Proposed Multiple Family Ordinance Revisions - Presentation by Kim Lindquist, Community Planning and Economic Development Director, WSB Associates.

City Planner Hunting explained the reasons for reviewing the Ordinance and introduced Kim Lindquist.

Kim Lindquist, WSB Associates, presented her PowerPoint presentation showing what potential changes will be proposed.

6. ADJOURN

Motion to adjourn the Planning Commission Meeting at 9:58 p.m.

Respectfully submitted, Community Development Support Specialist Bodsberg.



Planning Commission Report

MEETING DATE:	September 6, 2023
CASE NO:	23-35V
APPLICANT:	Justin Jongbloedt
PROPERTY OWNER:	Same as Applicant
REQUEST:	Variance from the shoreland setbacks
LOCATION:	8450 Alta Avenue
COMPREHENSIVE PLAN:	LDR, Low Density Residential
ZONING:	R-1A, Single-Family Residential
STAFF CONTACT:	Heather Botten, 651.450.2569

ACTION REQUESTED

The applicant is requesting the following:

1. A **Variance** to allow a pool and perimeter walk to be constructed within the 100-foot ordinary high-water mark setback.

BACKGROUND

The applicant is requesting a Variance to build a 20' x 40' pool with a five (5) foot perimeter walkway surrounding the pool, within the shoreland setbacks. The applicant's property is the last lot along a dead-end road. It is a riparian lot, abutting Rosenberger Lake, identified as DNR ID 19-41. Setbacks for structures on lots without city sewer and water are 100-feet from the Ordinary High Water (OHW) mark.

The existing house, constructed in 1990, received City Council approval for a Variance to allow an encroachment within the shoreland setback. At that time, it was determined the required shoreland setback was only from the shoreline along the west side of the property. The water on the southeast side of the property was considered a wetland and no setback was required from a wetland. Therefore, the house was constructed about 28 feet from this wetland. In 2006, a previous owner received a Variance to construct an addition onto the home. During the 2006 Variance process the DNR visited the property and determined that all of the water surrounding the house was part of DNR Lake 19-41. Hereafter, a 100-foot setback would be required from all sides abutting the water.

The strip of land, or peninsula, the house is located on is approximately 200 feet wide where the house is located. A 100-foot setback from both the east and west side leaves no building site unless a Variance is granted. The proposed location of the pool would not be any closer to the lake than the setbacks of the existing home. The applicant is proposing a five-foot perimeter walkway around the pool, that would be 23 feet from the water along the east side of the property. All other zoning requirements, such as impervious surfaces, would be met.

EVALUATION OF REQUEST

The following land uses, zoning districts, and comprehensive plan designations surround the subject property:

North	Rosenberger Lake		
East	Single-Family Residential	Zoned: R-1A, Single-Family Residential	Guided: Low Density Residential
West	Rosenberger Lake		
South	Single-Family Residential	Zoned: E-1, Estate District	Guided: Rural Density Residential

ENGINEERING

Engineering has reviewed the request and takes no exception to the proposed location of the pool.

DNR REVIEW

The Shoreland Overlay District requires that any application for a Variance be submitted to the DNR for their review and comment. The request has been sent to the DNR for review, but comment has not been received.

VARIANCE

City Code Title 10, Chapter 3. Variances, states that the City Council may grant Variances when they are in harmony with the general purposes and intent of the Zoning Ordinance and consistent with the Comprehensive Plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested Variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

1. The Variance request is in harmony with the general purpose and intent of the City Code and consistent with the Comprehensive Plan.

The request is not contrary to the planned residential use of the property or area as defined in the Comprehensive Plan. The proposed pool would meet other code requirements such as impervious surface, and setbacks from the rear property line.

2. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.

A 100-foot setback from both the east and west Ordinary High Water levels leaves no buildable site on the property unless a Variance is granted. The proposed location of the pool would not be any closer to the lake than the setbacks established by the home, but the perimeter walkway would be about five (5) feet closer to the OHW. City Code requires swimming pool setbacks to be measured from the nearest edge of the slope around the pool, perimeter walk, or the edge of the pool (whichever is closer to said lot line). In this case, the setback would be measured from the edge of the perimeter walkway around the pool, encroaching an additional five (5) feet into the OHW setback. The size of the pool may be able to be reduced to keep the entire pool and walkway within the established setbacks of the home.

3. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

The lot does have special conditions that do not apply to all properties in the area. The lot has water frontage on all but the south side. The peninsula shape of the property and the 100-foot setback restricts the buildable area to a point where the setbacks overlap, which would eliminate any area to construct a pool without a Variance being granted. Additionally, the reclassification of the wetland on the southeast part of the property to a protected water body, requiring a 100-foot setback, impacts any improvements to the property.

4. The Variance will not alter the essential character of the locality.

One of the functions of setback requirements is to protect the shoreland and maintain consistency of structure placement and aesthetic qualities from street and neighboring views. The proposed structure meets these requirements. The closest neighboring home is to the south, which would be over 250 feet away from the pool. The pool and perimeter walkway comply with the 10-foot setback requirement from the rear, south lot line. Staff does not believe the improvements would alter the essential character of the neighborhood.

5. Economic considerations alone do not constitute an undue hardship.

Economic considerations do not appear to be a basis or a sole basis for this request.

ALTERNATIVES

The Planning Commission has the following actions available on the following requests:

A. Approval.

If the Planning Commission finds the application to be acceptable, the following action should be taken:

- Approval of a Variance to construct a pool and perimeter walk within the shoreland setbacks subject to the following conditions:
 1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.
 2. The Grading/Erosion Control Plan shall be required at the time of the building permit application.

Rationale:

The request is not out of character for the neighborhood and is consistent with the Comprehensive Plan. The encroachments of the proposed pool and perimeter walk do not appear to have an adverse impact on the shoreland. The property is unique in that it is surrounded by water on three sides of the lot. The water on the southeast side of the lot was considered a wetland when the house was constructed, which there were no setback requirements from a wetland. The reclassification of the water to a protected water body, now requiring a 100-foot setback, impacts all improvements to the property. The proposed improvements would be constructed within the same setbacks that currently exist on the property.

B. Denial.

If the Planning Commission does not favor the proposed Variance, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

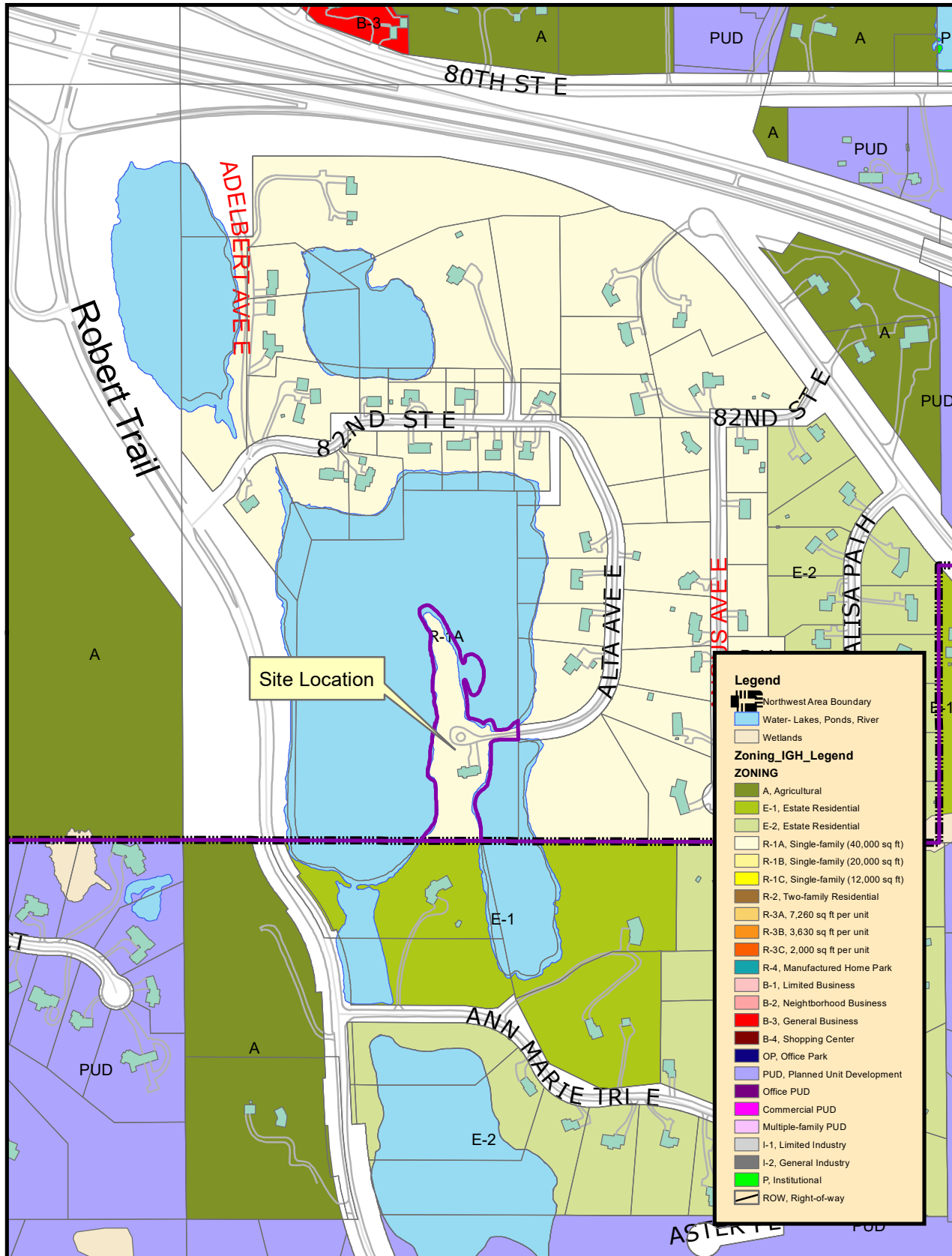
Based on the information in the preceding report and the conditions listed in Alternative A, staff believes there is a practical difficulty to support a setback Variance for a pool and perimeter walkway. Staff recommends approval of the OHW setback Variance but believes the pool **and** perimeter walkway shall not be closer to the OHW mark than the established setbacks of the existing home.

ATTACHMENTS

1. Zoning and Location Map
2. Narrative
3. Site Plan



8450 Alta Ave Case No. 23-35V



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILED OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED

Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit A Zoning and Location Map

Map not to scale

8450 Alta Planning Application

8450 Alta Ave Inver Grove Heights, MN 55077 is a unique property surrounded by Rosenberg Lake on the West and North sides and a wetland area on the east side. The property owners are looking to build a 20x40 pool for recreation. The property is 19 acres with 4 acres above water. The long and narrow topography limits building another structure within the 100 feet requirement of the OHWM of Rosenberg Lake and the wetland area anywhere within the property.

The proposed pool is in the home's backyard, in between the existing distance to the OHWM of both bodies of water on the property. The proposed location for the pool would not be visible within the neighborhood or on the main roads. The proposed pool would be built 80 feet from the west side of the OHWM of 799.5 feet and 28 feet from the OHWM of 801.4 on the east side of the property. The homeowners will also provide two rows of sediment control to protect the waters during the construction.

Neighboring Properties

North

JOSHUA & ANDREA SCHROCK

8373 ALTA AVE

East

THOMAS W & AIDA TSTES SCHAEFER

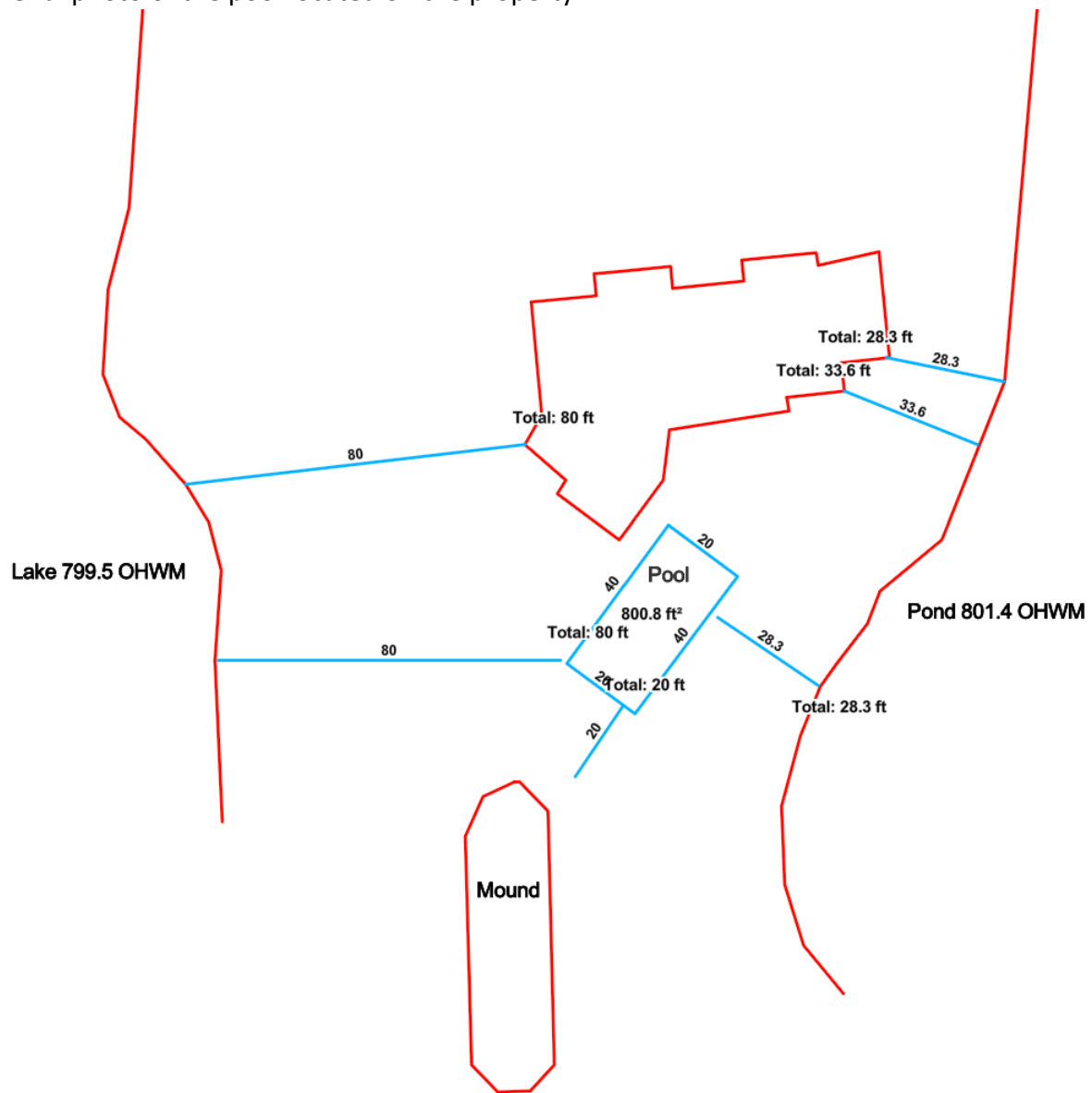
8420 ALVERNO AVE

South

CHEU & CHOUA E LEE

8606 ROBERT TRL S

Aerial photo of the pool located on the property.





Planning Commission Report

MEETING DATE:	September 6, 2023
CASE NO:	23-36SPUD
APPLICANT:	IGH Partners, LLC
PROPERTY OWNER:	Same as Applicant
REQUEST:	Vacation of Drainage and Utility Easements
LOCATION:	Diffley Court and Highway 3
COMPREHENSIVE PLAN:	Mixed Use
ZONING:	Planned Unit Development
STAFF CONTACT:	Allan Hunting, 651.450.2554

ACTION REQUESTED

The applicant is requesting the following:

1. A Vacation of Drainage and Utility Easements within Outlot A and Outlot B, Robert Curve Fourth Addition.

BACKGROUND

The applicant received final approval for Phase 1 of the project from City Council on July 10, 2023. Phase 1 consists of developing the 45 townhomes in southerly portion of property. The project has not yet begun construction.

The applicant has now submitted plans for Phase 2 which contains the balance of the site consisting of the 190 unit apartment building and nine townhomes.

The Planning Commission reviewed and recommended approval of the entire final plan set on April 18, 2023.

EVALUATION OF REQUEST

The applicant is requesting to vacate all of the drainage and utility easements that were dedicated over Outlots A and B on the plat of Robert Curve Fourth Addition and then rededicate those easements as Lots 1 and 2, Block 1, Robert Curve Fifth Addition. While the easements cover the exact same area on both plats, the applicant wants to avoid “double stacking” the easements as shown on both plats. The final phase of the Robert Curve Addition will contain all the necessary drainage and utility easements.

ALTERNATIVES

The Planning Commission has the following actions available on the following request:

A. Approval.

Approval of the Vacation of Public Drainage and Utility Easements within the Plat of Robert Curve Fourth Addition.

B. Denial.

If the Planning Commission does not find the application to be acceptable, a recommendation of denial should be made. Specific findings supporting a basis for denial must be stated by the Commission if such a recommendation is made.

RECOMMENDATION

Planning and Engineering recommend approval of the Easement Vacation. The necessary easements will be rededicated on the plat of Robert Curve Fifth Addition.

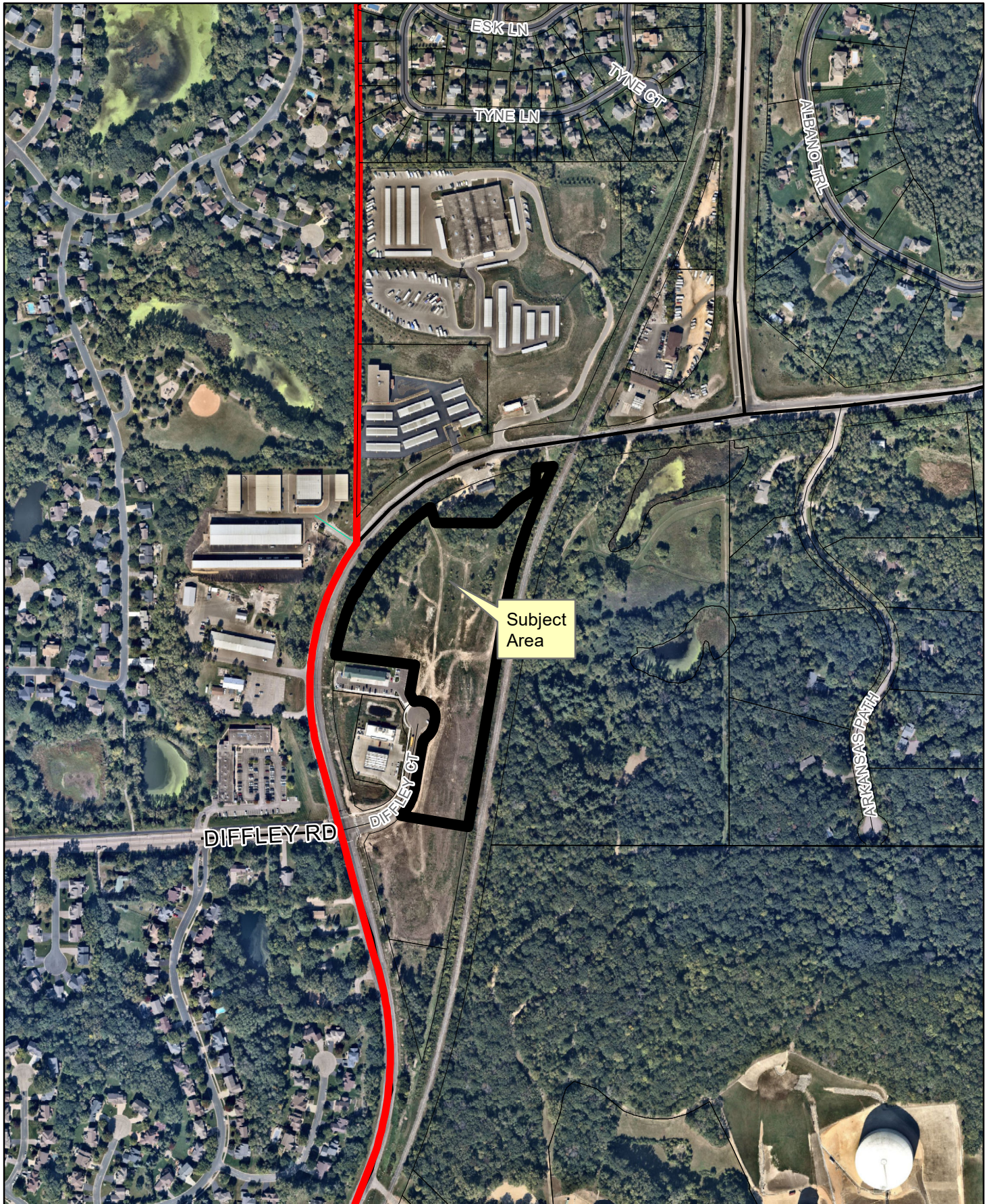
ATTACHMENTS

1. Site Location Map
2. Robert Curve Fourth Addition
3. Robert Curve Fifth Addition
4. Robert Curve Phasing Plan

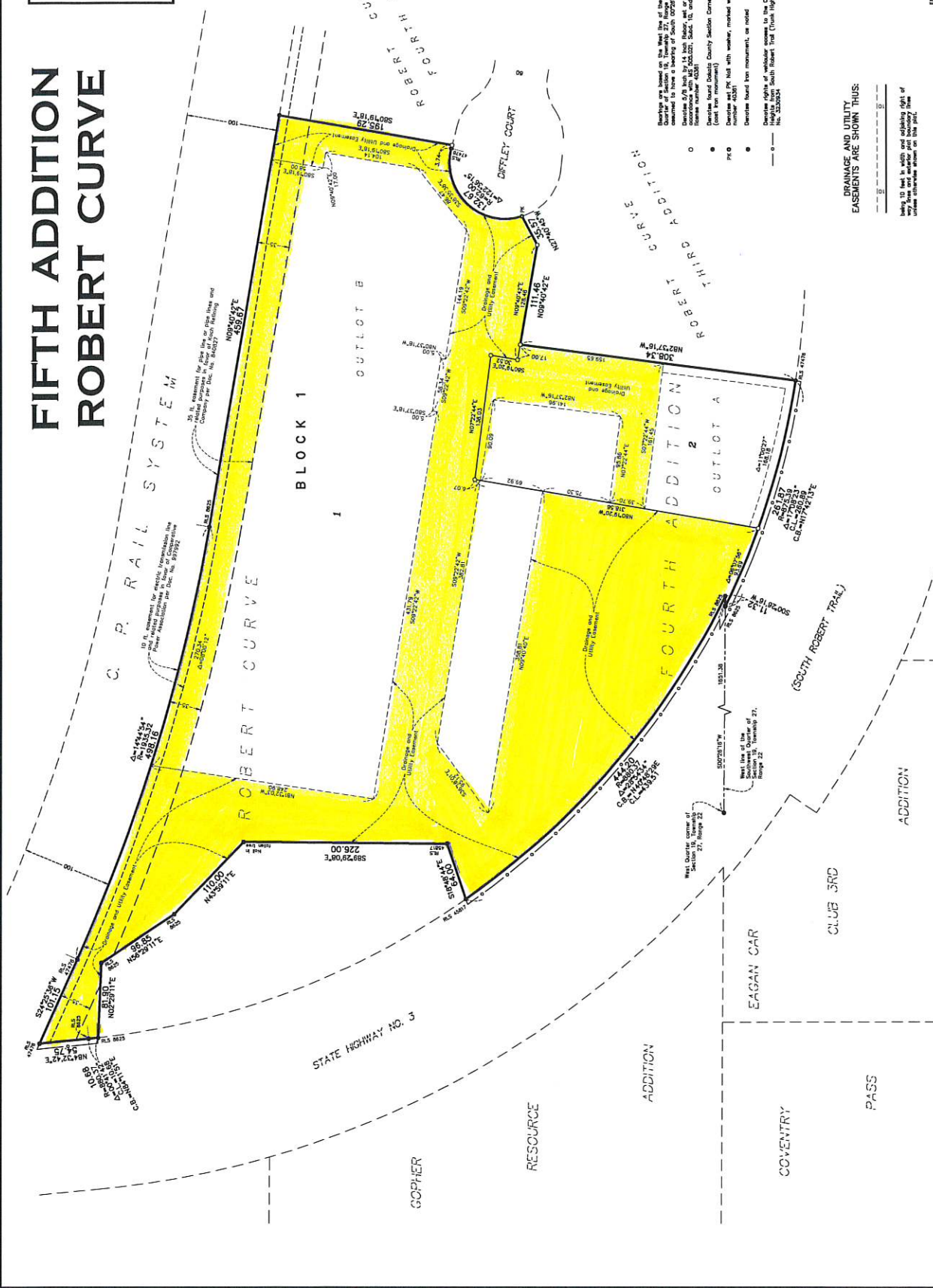
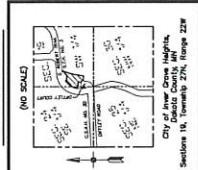


Location Map

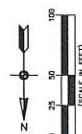
Case No. 23-36SPUD



VICINITY MAP



DRAINAGE AND UTILITY
EASEMENTS ARE SHOWN THUS:



**CARLSON
MCCAIN**

W. MCGAIN
ENGINEERING \ SURVEYING \ ENVIRONMENTAL

