



Inver Grove Heights Planning Commission
Tuesday, December 3, 2024 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 Tuesday, December 3, 2024, will be provided to the Council at or before the December 3, 2024 meeting.

1. **Call to Order**
2. **Roll Call**
3. **Consent Agenda**
 - A. Minutes of the November 19, 2024, Planning Commission Meeting.
4. **Public Hearing**
 - A. Zoning Code Amendment, Conditional Use Permit and Non-Conforming Use Certificate Amendment to allow the proposed vertical expansion of the Pine Bend Sanitary Landfill located at 2495 117th Street East. (BFI Waste Systems of North America, LLC. - Case No. 24-21NCUC) Continued Item from November 19, 2024, Planning Commission Meeting.
 - B. Vacation of a current Drainage and Utility Easement and the Dedication of a Drainage and Utility Easement in a new location on the property located at 17 High Road. (Susan McNeely - Case No. 24-41VAC)
 - C. Rezoning from A, Agricultural to E-1, Estate District located at property 9120 Rich Valley Boulevard. (Ky Fang - Case No. 24-40Z)
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.

December 3, 2024 - Planning Commission Agenda

PLANNING COMMISSION MINUTES – CITY OF INVER GROVE HEIGHTS

Tuesday, November 19, 2024 – 7:00 p.m.
City Council Chambers – 8150 Barbara Avenue

1. CALL TO ORDER

Chair Weber called the Planning Commission Meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited.

2. ROLL CALL

Commissioner's Present: Jonathan Weber (*Chair*)
Trisha Presley (*Secretary*)
Jason Teiken
Lance Twedt
Aida Schaefer
Robert Heidenreich
Amy Hunting
Dennis Wippermann

Commissioner Absent: Scott Clancy (*Vice-Chair*) – *excused*

Staff Present: Jason Ziemer, Community Development Director
Kris Wilson, City Administrator
Bridget Nason, City Attorney
Ally Sutherland, Environmental Specialist
Stacy Bodsberg, Community Development Support Specialist

3. CONSENT AGENDA

A. Minutes of November 6, 2024, Planning Commission Meeting.

Motion by Hunting, Second by Teiken, to approve the minutes with the changes requested by Commissioner Wippermann.

The amended lines now read as follows, with changes in boldface type:

- Commissioner Wippermann said that **the requested changes** would open up this use to any Agricultural property.
- Motion by Wippermann, Second by Hunting, to Deny the request for a Comprehensive Plan Amendment from RDR, Rural Density Residential to LI, Light Industrial subject to the conditions listed in the staff report; and **Deny** the Rezoning of the property from A, Agricultural to I-1, Limited Industry District; and **Deny** the Zoning Code Amendment to allow Commercial Yard Waste and Composting Facilities as a Conditional Use in the I-1 District with the reason that it would be spot zoning, and also the reasons listed in the staff report.

4. PUBLIC HEARING

A. **Zoning Code Amendment, Conditional Use Permit, and Non-Conforming Use Certificate Amendment to allow the proposed vertical expansion of the Pine Bend Sanitary Landfill located at 2495 117th Street East. (BFI Waste Systems of North America, LLC – Case No. 24-21NCUC)**

Reading of Public Notice

Secretary Presley read the Public Hearing Notice.

Presentation of Request

Community Development Director Ziemer and City Administrator Wilson presented the staff report.

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Pine Bend Sanitary Landfill are seeking authorization to accept additional cubic yards of waste, grow taller, and operate longer than currently permitted by the State, Dakota County, and Inver Grove Heights.

The city's role involves:

1. Zoning Code Amendment
2. Amendment to Pine Bend Sanitary Landfill's Non-Conforming Use Certificate
3. Conditional Use Permit for Vertical Expansion
 - a. Environmental Advisory Commission recommended approval earlier in November
4. Host Community Agreement
 - a. City Council

The Planning Commission is tasked with reviewing the first three items, and all four will then go before the City Council for action.

Staff requests that the Planning Commission continue tonight's public hearing to the December 3rd meeting, as the public notice was published a day short, and needs to be republished in the Pioneer Press for the required amount of time.

Community Development Director Zierner provided some background on the request. The reason for the proposed expansion is that the landfill is nearing capacity. Current projections show that the landfill would reach capacity in 2030. Therefore, in June 2022, Pine Bend Landfill filed an initial expansion request with the Minnesota Pollution Control Agency (MPCA). In 2023, MPCA reviewed the Environmental Assessment Worksheet and determined that no Environmental Impact Statement (EIS) was needed. In June 2024, Pine Bend Landfill submitted the zoning application to the City.

If the expansion is approved, the capacity would be 42,123,300 cubic yards, including 7 million cubic yards of additional waste and a final cover. This would extend the life of the landfill by 13.6 years.

The footprint of the landfill would not change. The height of the landfill would increase by 86.8 feet, maintaining the current slope of 3:1.

Under the proposed Zoning Code Amendment, the land use and zoning would not change (General Industrial and I-2, General Industry, respectively). Pine Bend Landfill is in the Integrated Resource Management Overlay District; the zoning changes would involve revisions of the size and height allowed in this Overlay District.

Proposed City Code revisions:

- Subparagraph F: Final height not to exceed 1,105.8 feet
- Subparagraph H: Capacity not to exceed 42,123,200 cubic yards
- Subparagraph J: Remove

Community Development Director Zierner explained the Non-Conforming Use Certificate (NCUC) process and briefly reviewed the history of Pine Bend Landfill's initial NCUC in 1995 and Amendments that occurred in 2002, 2004, 2018.

Showed visual side-by-side pictures of the existing views and projected 2042 views for seven surrounding sites of the landfill.

Chair Weber clarified that the zoning is I-2. Zierner confirmed that.

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City Administrator Wilson presented on the proposed Conditional Use Permit, that would approve an additional 86.8 feet of height to a new maximum elevation of 1,105.8 feet and an increase in the capacity of the landfill.

Conditions 1 and 2:

- Outline the previous height and capacity maximums.
- Note that the terms of the two previous Conditional Use Permits remain in effect, but state that the most recent CUP will prevail in the event of conflicting terms.

Conditions 3 and 4:

- Require that the expansion be constructed and operated in accordance with the application materials and plan documents submitted, as well as information provided in follow-up letters.

Conditions 5 and 6:

- Provide the list of past City actions and approvals, which remain in effect and which the Landfill must continue to comply with, including the Landfill's Non-Conforming Use Certificate.

Conditions 7 and 8:

- Indicate the types of waste that may be disposed of in the Landfill (no change from current list).
- Require that the Landfill connect to the City's sanitary sewer system and pay the applicable connection and hook-up charges (once the sanitary sewer is extended to the property as part of the 117th Street reconstruction project).
 - This allows leachate to be piped rather than trucked to the Metropolitan Council's wastewater treatment facility.

Chair Weber inquired if extending the sanitary sewer was at the City's expense. City Administrator Wilson responded that it is listed as such, but the benefiting property owners were assessed for the sanitary sewer portions.

Ms. Wilson noted that the previous condition 8 from the 2018 CUP would be removed, which prohibited traffic queueing on 117th Street. This is no longer necessary given that the 117th Street reconstruction project will add a turn lane. Additionally, 117th Street is now a Dakota County road, and the County is responsible for regulating the use of the street.

Conditions 9 and 10:

- Establish hours for construction of the expansion (installing liner, extending leachate and gas extraction systems, etc.).
 - Hours will be identical to those from the last approved expansion
- State that the landfill must comply with all applicable federal laws and regulations, Minnesota statutes and rules, Dakota County rules, and terms of their Solid Waste Permit, as amended.

Conditions 11 and 12:

- Indicates requirements related to surface water and groundwater requirements.
 - No change from the existing Conditional Use Permit.
- Indicates requirements related to dual gas/leachate extraction system.
 - No change from the existing Conditional Use Permit, but with the annual report now due March 1 instead of February 1 to align with state deadlines.

Conditions 13, 14, and 15:

- Address subsurface gas migration as a safety concern.

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- Require compliance with MN Rule 7035.2815, Subpart 11 regarding landfill gas management.
 - The existing CUP required Pine Bend Landfill to have six months of compliance by January 1, 2025. This condition has not been met. However, the Minnesota Pollution Control Agency has said that there is still no foolproof way of containing landfill gas.
- Require continued annual reporting to the Environmental Advisory Commission on progress, with added trend analysis.
- Require continued oversight by the Minnesota Pollution Control Agency.
- Extend the deadline for compliance to 2027 or until 35 million cubic yards of capacity is reached, with authority given to City Council to waive the requirement if adequate progress is being made.
- Require Pine Bend Landfill to identify the outer boundaries of the subsurface gas plume.

Commissioner Heidenreich inquired about methane gas migration coming from an older landfill to the north. City Administrator Wilson stated that while there is an older, closed landfill to the north (Crosby American) it is the property and maintenance responsibility of the Minnesota Pollution Control Agency.

City Administrator Wilson provided some background information on current efforts to address subsurface gas migration: annual reports to the City and presentations to the Environmental Advisory Commission; source control including 242 gas collection points that connect to the renewable natural gas plant; monitoring including 39 probes around the perimeter of the landfill, which are monitored quarterly or monthly if exceedances are detected; and ongoing efforts to identify new methods of containing gas. The issue is not expected to worsen as a result of the expansion. The gas is coming from the unlined portion of the landfill, and the expansion would be over the top of the lined portion.

Commissioner Twedt inquired about gas threats to nearby residents or livestock. City Administrator Wilson stated that probes at a nearby recycling plant have not detected gas, and fortunately, there are not many residential buildings nearby. There is no reason to believe that there's a current public safety threat. Twedt asked about efforts to address the problem. Wilson stated that the Minnesota Pollution Control Agency has suggested actions but does not have solutions to offer. The MPCA believes Pine Bend is taking reasonable steps to address the issue. At this time, MPCA is not taking any enforcement actions. Twedt stated that he would like to hear more about these steps and progress made on the issue.

Conditions 16, 17, 18, and 19 (all consistent with existing CUP):

- Require compliance with the MPCA air emission permit for the Renewable Natural Gas facility.
- Make both the owner and the operator of the Landfill responsible for compliance with the Conditional Use Permit (CUP).
- Document that any breach of the Host Community Agreement is a violation of the CUP.
- Indicate that the effective date of the CUP is the effective date of the new Host Community Agreement.

Condition 20:

- Makes this CUP effective only if a valid Host Community Agreement is in place.
 - The Host Community Agreement is still being negotiated; it is possible that it would need to be renegotiated after five years.

Planning Commission Discussion

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Commissioner Schaefer questioned when the landfill would cease to operate without the expansion. Wilson stated this was based on capacity. However, the Host Community Agreement has historically had a closure date, and the current closure date is December 31, 2030. The proposed closure date is approximate but estimated to be 2042.

Commissioner Schaefer inquired as to what the worst-case scenario is for gas migration. Wilson stated that Barr Engineering consultants and/or landfill representatives would be able to answer that question.

Commissioner Schaefer inquired about the benefit of the landfill to the City. Wilson stated that waste needs to go somewhere, and since 1971, it has been coming to Inver Grove Heights. Under the Host Community Agreement, the landfill pays per-ton fees that cover services; half of these go to the Veterans Memorial Community Center, including the cost of capital improvements and operations. She mentioned that usually, these costs are covered via property taxes. The remaining half of the fees are used in Public Works, including the Pavement Management Program. Portions of these fees have also been set aside for a new Public Works Maintenance Building and stormwater and sanitary sewer needs. Because Host Community fee revenue is General Fund revenue to the City, the City Council can direct it for any city government purpose.

Commissioner Schaefer questioned what the trend in fee revenues has been. Wilson stated that fee revenue has decreased in the last few years for two reasons. The 2018 CUP Amendment had a different fee structure that took effect after Pine Bend Landfill got a Certificate of Need from the MPCA in late 2021, so the impacts were felt in 2022 and 2023. Secondly, the landfill made a business decision to accept less tonnage from haulers, so their tonnage went down.

Chair Weber inquired about the specifics on changes to the fee structure, and whether it switched from a tonnage fee to a guaranteed annual payment. Wilson stated that this was out of the jurisdiction of the Planning Commission, but that there is a three-tier structure, with a moderate fee for the first (approximate) 260,000 tons landfilled annually, a much lower fee for 260,000 to 400,000 tons, and then a higher fee for tons above 400,000. There is also an annual payment to the city.

Commissioner Schaefer summarized that the revenue received from the landfill through the Host Community Agreement is needed to continue funding the VMCC without raising property taxes and that the fees have been decreasing in the last two years. She asked how this funding gap is being addressed. Wilson stated that account reserves were being used. There has not been a change in property taxes as a result of decreased fee revenues over the last two years.

Opening of Public Hearing

Aaron Janusz, Environmental Manager with Republic Services, introduced Ethan Ketelsen with Stantec; Megan Goldstein, Environmental Specialist; and Katie Lindholm, Operations Manager, stated that he had read and understood the report. He thanked the Commission and the City for their time and efforts reviewing the application. He said that progress is being made on the gas migration issue; last month, there were only four or five spots of concern with gas migration, down from 18 in prior months. He said the issue is the unlined portion. He said monitoring is ongoing on nearby properties, and gas is not being detected on properties to the east or west. He said that methane is potentially explosive, and that if there were a basement in the area, there is the potential for a buildup of gas, but there aren't really any buildings nearby.

Commissioner Heidenreich inquired about a plume map. Mr. Janusz stated that they do not have this; they have not tested other people's properties.

Commissioner Heidenreich inquired if there was any airborne gas. Mr. Janusz stated no, it was not on the surface.

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Commissioner Hunting inquired about an expansion of natural gas collection. Mr. Janusz stated yes; with the landfill expansion, there will be a longer period for collection of natural gas.

Commissioner Schaefer inquired about the average daily tonnage being estimated at 1,600. Mr. Janusz stated that there are fluctuations, and 1,600 is their best guess. If the Hennepin Energy Recovery Center (HERC) closes, the average daily tonnage may increase. Schaefer inquired about the potential for increased tonnage due to population growth in the area, and what the effect would be on the landfill's expansion. Mr. Janusz stated that the permit is constrained by volume, not tonnage of waste accepted; he clarified that it's not a one-to-one comparison. The lifespan of the landfill would decrease if the rate of waste accepted increased.

Commissioner Schaefer inquired as to whether monitoring would increase if the landfill was built out faster than projected. Mr. Janusz stated that they would monitor areas as they were built out.

Commissioner Hunting inquired about efforts to burn waste. Mr. Janusz stated that HERC in downtown Minneapolis burns waste. At the Newport facility, waste is shredded, then trucked to Mankato or Red Wing, where it is burned for electricity. Burning is not being done at Pine Bend. Hunting inquired about issues with burning waste. Mr. Janusz stated that issues include pollution from exhaust and ash disposal.

Chair Weber inquired about an increase in leachate from 2017 to 2022. Mr. Janusz stated that this was due to the last expansion being a side slope expansion, meaning more area for runoff to generate leachate. Weber inquired about the distance this leachate is trucked. Mr. Janusz stated that it is trucked to Saint Paul. Weber questioned if the leachate will increase further with the expansion. Mr. Janusz stated that they are not expecting it to increase further.

Commissioner Schaefer inquired about the Certificate of Need. Mr. Janusz stated that the Certificate of Need is based on counties' waste volume tracking and predicted waste generation metrics. Schaefer questioned whether it would be possible for Dakota County or the City of Inver Grove Heights to limit the origin of waste that Pine Bend Landfill accepts. Mr. Janusz stated that it would be an interesting discussion, as the company currently works with the whole metro area.

Commissioner Schaefer inquired as to what would happen with the City's waste in 2042. Mr. Janusz stated that there were ongoing efforts to reduce, reuse, and recycle that could help with decreasing waste, but that's an open question.

Chair Weber stated that while he's aware the Host Community Agreement is under City Council's purview, he would find it helpful to see a copy of it, particularly given the connection to the Conditional Use Permit.

Commissioner Schaefer stated that if demand for landfill space is increasing, there should be more revenue, including fees to the City.

Chair Weber inquired as to who has been involved in Host Community Agreement negotiations. City Attorney Nason stated that the negotiations have occurred between Pine Bend's representatives and legal counsel and the City's staff and legal counsel.

Chair Weber inquired about the potential for Planning Commission review of the Host Community Agreement. City Attorney Nason stated that the City Council would make the decision; the Host Community Agreement is not scheduled to come before the Planning Commission.

Commissioner Hunting inquired about the 2018 change in the Host Community Agreement fee structure. City Attorney Nason stated that she believed the fee structure changed as a result of the landfill bringing financial constraints to the City. In all the Host Community Agreements before that,

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there was a per-ton fee, and the city is not putting the current fee structure on the table for consideration in this round of negotiations.

Community Development Director Ziemer pointed out that the Planning Commission is asked to consider strictly the land use and zoning perspective, not economic aspects.

Chair Weber inquired about other aspects of the Host Community Agreement that might apply. City Administrator Wilson stated that the current Host Community Agreement is a public document and that she would share it with the Commission. It includes fees paid to the city and the closure date. There is also information about fire suppression/emergency preparedness and management plans.

Chair Weber stated that by being able to read the current agreement, this would help the Commission with a fuller understanding of the item under consideration.

City Administrator Wilson reiterated that the Planning Commission is concerned with land use.

Commissioner Schaefer stated that there are budgetary considerations involved with land use. Wilson stated that the Planning Commission is asked to weigh in on the Capital Improvement Plan because it involves infrastructure, but ultimately, budgetary considerations are under the purview of City Council.

Motion by Heidenreich, Second by Presley, to Continue the Item to the December 3, 2024, Planning Commission meeting.

Ayes: 8

Nays: 0 Motion Carried.

5. REGULAR BUSINESS

None.

6. ADJOURN

Motion to adjourn the meeting at 8:20 p.m.

Respectfully submitted by Will Clashe, Recording Secretary.



Planning Commission Report

MEETING DATE:	December 3, 2024
CASE NO:	24-21NCUC
APPLICANT:	BFI Waste Systems of North America, LLC
PROPERTY OWNER:	Same.
REQUEST:	Hold a Public Hearing on the Applications for a Zoning Ordinance Amendment to allow a vertical expansion of an existing sanitary landfill; Conditional Use Permit for vertical expansion of the Pine Bend Sanitary Landfill; and the Non-Conforming Use Certificate Amendment to permit the landfill expansion.
LOCATION:	2495 117th Street East
COMPREHENSIVE PLAN:	General Industrial
ZONING:	I-2, General Industry; IRM - Integrated Resource Management Overlay Zoning District
STAFF CONTACT:	Kris Wilson, 651.450.2511

ACTION REQUESTED

The Planning Commission is asked to continue the public hearing on the applications for a Zoning Ordinance Amendment, Conditional Use Permit, and Non-Conforming Use Certificate Amendment to permit a vertical expansion of Pine Bed Landfill. Upon conclusion of the public hearing, the Planning Commission is asked to make a recommendation to the City Council regarding these applications.

BACKGROUND

On November 19, 2024, the Planning Commission opened a public hearing related to the request from BFI Waste Systems of North America, LLC, dba Pine Bend Landfill, for a Zoning Ordinance Amendment, allowing a vertical expansion of the existing sanitary landfill, a Conditional Use Permit (CUP) for the expansion and Non-Conforming Use Certificate (NCUC) Amendment. The Planning Commission received public comment and continued the public hearing to its December 3, 2024, meeting, as requested by City staff. Commissioners requested additional information regarding Pine Bend Landfill, including previous presentations and a copy of the current Host Community Agreement between the City and Pine Bend Landfill; City staff forwarded that information to Commissioners. At the December 3, 2024, meeting, City staff requested the Commission receive any additional public comment regarding the proposed amendments to zoning, CUP and NCUC prior to closing the public hearing, and move the item forward to the City Council with a recommendation for action.

Commissioners will find attached to this staff report the proposed Zoning Ordinance Amendment, proposed Conditional Use Permit (CUP) and proposed revisions to the Non-Conforming Use Certificate (NCUC). All other information may be found attached to the November 19, 2024, Planning Commission agenda item as published and presented to the Planning Commission at that meeting. The staff report below is the same as the staff report published and presented to the Planning Commission on November 19, 2024.

OVERVIEW

Since initially being permitted by the MPCA in 1971, Pine Bend Landfill has operated a sanitary landfill on property comprised of approximately 323 acres located at 2495 117th Street, between Highways 52/55 and Rich Valley Boulevard. The Landfill is a sanitary landfill that accepts solid waste for disposal, including mixed municipal solid waste, non-hazardous industrial solid waste, construction debris and demolition debris, non-infectious waste, and asbestos. The landfill currently has a permitted airspace design capacity of 33,937,400 million cubic yards, including final cover. As of August 2023, the landfill had a remaining permitted airspace design capacity of approximately 2,986,936 cubic yards, including final cover. The landfill currently estimates an annual fill rate of approximately 600,000 cubic yards. This amount, however, can vary significantly depending on various factors.

The landfill is proposing a vertical capacity expansion of 8,185,800 cubic yards, including 7,888,250 cubic yards of waste and 297,550 cubic yards of final cover material. This vertical capacity expansion is referred to as Phase 7. The Phase 7 design proposes to vertically extend the currently permitted 3:1 final cover slopes around the perimeter of the landfill. The design provides for increased capacity vertically without increasing the landfill footprint horizontally. The expansion would extend the life of the landfill about 13.6 years and increase the landfill's elevation by approximately 86.8 feet at the highest point. Pine Bend Landfill's application to the City is attached.

CITY APPROVALS REQUESTED BY LANDFILL

Pine Bend Landfill's proposed vertical expansion requires the City's approval of the following:

- A Zoning Ordinance Amendment to allow a vertical capacity expansion of the existing sanitary landfill as a conditional use in the IRM overlay district, providing that landfills have a non-conforming use certificate, are in compliance with that certificate, and meet other conditions regarding final cover, liners, leachate collection, gas extraction, height, property boundaries, capacity, and acceptable wastes.
- A Conditional Use Permit to allow a vertical capacity expansion of the landfill to a maximum capacity of 8,185,800 cubic yards, including 7,888,250 cubic yards of waste.
- A Non-Conforming Use Certificate Amendment to allow the capacity expansion and maximum elevation increase.

PINE BEND LANDFILL BACKGROUND

Pine Bend Landfill initially received a Conditional Use Permit (CUP) for its operation in 1975. The landfill became a legal non-conforming use in 1991 when the City adopted a Zoning Ordinance Amendment that prohibited final disposal facilities for mixed municipal waste within the I-2 zoning district. That amendment prohibited sanitary landfills, such as Pine Bend's, created the Integrated Resource Management Overlay Zoning District, and placed that overlay zoning district on the Pine Bend Landfill and other properties in the area. The overlay zoning district prohibits certain waste industries, restricts and regulates other waste industries, and requires waste industries to be concentrated in the southeast industrial area of the City.

Since there were numerous questions regarding how the City zoning ordinance's non-conforming regulations applied to the landfill, the City and the landfill entered into a Non-Conforming Use Certificate (NCUC) in 1995. The NCUC resolved uncertainties for both the City and the landfill. It clarified the zoning status of the landfill, specified the rights and responsibilities of the landfill, and provided the City with more specific controls which had not been clearly defined in the previous Conditional Use Permit.

Since issuance of the Non-Conforming Use Certificate (NCUC) in 1995, the City has approved several additional requests by Pine Bend for modifications to the NCUC and changes to the landfill. Most of these requests were for accessory uses or minor revisions, such as the establishment of an energy recovery facility for the generation of electricity, open storage of trucks and trailers, a revised landscaping plan, a modified elevation and grading plan, a compost facility, and stockpiling of soils. In 2004, the City approved a landfill capacity expansion of 5.6 million cubic yards. This expansion was primarily a vertical expansion over previously filled areas and a small horizontal expansion where the landfill offices are located.

In 2018, the City approved a side slope capacity expansion of 3.53 million cubic yards. This required a change to the City's zoning ordinance to allow the expansion of an existing sanitary landfill, and resulted in the approval of a new CUP and NCUC Amendment. The landfill continues to operate today, subject to the terms of the existing NCUC, as amended, and the existing Conditional Use Permits and Host Community Agreement.

Based on existing airspace capacity, at current filling rates, it is anticipated that the landfill would run out of existing Certificate of Need (CON), which is the permitted tons of solid waste the MPCA has authorized the landfill to receive by January 2028. Additionally, the terms of the existing Host Community Agreement require the landfill to permanently stop accepting waste for disposal and to close the landfill to the public no later than December 31, 2030, or when the permitted airspace capacity of 32.13 million cubic yards (not including final cover) is reached, whichever occurs first. If the zoning ordinance amendment is approved, the landfill will have additional waste disposal capacity and will continue to operate for a longer period of time.

EVALUATION OF REQUEST

2024 PINE BEND LANDFILL REQUEST AND CITY REVIEW

In June 2022, Pine Bend Landfill made application to the State of Minnesota Pollution Control Agency (MPCA) for the proposed vertical capacity expansion currently under review by the City. The MPCA then prepared an Environmental Assessment Worksheet (EAW) for the expansion. In November 2023, the EAC and City Council reviewed the EAW and submitted comments to the MPCA. The MPCA completed the EAW process by making a finding of a negative declaration, meaning that a more involved Environmental Impact Statement (EIS) was not necessary.

The City, with Barr Engineering's assistance, performed four rounds of technical review of the June 2022 Application and September 2022 Addendum that focused on 12 technical topics: waste acceptance, groundwater monitoring system, leachate recirculation, solid waste composting, groundwater quality, surface water management, waste capacity, liner and leachate collection system design, gas monitoring and gas extraction/treatment systems, final cover design, closure, post-closure, contingency action, operation and maintenance plans, and final assurance cost estimates. In October and November of 2023, the EAC and City Council approved the City's technical review memo that included all recommendations submitted to Pine Bend Landfill and the MPCA. Pine Bend Landfill subsequently modified its June 2022 Application and September 2022 Addendum to the MPCA, based on comments provided by the City during this process. The May 22, 2024, final technical review that summarizes all correspondence between the City/Barr and Pine Bend Landfill is attached to this packet for reference.

Before the MPCA can act on Pine Bend Landfill's application to the state, the City of Inver Grove Heights and Dakota County must receive, review and act on expansion applications submitted by Pine Bend Landfill. Pine Bend Landfill submitted an application to the City of Inver Grove Heights on June 17, 2024, to initiate this process with the City.

Barr Engineering's Final Letter Report (dated November 8, 2024), reviews Pine Bend Landfill's City application. During this review, Barr Engineering paid particular attention to waste capacity, groundwater quality and trends, surface water, and gas migration and trends. Barr's review states the key environmental-related considerations related to the Phase 7 expansion are:

- Potential negative impacts would be increased visibility from nearby properties, and a potential increase in litter and odor due to the proposed increased landfill height.
- Landfill gas is currently collected, cleaned, and conveyed into a nearby natural gas pipeline. Additional landfill gas generated by the increased waste disposal would increase the quantity of gas supplied to the natural gas pipeline and therefore would be an environmental benefit, assuming the existing operation has the capacity to process additional gas.
- It is not expected that offsite subsurface migration of landfill gas would increase with the proposed Phase 7 expansion because it is believed that the source of the subsurface gas is waste in the old unlined area. However, the issue of how to reduce or mitigate the existing subsurface gas migration remains.
- There is a potential negative environmental impact to surface water because the proposed Phase 7 expansion includes an increase in the amount of 3:1 (horizontal:vertical) sideslopes that will increase the rate of surface water runoff and potentially increase the amount of erosion on the sideslopes. However, these potential negative environmental impacts are mitigated with the proposed final cover and stormwater management systems that are designed to accommodate the steeper sideslopes.

Expansion-Related Documents

1. Zoning Ordinance Amendment.

The City's zoning ordinance prohibits the establishment of new sanitary landfills accepting mixed municipal solid waste, although it permits the expansion of existing sanitary landfills in certain circumstances. Pine Bend's current application for a vertical expansion is not permitted under the existing zoning ordinance. In order for the landfill to expand vertically as requested, the City's zoning ordinance would need to be amended to allow both the increase in height of the landfill, as well as the requested increase in airspace of the landfill. The attached zoning ordinance amendment would permit the requested vertical expansion of the landfill to a maximum elevation of 1,105.8 feet, as measured from mean sea level, National Geodetic Vertical Datum of 1929, and would allow the expanded design capacity of the sanitary landfill to a total capacity of 42,123,200 cubic yards, including final cover soils.

2. Non-Conforming Use Certificate Amendment.

Pine Bend Landfill operates under a Non-Conforming Use Certificate (NCUC), which has been amended several times. The NCUC is a lengthy document that lays out in great detail how the landfill is permitted to operate, establishes the maximum height of the landfill, and approves various site plan-related documents. The proposed NCUC amendment increases the allowed height of the landfill, and includes the proposed Phase 7 expansion plans as part of the approved site plan documents.

3. Conditional Use Permit.

If the zoning ordinance amendment discussed above is approved, in order for Pine Bend Landfill to move forward with its vertical expansion, a CUP must be issued for that expansion. The proposed CUP would allow the landfill the ability to expand its height and volume as requested in its current

application. The CUP contains a number of conditions, many of which are identical to the conditions included in the CUP issued in 2018 for the horizontal expansion of the landfill. It also contains a number of new and revised conditions, in particular conditions related to addressing subsurface gas migration.

ALTERNATIVES

N/A

RECOMMENDATION

Staff recommends the Zoning Ordinance Amendment, Conditional Use Permit, and Non-Conforming Use Certificate as presented and attached be forwarded to the City Council with a recommendation of Approval, pending the successful negotiation of an updated Host Community Agreement.

ATTACHMENTS

1. Pine Bend Landfill_Zoning Ordinance Amendment
2. Pine Bend Landfill_Conditional Use Permit
3. Pine Bend Landfill_Non-Conforming Use Certificate Amendment
4. Pine Bend Landfill_Plan Set

**Item 4.A, Attachment 1 - Zoning Ordinance
Amendment**

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE
SECTION 10-13E-6 RELATED TO EXPANSION OF THE AIR SPACE OF AN
EXISTING SANITARY LANDFILL**

Section One. Amendment. Section 10-13E-6 of the Inver Grove Heights City Code related to expansion of the air space of an existing sanitary landfill is hereby amended to read as follows. The deleted language is shown with strikethrough and the added language is shown underlined:

Expansion of the air space of an existing sanitary landfill, provided all the following conditions are met:

- A. The existing sanitary landfill must have a nonconforming use certificate.
- B. The existing sanitary landfill must be in compliance with and must remain in compliance with the nonconforming use certificate, as amended.
- C. The layer of expanded air space on the existing sanitary landfill where disposal will occur must have a liner, leachate extraction system and landfill gas extraction system. The liner and these extraction systems must be approved by the MPCA, the County and the City before disposal can occur in the expanded air space.
- D. The landfill must also have in place an existing leachate extraction system and a leachate removal and management plan. The leachate removal and management plan must be approved by the MPCA.
- E. The landfill must also have in place an existing landfill gas extraction system and a landfill gas management plan. The landfill gas management plan must be approved by the MPCA.
- F. The final contour height of the sanitary landfill, as expanded (including the final cover system), must not exceed 1,105.8 feet ~~be more than one percent (1%) higher than the final contour (including the final cover system) as previously approved in the nonconforming use certificate, as amended.~~ Measurements shall be taken from mean sea level, National Geodetic Vertical Datum of 1929.
- G. The expanded air space must not increase the parcel boundaries of the existing sanitary landfill as previously approved in the nonconforming use certificate, as amended.
- H. The design capacity of the sanitary landfill, including the expansion area, shall not exceed a total capacity of 42,123,200 cubic yards, including final cover system. ~~volume of the expanded air space for disposal (not including the final cover system) must not be more than forty percent~~

~~(40%) of the cubic yards of air space for disposal (not including the final cover system) that were allowed in the previously approved nonconforming use certificate, as amended.~~

I. The types of waste to be disposed in the expanded air space may only include the following:

1. Construction debris and demolition debris;
2. Infectious waste which has been processed so as to become noninfectious;
3. Mixed Municipal solid waste from whatever source including, but not limited to, mixed Municipal solid waste material from composting, energy recovery facilities, and recycling facilities and processes;
4. Nonhazardous industrial solid waste including, but not limited to, industrial incinerator ash, all in accord with the industrial waste management plan; and
5. Solid wastes approved by the MPCA for use as cover material including, but not limited to, foundry sands and certain sludges.

~~J. The surface square footage of the final cover system for the entire sanitary landfill, as expanded, must not be more than 8.5 acres greater than the surface square footage of the final cover system that would have been placed if the air space of the sanitary landfill had not been expanded.~~

Section Two. Effective Date. This ordinance amendment shall be effective from and after its passage and publication according to law.

Passed this ____ day of _____, 2024.

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich, Mayor

ATTEST:

Rebecca Kiernan, City Clerk

Item 4.A, Attachment 3 - Conditional Use Permit

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW A VERTICAL EXPANSION OF PINE BEND LANDFILL**

CASE NO. _____

PROPERTY LOCATED AT 2495 EAST 117TH STREET

WHEREAS, an application for a Conditional Use Permit for an airspace capacity vertical expansion ("Vertical Expansion") of Pine Bend Sanitary Landfill ("Pine Bend Landfill" or "Landfill") has been submitted by BFI Waste Systems of North America, LLC for property located at 2495 East 117th Street ("Property") and legally described in **Exhibit A** and depicted in **Exhibit B**, attached hereto; and

WHEREAS, the Property is currently zoned 1-2, General Industry and IRM, Integrated Resource Management Overlay Zoning District; and

WHEREAS, the proposed Vertical Expansion of Pine Bend Landfill is a conditional use in the IRM, Integrated Resource Management Overlay Zoning District; and

WHEREAS, in accordance with Minnesota Statutes, Section 462.357, subd. 3, a public hearing concerning the proposed Conditional Use Permit was held before the Inver Grove Heights Planning Commission on _____, 2024; and

WHEREAS, this is the third application for a conditional use permit for an airspace capacity expansion of Pine Bend Sanitary Landfill since 1995.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Inver Grove Heights, that a Conditional Use Permit for the Vertical Expansion of the Pine Bend Landfill on the Property to allow: 1) an increase in height of the Landfill of an additional 86.8 feet to a maximum elevation of 1,105.8 feet (National Geodetic Vertical Datum of 1929); and 2) to increase the permitted design capacity of the landfill by 8,185,800 cubic yards, inclusive of final cover soils, (7,888,250 cubic yards excluding final cover) to a total permitted airspace capacity of 42,123,200 cubic yards is **APPROVED** subject to the following **CONDITIONS**:

1. The City and Pine Bend Landfill agree that prior to the vertical expansion allowed by this Conditional Use Permit, the total permitted/ultimate airspace capacity of Pine Bend Landfill was 33,937,400 cubic yards, inclusive of final cover materials, and the maximum permitted height of the Landfill was 1,019 feet (National Geodetic Vertical Datum of 1929).

2. The terms and conditions of the conditional use permit for an airspace capacity expansion for Pine Bend Landfill, dated March 22, 2004 (Resolution 04-48), as well as the terms and conditions of the conditional use permit for a side slope expansion for Pine Bend Landfill, dated April 9, 2018, (Resolution 18-69), to the extent the same are contradicted by any of the terms and conditions of this Resolution are hereby superseded by this Resolution.
3. The vertical expansion approved by this Conditional Use Permit shall be constructed and operated in substantial conformity with the following Approved Plans:
 - a. The "Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill," prepared by Stantec dated June 2023, Revised July 2024, including the Plan Sheets found in Appendix C.
 - b. Comment response memorandum prepared by Stantec dated September 23, 2024.
 - c. Comment response letter from Republic Services dated October 29, 2024.
4. The area of the 2004 capacity expansion shall be limited to the area defined as Phase 5 on the Approval Plans, the area of the 2018 side slope capacity expansion shall be limited to the area defined as Phase 6 on the Approved Plans, and this Vertical Expansion shall be limited to the area defined and shown as Phase 7 on the Approved Plans.
5. Pine Bend Landfill shall comply with all applicable terms and conditions found in:
 - a. Resolution No. 6330 Approving a Conditional Use Permit for an Energy Recovery Facility for the Generation of Electricity, dated May 30, 1995
 - b. Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated November 27, 1995
 - c. Resolution No. 2001-86 Approving a Conditional Use Permit for Open Storage for Truck and Trailer Storage/Parking, dated July 9, 2001
 - d. Resolution 01-117 Adopting a Revised Landscaping Plan, dated September 10, 2001
 - e. Resolution No. 02-32 Amending the Non-Conforming Use Certificate by Modifying the Phasing Plan, Maximum Elevation, and Final Grading and Storm Water Plans, dated March 11, 2002
 - f. Resolution No. 02-127 Approving a Conditional Use Permit for the Stockpiling of Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 335,100 Cubic Yards, dated August 26, 2002

- g. Resolution No. 04-48 Approving a Conditional Use Permit to Allow an Airspace Capacity Expansion of Pine Bend Landfill, dated March 22, 2004; as modified by this resolution.
- h. Resolution No. 04-49 Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated March 22, 2004
- i. Resolution No. 04-51 Declaring Lapse of Nonconforming Use Rights for Pine Bend Sanitary Landfill to Operate a Compost Facility, dated March 22, 2004
- j. Resolution No. 04-50 Approving A Conditional Use Permit for the Stockpiling of . Clean Soil Material as an Accessory Use to an Existing Landfill to a Maximum of 355,100 Cubic Yards, dated March 22, 2004
- k. Resolution No. 18-69 Approving a Conditional Use Permit to Allow a Side Slope Capacity Expansion of Pine Bend Landfill, dated April 9, 2018
- l. Resolution No. 18-70. Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Sanitary Landfill, dated April 9, 2018.
- m. Resolution No. 24-___ Amending Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Landfill for a Sanitary Landfill, dated November 27, 1995, as subsequently amended

With the exception of the conditions found in Section 13 herein, to the extent any of the conditions in the above documents are in conflict, except to the extent specifically noted otherwise, the most restrictive conditions found in the documents listed above shall apply.

- 6. Section 5 through 10 of the Nonconforming Use Certificate (NCUC), as amended, shall also apply to this Vertical Expansion and the terms and conditions of those sections are made part of this Conditional Use Permit and incorporated by reference.
- 7. Notwithstanding anything to the contrary contained in Pine Bend Landfill's Solid Waste Management Plan, the types of waste to be disposed in the 2004 airspace capacity expansion, the 2018 side slope capacity expansion, and this Vertical Expansion, shall only include the following:
 - a. Construction debris and demolition debris.
 - b. Infectious waste which has been processed so as to become non-infectious.

- c. Mixed municipal solid waste from whatever source including, but not limited to, mixed municipal solid waste material from composting, energy recovery facilities, and recycling facilities and processes. The term mixed municipal solid waste shall be as defined in Section 1.29 of the "Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill," issued on November 27, 1995.
 - d. Non-hazardous industrial solid waste including, but not limited to, industrial incinerator ash, all in accord with the Industrial Waste Management Plan. The term industrial solid waste shall be as defined in Section 1.24 of the "Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill," issued on November 27, 1995.
 - e. Solid wastes approved by the MPCA for use as cover material including, but not limited to, foundry sands and certain sludges.
8. If sanitary sewer is extended to Pine Bend Landfill, Pine Bend Landfill shall connect the leachate collection/storage systems to the sanitary sewer, pay its pro rata share of special assessments (in conjunction with other lands served by the sanitary sewer extension) immediately or over a term determined by the City Council but not less than five years and not more than ten years, and pay connection and hook up charges, as soon as the sanitary sewer is accepted for use by the City.
9. Hours for the construction of the 2004 airspace capacity expansion, the 2018 side slope capacity expansion, and this Vertical Expansion shall be:
- | | |
|-----------------------|--------------------|
| Monday through Friday | 6:00 AM to 8:00 PM |
| Saturday | 6:00 AM to 4:00 PM |
- Upon the request of Pine Bend Landfill, temporary extensions of hours or days of construction may be approved by the City Administrator.
- The hours of operation of the landfill shall be as stated in Pine Bend Landfill's Non-Conforming Use Certificate.
10. Pine Bend Landfill shall comply with all applicable Federal laws and regulations, Minnesota State Statutes, Minnesota Rules, Dakota County Regulations, and the terms of MPCA Solid Waste Permit SW-45 as it may be amended.
11. In addition to compliance with all applicable Minnesota Statutes, Minnesota Rules and the terms of MPCA Solid Waste Permit SW-45 as it may be amended, Pine Bend Landfill shall comply with the following additional special conditions regarding surface water and groundwater monitoring and groundwater compliance boundary requirements:

- a. As part of its annual report to the MPCA, Pine Bend Landfill may use alternative methods for the groundwater trend analysis, if approved in advance by the City.
 - b. Pine Bend Landfill shall conduct additional investigations, if required by the City Council, when hydrogeologic changes occur or continued release of contaminants to groundwater warrant, as determined by the City Council. Pine Bend Landfill shall start the investigation within 60 days after determined by the City Council, complete the investigation within 360 days including design for additional groundwater remedial measures, and implement remedial measures within 180 days of City Council's approval of remedial measures design.
 - c. Required water sampling may be waived by the City Administrator in conjunction with either the Community Development Director or Public Works Director, in the case of extenuating circumstances, such as inaccessibility caused by deep snow or wet soils. If such a waiver is granted, the City Council will be notified at its next regular meeting and the waiver shall be discussed at the next quarterly meeting with the City and Pine Bend Landfill and documented in the meeting minutes.
12. In addition to compliance with all applicable Minnesota Statutes, Minnesota Rules and the terms of MPCA Solid Waste Permit SW-45 as it may be amended, Pine Bend Landfill must comply with the following special conditions relating to the dual gas/leachate extraction system:
- a. As part of the annual report, Pine Bend Landfill shall describe the system operations and maintenance, including quality and quantity of leachate collected, and provide recommendations for system modifications.
 - b. Pine Bend Landfill shall perform the following and discuss efforts as part of the annual report, which is due March 1st each year, to:
 - i. Operate, maintain, and update the dual gas/leachate extraction system to maximize leachate extraction to the greatest extent practicable.
 - ii. Lower pump intakes or provide an explanation of why pumps could not, or should not, be lowered.
 - iii. Allow one full year of "dry" operations before removing pumps or provide explanation regarding why the pumps need to be removed and why they cannot be reinstalled.
 - iv. Monitor leachate head level in wells after pumps are removed.

- v. Evaluate the market availability of new pumps that could be installed in the dual gas/leachate extraction wells.
 - vi. Reinstall pumps in wells currently in the dual gas/leachate extraction system and continually operate the pumps.
 - vii. Install pumps in existing wells and pumping stations and add them to the dual gas/leachate extraction system or provide an explanation of why the pumps could not, or should not, be installed.
 - c. Requirements for the dual gas/leachate extraction system may be waived by the City Administrator in conjunction with either the Community Development Director or Public Works Director, in the case of extenuating circumstances, such as inability to reinstall pumps or if it is technically unfeasible to operate or maintain the dual gas/leachate extraction system. If such a waiver is granted, the City Council will be notified at its next regular meeting and the waiver shall be discussed at the next quarterly meeting with the City and Pine Bend Landfill and documented in the meeting minutes.
13. Pine Bend Landfill must achieve compliance with Minnesota Rule 7035.2815, Subpart 11 regarding landfill gas management, including future similarly applicable Minnesota Rule revisions, for six consecutive months as certified by a professional engineer prior to the following, whichever occurs first:
- a. Filling of waste beyond 35.00 million cubic yards (excluding final cover); or
 - b. January 1, 2027

The City Council may, but is not required, to waive this requirement, if the City Council determines that adequate progress is being made to mitigate subsurface gas migration.

If this requirement is not waived, and if the City formally determines, after giving Pine Bend Landfill and BFI Waste Systems notice and an opportunity to be heard, that compliance with this condition is not achieved, then before a deadline to be set by the City at the time of such a determination, Pine Bend Landfill and BFI Waste Systems must temporarily cease accepting waste for disposal at the Pine Bend Landfill until this condition is met; after such a determination by the City, when Pine Bend Landfill and BFI Waste Systems demonstrate to the City's satisfaction that the condition is met, waste may once again be accepted for disposal at the Pine Bend Landfill.

Until compliance is achieved for six consecutive months as required above, BFI Waste Systems of North America, LLC must present progress on its efforts to achieve

compliance to the City of Inver Grove Heights Environmental Commission in the first quarter of every year and report progress in the annual report to the MPCA.

All ongoing gas migration related work plans and reports must be submitted to the City for review and comment.

The requirement contained above is not an election of remedies by the City and is not a waiver of the City's right and remedies under the conditional use permits or under the nonconforming use certificate or under any host community agreement.

The City specifically reserves the right to take action to enforce Minnesota Rule 7035.2815, Subpart 11 and to exercise its rights and remedies under the conditional use permits and under the non-conforming use certificate or under any host community agreement with respect to any past, existing or future violations of Minnesota Rule 7035.2815, Subpart 11, including future similarly applicable Minnesota Rule revisions.

No remedy conferred upon or reserved to the City in this or any other conditional use permit or in the non-conforming use certificate or in any host community agreement shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the conditional use permits or the non^e conforming use certificate or in the host community agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

During the time that the Pine Bend Landfill must temporarily cease to accept waste for disposal in the event that the City has made a formal determination that the above condition is not met, Pine Bend Landfill and BFI Waste Systems of North America, LLC must nonetheless continue to pay the City the fees and payments stated in Section 8 of the Fourth Restated and Amended Host Community Agreement dated _____, 2024, by and among BFI Waste Systems of North America, LLC, Browning-Ferris Industries, Inc. and the City of Inver Grove Heights (as amended from time to time); and Pine Bend Sanitary Landfill and BFI Waste Systems of North America, LLC must meet and comply with the other obligations stated in the Fourth Restated and Amended Host Community Agreement (as amended from time to time) including, but not limited to, the Host Community Fee, the Minimum Monthly Payment, the Annual Payment, the Per Ton Payment, and any and all other payments required under the Fourth Restated and Amended Host Community Agreement.

14. Pine Bend Landfill shall perform a subsurface gas concentration trend analysis at least once per year, and shall include the same in future annual reports.

15. Pine Bend Landfill shall provide documentation showing the horizontal and vertical extent of the subsurface gas plume both on the Property and beyond the Property, including on adjacent properties; this shall be updated at least once per year and shall be included with future annual reports to the City.
16. Pine Bend Landfill shall maintain a Minnesota Pollution Control Agency air emission permit for the Renewable Natural Gas facility.
17. The owner and operator of Pine Bend Landfill are both responsible for complying with the obligations and conditions contained in this Conditional Use Permit.
18. Breach of any Host Community Agreement between the City and BFI Waste Systems is deemed to be violation of this Conditional Use Permit.
19. This Conditional Use Permit shall become effective only upon the execution of the Fourth Restated and Amended Host Community Agreement by the City and Pine Bend Landfill and only upon the Fourth Restated and Amended Host Community Agreement becoming effective.
20. This Conditional Use Permit shall only remain effective if there is a Host Community Agreement in effect between the City and Pine Bend Landfill. The City and Pine Bend Landfill have approved the Fourth Restated and Amended Host Community Agreement which by its terms expires on December 31, 2032. Pine Bend Landfill acknowledges and agrees that if that Fourth Restated and Amended Host Community Agreement is not extended or a new Fifth Restated and Amended Host Community Agreement is not executed by both the City and Pine Bend Landfill on or before December 31, 2032, Pine Bend Landfill shall cease acceptance of waste on the Property on January 1, 2033, and no further waste shall be disposed on the Property until such time as the expiration date of the Fourth Restated and Amended Host Community Agreement is extended in writing by the parties, or a new Fifth Restated and Amended Host Community Agreement is executed.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to record a certified copy of this resolution at the Dakota County Recorder's Office.

Adopted by the City Council of the City of Inver Grove Heights this ____ day of _____, 2024.

AYES:

NAYS:

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich
Its: Mayor

ATTEST:

Rebecca Kiernan, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2024, before me a Notary Public within and for said County, personally appeared Brenda Dietrich and Rebecca Kiernan to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

ACCEPTANCE AND ACKNOWLEDGEMENT

BFI Waste Systems of North America, LLC, hereby accepts and agrees to the terms, conditions, and provisions as set forth in the foregoing resolution.

BFI WASTE SYSTEMS OF NORTH AMERICA, LLC

By: _____
NAME HERE

Its: _____

STATE OF _____)
)
COUNTY OF _____) ss.

On this ____ day of _____, 2024 before me a Notary Public within and for said County, personally appeared _____ to me personally known, who being by me duly sworn, did say that _____ is the _____ of BFI Waste Systems of North America, LLC, the limited liability company named in the foregoing instrument, and that the foregoing instrument was executed on behalf of the limited liability company by authority of the _____ of said entity and that _____ acknowledged said instrument to be the free act and deed of BFI Waste Systems of North America, LLC.

Notary Public

This instrument was drafted by and after recording return to:

Bridget McCauley Nason, # 0347322
Kennedy & Graven, Chartered
150 South 5th Street, Suite 700
Minneapolis, MN 55402 (612) 337-9245

EXHIBIT A
LEGAL DESCRIPTION OF LANDFILL PROPERTY

Real property located in Dakota County, Minnesota legally described as follows:

Lot 1 Block 1, Lot 2, Block 1, and Outlot A, Pine Bend Sanitary Landfill

Parcel ID: 20-57575-01-010

Client/Project
BR WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Planning Plan

Drawing No. 3
Revision Sheet
3 of 12

Stantec

**Item 4.A, Attachment 2 - Non-Conforming Use
Certificate Amendment**

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION AMENDING RESOLUTION NO. 6465 GRANTING A NON-
CONFORMING USE CERTIFICATE FOR PINE BEND SANITARY LANDFILL FOR A
SANITARY LANDFILL**

The City Council of the City of Inver Grove Heights does hereby resolve as follows:

WHEREAS, BFI Waste Systems of North America, LLC (BFI) owns and operates the Pine Bend Sanitary Landfill (Landfill) located on the north side of 117th Street and legally described on the attached Exhibit A.

WHEREAS, on November 27, 1995, the City Council of the City of Inver Grove Heights approved Resolution No. 6465 Granting a Non-Conforming Use Certificate for Pine Bend Sanitary Landfill for a Compost Facility and Sanitary Landfill (hereinafter referred to as the Non-Conforming Use Certificate).

WHEREAS, on March 11, 2002, by Resolution No. 02-32 the City Council amended the Non-Conforming Use Certificate to allow the maximum elevation limitation of the landfill to change from 1020 feet above sea level to 1,010 feet above mean sea level, to allow for steeper landfill side slopes without inadvertently increasing the airspace capacity of the Landfill.

WHEREAS, on March 22, 2004, by Resolution No. 04-49, the City amended the Non-Conforming Use Certificate to allow a greater airspace capacity for the disposal of solid waste by a CUP, increase the permitted final height of the landfill by nine feet, and revised the list of approved site plan documents by amending Section 3.3, Section 3.5, and Exhibit D to the Non-Conforming Use Certificate.

WHEREAS, on April 9, 2018, by Resolution No. 18-70, the City Council amended the Non-Conforming Use Certificate to allow a side slope expansion of the Landfill, amending Section 5.6.1, Section 5.8.3, and Exhibit D of the Non-Conforming Use Certificate.

WHEREAS, BFI in writing has accepted and agreed to the existing Non-Conforming Use Certificate, as amended by the resolutions noted above.

WHEREAS, the City and BFI desire to amend the Non-Conforming Use Certificate in the manner set forth hereafter.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS AS FOLLOWS:

A. Section 3.5 of the Non-Conforming Use Certificate is amended in its entirety to read as follows:

3.5 **Sanitary Landfill – Maximum Elevation Limitation.** No part of the final landfill contour shall exceed an elevation of 1,105.8 feet above mean sea level, National Geodetic Vertical Datum of 1929. That elevation includes the final cover system.

B. Section 5.4 of the Non-Conforming Use Certificate is amended in its entirety to read as follows:

5.4 **Final Cover System Timing for Lined Areas.** The final cover system shall be placed on areas of Pine Bend Sanitary Landfill as described in the Solid Waste Permit (SW-45) issued by the MPCA in 2015, except that if a Conditional Use Permit (CUP) for a Vertical Expansion of the Landfill allowing a final height of the landfill to a height of not more than 1,105.08 feet above mean sea level, National Geodetic Vertical Datum of 1929, is approved, then the final cover system shall be placed as shown on the Plans approved as part of that CUP and on Exhibit D of this NCUC.

C. Exhibit D of the Non-Conforming Use Certificate is amended to read as follows:

EXHIBIT D
SITE PLAN FOR PINE BEND SANITARY LANDFILL

The Site Plan includes six sheets as found in the Non-Conforming Use Certificate, as approved by the City Council on November 27, 1995, as follows:

Sheet 1 - Monitoring Systems, Gas Extraction System, Leachate Collection System and Lined/Unlined Areas

Sheet 2 - Entrances from 117th Street, Fence (Permanent), Buildings and Landscape Areas

Sheet 3 - Composting Areas, Fire Lanes, Fences (Permanent) and Temporary Open Storage Areas

Sheet 4 - Final Closure Grading and Stormwater Management

Sheet 5 - Landscape Plan

Sheet 6 -Landscape Details

Together with the amendments as shown in the following documents:

- a. Landscape Plan, dated May 2001
- b. “Proposed Final Grades”, “Final Grade Comparison”, and “Final Grade Isopach Map, dated April, 2001
- c. Narrative and Plans of “Application to the City of Inver Grove Heights for the Pine Bend Landfill”, dated August 2003
- d. Twenty-six plan sheets, titled “Permit Application, Pine Bend Landfill – SW 45, Prepared for BFI Waste Systems of North America, Inc.”, dated February 2002, January 2003, and August 2003.
- e. “Response to comments for BFI Pine Bend Landfill,” as prepared by Wenck Associates Inc., dated November 11, 2003.

Together with the amendments as shown in the following additional documents:

- 1. The following appendices found in the “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill – Phase 2 Development” prepare by WENCK Associates, Inc., dated and revised February 2018 (Revised February 2018 City Application)
- 2. Appendix C – Plan Sheets – Including 28 permit design plan sheets
- 3. Appendix E – Stormwater Management Model and Calibrations

To the extent Appendix C and Appendix E of the Revised February 2018 City Application are inconsistent with the previous documents comprising the Site Plan, Appendix C and Appendix E of the Revised February 2018 City Application shall control and prevail.

Together with the amendments as shown in the following additional documents:

- 1. Narrative and Plans of “Application Submittal to the City of Inver Grove Heights for the Pine Bend Landfill Phase 7 Development, MPCA Permit #SW-45,” dated June 2024, Revised July 2024 including the comment responses a and b below (the “2024 Revised City Application”).
 - a. Comment response memorandum prepared by Stantec data September 23, 2024.
 - b. Comment response letter from Republic Services dated October 29, 2024.
- 2. Appendix C – Plan Sheets, consisting of a 19-page Plan Set titled “BFI Waste Systems of North America, LLC Pine Bend Landfill Inver Grove Heights, Minnesota 2022 Major Permit Modification” prepared by Stantec and dated 2022.02.21, which are included with the 2024 Revised City Application.
- 3. Appendix E – Stormwater Management Model and Calibrations, which is included with the 2024 Revised City Application.

To the extent that Appendix C and Appendix E of the 2024 Revised City Application are inconsistent with the previous documents comprising the Site Plan, Appendix C and Appendix E of the 2024 Revised City Application shall control.

D. All other sections, terms, provisions, and conditions of the Non-Conforming Use Certificate shall remain in full force and effect.

E. This Non-Conforming Use Certificate Amendment shall become effective only upon the approval and execution of the Fourth Amended and Restated Host Community Agreement by the City of Inver Grove Heights and BFI.

F. This Resolution and the following Acceptance shall be recorded with the Dakota County Recorder against the land constituting the Landfill, which land is described on the attached Exhibit A.

Passed this ____ day of _____, 2024.

CITY OF INVER GROVE HEIGHTS

By: _____
Brenda Dietrich, Mayor

ATTEST:

Rebecca Kiernan, City Clerk

(CITY SEAL)

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this ____ day of _____, 2024, before me a Notary Public within and for said County, personally appeared Brenda Dietrich and Rebecca Kiernan to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

ACCEPTANCE AND ACKNOWLEDGEMENT

BFI Waste Systems of North America, LLC, hereby accepts and agrees to the terms, conditions, and provisions as set forth in the foregoing resolution.

BFI WASTE SYSTEMS OF NORTH AMERICA, LLC

By: _____
NAME HERE

Its: _____

STATE OF _____)
)
COUNTY OF _____) SS.

On this ____ day of _____, 2024 before me a Notary Public within and for said County, personally appeared _____ to me personally known, who being by me duly sworn, did say that _____ is the _____ of BFI Waste Systems of North America, LLC, the limited liability company named in the foregoing instrument, and that the foregoing instrument was executed on behalf of the limited liability company by authority of the _____ of said entity and that _____ acknowledged said instrument to be the free act and deed of BFI Waste Systems of North America, LLC.

Notary Public

This instrument was drafted by and after recording return to:

Bridget McCauley Nason, # 0347322
Kennedy & Graven, Chartered
150 South 5th Street, Suite 700
Minneapolis, MN 55402 (612) 337-9245

EXHIBIT A

Real property located in Dakota County, Minnesota and legally described as follows:

Lot 1, Block 1, Lot 1, Block 2, and Outlot A, Pine Bend Sanitary Landfill, according to the plat thereof on file and of record with the Dakota County Registrar of Titles.

Item 4.A, Attachment 5 - Plan Set

BFI Waste Systems
of North America, LLC
Pine Bend Landfill
Inver Grove Heights, Minnesota
2022 Major Permit Modification

Prepared By:



Stantec Consulting Services, Inc.
1800 Pioneer Creek Center
Maple Plain, MN 55359

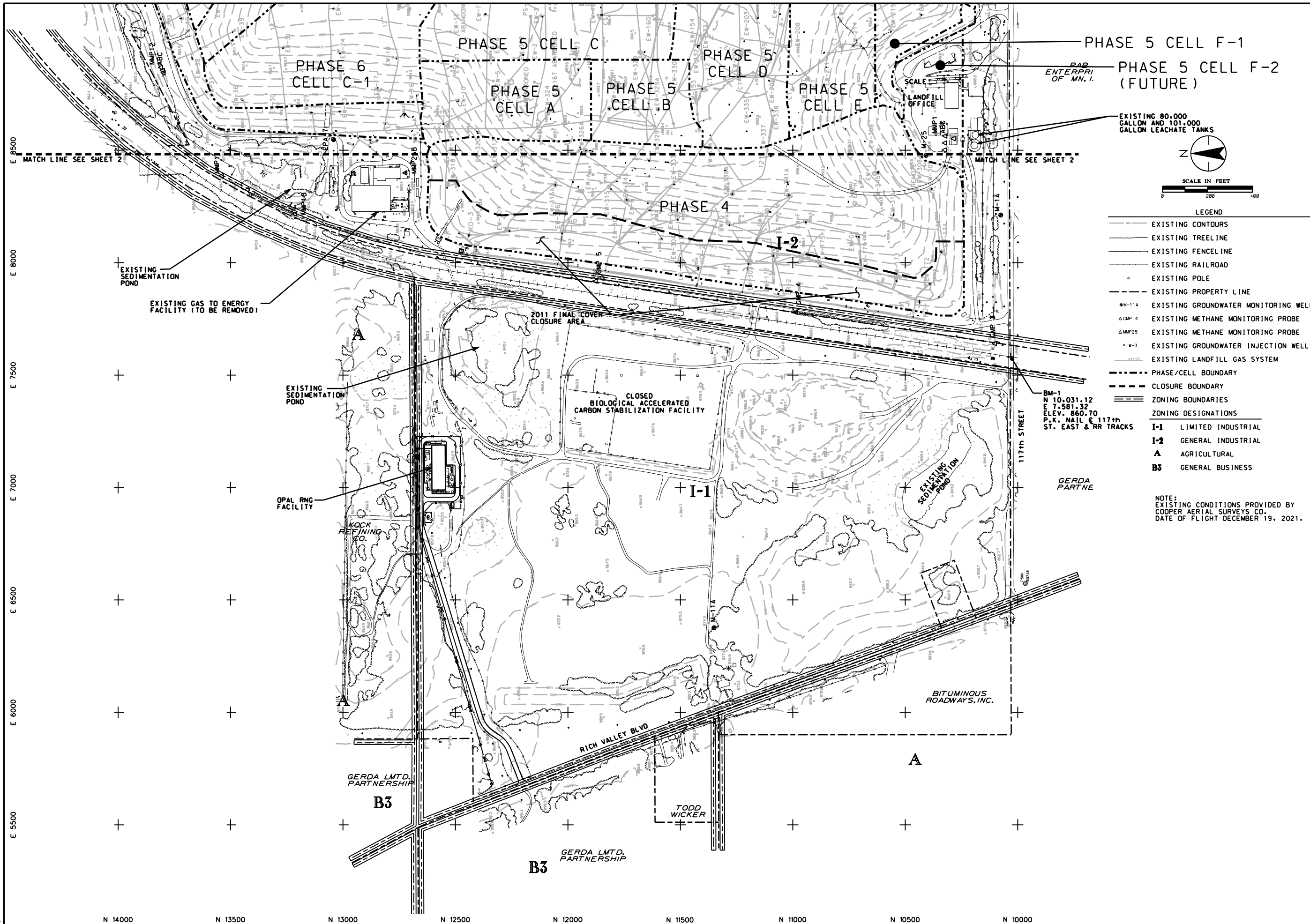
2022.02.21

PROJECT NUMBER: 22704791

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2. EXISTING CONDITIONS MAP (EAST SIDE)
- 2A. EXISTING CONDITIONS MAP (WEST SIDE)
3. PHASING PLAN
4. PHASE 7-VERTICAL EXPANSION
FINAL COVER GRADING PLAN
5. PHASE 7-VERTICAL EXPANSION
SURFACE WATER MANAGEMENT PLAN
6. EXISTING GAS PIPING PLAN NORTH HALF
7. EXISTING GAS PIPING PLAN SOUTH HALF
8. PROPOSED GAS PIPING PLAN NORTH HALF
9. PROPOSED GAS PIPING PLAN SOUTH HALF
10. CROSS-SECTION A
11. CROSS-SECTION B
12. CROSS-SECTION C
13. LINER SYSTEM DETAILS
14. LEACHATE RISER MANHOLE DETAILS
15. SURFACE WATER MANAGEMENT DETAILS
16. GAS SYSTEM DETAILS
17. GAS SYSTEM DETAILS
18. GAS SYSTEM DETAILS

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By: jstusarich 10/25/2022



Client/Project	BH WASTE SYSTEMS OF NORTH AMERICA, LLC PINE BEND LANDFILL
Permit/Seal	2022 MAJOR PERMIT MODIFICATION INVER GROVE HEIGHTS, MINNESOTA Existing Conditions Map (West Half)
By	YJW/JDO
App'd	
Issued	

Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

Permit/Seal
2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Existing Conditions Map (West Half)

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PRINT NAME THOMAS J. SHUSTARICH
SIGNATURE
DATE yy/mm/dd LICENSE # 21210
Project Number: 227704791
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JWT 2022.02.25

Drawing No. 2A
Revision Sheet
0 3 of 18

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By: jstustar



By	YJW/JD
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Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION

INVER GROVE HEIGHTS, MINNESOTA

Phasing Plan

Permit-Seal

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DATE yy/mm/dd LICENSE # 21210

Project Number: 227704791

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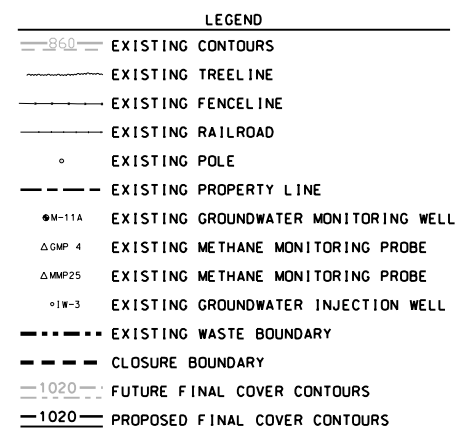
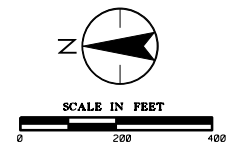
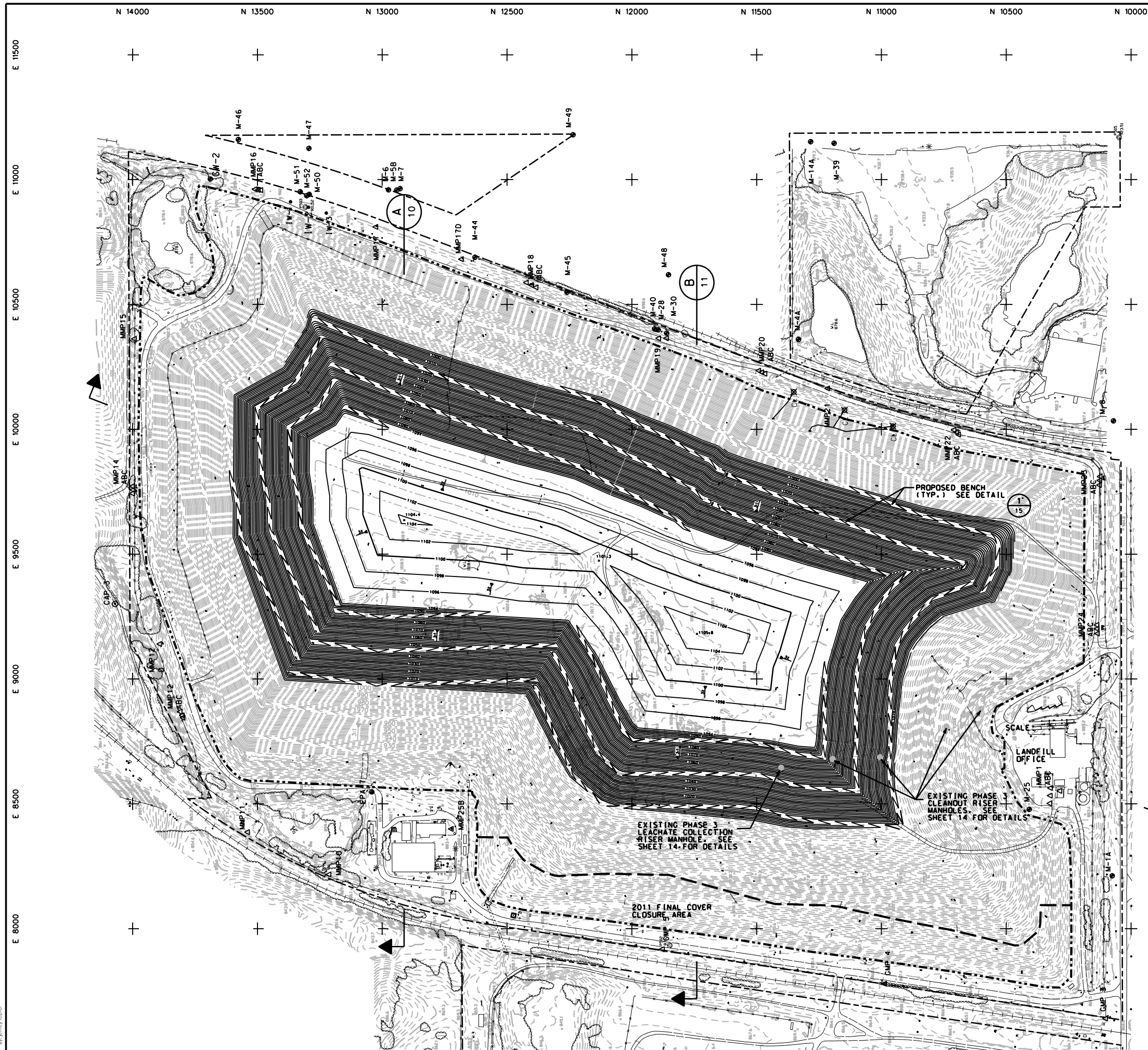
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Drawing No. 3

Revision Sheet

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3 of 18



NOTE:
EXISTING CONDITIONS PROVIDED BY
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DATE OF FLIGHT DECEMBER 19, 2021.

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Client/Project
BFI WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTAINVER GROVE HEIGHTS, MINNESOTA
Phase 7 Vertical Expansion Final Cover Grading Plan

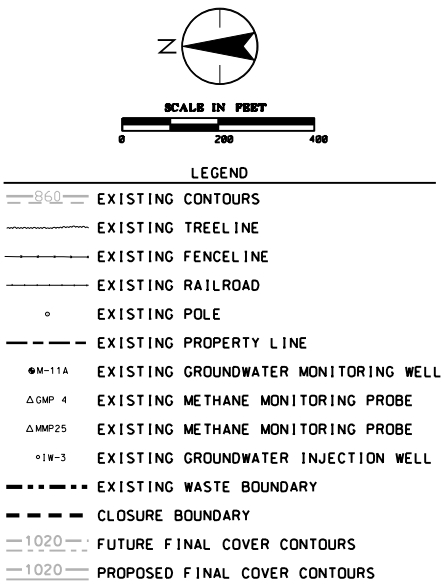
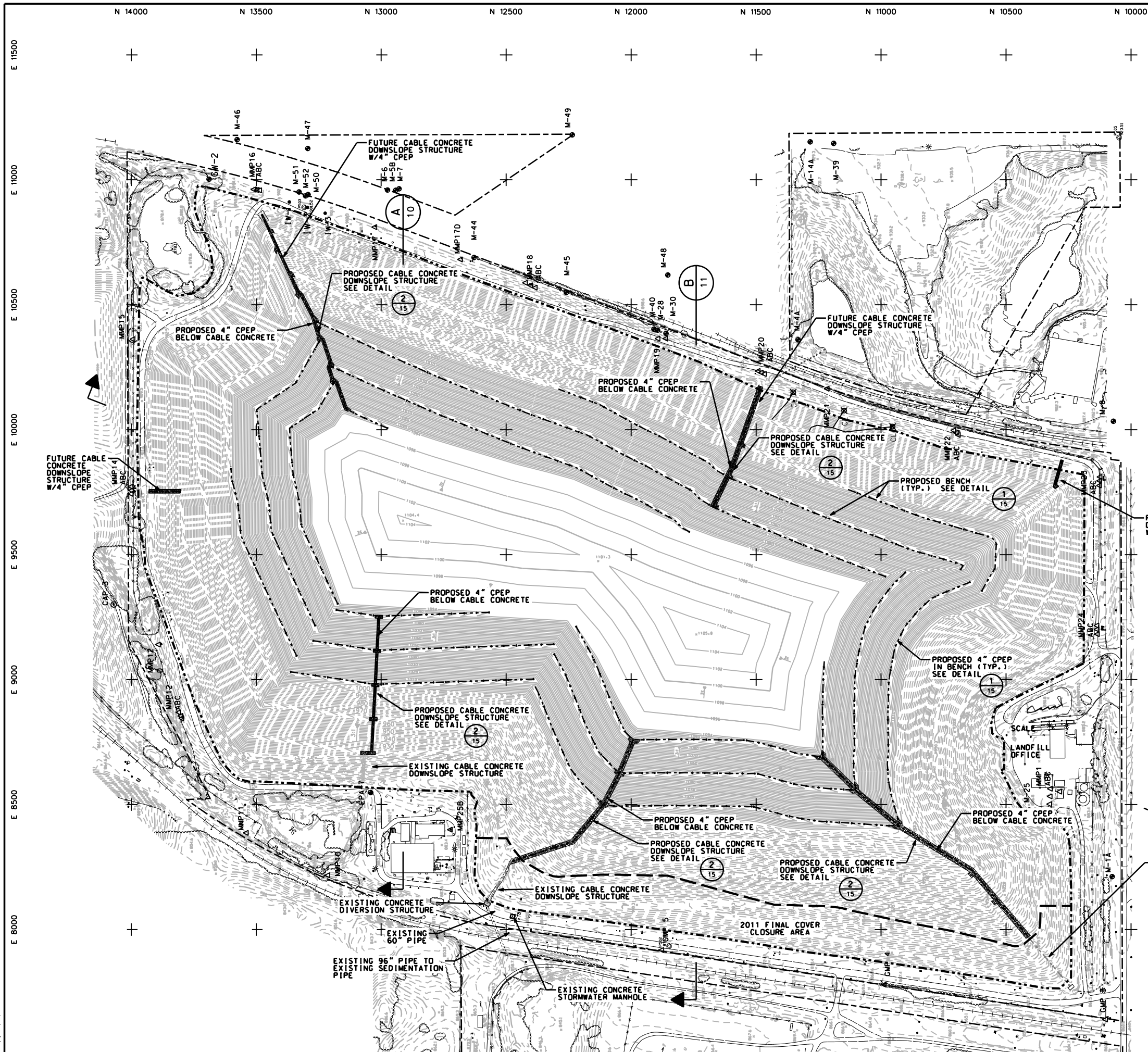
Permit-Seal

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PRINT NAME THOMAS J. SHUSTARICH
SIGNATURE _____
DATE yy/mm/dd LICENSE # 21210
Project Number: 227704791
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JWT 2022.02.28
Drawing No. 4
Revision 0 Sheet 4 of 18

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By: jst/10/2022



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DATE OF FLIGHT DECEMBER 19, 2021.



Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

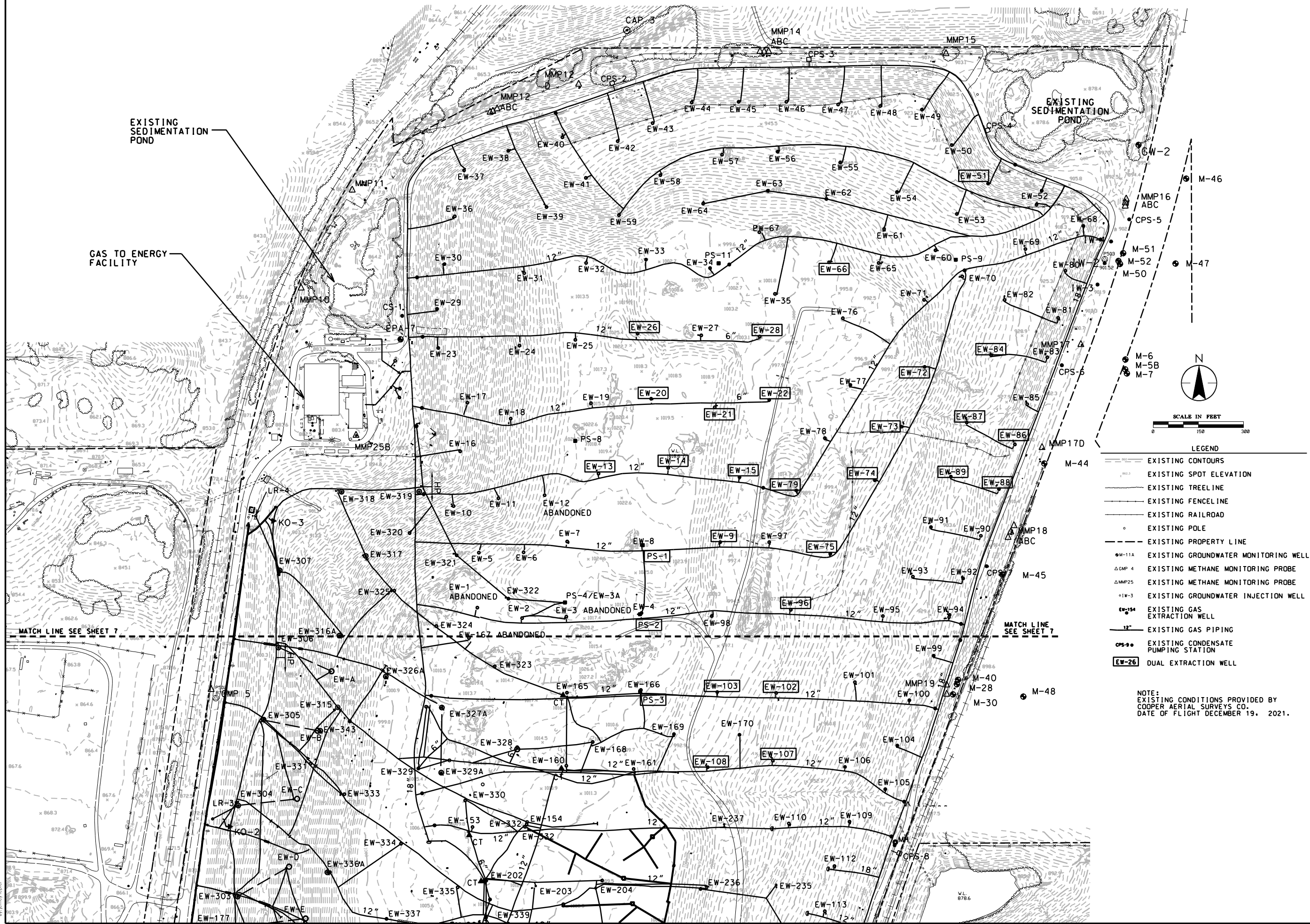
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INVER GROVE HEIGHTS, MINNESOTA
Phase 7 Vertical Expansion Surface Water Management Plan

Permit-Seal
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LAWS OF THE STATE OF MINNESOTA.

PRINT NAME: THOMAS J. SHUSTARICH
SIGNATURE: _____
DATE: yy/mm/dd LICENSE # 21210
Project Number: 227704791
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JWT 2022.03.11
Drawing No. 5
Revision Sheet
0 5 of 18

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By: jstustarich



- LEGEND
- EXISTING CONTOURS
 - EXISTING SPOT ELEVATION
 - EXISTING TREELINE
 - EXISTING FENCELINE
 - EXISTING RAILROAD
 - EXISTING POLE
 - EXISTING PROPERTY LINE
 - EXISTING GROUNDWATER MONITORING WELL
 - EXISTING METHANE MONITORING PROBE
 - EXISTING METHANE MONITORING PROBE
 - EXISTING GROUNDWATER INJECTION WELL
 - EXISTING GAS EXTRACTION WELL
 - EXISTING GAS PIPING
 - EXISTING CONDENSATE PUMPING STATION
 - DUAL EXTRACTION WELL

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DATE OF FLIGHT DECEMBER 19, 2021.



Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Existing Gas Piping Plan - North Half

Permit-Seal
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PRINT NAME THOMAS J. SHUSTARICH
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Project Number: 227704791
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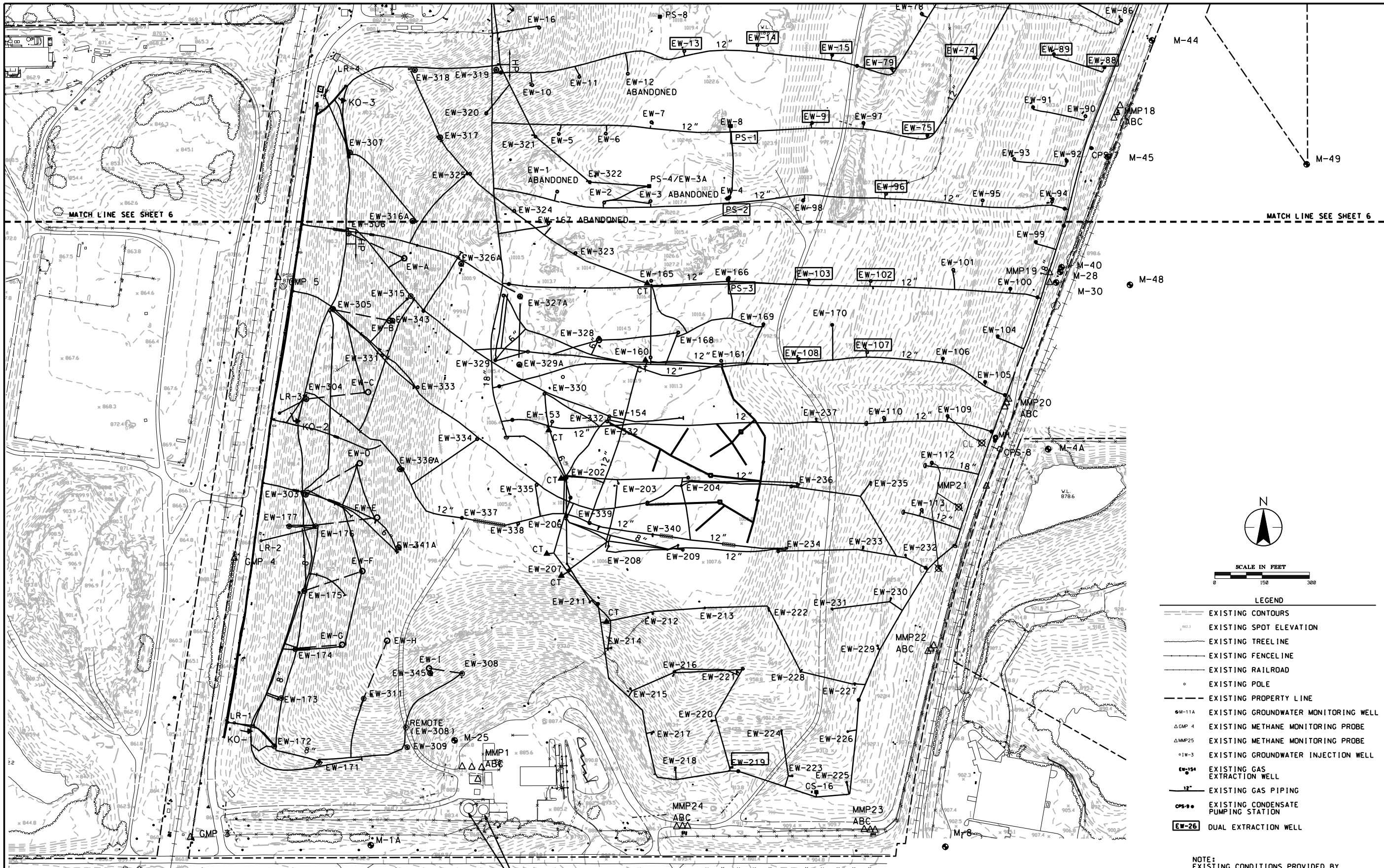
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Drawing No. 6
Revision Sheet
0 6 of 18

Issued

By: jstustarich
App'd: jstustarich
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EXISTING 80,000
GALLON AND 101,000
GALLON LEACHATE TANKS

- LEGEND
- EXISTING CONTOURS
 - EXISTING SPOT ELEVATION
 - EXISTING TREELINE
 - EXISTING FENCELINE
 - EXISTING RAILROAD
 - EXISTING POLE
 - EXISTING PROPERTY LINE
 - EXISTING GROUNDWATER MONITORING WELL
 - EXISTING METHANE MONITORING PROBE
 - EXISTING METHANE MONITORING PROBE
 - EXISTING GROUNDWATER INJECTION WELL
 - EXISTING GAS EXTRACTION WELL
 - EXISTING GAS PIPING
 - EXISTING CONDENSATE PUMPING STATION
 - DUAL EXTRACTION WELL

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DATE OF FLIGHT DECEMBER 19, 2021



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Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Existing Gas Piping Plan - South Half

Permit-Seal
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LAWS OF THE STATE OF MINNESOTA.

PRINT NAME THOMAS J. SHUSTARICH
SIGNATURE
DATE yy/mm/dd LICENSE # 21210
Project Number: 227704791
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HORIZONTAL COLLECTION SYSTEM TRENCH POINT	APPROXIMATE DEPTH (FT)
①	8
②	14
③	8
④	7
⑤	7
⑥	7
⑦	9
⑧	8



- LEGEND
- EXISTING CONTOURS
 - EXISTING SPOT ELEVATION
 - EXISTING TREELINE
 - EXISTING FENCELINE
 - EXISTING RAILROAD
 - EXISTING POLE
 - EXISTING PROPERTY LINE
 - EXISTING GROUNDWATER MONITORING WELL
 - EXISTING METHANE MONITORING PROBE
 - EXISTING METHANE MONITORING PROBE
 - EXISTING GROUNDWATER INJECTION WELL
 - EXISTING GAS EXTRACTION WELL
 - EXISTING GAS PIPING
 - EXISTING CONDENSATE PUMPING STATION
 - CURRENTLY PERMITTED CONTOURS
 - PROPOSED CONTOURS
 - PROPOSED 12" SUBHEADER
 - PROPOSED 6" SUBHEADER
 - PROPOSED GAS WELLS
 - PROPOSED CONTROL VALVE
 - PROPOSED HORIZONTAL COLLECTOR WELLHEAD
 - PROPOSED HORIZONTAL COLLECTOR PIPING (6" HDPE SDR 17)
 - PROPOSED LATERAL GAS SUBHEADER (8" HDPE SDR 17)
 - PROPOSED CONDENSATE SUMP
 - PROPOSED PUMPING STATION

NOTE:
EXISTING CONDITIONS PROVIDED BY
COOPER AERIAL SURVEYS CO.
DATE OF FLIGHT DECEMBER 19, 2021.



Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION

INVER GROVE HEIGHTS, MINNESOTA

Proposed Gas Piping Plan - North Half

Permit-Seal

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PRINT NAME: THOMAS J. SHUSTARICH

SIGNATURE: _____

DATE: yy/mm/dd LICENSE #: 21210

Project Number: 227704791

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JWT 2022.03.11

Drawing No. 8

Revision Sheet

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By: jh111111



HORIZONTAL COLLECTION SYSTEM TRENCH POINT	APPROXIMATE DEPTH (FT)
①	8
②	14
③	8
④	7
⑤	7
⑥	7
⑦	9
⑧	8

- LEGEND
- EXISTING CONTOURS
 - EXISTING SPOT ELEVATION
 - EXISTING TREELINE
 - EXISTING FENCELINE
 - EXISTING RAILROAD
 - EXISTING POLE
 - EXISTING PROPERTY LINE
 - EXISTING GROUNDWATER MONITORING WELL
 - EXISTING METHANE MONITORING PROBE
 - EXISTING METHANE MONITORING PROBE
 - EXISTING GROUNDWATER INJECTION WELL
 - EXISTING GAS EXTRACTION WELL
 - EXISTING GAS PIPING
 - EXISTING CONDENSATE PUMPING STATION
 - PROPOSED CONTOURS
 - PROPOSED 18" HEADER @ 3% MIN. SLOPE
 - PROPOSED 12" SUBHEADER
 - PROPOSED 6" SUBHEADER
 - PROPOSED GAS WELLS
 - PROPOSED CONTROL VALVE
 - PROPOSED HORIZONTAL COLLECTOR WELLHEAD
 - PROPOSED HORIZONTAL COLLECTOR PIPING (6" HDPE SDR 17)
 - PROPOSED LATERAL GAS SUBHEADER (8" HDPE SDR 17)
 - PROPOSED CONDENSATE SUMP
 - PROPOSED PUMPING STATION

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Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Proposed Gas Piping Plan - South Half

Permit-Seal
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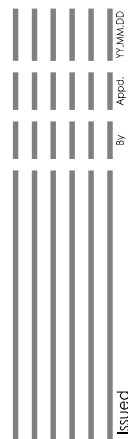
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SIGNATURE
DATE yy/mm/dd LICENSE # 21210
Project Number 227704791
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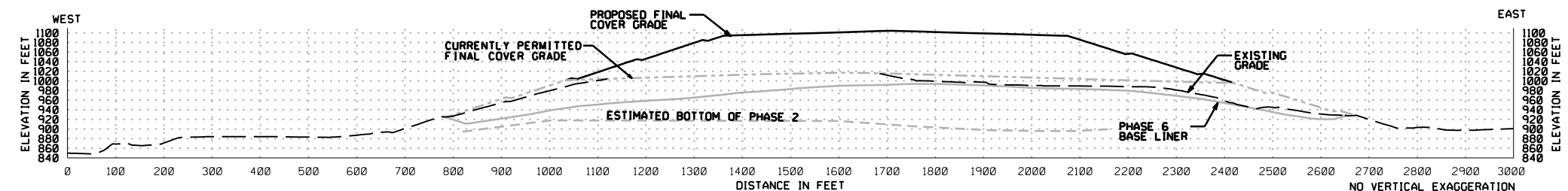
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Revision Sheet

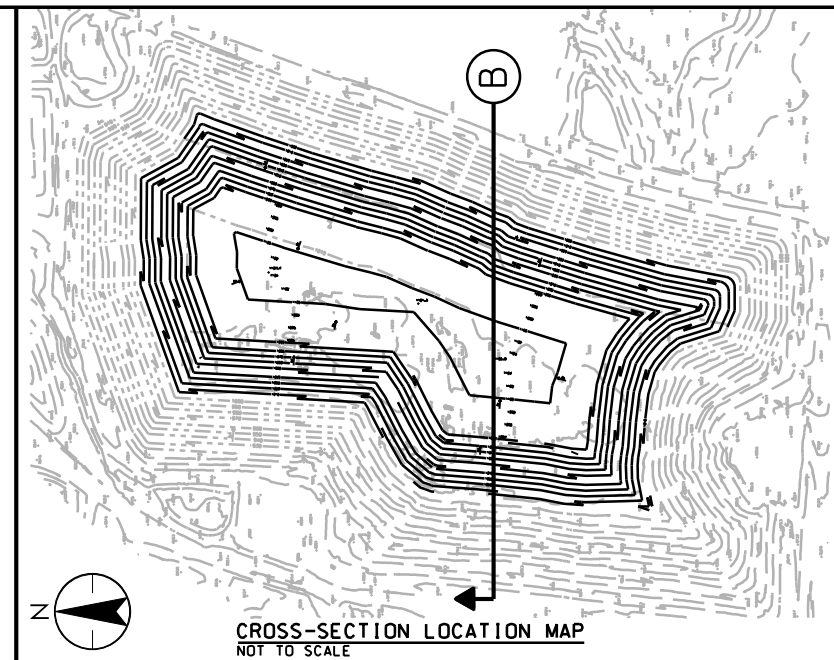
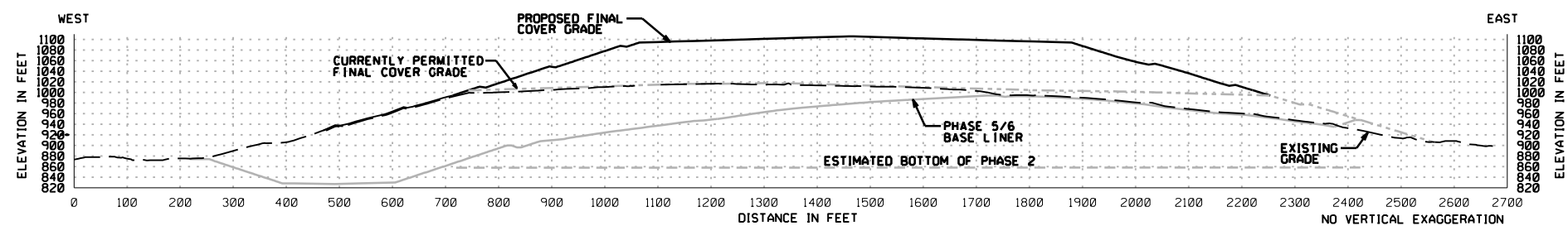
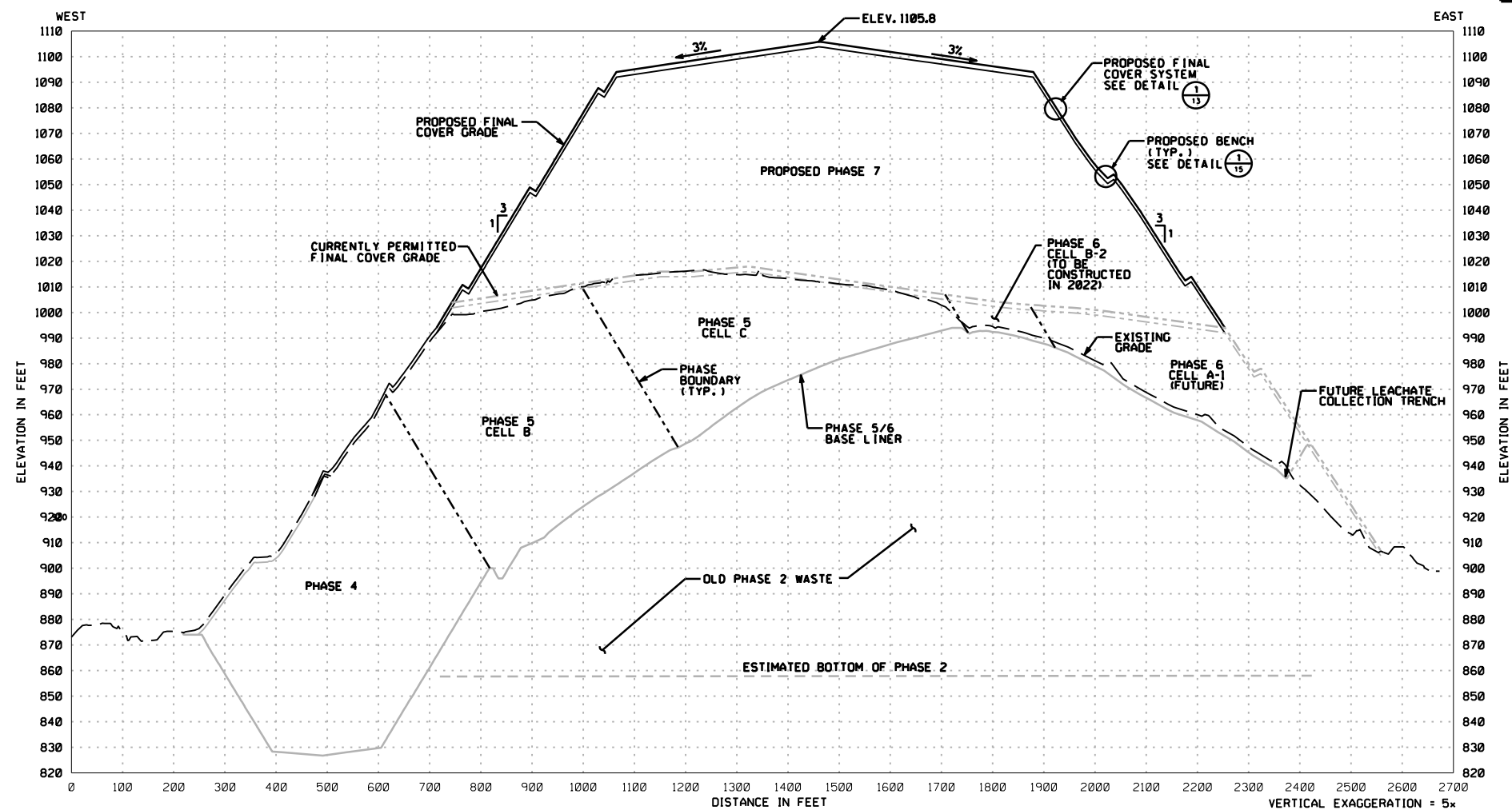
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2022 MAJOR PERMIT MODIFICATION
NORVOR HEIGHTS, MINNESOTA

0 10 of 18



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Client/Project
BBFI WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
NOR GREE HEIGHTS, MINNESOTA

Permit-Seal

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PRINT NAME THOMAS J. SHUSTARICH
SIGNATURE _____
DATE yy/mm/dd LICENSE # 21210
Project Number: 227704791
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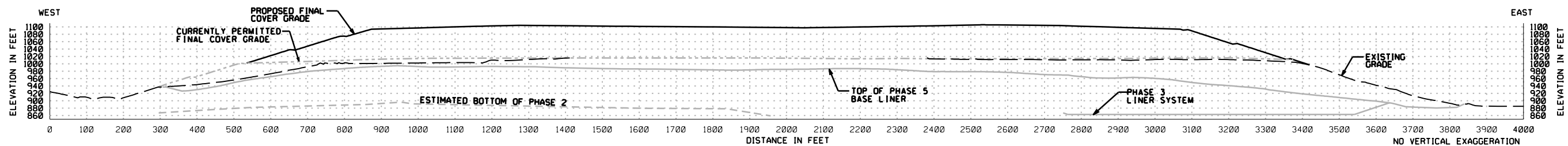
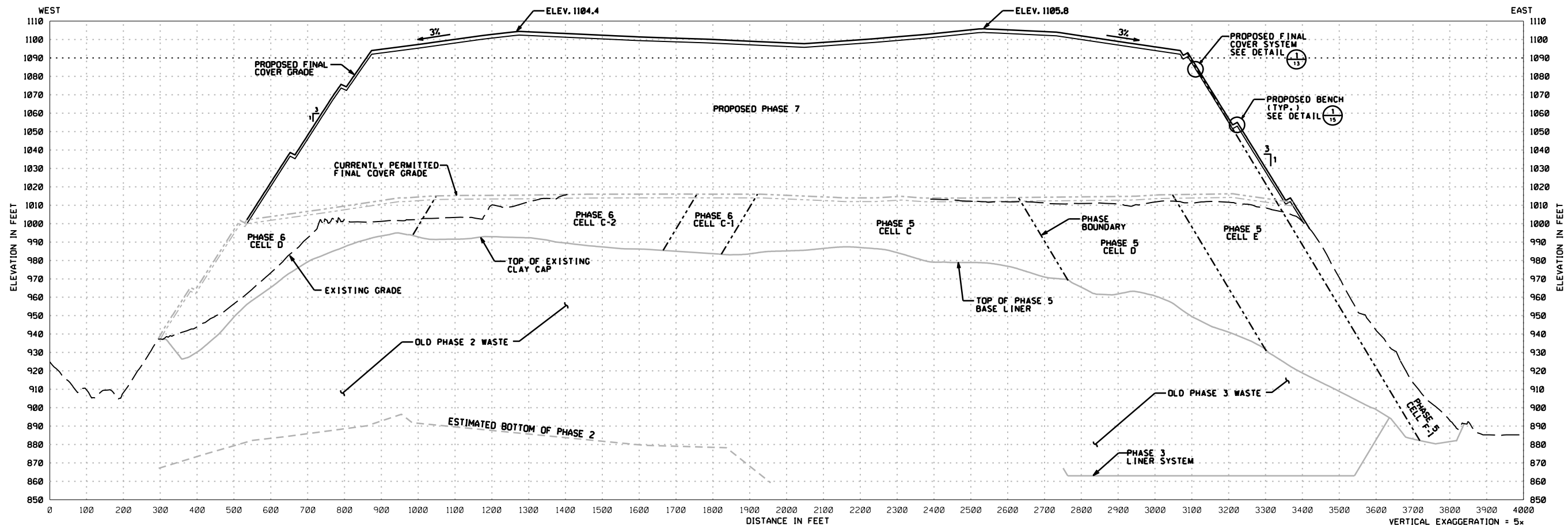
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Drawing No. 11

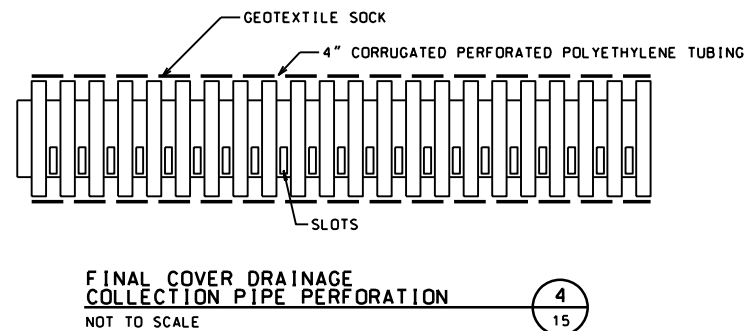
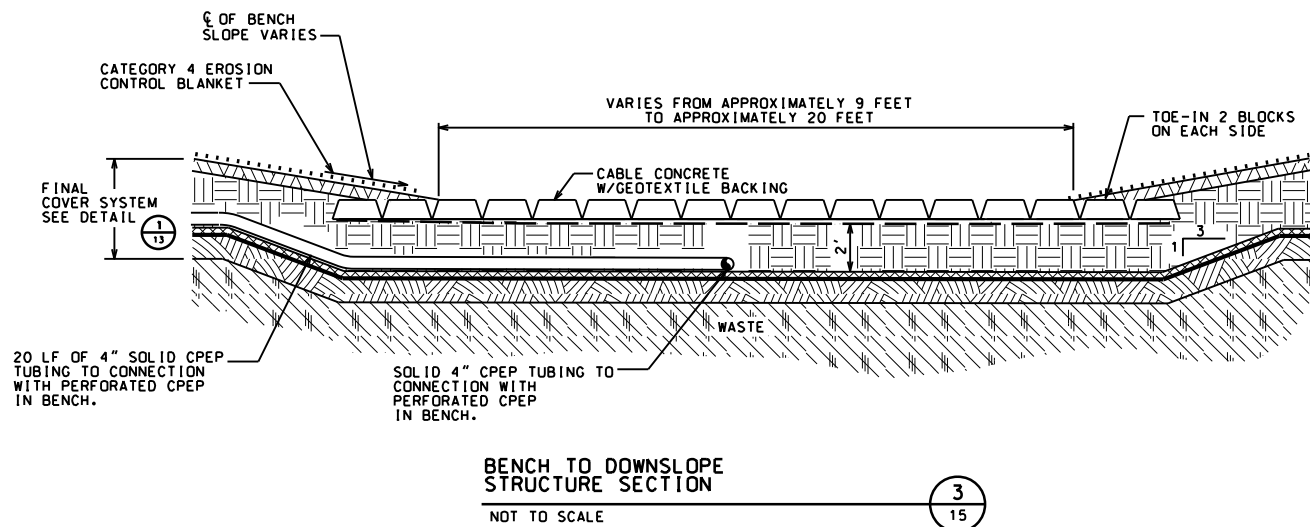
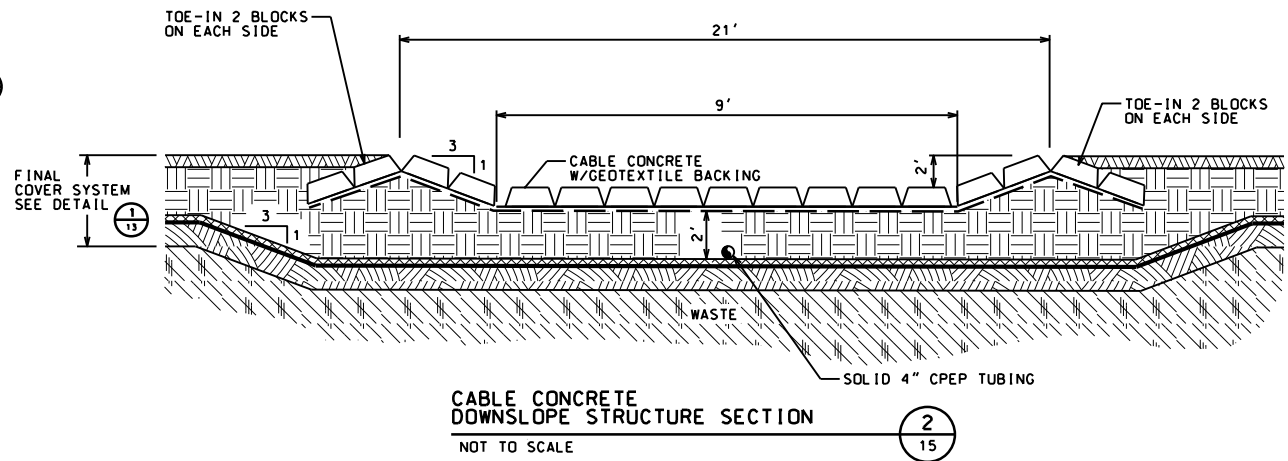
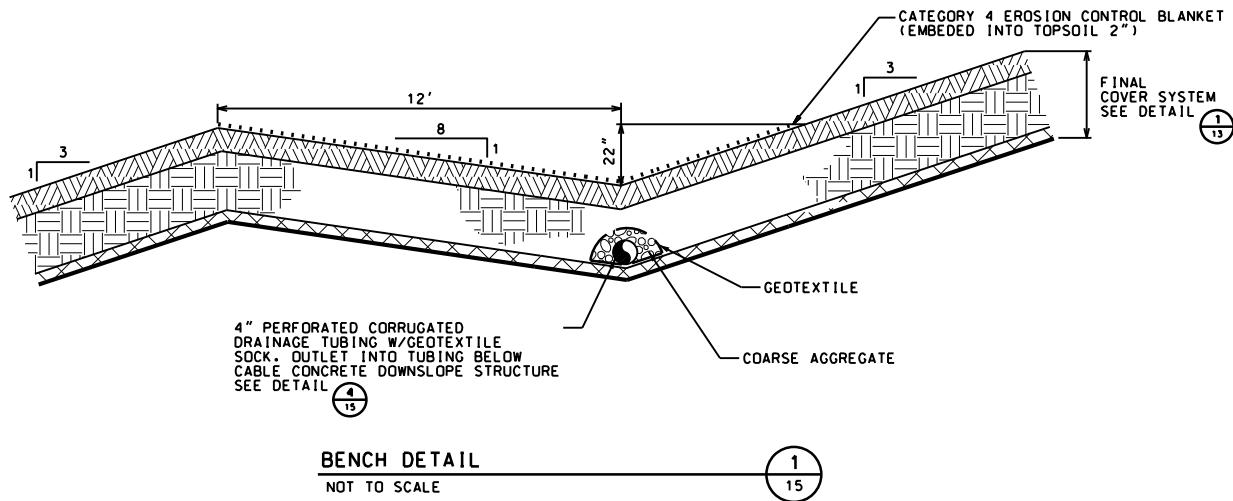
Revision Sheet

0 11 of 18

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By: jstuart







By	YJAW/DD
App'd	
Issued	

Client/Project
BH WASTE SYSTEMS OF NORTH AMERICA, LLC
PINE BEND LANDFILL

2022 MAJOR PERMIT MODIFICATION
INVER GROVE HEIGHTS, MINNESOTA
Surface Water Management Details

Permit-Seal
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PRINT NAME THOMAS J. SHUSTARICH

SIGNATURE

DATE yy/mm/dd LICENSE # 21210

Project Number: 227704791

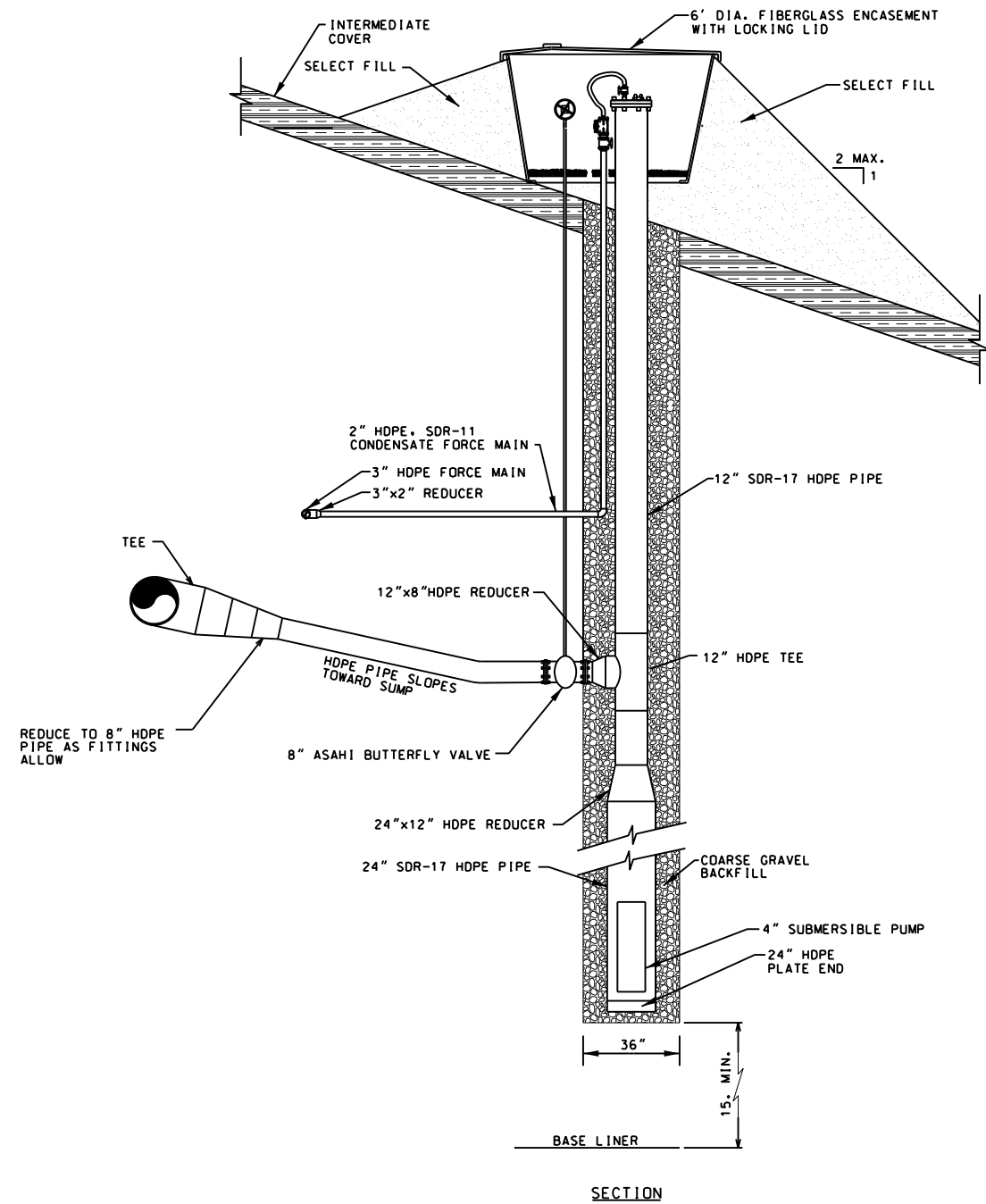
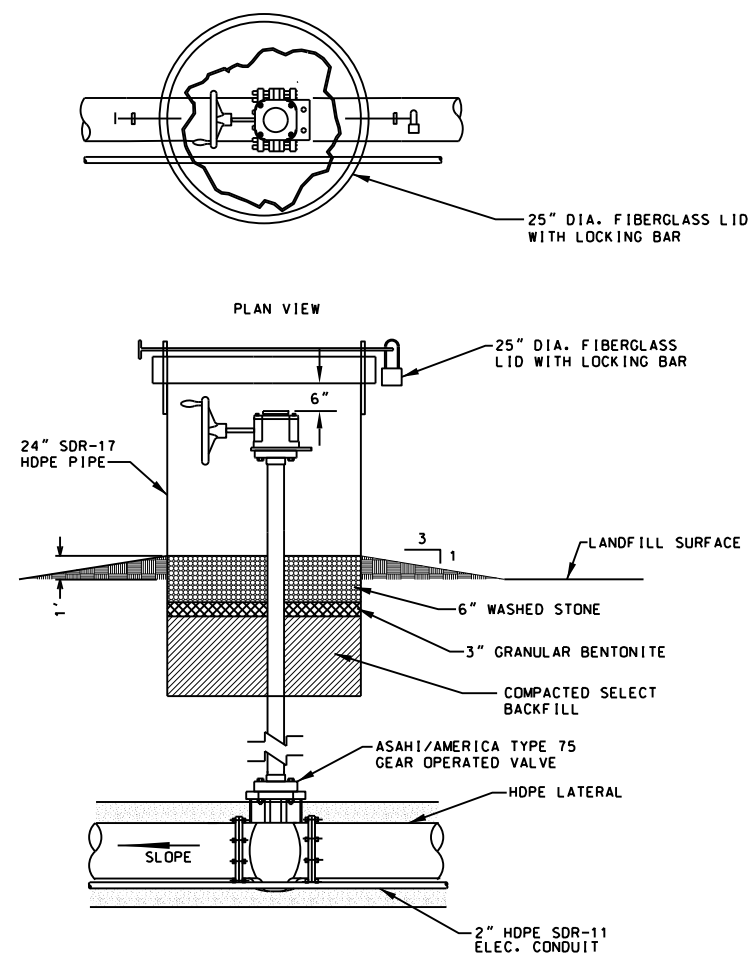
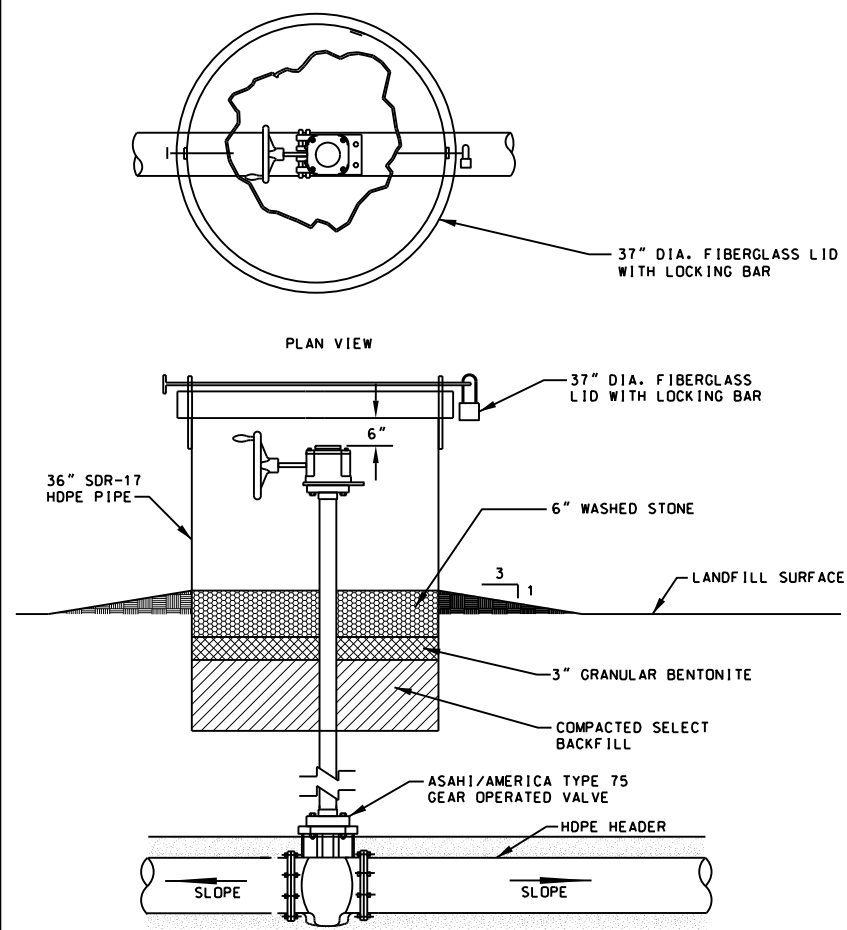
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JWT 2022.03.14

Drawing No. 15

Revision Sheet

0 15 of 18





Planning Commission Report

MEETING DATE:	December 3, 2024
CASE NO:	24-41VAC
APPLICANT:	Susan McNeely
PROPERTY OWNER:	Same.
REQUEST:	Drainage and Utility Easement Vacation and Dedication of a new Easement.
LOCATION:	17 High Road
COMPREHENSIVE PLAN:	Low Density Residential
ZONING:	E-2, Estate District
STAFF CONTACT:	Jason Ziemer, 651-450-2546

ACTION REQUESTED

The applicant is requesting the following:

1. Vacation of a portion of a Drainage and Utility Easement
2. Dedication of a new Perimeter Easement

BACKGROUND

The applicant is requesting to vacate a portion of an existing public drainage and utility easement that was dedicated with the plat of Mac Gregor Acres Rearrangement. The applicant would also be dedicating a new 10-foot drainage and utility easement along their westerly property line. The particular drainage and utility easement to be vacated was part of the original 1953 plat, Mac Gregor Acres, shown as right-of-way. In the early 1970s, "Lot 12" was re-platted as the Mac Gregor Acres Rearrangement, and the right-of-way was converted to a drainage and utility easement, presumably to preserve the right to install utilities, and perhaps convert a future roadway to a public road, through the plat. The easement runs through the applicant's property. The applicant would like to add a small addition to their home that would encroach into the easement. Additionally, other improvements that have taken place on the property over the years are also encroaching into the easement.

EVALUATION OF REQUEST

SURROUNDING USES

The subject site is surrounded by the following uses:

NORTH	Residential	Zoned: E-2, Estate Residential District	Guided: RDR, Rural Density Residential
EAST	Salem Hills Elementary School	Zoned: P, Public Institutional District	Guided: Public Open Space

WEST	Residential	Zoned: E-2, Estate Residential District	Guided: RDR, Rural Density Residential
SOUTH	Residential	Zoned: E-2, Estate Residential District	Guided: RDR, Rural Density Residential

VACATION OF EASEMENTS

The Mac Gregor Acres Rearrangement plat provided a Drainage and Utility Easement for the purpose of a potential future road. Engineering has reviewed the request and is agreeable to the proposed vacation of the easement. There are no public utilities located in the easement and there is no plan to relocate High Road. Engineering supports the request to vacate the existing Drainage and Utility Easement and is requesting that a 10-foot wide Drainage and Utility Easement be dedicated along the westerly boundary of the property. The new easement would need to be provided by a separate Easement Agreement from the property owner to the City.

The applicant has provided an exhibit showing the easements to be vacated and dedicated.

ALTERNATIVES

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

- Approval of a Vacation of a Drainage and Utility Easement as depicted on the plan labeled Easement Vacation Exhibit.
- Approval of the Dedication of a 10-foot Drainage and Utility Easement along the westerly property line as depicted on the plan labeled Proposed Easement Exhibit.

B. Denial. Should the proposed request be found not acceptable, the request described above should be denied. The basis for denial must be stated in any such motion.

RECOMMENDATION

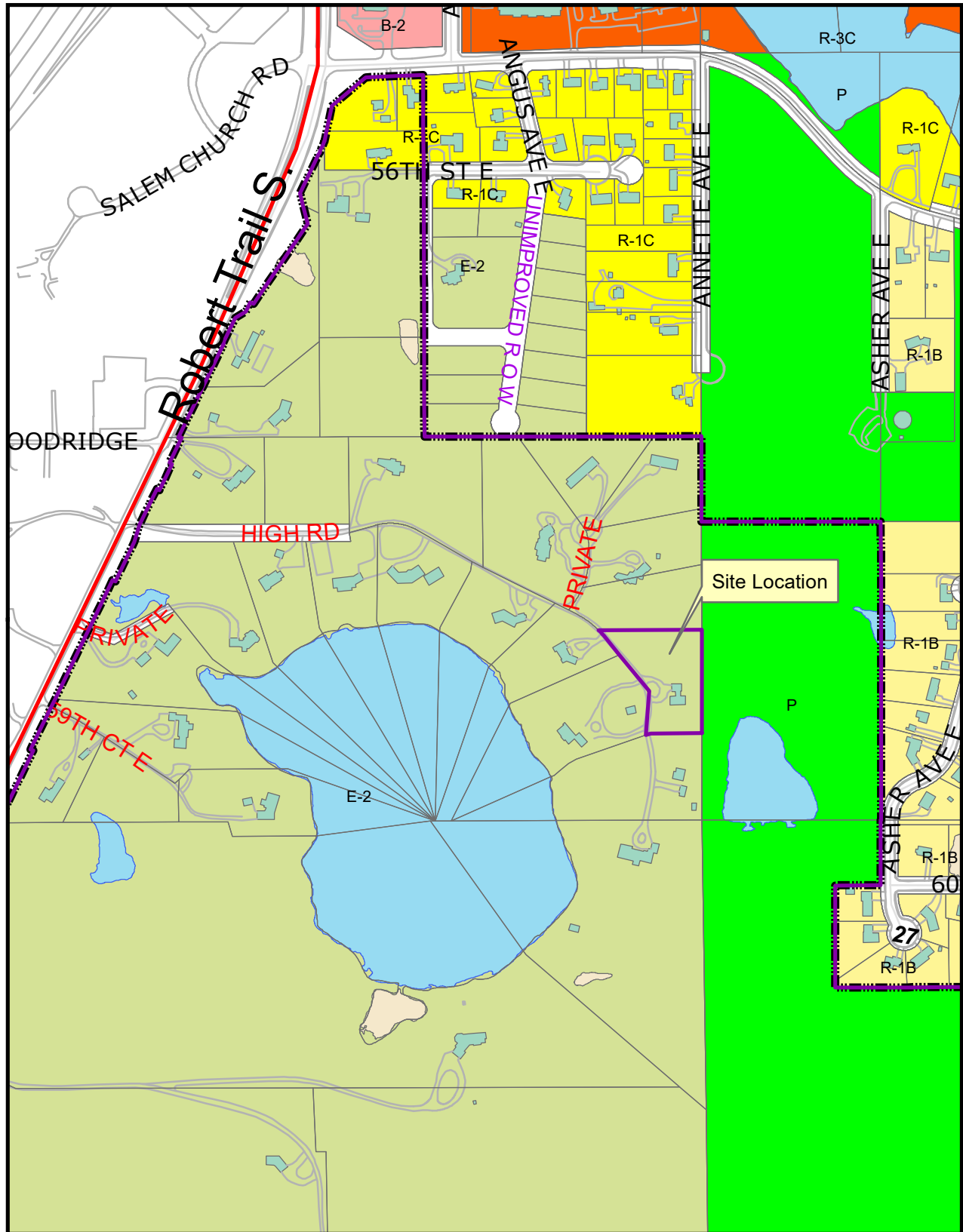
Based on the information in the preceding report and the attached exhibits, staff is recommending approval of the vacation and the dedication of the drainage and utility easements as proposed.

ATTACHMENTS

1. Zoning and Location Map
2. Easement Vacation Exhibit
3. Proposed Easement Exhibit



17 High Road



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.

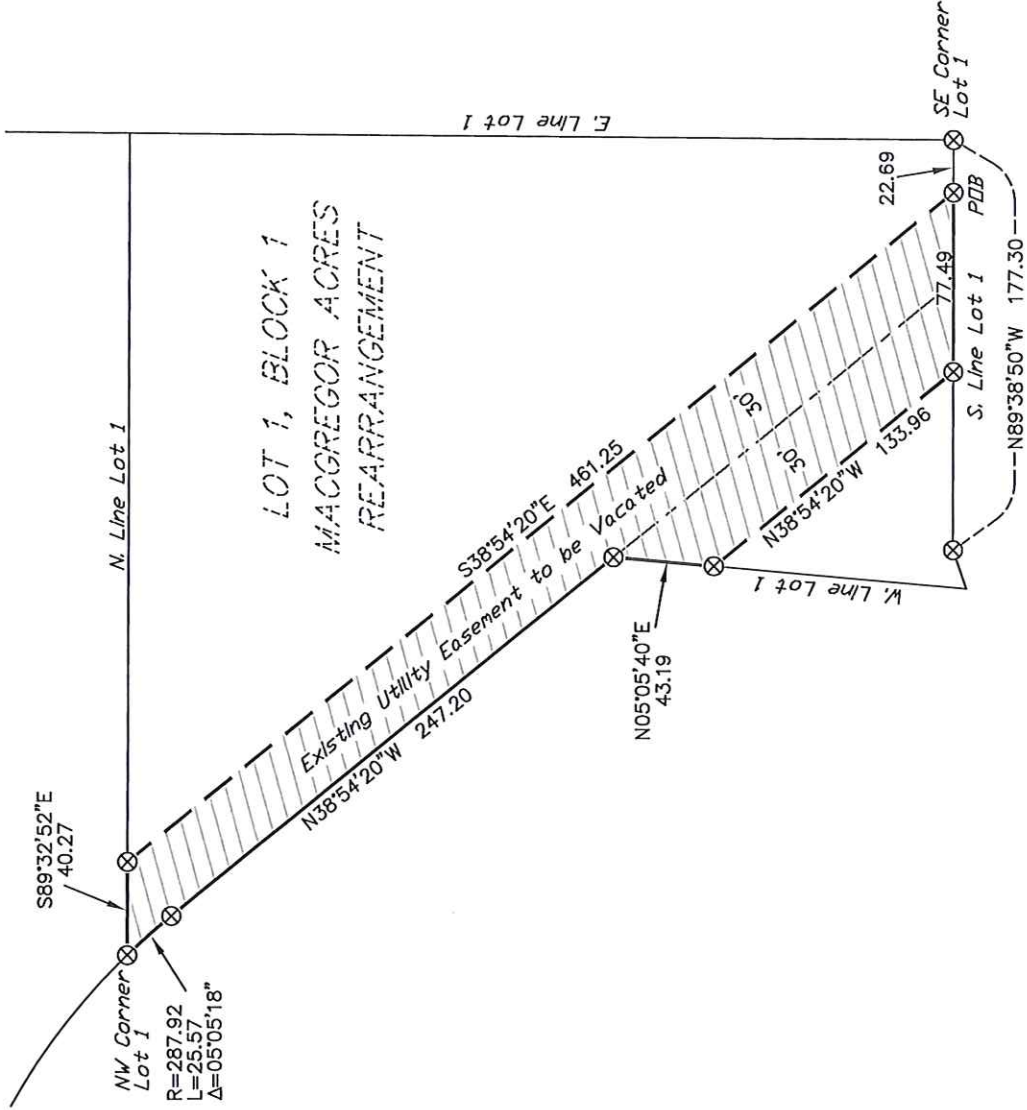
Map produced by the City of Inver Grove Heights GIS Dept.
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Exhibit A
Zoning and Location Map

EASEMENT VACATION EXHIBIT

For Susan McNeely
Within Lot 1, Block 1,
in the Plat of MACGREGOR
ACRES REARRANGEMENT
Dakota County, Minnesota



Proposed Drainage and Utility Easement Vacation Description

That part of Lot 1, Block 1, MACGREGOR ACRES REARRANGEMENT, according to the recorded plat on file with the Dakota County Records Office, Dakota County, Minnesota, further described as follows: Commencing at the southeast corner of said Lot 1 of said plat of MACGREGOR ACRES REARRANGEMENT; thence North 89 degrees 38 minutes 50 seconds West, assigned bearing, along the south line of said Lot 1 a distance of 22.69 feet to the easterly line of the existing easement per said plat of MACGREGOR ACRES REARRANGEMENT, the point of beginning; thence continue North 89 degrees 38 minutes 50 seconds West along said south line a distance of 77.49 feet to the westerly line of said easement; thence North 38 degrees 54 minutes 20 seconds West along said westerly line a distance of 133.96 feet to the west line of Lot 1; thence North 05 degrees 05 minutes 40 seconds East along said west line of Lot 1 a distance of 43.19; thence North 38 degrees 54 minutes 20 seconds West along the west line of said Lot 1 a distance of 247.20 feet; thence northwesterly a distance of 25.57 feet along said west line, along a tangential curve, concave to the southwest with a radius of 287.92 feet and a central angle of 05 degrees 05 minutes 18 seconds to the northwest corner of said Lot 1; thence South 89 degrees 32 minutes 52 seconds East along the north line of said Lot 1 a distance of 40.27 feet to the easterly line of said easement; thence South 38 degrees 54 minutes 20 seconds West along said easterly line a distance of 461.25 feet to the point of beginning.



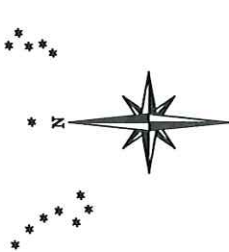
NORTHERN LIGHTS
SURVEYING SERVICES
611 9th St. No.
Virginia, MN. 55792
Phone: (218) 741-2575
northernlights@survey.com

PREPARED FOR:
Susan McNeely

SECTION:	32
TOWNSHIP	28 NORTH
RANGE	22 WEST
COUNTY:	Dakota
DATE:	11/6/2024
DRAWN BY:	TDT
JOB NO:	V2024-205
DRAWING NO:	V2024205

LEGEND

⊗ Calculated Position



Bearings are based
on the Plat of
MACGREGOR ACRES
REARRANGEMENT



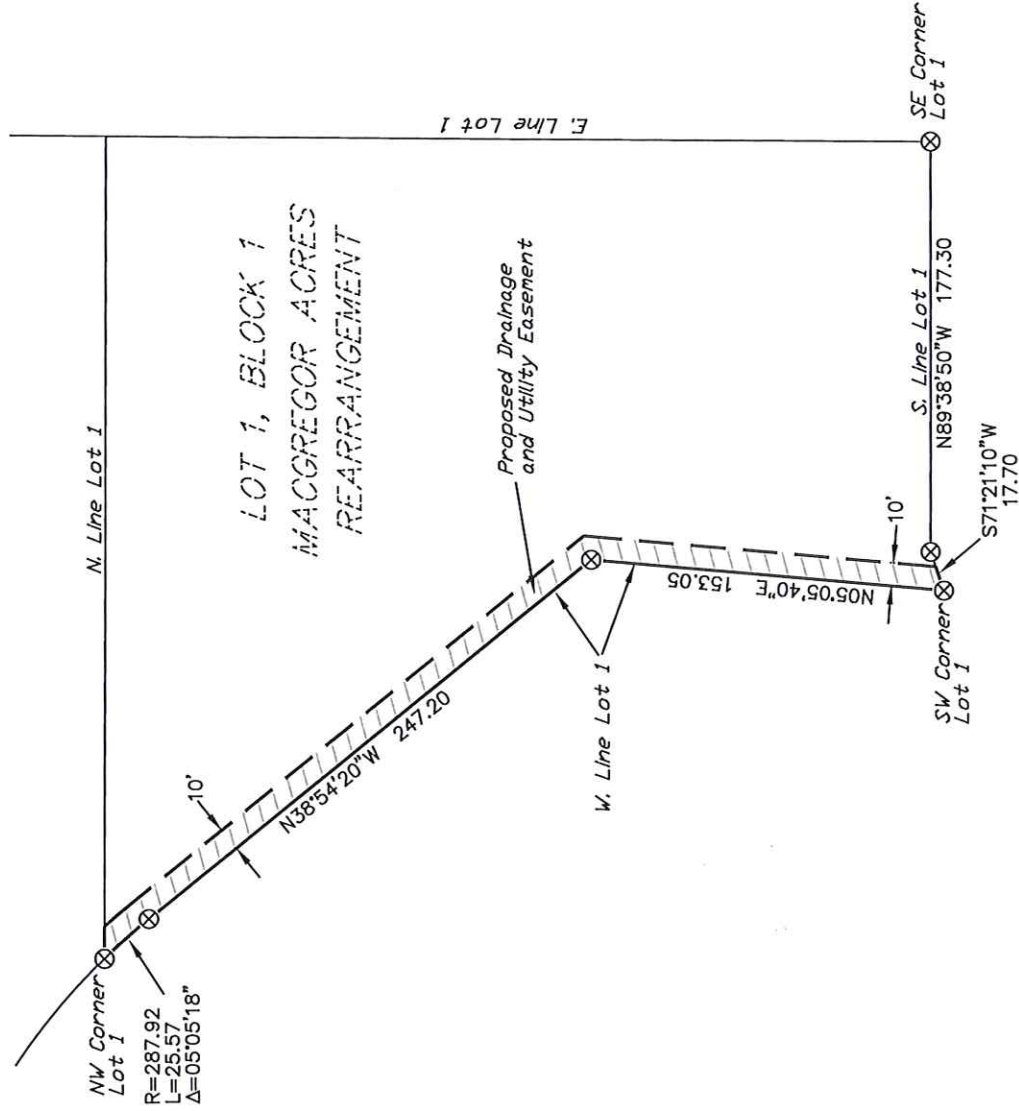
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Chris Matilla

Date: 11-6-24 License No. 51766

PROPOSED EASEMENT EXHIBIT

For Susan McNeely
Within Lot 1, Block 1,
in the Plat of MACGREGOR
ACRES REARRANGEMENT
Dakota County, Minnesota



Proposed Easement Description

An easement for drainage and utility purposes over, under and across the westerly 10 feet of Lot 1, Block 1, MACGREGOR ACRES REARRANGEMENT, according to the recorded plat on file with the Dakota County Records Office, Dakota County, Minnesota.



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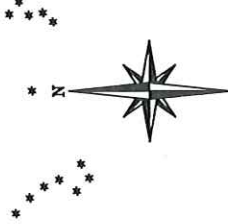
PREPARED FOR:

Susan McNeely

SECTION:	32
TOWNSHIP	28 NORTH
RANGE	22 WEST
COUNTY:	Dakota
DATE:	11/8/2024
DRAWN BY:	TDT
JOB NO:	Y2024-205
DRAWING NO:	Y2024205

LEGEND

⊗ Calculated Position



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REARRANGEMENT



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Chris Mattila

Date: 11-6-24 License No. 51766



Planning Commission Report

MEETING DATE:	December 3, 2024
CASE NO:	24-40Z
APPLICANT:	Ky N. Fang
PROPERTY OWNER:	Same.
REQUEST:	Rezoning
LOCATION:	9120 Rich Valley Boulevard
COMPREHENSIVE PLAN:	RDR, Rural Density Residential
ZONING:	A, Agricultural District
STAFF CONTACT:	Jason Ziemer, 651-450-2546

ACTION REQUESTED

The specific request includes the following:

1. Rezoning of the property from A, Agricultural (5-acre minimum lot) to E-1, Estate Residential District (2.5-acre minimum lot).

BACKGROUND

The applicant is proposing to Rezone the parcel from A, Agricultural to E-1, Estate Residential. The E-1 zoning is consistent with the Comprehensive Plan designation of RDR, Rural Density Residential (2.5 acre parcels or larger).

The property is roughly 5.3 acres in size, located along Rich Valley Boulevard. There is currently a single-family home on the site that is planned to be demolished. It is the applicant's desire to subdivide the land to create two lots, 2.5+ acres in size. However, the property is currently zoned A, Agricultural, which requires a 5.0 acre minimum lot size. In order to subdivide to meet their vision, the property zoning would need to be E-1, Estate Residential to create a new, second lot. Therefore, the applicant is requesting a rezoning of the property from A, Agricultural to E-1, Estate Residential.

If the rezoning request is successful, an application for platting and a variance from the minimum lot width would need to be approved before the lot split would be complete. This subsequent process provides for public review and comment on the actual site plan and is not a guarantee it would be approved.

EVALUATION OF REQUEST

SURROUNDING USES

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

NORTH	Large Lot Residential	Zoned: A, Agricultural District	Guided: RDR, Rural Density Residential
EAST	Large Lot Residential	Zoned: A, Agricultural District	Guided: RDR, Rural Density Residential
WEST	Large Lot Residential	Zoned: A, Agricultural District	Guided: RDR, Rural Density Residential
SOUTH	Large Lot Residential	Zoned: A, Agricultural District	Guided: RDR, Rural Density Residential

REZONING

The applicant is proposing to rezone the land to E-1, Estate Residential, which would be consistent with the RDR, Rural Density Residential, per the 2040 Comprehensive Plan.

City Code, Title 10-3-5 states that a rezoning request must be “in the best interest of the physical development of the City” in order to be approved. This suggests that the request should be reviewed against such factors as infrastructure availability; compatibility with existing land uses in the neighborhood; and consistency with the Comprehensive Plan.

Infrastructure

The requested rezoning to E-1 would not impact infrastructure that is already in place. Sewer and water would be on-site septic system and private well. This area is not located in the Northwest Area and city utilities are not planned for this area.

Consistency with the Comprehensive Plan

The property is currently zoned A, Agricultural. The property is guided RDR, Rural Density Residential, which allows for a minimum lot size of 2.5 – 5.0 acres. The applicant is requesting the lot to be rezoned to E-1, Estate Zoning, 2.5 acre minimum lot size. The proposed rezoning would be consistent with the Comprehensive Plan.

Neighborhood Compatibility

This criterion is meant to focus on the issue of whether the 2.5 acre lots would be compatible within the existing neighborhood. Would it allow for the development of a land use type or density that is unlike what surrounds it? Would it constitute a spot zoning?

The requested rezoning would be spot zoning. Even though there are E-1 lots within a few parcels, the immediate surrounding property is all zoned A, Agricultural. Approving the rezoning could set a precedent for other lots in the area. If too many lots are allowed to subdivide, it would effectively double the density that is currently in the area.

Additionally, the lot layout is not designed to subdivide further; the zoning code requires 200 feet of lot width per lot. Allowing the rezoning with the intent to subdivide would result in a need for a lot width variance.

ANALYSIS OF REQUEST

At this time, the applicant has not made a formal variance application, and so we are not considering any aspect of that topic. However, as the desired outcome of the property owner is the eventual

subdivision of the subject property, City staff did explore with the property owner the minimum standards at which the applicant would need to satisfy necessary to subdivide. The eventual lot division would require a formal platting process – preliminary plat and final plat. This would ultimately trigger variance considerations for zoning (practical difficulty) and subdivision (undue hardship). Upon that review, and in consultation with legal counsel, City staff informed the property owner there was likely not a path in one or either consideration where a variance could be granted as the request would not pass either test (practical difficulty and/or undue hardship). The applicant was informed she could still proceed with the rezoning request, with the understanding a variance was unlikely.

On the rezoning request, as all properties immediately surrounding the subject property are zoned A, Agriculture, the request itself is considered spot zoning. The zoning change to E-1 does comply with the 2040 Comprehensive Plan. However, there are variations as to permissions granted by zoning between A and E-1 properties. City staff did discuss that there is potential merit to rezone all the surrounding properties to E-1, in addition to a larger look at the entire zoning map, which could be a process facilitated by the City and not at the expense of the current applicant. Unfortunately, there is not the capacity to pursue such a change at this time. Thus, the request would be spot zoning. City staff did advise the applicant there was no support to recommend approval of the rezoning.

ALTERNATIVES

The Planning Commission has the following alternatives available for the proposed request:

A. Approval. If the Planning Commission finds the application acceptable, the Commission should make the following recommendation:

- Approval of Rezoning from A, Agricultural to E-1, Estate Residential.

B. Denial. If the Planning Commission does not favor the rezoning, a recommendation of denial should be forwarded to the City Council. With a recommendation of denial, findings or the basis for the denial should be given.

RECOMMENDATION

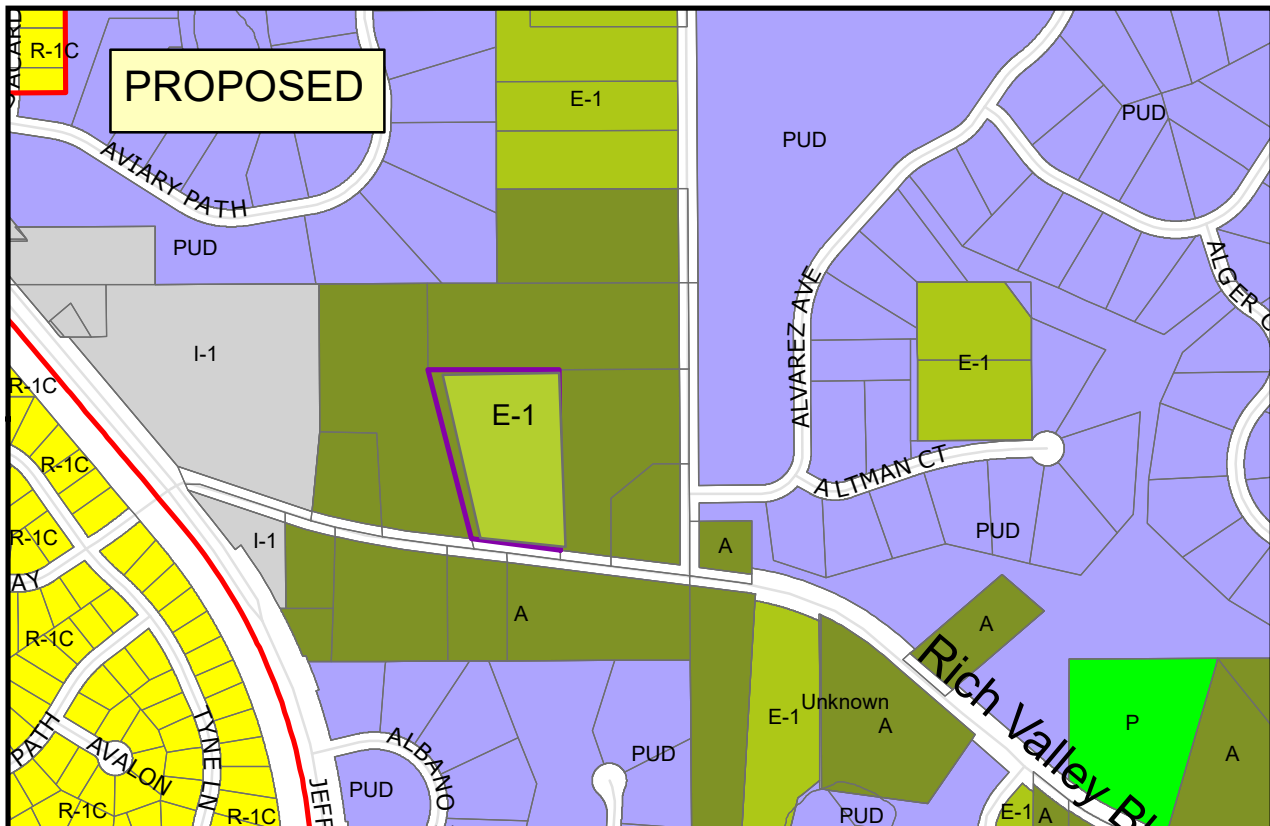
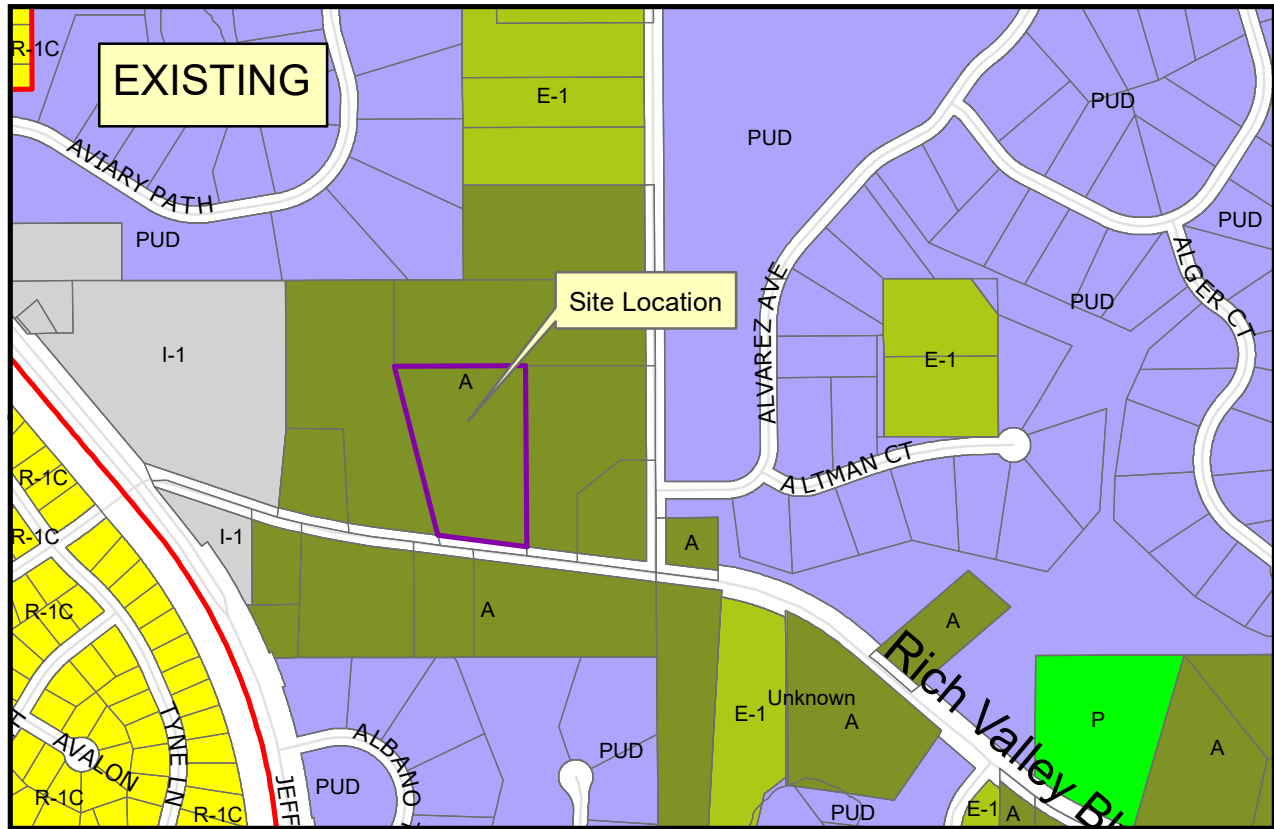
Staff believe the request to rezone would be spot zoning and represents a higher density rural residential zoning into the neighborhood. Therefore, staff recommends denial of the rezoning request.

ATTACHMENTS

1. Location and Proposed/Existing Zoning Map
2. Comprehensive Plan Map
3. Application Narrative



9120 Rich Valley Blvd



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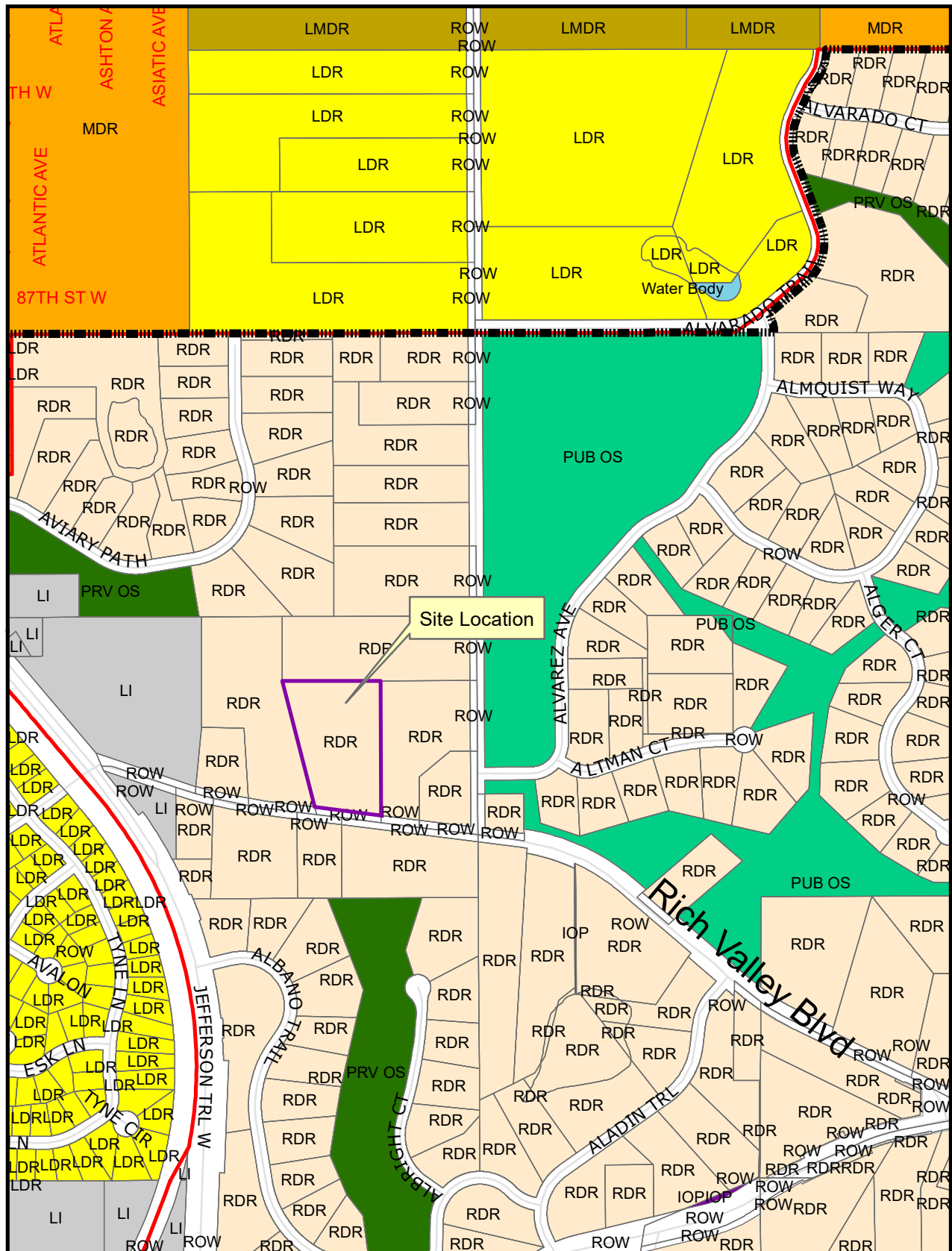
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Exhibit B
Existing and Proposed
Zoning



9120 Rich Valley Blvd



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Exhibit A
2040 Land Use Designations

November 7, 2024

The Planning Commission
City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

To The Planning Commission:

We are writing to request to change the zoning of our property at 9120 Rich Valley Boulevard, Inver Grove Heights, MN 55077, from A (Agricultural) to E-1 (Estate Residential). We are very happy and excited to be the new owners of this sizable 5.53-acre land. As the world descended into the pandemic and slowly is recovering, home and rental properties are becoming increasingly unaffordable to many people in our communities, especially the young 30-something's who are starting off in life. We hope to build homes for our young adult children, as our gift to them now, and not after we are deceased.

One of the practical difficulties that The Planning Commission is aware of, is that the existing dwelling has no occupancy permit. The house on this property will need to be demolished and a new dwelling rebuild on this lot. Secondly, we have one of the larger lots/parcels in this neighborhood, 5.53 acres; this lot can support two units/dwellings. We are writing to request a zone change to E-1 to build two homes on this property, after demolition of the existing dwelling. We want to build two homes at 2.5 acres per lot/parcel. We enclosed a schematic drawing of the possible lot/parcel boundaries for these two homes.

As we drive through the neighborhood, we can see that many of the lots/parcels to the East and North of our property, on Rich Valley Boulevard, are of similar sizes to our requested E-1 zoning, 1-2 acre lots/parcels. Our requested change in zoning to E-1 is compatible with the neighborhood and consistent with the 2040 Comprehensive Plan. Aesthetically, our requested zoning change will not alter the characteristics and landscape of this neighborhood but is in compliance and will protect the adjacent properties in this growing, sprawling suburb. The proposed zoning change is in harmony with the general purposes and intent of the Zoning and Subdivision Ordinances. We also reviewed the City of Inver Grove Heights 2040 Land Use Map and our requested zoning change is consistent with the Comprehensive Plan. Most importantly for the City of Inver Grove Heights, two new homes will increase the property taxes for the City.

We are requesting a zoning change to build two new homes on our property, once the current uninhabitable dwelling has been demolished. If granted, the E-1 zone change will not alter the characteristic and landscape of the current neighborhood. Our decision to rebuild two homes stems from our desire to help our children while we are still living. We've made this decision with care and conscientiousness of our neighbors, the Zoning and Subdivision Ordinances, and the City of Inver Grove Heights Comprehensive Plan. We believe that we fulfilled the hardship requirements of The Planning Commission for Variance and kindly ask you to review and grant E-1 zoning change.

Thank you for your time and consideration.
Ky N Fang and Pa Foua J Yang