

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

**Tuesday, July 2, 2019 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue**

- 1. CALL TO ORDER**
- 2. APPROVAL OF PLANNING COMMISSION MINUTES FOR MAY 21, 2019 AND JUNE 4, 2019**
- 3. APPLICANT REQUESTS AND PUBLIC HEARINGS**
 - 3.01 DENNIS ARNTSON (NATIONAL GUARD & ARMORY - CASE NO. 19-26V)**
Consider a **variance** to allow a solar array 30 feet from the front property line whereas 50 feet is required for the property located at 8076 Babcock Trail.

Planning Commission Action _____
- 4. OTHER BUSINESS**
- 5. ADJOURN**

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PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, May 21, 2019 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Commissioner Scales called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Armando Lissarrague
Elizabeth Niemioja
Tony Scales
Dennis Wippermann
Pat Simon
Jonathan Weber
Joan Robertson
Brett Kramer

Commissioners Absent: Annette Maggi (excused)

Others Present: Allan Hunting, City Planner
Heather Botten, Associate Planner
Tom Kaldunski, City Engineer

APPROVAL OF MINUTES

The minutes from the May 7, 2019 Planning Commission meeting were approved as submitted.

SOURCE LAND CAPITAL – CASE NO. 19-14ZPD

Presentation of Request

Allan Hunting, City Planner, explained that the request was tabled from the May 7 Planning Commission meeting. The applicant has since modified the request to eliminate the request for setback variances from Highway 3 and added some minor modifications.

Tom Kaldunski, City Engineer, addressed some of the issues discussed by the Planning Commission at their last meeting, and stated that the Engineering Division supports the proposed project. Mr. Kaldunski advised that there is a 24" culvert running from the west side of Highway 3 to the east side which has existed since 1936. The ends of the culvert were lengthened as part of the TH 3 and 65th Street project. Based on information that was discussed at the last meeting the developer has proposed some modifications, which are generally to increase the amount of stormwater retained on site and reduce the discharge through the 24-inch culvert going under TH 3 to a level that is in essence zero from a volume perspective and up to a 100-year rain event from a rate perspective; this exceeds our standards. There was also discussion at the last meeting of addressing concerns raised by the adjacent landowners on the 65th Street/TH 3 road project. That project is still on-going, and the City has a plan of action to address the erosion-related concerns once we have the proper weather conditions. Engineering staff believes that is a separate issue and should not weigh heavily on the decision on this preliminary plat. The current proposal as modified by the developer exceeds the requirements from an engineering perspective and the Engineering Division recommends approval of the preliminary plat.

Commissioner Simon asked who would be responsible for the infiltration basins once the developer leaves.

Mr. Kaldunski replied that the City would continue its longstanding practice of asking developers in the Northwest Area to give those land bodies to the City as outlots as part of the preliminary plat.

The City then becomes responsible for retaining those regional basins. Homeowner associations, or things of that nature, would then become responsible for infiltration basins, rain gardens, and treatment features outside or in the upper stream areas of the regional basins.

Commissioner Simon asked if the calculations for impervious surface were based on the original plan rather than the flexibilities they may be asking for in the future (i.e. pool, deck, etc.).

Mr. Hunting replied that his understanding was that the proposed stormwater plan included future features up to 30%. It does not cover anyone coming in later requesting a conditional use permit for additional impervious surface.

Commissioner Simon asked for more information on the proposed berm south of the Lojovich property.

Mr. Kaldunski replied that the developer is planning on building that berm.

Commissioner Scales asked if the building of that berm would help them get to the 100-year rain event.

Mr. Kaldunski replied in the affirmative, stating that the neighbors' house is above the top of that berm.

Commissioner Simon asked for clarification of proposed street widths.

Mr. Hunting replied that Street 1 would be a 60-foot right-of-way and Streets 2, 3, and 4 would be a 50-foot right-of-way.

Commissioner Simon asked for clarification that the modified plans were referenced in the conditions of the preliminary plat.

Mr. Kaldunski replied that the correct date of May 15, 2019 was listed in the conditions.

Commissioner Weber asked what the height was of the proposed berm and would it negatively impact the property to the north.

Mr. Kaldunski stated his understanding was there would not be any standing water on the neighboring property as a result of the berm, but that would be part of their final submittal.

Opening of Public Hearing

Pat Hiller, Source Land Capital, 10739 Allison Way, introduced his team and advised they were available to answer any questions. Regarding the berm, Mr. Hiller advised that it would be higher than the outlet structure as an extra layer of protection. Any water that could accumulate on the north side of the berm would go through a drain with a check valve back into the pond. It would stay entirely on the Windsor Ridge site and should not impact the Lojovich site. They have also redesigned the outlet control structure that feeds the culvert located under TH 3 and will hold a 100-year rain event on the Windsor Ridge site. The design also features a weir and a gate valve that will be used in extreme situations if the pond level ever needed to be reduced. He advised the reason they are asking for 50% tree removal is because after having lowland basins set aside for storm ponding, meeting the 20% open space requirement with 75% of it being contiguous, and the 2 unit per acre density, it is physically impossible to cut down only 30% of the trees on this site. Allowing 50% tree removal would still be a significant financial burden related to this project. The stormwater analysis assumes that each lot has 30% hardcover even though that will not be the case. At the last meeting there was also a comment about Street 1 not exiting the site at a 90-

degree angle. He explained that it was designed that way so as to wrap around the existing basin. The concern was the 12-foot difference in elevation between the road and the property line. He stated a huge amount of fill will be needed and raising the road up would only create more of a problem.

Commissioner Simon asked about the property in the southeast corner of Windsor Ridge labeled undisturbed that appeared to be disturbed.

Mr. Hiller explained that the City purchased the basin in the southeast corner of Windsor Ridge from Source Land Capital. The agreement was that in return for them selling the property to the City, Source Land Capital would be able to use that in their calculations.

Commissioner Simon stated it looked like more land had been cleared in and around that basin, and she asked if it would be seeded or sodded.

Mr. Hiller replied that they had not touched anything out there yet and that the question would have to be directed to Mr. Kaldunski since it was related to a City project.

Commissioner Robertson commended the applicant on specifically addressing their concerns so quickly.

Brad Lojovich, 6385 South Robert Trail, questioned why this project would be considered with all the flexibilities needed, stating there was plenty of available flat land on the east side of Highway 52. He was opposed to the proposed berm, stating they already took land on the east side of his parcel and came in with a 1:4 slope into his garden. When it rains he now has a big puddle because they did not make it wide enough. He questioned what would happen in the winter when the berm is full of water and it freezes and backs up onto his property. He would prefer they dig down deeper and make a pond rather than constructing a berm. He was concerned about mosquitos that will be breeding in the ponds. He stated silt removal is needed on the west side of TH 3 as water no longer filtrates into the ground like it used to. He feels the project is poorly planned and he believes there will be water backing up into the culvert going under TH 3 and he's concerned it will either go to his yard or out the storm drain into the front of his driveway.

Bruce Tiemann, 6308 South Robert Trail, lives across from the proposed development. Last year, as part of the 65th Street project, most of the trees were removed on his property along TH 3 and now the applicants are proposing to construct a 20-foot wall across the street from him which will include the removal of those trees as well. As part of the TH 3 project tons of sediment came onto his property, buried his gardens, and flooded his pasture. He is concerned about the additional water that will impact him once this development is built and impervious surface is increased.

Bill Nichols, 6302 South Robert Trail, lives across from the proposed development and respectfully disagrees with staff telling the neighbors to stay calm while millions of gallons of water flood their land. He disagrees with the City Engineer's statement that water always runs downhill, and we can move water to the next property owner. The issue is that Barr Engineering based their calculations on existing conditions today; however, what exists today is broken due to the TH 3 project. They also based their calculations off the elevation of the new pipe, and he disagreed with the City Engineer's statement that the old pipe has been in the ground since 1936, stating it was extended and replaced twice because it did not meet MNDOT standards. He never had water coming to his side of the road prior to the TH 3 project so Barr Engineering should not be using that as their starting point. Also, the plans show four storm drains; however, there are actually eight that drain to his land and he started out with none. He questioned whether Barr's calculations included the 500 feet of road that is now coming to his property from the outlet near the berm. He advised that his engineer will not be back in town until tomorrow and he would like to have the time for him to

review this. The six acres of land that used to infiltrate into the ground on the east side of TH 3 now runs to his property through the culvert. He is very frustrated and would like them to dig down to the sand vein so the land functions properly. He is trusting that the City will fix his land at some point. He does not believe there will be no discharge onto this property.

Mr. Tiemann stated that in the 30 years he has lived in his home he has never seen the pasture flood like it did this spring after the TH 3 project.

Commissioner Simon asked if he lived there in 1987 when they got 12 inches of rain.

Mr. Tiemann replied he did not.

Mr. Lojovich replied that he lived in his home in 1987 and the water only stood for a day and did not reach his property. With the drain getting plugged now his whole yard would have been flooded.

Commissioner Scales closed the public hearing.

Planning Commission Discussion

Commissioner Weber asked for clarification of whether the regional basin in the middle of Windsor Ridge was shrinking in size compared to what is currently there.

Mr. Kaldunski explained that what he was seeing on the drawing was the watershed that drains to that wetland.

Commissioner Robertson stated she heard the concerns from the neighbors and also how the various engineers believe this will play out. In her opinion it was the Planning Commission's responsibility to take the information they have and move it forward. If the City Council chooses to, they can request additional data. Based on that she supported approval of the request.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Kramer, to approve the request for a rezoning of the property from A, Agricultural to R-1C/PUD, a preliminary plat for a 66-lot subdivision to be known as Windsor Ridge, and a preliminary PUD development plan for 66 single-family homes on 30.25 acres, for property located at 6477 South Robert Trail, with the conditions listed in the report.

Commissioner Niemioja felt for the neighboring property owners and agreed that giving up heritage trees was difficult, but also acknowledged the challenging topography and water concerns. She was leaning toward approval as she did not necessarily feel the stormwater issues the neighbors are experiencing should fall on the shoulders of the applicant. Development is very important to our community and she believes the property owners have the right to move forward with their request as long as the other property owners are taken care of. If additional information becomes available between now and the Council meeting City Council can take it into consideration when making their decision.

Commissioner Weber asked if Commissioners could add a condition that Mr. Nichols' engineering report be received by the City Council prior to their voting.

Mr. Hunting stated that staff would provide the engineering report/comments if received by Mr. Nichols' prior to the meeting.

Commissioner Niemioja stated that Council would likely automatically accept the report.

Motion carried (8/0). This item goes to City Council on May 28, 2019.

CHS – CASE NO. 19-19IUP and 19-20IUP

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an interim use permit to allow a park-and-ride facility, for the property located at 5869 Babcock Trail and 8055 Barbara Avenue. 47 notices were mailed for Case No. 19-19IUP and 18 notices were mailed for Case No. 19-20IUP.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that CHS recently received approval to construct a new parking deck. This project will temporarily displace 495 existing parking stalls. The applicant is requesting an interim use permit to allow temporary park-and-ride facilities to be located at two sites in Inver Grove Heights from June-September 2019. The first is at Salem Hills Elementary School at 5869 Babcock Trail and there would be 75 total spaces at three sites at the school. The parking would be only until September and would not overlap the school year. The second site would be at the VMCC at 8055 Barbara Avenue where there would be 100 parking spaces. CHS would have a shuttle that would transport employees from the parking facilities to their site. The spaces would be utilized from 7 AM – 6 PM Monday-Friday. The two properties have existing impervious surface that the temporary parking facilities would be using so there would be no site improvements proposed. Staff recommends approval of the request with the conditions listed in the report with the added condition that the parking facility is allowed to operate during the hours of 7 AM-6 PM, Monday-Friday. Staff heard from one of the neighboring property owners at the school site with general questions about the request. Commissioners also received a letter from two of the neighbors across from VMCC that had concerns about the added noise and traffic along 80th Street. They also feel there are other sites that could have been considered closer to the CHS facility.

Commissioner Niemioja asked if Site 3 at Salem Hills School was currently grass.

Ms. Botten replied her understanding was that it was dirt, which is considered impervious surface.

Commissioner Niemioja asked if the parking would be on the listed sites, not the back corner of the property.

Ms. Botten replied in the affirmative, stating they would utilize Sites 1, 2 and 3. Salem Hills School would be a secondary site; however, as they would first request everyone to use the VMCC site.

Commissioner Robertson asked how many people they anticipated using the shuttle buses.

Opening of Public Hearing

Ian Ellis, CHS, 5500 Cenex Drive, advised he was available to answer any questions.

Commissioner Scales asked the applicant if he read and understood the report.

Mr. Ellis replied in the affirmative. He advised that in addition the temporary parking, CHS was increasing the number of people who work remotely and paying for Uber rides for some nearby employees. He stated most employees would come to CHS via Hwy 52, realize there were no parking spots, then head down Hwy 52 to the VMCC. The shuttle would also be using Hwy 52 as it was quicker than coming down Babcock Trail. They are planning on using a 20-passenger shuttle

vehicle but can change to a smaller or larger one if needed.

Commissioner Simon asked when construction of the parking deck was expected to take place.

Mr. Ellis replied it would begin on June 3 and they would get some of the parking back in their lot on September 1.

Commissioner Simon asked if they were expecting to do work over the winter.

Mr. Ellis replied they were not.

Mike Ketterling, 5847 Babcock Trail, stated there was an existing traffic problem with the school and he was concerned that this would exacerbate it. People park in front of his driveway on Babcock Trail while waiting to pick up their kids at 3:00 PM. The school itself has a nice entry/exit but the one leading to Site 3 is difficult to get in and out of.

Commissioner Robertson asked what Mr. Ketterling anticipated being the source of traffic during the summer months when school was out of session.

Mr. Ketterling stated his concern was that CHS employees would sit on Babcock waiting to get in or out in the morning. He does not believe employees would use the VMCC first since Salem Hills School is a more direct route.

Commissioner Niemioja felt it was unlikely that all employees would come to work at the same time. She asked when the current backup took place at the school.

Mr. Ketterling replied the morning traffic was a big issue but 2:55-3:10 PM was the worst.

Erin Staples, 5881 Babcock Trail, stated she had the same concerns as Mr. Ketterling and would prefer they use a different location for their overflow parking. She advised there is a summer program that goes on at the school so there are an additional 130 parents that are dropping off and picking up during the day. She had safety concerns with the additional traffic.

Commissioner Robertson asked if kids were bused to school for the summer program.

Ms. Staples replied that children were driven by their parents rather than by district buses.

Kelly Kayser, 1953 – 59th Court, had safety concerns with the proposed parking, stating the school purchased the property where the house was raised with the intent of improving the entrance/exit. That has not happened yet. Traffic is often at a standstill during pick-up/drop-off. The school put up 'No Left Turn' signs during certain periods of time so people use her street as a turnaround. There are also many people in the community that go to the park or playground at the school so there is a fair amount of foot traffic, especially during the summer months. This temporary parking will be an added concern. It will also be aesthetically unappealing as people will likely park wherever as there are no parking lines. She encouraged Commissioners not to let this parking go into the school year because someone will likely get hurt. Since this lot is closer than the VMCC she believes employees will use the school site first rather than as a secondary location.

Mr. Ellis stated their agreement with the school district is they would not allow us to go during the school year. Their intent is to use the VMCC first and not use the school unless they run into a problem. They are not even going to run the shuttle or tell employees it exists unless absolutely necessary.

Commissioner Niemioja hoped CHS was not encouraging its employees to walk to work from the school as there were safety concerns.

Mr. Ellis replied that CHS has specifically asked their employees not to use Babcock for parking because it is a County road with a higher traffic count and no crosswalk.

Commissioner Niemioja asked if there was more parking space anywhere on the CHS property in their area.

Mr. Ellis replied that he has one secret spot for overflow, but he is reserving it for instances where they have too many visitors come in. He does not want to allow parking on the lawn as it would destroy the grass and sprinkler system.

Commissioner Simon suggested using the former Rainbow site for parking.

Mr. Hunting replied that there were two different ownerships there and that a fair amount of it was used during the day by the school.

Commissioner Lissarrague asked who would be responsible for putting in a crosswalk on Babcock.

Mr. Hunting replied Dakota County.

Kathy Unruh, 5888 Babcock Trail, stated she lives directly across from Salem Hills School and she appreciated the installation of the 'No Parking' signs as they used to park on her grass. Her biggest concern is the traffic as she has a hard time getting out of her driveway. She noted that a lot of kids from the apartment buildings on Babcock walk to the school to play basketball, there is a free lunch school program at Salem Hills for part of the summer, and they have a summer daycare program there as well. For nine months out of the year she has to fight the school traffic and she would like to not have to deal with extra traffic the other three months. The extra traffic will also wear out the road sooner which she will be assessed for.

Ms. Staples suggested they check with the movie theater for temporary parking as they are closer to CHS and seem to have open spaces.

Commissioner Scales closed the public hearing.

Planning Commission Discussion

Commissioner Robertson suggested increasing the police presence in the Salem Hills School area during the summer months while the temporary parking is in effect

Commissioner Niemioja questioned whether the 'No Left Turn' signs could be covered up during the summer months as she did not foresee a traffic backup on Babcock for the temporary parking like occurs during the school year where everyone is trying to get in and out of the school at the same time.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Niemioja, to approve the request for an interim use permit to allow a park-and-ride facility, for the property located at 5869 Babcock Trail and 8055 Barbara Avenue.

Motion carried (8/0). This item goes to the City Council on May 28, 2019.

SCOTT AND KRISTINA GORDEN – CASE NO. 19-18C

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to exceed the maximum impervious surface allowed on property located at 11640 Aileron Circle. 27 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to construct a pool and patio space around the pool, which would put them 663 square feet over the maximum allowed. The applicant is applying for a conditional use permit for the additional impervious surface which would be within the additional 10% allowance. Engineering would be working with the applicant on the design and location of a storm water management system to address the additional impervious surface. Staff recommends approval of the request.

Opening of Public Hearing

Scott and Kristina Gorden, 11640 Aileron Circle, advised they were available to answer any questions.

Commissioner Scales asked the applicant if they read and understood the report.

The Gordens replied in the affirmative.

Commissioner Scales closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Weber, to approve the request for a conditional use permit to exceed the maximum impervious surface allowed on property located at 11640 Aileron Circle, with the conditions listed in the report.

Motion carried (8/0). This item goes to the City Council on May 28, 2019.

JOE PUCEL – CASE NO. 19-17V

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a variance to exceed the maximum size of an accessory structure, for property located at 10423 Amy Court. 9 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant is proposing to construct a two-story detached accessory structure. The footprint of the structure would be 1,500 square feet; with the second floor and some dormer space the proposed structure would be 3,126 square feet in size whereas 1,600 square feet is the maximum allowed. The lot has steep topography and the proposed garage would essentially be a two-story walkout and would limit the amount of disturbance and tree removal. Staff recommends denial based on lack of a practical difficulty.

Commissioner Scales asked if there was a reason the square footage of both floors was counted.

Mr. Hunting replied that Council wanted size to be based on gross square footage so as to avoid

massive two-story buildings.

Commissioner Scales asked when that was put in place as he recalled other two-story garages in which that calculation was not used.

Mr. Hunting replied that has always been used. He added that attic space within a roof peak is not counted, but in this case there are two full-story walls.

Commissioner Robertson commented that unique topography was irrelevant because the maximum size structure could be built and the size would be the same whether it was built on a flat pasture or steep slopes. She questioned whether the many trees with red ribbons were slated for removal.

Commissioner Lissarrague stated this was a similar situation to a recent request for a two-story accessory structure. The previous request was for a lot under five acres whereas this one was four acres.

Commissioner Niemioja asked what the maximum allowed would be on a lot five acres or larger.

Mr. Hunting replied 2,400 square feet.

Commissioner Simon asked if this would comply if they shifted the dormers.

Mr. Hunting replied it would not as they would still have two full stories of 1,500 square feet each.

Opening of Public Hearing

Joe Pucel, 10423 Amy Court, advised he was available to answer any questions.

Commissioner Scales asked the applicant if he read and understood the report.

Mr. Pucel replied in the affirmative. He stated the main reason for this construction design was to minimize the impact to the environment. He advised that a 1,600 square foot building pad would require massive retaining walls, extensive tree removal, and much more impact to the neighbors relative to what they would see in terms of structure. He advised that if he attached the garage to his house there would be no size limitation; however, the topography makes it challenging to get utility equipment in and his well stem would be right in front of the garage door. He advised that the trees with flags that were previously referenced by Commissioner Robertson were ones that could potentially be removed if he moved forward with the project.

Commissioner Scales closed the public hearing.

Planning Commission Discussion

Commissioner Scales stated it was a good plan for the yard and the neighborhood, but he could not come up with a practical difficulty. He hoped that City Council would take a good look at it and consider approval.

Commissioner Robertson stated she was mostly concerned about the precedent this would set, in addition to the request not meeting the variance criteria.

Commissioner Scales stated he would like to understand the reasoning behind counting the second story as it did not add imperious surface which is the most common concern.

Commissioner Lissarrague agreed with Commissioner Scales, stating there are areas in the City

where this would work.

Commissioner Niemioja agreed with her fellow commissioners and could not find a practical difficulty.

Commissioner Weber did not see the basement as an addition as it did not impact the neighboring landowners. He suggested the practical difficulty could be the access to Mr. Pucel's well being cut off if he attached the garage.

Planning Commission Recommendation

Motion by Commissioner Robertson, second by Commissioner Niemioja, to deny the request for a variance to exceed the maximum size of an accessory structure, for property located at 10423 Amy Court, based on the reasons listed in the report.

Motion carried (7/0 with one abstention - Weber). This item goes to the City Council on June 10, 2019.

MARK ENGEN – CASE NO. 19-13ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for an ordinance amendment allowing contractor's shop – indoor in an E-1, Estate Residential and A, Agricultural zoning district as a conditional use. No notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the request is to amend the zoning ordinance to allow indoor storage of tree trimming and removal equipment on residential property. Currently the zoning code considers this type of use a contractor shop indoor which is a permitted use only in the I-1 and I-2 industrial zoning districts. A contractor's shop is currently prohibited in residential districts. This ordinance amendment would not allow for landscaping businesses or similar uses to fall under this category and no outdoor storage would be allowed on the residential property. If approved, should a tree trimming business be allowed as an accessory use or a conditional use? A conditional use would require neighbor notification and a public hearing. If this use is approved, staff would suggest a minimum lot size of 2.5 acres so as to minimize negative impacts to the neighboring properties. Also, what should the setback requirements be as setbacks are different in the residential and industrial districts. If this was approved it would seem reasonable to impose the same impervious surface and accessory structure size and number requirements that you would typically see in a residential district. Converting an accessory building into business storage could result in more vehicles, toys and yard equipment being parked outside. The City's comprehensive plan defines the rural density residential district as a category that features lots 2.5 acres or more containing detached single-family housing without public water or sanitary sewer facilities. In addition to housing units, lots in this area are likely to have accessory uses such as small storage buildings associated with hobby farms or other related uses. There are 16 policies guiding rural districts; the ones most relevant include maintaining the rural character of established neighborhoods, discouraging non-residential and/or non-local traffic on local streets, and prohibiting commercial or industrial uses. Staff recommends denial of the request based on the inconsistency with the policies in the comprehensive plan, lack of tax base, the belief that industrial uses should be located in commercial industrial districts, and the concern of the amendment being misconstrued to allow landscape or other type of contractors yard businesses in accessory buildings. If the Planning Commission supports the request there are two options listed in the report: Option 1 is the one presented by the applicant and Option 2 is for the use to be a conditional use with the eight

conditions listed.

Commissioner Kramer asked if they could look at something for this specific property rather than changing the entire zoning code.

Ms. Botten advised they could not get a variance for this as it was for a use that was not allowed on residential property.

Commissioner Simon asked if an interim use permit or conditional use permit would be possible.

Ms. Botten replied that Commissioners could recommend it be allowed by conditional use permit; however, that would open it up for all lots in that district that fit the criteria.

Commissioner Weber questioned whether they could amend the home occupation regulations to allow storage of this equipment in a detached structure versus being so specific with tree trimming.

Ms. Botten replied that would open it up to all home businesses being allowed in accessory buildings.

Commissioner Weber suggested requiring that the equipment be stored inside of the structure, it was only the landowner using it, and it was being brought offsite.

Commissioner Simon stated they would then be running a business out of the building.

Commissioner Weber stated it was common for real estate and insurance agents and other people to run their business out of their home; the only difference is they are not getting caught because they are not dragging a trailer out of their garage. He does not see any difference between Mr. Engen dragging a piece of equipment out of his garage and a homeowner dragging his boat out of his garage every day to go fishing.

Commissioner Simon stated that tree trimming would likely be heavier equipment which impacts the roads and the neighbors.

Commissioner Weber commented that many boats were heavy as well.

Commissioner Niemioja stated there would be traffic impacts also.

Commissioner Weber replied that lawyers, insurance agents, etc. operating out of their homes also generate traffic. In this case it was unlikely that customers would come to Mr. Engen's home to get their trees trimmed. He would like to find a way for this to be allowed without having to be so specific to tree trimming, because there are currently businesses being run out of homes all over the city.

Commissioner Robertson was concerned about the precedent it would set to allow a business to come in with a specific set of needs and request a zoning change specific to those needs. She suggested that more research be done before doing this for one specific occupation.

Ms. Botten clarified that home occupations are allowed in the city as long as they are conducted entirely within the dwelling and not in attached or detached accessory structures.

Commissioner Robertson stated in her opinion if the code is amended it should not be based on one specific person coming in with one specific occupation.

Opening of Public Hearing

Mark Engen, 9255 Courthouse Boulevard, advised he was available to answer any questions.

Commissioner Scales asked the applicant if he read and understood the report.

Mr. Engen replied in the affirmative. He advised that he has two lifts, weighing only 4,000-5,000 pounds. They are not just for tree trimming and often will stay offsite for a number of days. He started his business in South St. Paul and Code Enforcement said they had no issue with that as long as he kept his equipment in his garage. When he bought his home in Inver Grove Heights he was unaware of the ordinance and assumed it would be the same as South St. Paul. His lifts run off either a Honda generator (which is quiet) or lithium pack batteries, which need to be kept warm. He questioned how noise could be considered an issue since he lives across the street from the new fire station and Highway 52/55. As far as traffic is concerned, he leaves once a day and comes back once a day. He stated most of the tree companies in the area use his services as he has the only lift that can get through a 34-inch gate.

Commissioner Lissarrague asked the applicant how long he had lived in Inver Grove Heights.

Mr. Engen replied two and a half years.

Commissioner Lissarrague asked the applicant if he just found out about the code recently.

Mr. Engen replied the first time he knew of it was when the Code Enforcement Specialist saw him driving his equipment out of his driveway. He stated there were many other business owners in town storing equipment in their garages.

Vance Grannis, 9249 Barnes Way, stated the best way to rectify this situation would be to interpret the code correctly. If we were to use the interpretation as presented it would mean that if a painting contractor had a pickup truck with a couple ladders on it and some paint brushes in it parked in his garage he would be in violation of the ordinance. If we were to use staff's interpretation there would be people all over the city that would be technically in violation. The draft ordinance amendment they are proposing would allow Mr. Engen to continue his business without having to fight the battle as to all these other interpretations. The way the amendment is worded most people could not do it on their property. Mr. Engen's equipment is simply being stored in a building and removed from that building to go to somebody else's property to do the work there. He encouraged Commissioners to recommend approval of the proposed amendment and/or recommend to City Council that this not be a violation to store equipment in your garage.

Commissioner Lissarrague asked how this would have been handled when he was a Councilman.

Mr. Grannis replied that it would not have come up because they did not do silly things like this.

Grant Pylkas, 1885 – 96th Street, stated he did not know Mr. Engen but believed this whole situation was ridiculous, and that anyone so much as having a screwdriver or tool in their car and doing anything commercial in any way under this interpretation could be charged with the same violation. There is nothing illegal or immoral about a person storing a piece of equipment in his garage and it does not violate any law. Everyone in the community has at one time or another had a computer, or other instrument used in the way they make a living, in their car while it is parked in the garage. This is micromanagement. He encouraged Commissioners to pass the proposed ordinance amendment to get Mr. Engen off the hook and force City Council to review this.

Stephanie Engen, 9255 Courthouse Boulevard, stated had they known they were not allowed to keep their equipment in their garage they never would have moved from South St. Paul. They do

not have junk laying around and keep the equipment in their garage.

Commissioner Weber asked the applicant if he saw the staff conditions for Option 2.

Mr. Engen replied that he had not.

Commissioner Weber read the conditions listed in the report and asked Mr. Engen if he understood and could meet the conditions. The conditions related to a 2.5 acre minimum, inside storage only, no outdoor storage related to business, engaged only by person residing in the dwelling, no retail sales, compliance with E-1 standards for maximum amount and size of accessory buildings and impervious surface, hours of operation between 7 AM and 7 PM, and no landscaping or similar businesses allowed.

Mr. Engen replied that he could comply with all conditions.

Ms. Botten noted that at the next Planning Commission meeting Mr. Engen will be requesting a conditional use permit and variance related to impervious surface and number of accessory structures unrelated to this business.

Commissioner Weber asked if the impervious surface was added.

Ms. Botten replied in the affirmative, stating the property was in compliance prior to the Engen's purchasing the property.

Commissioner Robertson asked if the impervious surface and accessory structures they would be discussing at their next meeting was already in place, making it similar to an after-the-fact request.

Ms. Botten replied in the affirmative.

Mr. Engen explained that he replaced the existing blacktop with concrete, and filled in a small area, and was unaware he had gone over the maximum impervious allowed.

Commissioner Robertson asked the applicant at what point he became aware that it would have been wise to check with the City prior to acting on some of these things.

Mr. Engen stated he was told by some people in the concrete business that he did not need a permit to replace blacktop with concrete. He also did not realize that making a fire pit area would negatively affect his impervious surface maximum.

Commissioner Scales closed the public hearing.

Planning Commission Discussion

Commissioner Scales stated he gets uncomfortable when the City starts trying to limit small businesses, stating many of them start out of their garages. Mr. Grannis and Mr. Pytkas brought up good points in that every painter or mechanic that takes an item out of his truck would be violating the code. He would prefer to find a different way to handle this situation.

Commissioner Niemioja stated that ignorance of the code requirements is no excuse; however, she does not think storing your things is wrong. If they have to amend the ordinance she will but she does not think it's necessary.

Ms. Botten asked if Commissioners were suggesting the home occupation ordinance be amended to remove the criteria that you are not allowed to have a home business in an accessory building.

Commissioner Niemioja does not think storing a piece of a vehicle is having a home business in an accessory building.

Commissioner Scales asked how a painter parking his truck in his garage would be different from Mr. Engen's situation.

Ms. Botten stated that City Code allows residents to have one commercially licensed vehicle not over one ton parked at the residence, so that protects the painter or mechanic examples brought up earlier.

Planning Commission Recommendation

Motion by Commissioner Kramer to approve the request for an ordinance amendment to allow indoor storage of a tree trimming and removal business in an E-1, Estate Residential zoning district as a conditional use, with the conditions listed in Option 2. He also recommended that City Council consider revising this ordinance.

Commissioner Robertson noticed a bit of reticence on the part of the applicant to some of the conditions in Option 2 and questioned whether they should restate the conditions to the applicant.

Commissioner Weber stated the applicant would simply have to meet the conditions.

Second by Commissioner Weber.

Motion carried (4/1 with three abstentions – Robertson, Simon, and Lissarrague due to this being an after-the-fact request). This item goes to the City Council on June 10, 2019.

The meeting was unanimously adjourned at 9:29 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, June 4, 2019 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Maggi called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Armando Lissarrague
Elizabeth Niemioja
Tony Scales
Dennis Wippermann
Pat Simon
Annette Maggi
Joan Robertson
Brett Kramer

Commissioners Absent: Jonathan Weber (excused)

Others Present: Allan Hunting, City Planner
Heather Botten, Associate Planner

Chair Maggi gave a brief explanation on the use of abstentions. She advised that typically abstentions are used in cases where there is a clear conflict of interest, whether it be financial, a personal relationship to the applicant, etc.

KENTON AND ROSALYN MILLER – CASE NO. 19-21V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a six-foot fence to be located 25 feet from the front property line whereas 30 feet is required, for the property located at 5824 Blackberry Trail. 4 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a variance to allow a six-foot high privacy fence 25 feet from the front property line whereas 30 feet is required. The reasons for the fence requirement appear to be mainly visibility for traffic and emergency vehicles along the street and driveways. A second reason would be uniformity along front views and visual appeal. Staff believes installing a six-foot fence 25 feet from the front property line to be a reasonable use of the property as it would be setback over 35 feet from the road. Staff also believes that the proposed fence would not be out of character for the neighborhood. Staff believes a practical difficulty can be found in the fact that the proposed fence would be located up to a retaining wall, would be within a wooded area with trees located closer to the property line than the fence, and the fence would not affect the visibility along the right-of-way or neighboring driveway. Staff recommends approval of the request with the one condition listed in the report. Commissioners received a copy of an email from one of the neighbors that is in support of the request. Staff also received a phone call with general inquiries.

Commissioner Robertson asked if the variance required a practical difficulty.

Chair Maggi replied in the affirmative, stating the practical difficulty as defined by staff was listed in the report.

Commissioner Wippermann asked if the applicant was requesting two variances; one for setback and the other for the height of the fence.

Ms. Botten replied that one variance was being requested to allow a six-foot privacy fence 25 feet from the property line.

Ms. Botten advised that the applicant can have a fence in the front yard up to 42 inches; the variance is to allow it to be six-foot high.

Commissioner Wippermann asked what the practical difficulty would be for the height allowance.

Ms. Botten replied that the reasons listed include the proposed fence not affecting visibility from the road for emergency vehicles or for traffic, it not adversely affecting any of the neighbors, and being setback further than the existing trees on the property.

Commissioner Robertson questioned whether those were practical difficulties.

Ms. Botten replied that was what staff recommended as a practical difficulty; however, Planning Commissioners could make their own recommendation.

Opening of Public Hearing

Ken Miller, 5824 Blackberry Trail, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Miller replied in the affirmative. He showed photos of where the fence would be located, noting that it would be located behind existing trees, next to a retaining wall, and would be barely visible from the road.

Commissioner Niemioja asked if the fence could be moved to a different location on his property.

Mr. Miller replied that currently a six-foot fence would need to be 30 feet from the front property line; he is requesting that it be 25 feet from the road. He would be allowed to have a 42-inch fence 25-feet from the road, but he would prefer the entire fence be six feet high rather than having the front five feet only 42-inches.

Chair Maggi asked the applicant why he would not end the fence at 30 feet as permitted by code.

Mr. Miller replied that he wants to abut his retaining wall on the one side and the suggested location is a good ending point.

Commissioner Robertson noted that a six-foot fence is higher than what code allows.

Mr. Miller replied that he would like the front five feet to be the same height as the rest of the fence.

Commissioner Scales clarified that the only part of the proposed fence that is not allowed by code to be six feet is the front five feet.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated the question seems to be defining a practical difficulty.

Planning Commission Recommendation

Motion by Commissioner Scales, second by Commissioner Lissarrague, to approve the request for a variance to allow a six-foot fence to be located 25 feet from the front property line whereas 30 feet is required, for the property located at 5824 Blackberry Trail, with the practical difficulty as stated in the report.

Commissioner Niemioja was in favor of the request but did not feel that being located next to a retaining wall, being in a wooded area, and not affecting visibility along the right-of-way was a practical difficulty and would set an undesirable precedent.

Commissioner Lissarrague stated the request made sense to him and he did not believe there would be many similar situations throughout the city.

Commissioner Kramer asked if the existing trees, retaining wall, and land contours could be considered the plight of the landowner due to circumstances unique to the property.

Chair Maggi replied that the retaining wall was a manmade structure, but trees and topography were sometimes used as a practical difficulty.

Commissioner Robertson questioned whether in this case the trees require the applicant to bring the fence to that location, or rather was it that the trees happen to be there and it would be nice to have the fence meet them, which is not a practical difficulty.

Motion failed (3/5 - Simon, Maggi, Niemioja, Wippermann, Robertson).

Motion by Commissioner Niemioja to approve the setback variance based on the preservation and use of the trees and the land.

Mr. Hunting clarified that there was no setback variance being requested. The request is to allow a six-foot fence to be 25 feet from the property line.

Commissioner Niemioja withdrew her motion.

This item goes to the City Council on June 10, 2019.

JEFF AND CHRISTIE SCHADEGG - CASE NO. 19-07SZC

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to operate a beauty salon as a home occupation, for the property located at 8375 Cooper Way. 33 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicants are proposing to operate a one chair beauty salon in an existing portion of the house located just inside the front door of the house. The business would be by appointment only and customer parking is available on their driveway. Staff finds the request to be in compliance with the conditional use and home occupation criteria and therefore recommend approval of the request with the eight conditions listed in the report.

Chair Maggi noted that the home occupation guidelines require the entrance to be through a separate door whereas the applicants are proposing to use the main door to the home.

Mr. Hunting replied that customers would be able to enter the salon area without going further into the house, so staff felt they met the criteria in this case.

Opening of Public Hearing

Jeff Schadeegg, 8375 Cooper Way, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Schadeegg replied in the affirmative.

Commissioner Simon asked the applicant if he considered installing an outside door between the steps and the edge of the front of the house.

Mr. Schadeegg replied that there was not enough space to do so. He added that there is also a bay window across the front of the house. At one point in time the code required the entrance be from within the house. When the code changed it was with the idea that you did not want people going through the residence to get to the home occupation. Because of that they chose this room because clients would come in the front door and take an immediate turn into the room being used for the business.

Commissioner Simon noted that Condition 7 prohibits any signs on the property advertising or identifying a beauty shop.

Mr. Schadeegg stated he understood and explained that his wife has been in business for 45 years and is losing her lease. The customers coming to her salon would be her existing customer base that she would like to service for a couple years until she retires.

Commissioner Robertson asked if there would be any signs or salon furnishings visible in the front window.

Mr. Schadeegg replied there would be no signs, the blinds in that window were typically closed, and the salon furnishings would be on an adjacent wall and only visible from a specific angle.

Commissioner Lissarrague asked if staff was aware of any other businesses in the City with the same type of entrance.

Mr. Hunting replied that he would not know as other home occupations did not require review.

Commissioner Lissarrague asked if the neighbors had any objections.

Mr. Hunting advised that staff did not receive any objects from the 33 property owners that were notified.

John Kedrowski, 8380 Cooper Way, stated he lived directly across from the subject property and had no objections to the request.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Scales, to approve the request for a conditional use permit to operate a beauty salon as a home occupation, for the property located at 8375 Cooper Way, with the eight conditions listed in the report.

Motion carried (8/0). This item goes to City Council on June 10, 2019.

MARK ENGEN – CASE NO. 19-25CV

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow two accessory buildings on the property whereas one is the maximum allowed, and a conditional use permit to exceed the maximum impervious surface allowed, for the property located at 9255 Courthouse Boulevard. 28 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant purchased the property a couple years ago and added additional impervious surface to the site as he was unaware of the code requirements. The applicant is over the allowed amount by 4,862 square feet, which is within the 10% allowed with a conditional use permit. Engineering has reviewed the request and is working with the applicant on the stormwater and grading requirements. The applicant has agreed to give the City a 10-foot drainage and utility easement along the front and an easement over the natural basin on the property in lieu of installing a raingarden. The applicant is also requesting an after-the-fact variance to allow more than one accessory building on the property. A neighbor was moving and offered the 400 square foot structure to the applicant. The property also has a 1,400 square foot detached structure, whereas only one is allowed. Staff does not believe that the applicant identified practical difficulties to comply with the variance criteria and that approving the variance could set a precedent for the number of accessory buildings allowed in the E-1 district. Staff recommends denial of the request for a variance, based on the reasons listed in Alternative B of the report, and approval of the request for a conditional use permit to exceed the maximum impervious surface.

Commissioner Simon asked if the applicant pulled a permit for the additional concrete or the new accessory structure.

Ms. Botten replied that no permits were pulled, however, permits were not necessarily required for the concrete work, especially behind the garage and on the sides.

Commissioner Simon asked if the impervious surface associated with a building permit was counted, such as a patio being poured next to a garage addition.

Ms. Botten replied that the patio would still count towards total impervious surface; however, the concrete does not require a permit.

Opening of Public Hearing

Mark Engen, 9255 Courthouse Boulevard, advised he was available to answer any questions.

Chair Maggi asked the applicant if he read and understood the report.

Mr. Engen replied in the affirmative. He advised that he essentially replaced his blacktop with concrete and filled in the space between the two driveways. He was told he did not need a permit to remove his blacktop and replace it with concrete. He has agreed to work with the engineering staff regarding easements. He advised that the structure was previously on the property across the street from him. They gave it to him when they sold their property and he assumed it would be okay to bring it across the street onto his property. He questioned why the structure was acceptable on his neighbors' property but not on his own.

Chair Maggi stated that allowing only one accessory structure has been in the code for quite some time and it was unfortunate the applicant was not aware of the rule.

Commissioner Simon asked the applicant if he could define a practical difficulty for having the second structure.

Mr. Engen replied because it was given to him.

Kathleen Kincaid, 9175 Courthouse Boulevard, asked if the applicant was planning to run his business from his property.

Commissioner Scales replied that he parks his vehicles there.

Ms. Kincaid was concerned about additional traffic on Courthouse Boulevard and the number of vehicles that would be stored there.

Ms. Botten advised that there are two separate requests for this property. The request for a code amendment for the business is going to City Council on June 10. This request is for impervious surface and number of accessory buildings allowed on a residential property.

Commissioner Lissarrague asked for clarification regarding the two requests for Mr. Engen going to City Council at different times.

Ms. Botten replied that tonight's request was for a use separate from the business, noting that residents can expand their impervious surface and ask for a variance for an additional structure on residential property.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Commissioner Scales stated that he struggled with not allowing this additional structure because there are hundreds of buildings like this throughout the City.

Commissioner Niemioja stated she would not be voting for approval on the variance due to lack of a practical difficulty. One of the reasons she was concerned about the practical difficulty on a previous request this evening was because this property owner might be able to use the same practical difficulty and say the building was in the woods, next to a retaining wall, and not impacting visibility from the road.

Commissioner Scales stated that while he would likely be voting against the variance because of the lack of a practical difficulty, he hoped that City Council would take a hard look at this because there were many similar existing buildings throughout the city.

Commissioner Robertson stated that having similar buildings in the city should not become the basis for continuing to allow it, especially since they were not sure how long the buildings had been there, whether they had been grandfathered in, and whether they in fact should not be there.

Commissioner Scales stated he did not disagree with that but believed the City should look at the codes and reevaluate.

Commissioner Wippermann agreed with Commissioner Robertson that many of these may have been in existence before the codes were implemented so they would become grandfathered and

are permitted.

Planning Commission Recommendation

Motion by Commissioner Niemoja, second by Commissioner Kramer, to approve the request for a conditional use permit to exceed the maximum impervious surface allowed, for the property located at 9255 Courthouse Boulevard, with the conditions listed in the report.

Motion carried (8/0).

Motion by Commissioner Simon, second by Commissioner Wippermann, to deny the request for a variance to allow two accessory buildings on the property, whereas one is the maximum allowed, for the property located at 9255 Courthouse Boulevard, due to the lack of a practical difficulty.

Commissioner Lissarrague stated it was unfortunate there was a code prohibiting a second structure as it seemed appropriate for this particular property.

Motion carried (8/0). This item goes to the City Council on June 24, 2019.

VANSOUTH LIMITED PARTNERSHIP – CASE NO. 19-24ZC

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning of the property from B-4, Shopping Center to B-3, General Business and a conditional use permit to allow a recreation center in the shopping complex, for the property located at Southridge Shopping Center. 15 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicants have been working on leasing space to the YMCA while they are looking for a new permanent location. The YMCA falls under the definition of 'Recreation Center', which is a conditional use in the B-3 district but is not allowed in the B-4 district. The applicant/owner is requesting to change the zoning of Lot 2 of the Southridge Shopping Center to B-3. The City approved a similar request for the Salem Square Shopping Center in 2011 when the center was looking to lease space to Pawn America; the center was zoned B-4 and was rezoned to B-3. The subject site does not really function as a B-4 shopping center, which is typically an enclosed shopping mall. The existing commercial strip center would better fit the traditional B-3 shopping center area. Staff recommends approval of the request.

Chair Maggi asked if there were any unintended consequences of changing the zoning on this entire section of the shopping center.

Mr. Hunting replied he was not aware of any, and he noted that the B-3 district allows more uses than the B-4 district.

Chair Maggi asked how long the YMCA planned to be at this location.

Mr. Hunting stated the applicant's initial thought was approximately three years.

Opening of Public Hearing

Katie Lowe, 7553 Alpine Court, Executive Director at the West St. Paul YMCA, advised she was available to answer any questions.

Chair Maggi asked the applicant if she read and understood the report.

Ms. Lowe replied in the affirmative.

Commissioner Simon asked if they would continue the Silver and Fit programs at the temporary facility.

Ms. Lowe replied in the affirmative. She stated as long as their membership base stays the same, and people come to the classes, they will continue to offer the same activities. There are some exceptions, one being there is no pool at this location.

Commissioner Robertson asked if there would be a running track at the temporary location.

Ms. Lowe replied there would not and noted they do not have a track at their current location either.

Commissioner Scales asked where the YMCA's permanent location would be.

Ms. Lowe replied that had not yet been determined but they were committed to staying in their current service area.

Chair Maggi closed the public hearing.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Niemioja, to approve the request for a rezoning of the property from B-4, Shopping Center to B-3, General Business and a conditional use permit to allow a recreation center in the shopping complex, for the property located at Southridge Shopping Center, with the condition listed in the report.

Motion carried (8/0). This item goes to the City Council on June 10, 2019.

OTHER BUSINESS

Officer Elections

Motion by Commissioner Niemioja, second by Commissioner Scales, to nominate Annette Maggi as Chair of the Planning Commission.

Motion carried (8/0)

Motion by Commissioner Niemioja, second by Commissioner Kramer, to nominate Tony Scales as Vice-Chair of the Planning Commission.

Motion carried (8/0)

Motion by Commissioner Scales, second by Commissioner Wippermann, to nominate Pat Simon as Secretary of the Planning Commission.

Motion carried (8/0)

Chair Maggi congratulated the three Commissioners that were recently reappointed.

Mr. Hunting introduced Community Development Director Heather Rand.

Mr. Hunting advised that the June 18 Planning Commission meeting has been cancelled.

The meeting was unanimously adjourned at 8:01 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

DRAFT

PLANNING REPORT CITY OF INVER GROVE HEIGHTS

HEARING DATE: July 2, 2019

CASE NO.: 19-26V

APPLICANT: Dennis Arntson (National Guard and Armory)

PROPERTY OWNER: Minnesota Department of Military Affairs

REQUEST: A variance from the front yard setback requirements

LOCATION: 8076 Babcock Trail

COMP PLAN: P/I, Public/Institutional

ZONING: P, Institutional

REVIEWING DIVISIONS: Planning
Park and Recreation

PREPARED BY: Heather Botten
Associate Planner

BACKGROUND

The applicant is requesting a variance from the front yard setback to construct a solar array 30 feet from the front property line whereas 50 feet is the required setback. The property is zoned P, Institutional and is 6.17 acres in size. Ground and roof mounted solar systems are allowed in the city but shall comply with the setback requirements of the underlying zoning district.

The six-acre property is owned by the MN Department of Military Affairs; the Armory building is connected to the Community Center, owned by the City. The City has enjoyed a positive relationship with the National Guard and the use of their facilities (gym/parking/meeting rooms/outside open space) is invaluable to the community.

The original request was to install the solar array 22 feet from the front property line along Babcock Trail and 34 feet from the entrance into the Armory. After meeting with staff, the applicant agreed to move the array 30-feet from the front property line and push the array as far south as possible providing additional green space to the north. Originally the applicants were also asking for an eight-foot fence with barbs but have since removed this request.

SPECIFIC REQUEST

The following specific application is being requested:

- 1) A variance from the front yard setback requirement to construct a ground mounted solar array 30 feet from the property line whereas 50 feet is required for structures in the Institutional zoning district

EVALUATION OF THE REQUEST

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

North	Single-family homes; zoned R-1C; guided Low Density Residential
West	Single-family home; zoned A, Agricultural; guided Industrial Office Park
East	Community Center; zoned P; guided P/I, Public/Institutional
South	Skate Park; zoned P; guided P/I, Public/Institutional

PARK AND RECREATION

Currently the State and City have a lease agreement for the maintenance of the green space west of the Armory. Staff understands the State will work with the City to review and modify the lease agreement accordingly. Modifications include the National Guard being responsible, at their expense, to make necessary alterations to the irrigation system. The National Guard, at its expense, will be responsible to maintain the area inside the fenced solar array area to meet applicable city codes. If the City is to continue to maintain the grass area outside of the fenced area, the National Guard shall install a 15" concrete maintenance strip under the perimeter fence for ease of maintenance inside and outside of the fence. This will ensure the outside of the fence line does not have to be weed whipped by City staff who maintain the current grass area

ENGINEERING

Engineering has reviewed the request and is recommending an agreement to ensure removal of the panels, footing, underground wires, appurtenances, and restoration of the area following the service life of the array. The applicant shall work with the City to secure final approval of the final grading and erosion control construction plans.

VARIANCE REVIEW

City Code Title 10, Chapter 3. **Variances**, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request to encroach into the front setback is reviewed below against those criteria.

1. *The variance request is in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.*

The request is consistent with the comprehensive plan as the property would continue to be utilized as an institutional use and solar panels are allowed in all zoning districts. The comprehensive plan references state law that requires communities make efforts to ensure that direct sunlight access to solar panels is not subjected to shading from nearby trees, buildings, or other structures. The proposed

south facing solar arrays are positioned to achieve maximum sunlight between the hours of 10:00 am and 2:00 pm.

In respect to the use of the land, impervious surface, other setbacks and code requirements, the request is in harmony with the provisions in the zoning ordinance.

2. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.*

The 30-foot front yard setback variance would allow the applicant to utilize the property in a reasonable manner. The zoning code does not have specific setback requirements for solar arrays therefore they are required to follow the setbacks of the underlying zoning district. The 50-foot structure setback in the P zoning district is to provide a buffer from the abutting properties as many structures allowed in the district, such as the community centers, churches and schools, are quite large. In this case, the solar array would be 30 feet from the front property line complying with the front setback requirements for the surrounding residential properties, or future industrial office park or commercial setbacks.

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

The Army National Guard Construction Program states that "As much as possible, design and provide a site that will accommodate future expansion". Approval by the National Guard Bureau for this armory, was in-part based upon identifying property to the west of the building for future expansion. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems which is why the system cannot be moved further east. Placement of the system with a 30-foot setback instead of a 50-foot setback allows the array to be placed wider in the east/west direction providing more open space on the north as requested by the City.

4. *The variance will not alter the essential character of the locality.*

Solar panels are an allowed use in all zoning districts. The proposed 30-foot setback is the required setback in the surrounding zoning districts. To reduce the visual impact of the solar array screening is proposed in either a slatted material or vines on the chain link fencing. Native or pollinator friendly vegetation is proposed within the solar area which is common material found around solar arrays.

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

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

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. Approval If the Planning Commission finds the setback variance to be acceptable, the Commission should recommend approval of the request with at least the following conditions:

1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.
2. All construction plans shall be subject to the review and approval of the Inspections Department.
3. The lease agreement between the State and the City shall be reviewed and approved by both parties.
4. A grading/erosion control plan shall be required at the time of the building permit application.
5. An agreement relating to the removal of equipment at the end of service life of the array shall be required to be executed between the City and the applicant

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

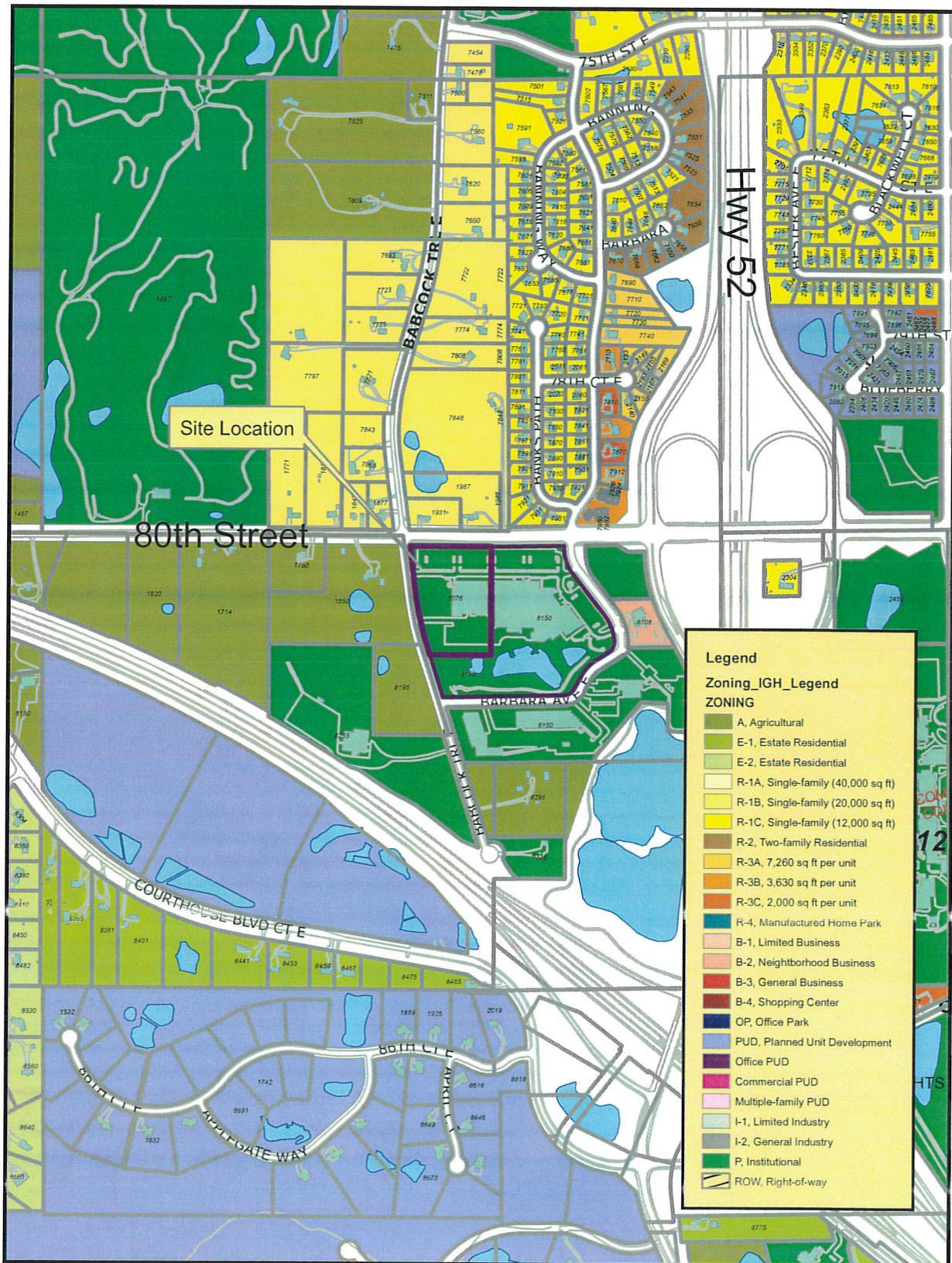
RECOMMENDATION

Planning Staff believes the request to install the solar array 30 feet from the front property line to be a reasonable use of the property. The request is consistent with the comprehensive plan ensuring that direct sunlight access to solar panels is not subjected to shading from nearby trees, buildings, or other structures. A practical difficulty can be found for the front setback variance due to the fact the location of the array provides the owner the best location for direct sunlight while also providing a grass buffer between the Armory entrance and the array location.

Attachments: Exhibit A - Location/Zoning Map
Exhibit B - Applicant Narrative
Exhibit C - Site Plan



8076 Babcock Trail Case No. 19-26V



THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION 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.

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Exhibit A
Zoning and Location Map

Map not to scale

Case #19-26V

To Inver Grove Heights Planning Commission

As a representative with the Minnesota National Guard, I attended a Plan Review Committee Meeting on June 12, 2019 at the Inver Grove Heights City Hall to review the National Guard's request for a variance to allow a twenty two (22) foot setback for construction of an 80KW solar array at the National Guard Armory located at 8076 Babcock Trail. As the result of this meeting, we revise our request for a thirty (30) foot setback so to lessen the impact from Babcock Trail. We were also in the process of requesting a second variance for the installation of a seven (7) foot fence with one (1) foot anti-climber to comply with Anti-Terrorism Force Protect (ATFP) measures, but have since removed this request.

The justification for a thirty (30) foot setback is based on the following:

Construction with a 30 foot setback in lieu of 50 foot setback will allow the solar array to be placed wider in the east/west direction allowing the north limit of the array to be pushed more to the south resulting in saving the National Guard's lawn space directly west of the armory main entrance. Providing open space on National Guard property just south of the shared access drive is a desire of the City, and will help to sustain an inviting entry to the armory.

A revised civil site plan is included as part of this variance request. This new site plan identifies the western limit of the solar array to a thirty (30) foot setback. We have also made provisions to move the complete solar array to the south as much as we can to accommodate the city's desire for open space on our property. We are limited to moving the solar array any further to the east, closer to the armory, due to federal requirements to allow for future building expansion, and in doing so, limits the ability to achieve adequate access to direct sunlight for solar energy systems. According to National Guard Regulation (NGR) 415-5 Army National Guard Military Construction Program Development and Execution: Paragraph 2-3.e (7), reads "Construction of a new facility. As much as possible, design and provide a site that will accommodate future expansion". Approval by National Guard Bureau for this armory, was in-part based upon identifying property to the west of the building for future expansion.

The following items were discussed at the Plan Review Committee Meeting of June 12, 2019. Although these items may not be tied to the variance request:

1) Screening:

The City Engineer has asked that ground cover be provide around the west and north boundary of the fence. In accordance with UFC 4-022-03 Security Fences and Gates; Paragraph 2-12.1 Clear Zones: state "Clear zones are areas established around the fence to provide an unobstructed view to enhance detection and assessment around fence...For example, outer clear zones may be 30 feet wide and inner clear zones may be 20 foot wide." For these reasons, we are not able to provide the cover the city engineer is asking for. In this situation, we will be restricted from any ground cover for fencing that is within a calculated distance from the armory. This limitation will affect the north fence line. We are open to the use of slatted material or possibly vines on the chain link fencing to provide screening. Keep in mind as we review screening options, the seven (7) foot fence will partially screen the solar panels that will have a max height of nearly nine (9) feet off of grade.

2) Native vegetation:

The City Engineer has asked that the Guard consider native or pollinator friendly vegetation inside the fenced off area. We will provide native or pollinator friendly vegetation as requested by the

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city. The project specifications currently identify a low-maintenance turf that will be replaced with a native vegetation seed mix.

3) Concrete mow strip:

The City Director of Parks and Recreation has asked that a concrete mow strip be poured in place along the fence line, and has stated that the City will not be responsible for mowing within the solar array compound. The State understands the concern for not mowing or caring for the vegetation planted within the compound for concerns with asset liability. With the construction of this compound, the State will work with the City to review and modify the lease agreement accordingly. If the lease agreement is modified for the State taking responsibility for maintenance of solar array compound and fence line, a concrete mow strip may not be required. Our intent will be to plant the requested native or pollinator friendly seed mix within our compound and out to about one (1) foot outside of the compound. This will place the fence line within the natural vegetation therefore not requiring maintenance along the fence line. This will be reviewed with requirements for clear zones required by ATRP.

4) Roof mounted solar array.

The City Engineer asked to consider roof top PV solar array. In several of our facilities across the state, we have installed ground mounted PV array systems. In these locations it was determined existing roof structures were considered inadequate to carry the added loads. This, along with review of new snow loads by code, and the fact that our roof will not be replaced in the next five (5) to seven (7) years, a ground system is our best option.

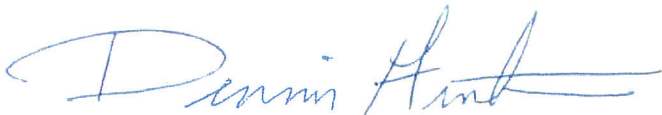
The following project description is provided for reference:

The proposed improvements include the installation of one 80 kW fixed photovoltaic (PV) ground mounted array. This PV system will operate in parallel with the utility's (Xcel Energy) distribution grid to reduce the utility electrical consumption, provide a green alternative source of energy and reduce the carbon footprint of the National Guard Armory.

Limited by the ability to achieve adequate sunlight from the buildings, the proposed site plan maximizes efficiency for the property, while not impeding surrounding land uses. The proposed improvements are also in compliance with the 2030 Comprehensive Plan by designing the south facing solar arrays to achieve maximum sunlight between the hours of 10:00 AM and 2:00 PM.

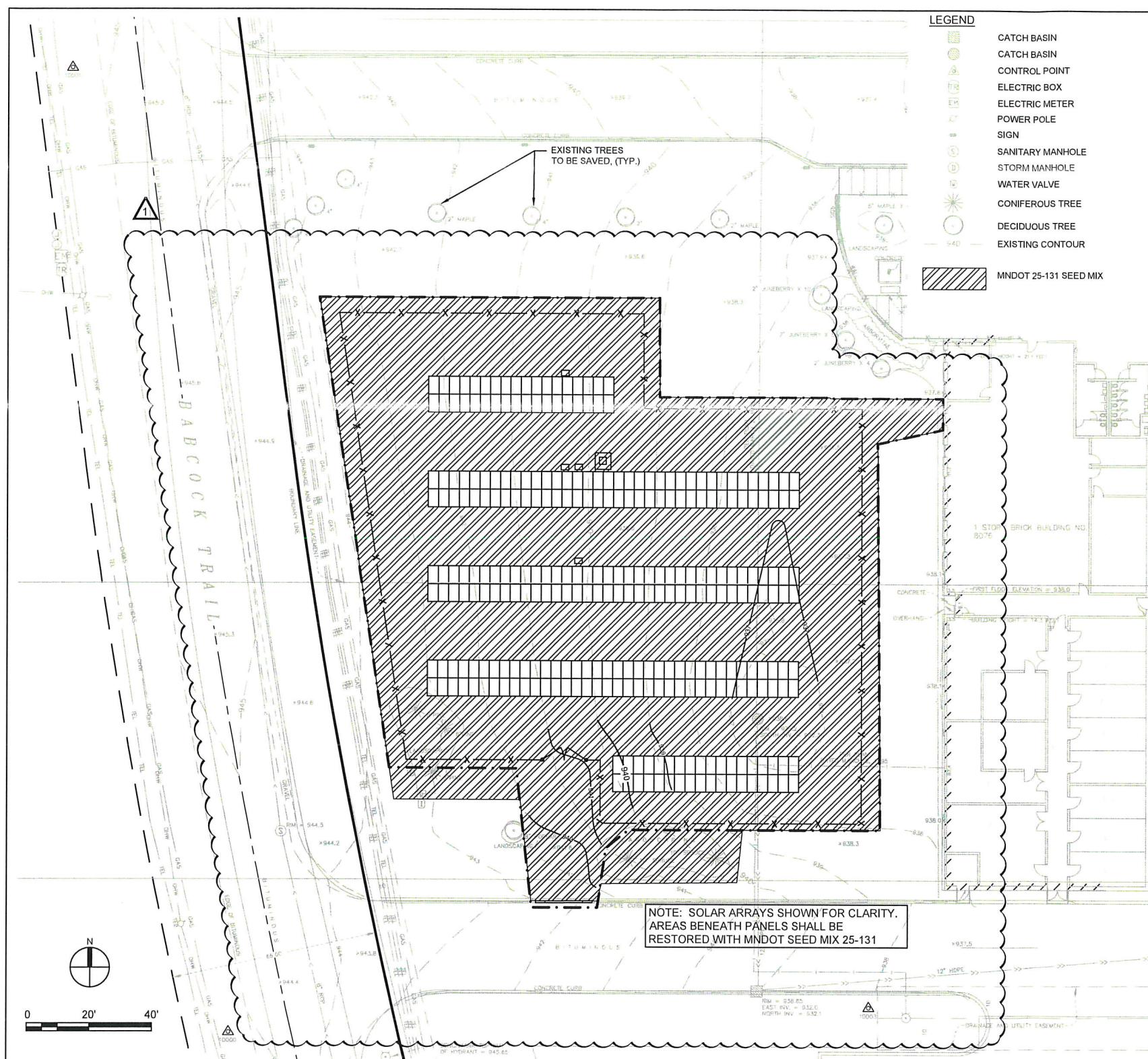
If questions, you email me at dennis.m.arntson.nfg@mail.mil or call (320)616-2609.

Respectfully submitted,



Dennis Arntson
Architectural Supervisor
Facilities Management Office
Camp Ripley
Little Falls, MN 56345

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GENERAL LANDSCAPE NOTES:

1. LANDSCAPE CONTRACTOR SHALL VISIT THE PROJECT SITE PRIOR TO SUBMITTING A BID TO BECOME COMPLETELY FAMILIAR WITH SITE CONDITIONS.
2. ALL ROUGH AND FINISH GRADING TO BE DONE BY OTHERS.
3. NO RESTORATION SHALL BE INSTALLED UNTIL ALL GRADING, BUILDING, CONSTRUCTION, UTILITY WORK & IRRIGATION (IF APPLICABLE) HAS BEEN COMPLETED IN THE AREAS TO BE PLANTED.
4. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO IDENTIFY ALL UNDERGROUND CABLES, CONDUITS, WIRES, ETC., ON THE PROPERTY.
5. THE CONTRACTOR IS RESPONSIBLE FOR COMPLETE MAINTENANCE OF THE RESTORATION MATERIAL (WATERING, SPRAYING, FERTILIZING, MOWING, ETC.) UNTIL THE WORK HAS BEEN ACCEPTED, BY THE OWNER.
6. THE CONTRACTOR IS RESPONSIBLE FOR ALL REPAIRS TO PROPERTY DAMAGE FROM RESTORATION OPERATIONS AT NO COST TO THE OWNER.
7. ALL NEWLY RESTORED AREAS SHALL BE GUARANTEED THROUGH ONE CALENDAR YEAR STARTING FROM THE DATE OF ACCEPTANCE ESTABLISHED BY THE OWNER.
8. THE CONTRACTOR SHALL MEET WITH THE OWNER OR OWNERS REPRESENTATIVE ON SITE WHEN THEY FEEL THE PROJECT IS COMPLETE ACCORDING TO THE CONTRACT DOCUMENTS. IF ALL WORK IS SATISFACTORY AND COMPLETE ACCORDING TO THE CONDITIONS OF THE CONTRACT DOCUMENTS, THEN THE OWNER MUST DECLARE THE PROJECT COMPLETE. THIS DECLARATION WILL CONSTITUTE AS THE BEGINNING OF THE ONE (1) YEAR WARRANTY PERIOD FOR ALL PLANT MATERIAL. THE OWNER SHALL PROVIDE A LETTER WITH SIGNATURE STATING THE DATE OF ACCEPTANCE.
9. LANDSCAPE CONTRACTOR IS REQUIRED TO PROVIDE THE OWNER WITH MAINTENANCE INFORMATION DURING THE GUARANTEE PERIOD RELATING TO WATERING, FERTILIZING, PRUNING, PEST CONTROL, AND RELATED ITEMS. THIS WILL BE PREPARED AND DELIVERED TO THE OWNER AFTER PROVISIONAL INSPECTION APPROVAL HAS BEEN GIVEN BY THE OWNER AND/OR LANDSCAPE ARCHITECT.
10. AREAS TO RECEIVE SEED SHALL HAVE A 6" MINIMUM DEPTH OF TOPSOIL. TOPSOIL SHALL PROVIDE FERTILE, FRIABLE, NATURAL LOAM, SURFACE SOIL, REASONABLY FREE OF SUBSOIL, CLAY CLUMPS, BRUSH WEEDS AND OTHER LITTER, AND FREE OF ROOTS, STUMPS, STONE LARGER THAN 1" IN ANY DIMENSION, AND OTHER EXTRANEIOUS OR TOXIC MATTER HARMFUL TO PLANT GROWTH.
11. ALL AREAS SPECIFIED AS "MNDOT 25-131" TO BE SEEDED PER MNDOT RECOMMENDED APPLICATION RATES AND METHODS. "MNDOT 25-131" OR APPROVED EQUAL IS A BASIS OF DESIGN. CONTRACTOR IS RESPONSIBLE FOR ALL EROSION CONTROL NEEDS TO ESTABLISH VIGOROUS GROWTH PER MNDOT 2014 SEEDING MANUAL STANDARDS.
12. CONTRACTOR TO FIELD VERIFY IRRIGATION SYSTEM, AND MODIFY, EXPAND, REPAIR AND NECESSARY TO ACCOMMODATE CONSTRUCTION AND FINAL RESTORATION.

CALL 48 HOURS BEFORE DIGGING
Utilities Underground Location Center
DIAL 811
811
Know what's below,
Call before you dig.

 STATE OF MINNESOTA DEPARTMENT OF MILITARY AFFAIRS FACILITIES MANAGEMENT OFFICE 15000 HWY 115 LITTLE FALLS, MN 56345 320.616.2604 FAX 320.632.7473	 NATIONAL FACILITY SOLUTIONS, LLC 220 RAMSEY STREET HASTINGS, MN, 55033 PH# 651.319.0170 WWW.NATFAS.COM	 ANDERSON 14405 1st Ave N Plymouth MN 55441 P 763.412.4900 F 763.413.1096 Anderson Engineering of Minnesota, LLC Proj # 15111	I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA. PRINT NAME: JEFFREY W. DEITNER SIGNATURE: _____ DATE: _____ LICENSE NO. 51899	REVISIONS		INSTALL 80KW SOLAR PV ARRAY AT THE INVER GROVE HEIGHTS, MINNESOTA NATIONAL GUARD ARMORY	SITE ADDRESS: 8076 BABCOCK TRAIL INVER GROVE HEIGHTS, MN 55077
				REV	DATE		
	0	04/19/19			BID DOCUMENTS	LANDSCAPE RESTORATION PLAN	PROJECT# 18114 REV NO. 0 DWG NO. C1.02
	1	06/20/19			REVISED SETBACK LAYOUT		