

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA
TUESDAY, MARCH 16, 2021 - 7:00 p.m.**

NOTICE TO RESIDENTS: The Planning Commission is taking proactive steps to prevent the spread of Covid 19 by meeting remote. People wishing to testify at the public hearing should call into the meeting using the following information:

Phone number: 651-450-2471

Individuals may submit written public comments in advance of the meeting by emailing comments to Kim Fox (kfox@ighmn.gov). Comments received prior to 4:00 p.m. on Monday, March 1, 2021, will be provided to the Planning Commission before the March 2, 2021 meeting.

1. CALL TO ORDER

2. APPROVAL OF THE PLANNING COMMISSION MINUTES FOR FEBRUARY 16, 2021

3. OTHER BUSINESS

3.01 CITY OF INVER GROVE HEIGHTS - CASE NO. 21-17X

Review of Capital Expenditure associated with Carleda Way area improvements for City Project No. 2016-09F for consistency with the comprehensive plan.

Planning Commission Action _____

4. APPLICANT REQUESTS AND PUBLIC HEARINGS

4.01 DAVID AND PAULINE NOVACK - CASE NO. 21-11V

Consider a variance request to allow more than one detached accessory structure on the property located at 8775 Bacardi Avenue.

Planning Commission Action _____

4.02 CARAGH O'BRIEN BARTNESS - CASE NO. 21-13S

Consider a preliminary and final plat for a two-lot subdivision located at 1248 90th Street.

Planning Commission Action _____

4.03 CITY OF INVER GROVE HEIGHTS (FENCE ORD) - CASE NO. 21-14ZA

Consider a zoning code amendment to Section 10-15-12 Fences, relating to corner lots.

Planning Commission Action _____

5. ADJOURN

This document is available upon 3 business day request in alternate formats such as Braille, large print, audio recording, etc. Please contact Kim Fox at 651.450.2545 or kfox@ighmn.gov.

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, February 16, 2021 - 7:00 p.m.

****REMOTE MEETING****

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

Commissioners Present: Elizabeth Niemioja
Annette Maggi
Brett Kramer
Dennis Wippermann
Pat Simon
Scott Clancy
Kate Challeen
Joan Robertson
Jonathan Weber

Commissioners Absent:

Others Present: Allan Hunting, City Planner
Heather Rand, Community Development Director
Heather Botten, Associate Planner

APPROVAL OF MINUTES

The minutes from the February 2, 2021 Planning Commission meeting were approved as submitted.

TIM SALSCHIEDER - CASE NO. 20-51V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow one detached accessory building 2,400 gross square feet in size located within the 50-foot setback requirement, and any other variances related thereto, for the property located at 2306 - 99th Street. 10 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the property is about 4.5 acres in size and consists of a single-family home with an attached garage, a pool, and a very large drainage and utility easement on the western portion of the property. About a month ago the Planning Commission reviewed a request for three variances on this property. The City Council then reviewed it and tabled it for the applicant to consider different alternatives. The original request included variances to allow two detached accessory buildings on the property whereas one is allowed. One of the structures was proposed at 1,750 square feet whereas 1,600 is the maximum allowed, and it was located within the 50-foot setback requirement along the north and east property lines. The Planning Commission denied the request as proposed but supported a setback variance for the structure to be 1,600 square feet in size or less. Tonight, the Planning Commission is being asked to consider a new proposal for two variances. The applicant is requesting one detached structure on the property to be up to 2,400 gross square feet in size whereas 1,600 square feet is the maximum allowed, and for it to be located within the 50-foot setback requirement from the north and east property lines. In this scenario the applicant would also like to construct a gazebo on the property near

the pool but there would not be any walls so it would not count towards the number of accessory buildings allowed on the property. Staff believes the size of the proposed larger structure is contrary to the intent of the city code, lots to the north, east and south of the property would have to comply with the same requirements as the applicants, the proposed size could have an impact on the character of the neighborhood, and staff believes that the request would be a convenience for the applicant rather than a practical difficulty. Staff recommends denial of the request as proposed. Staff would, however, support a setback variance for a structure 1,600 gross square feet or smaller to be located 10 feet from the east property line and about 25 feet from the north property line, with the practical difficulty being the large drainage and utility easement, topography, and the location of the drainfield, house and pool on the property. Staff heard from three neighbors with the revised notice, all who had general questions about the request.

Chair Maggi asked if the applicants built the house.

Ms. Botten replied in the affirmative.

Commissioner Weber asked for staff's understanding of City Council's discussion, stating they seemed to steer the applicant in the direction of building one larger structure versus two smaller ones.

Ms. Botten replied her take from the Council meeting was that they may support one structure on the property versus two. They did not allude to any specific size they would consider for that one structure. After the City Council meeting the applicant decided to move forward with one 2,400 square foot structure. Because this was a substantial difference from the initial request staff decided to bring the request back before the Planning Commission. If the applicant had just withdrawn the request for the second building but left the proposed building at 1,750 square feet, it would not have gone back before the Planning Commission.

Commissioner Simon asked if Condition 7 should be removed.

Ms. Botten replied that if the Planning Commission recommends approval of a 2,400 square foot building that condition would then be changed or eliminated.

Chair Maggi asked if the applicant would comply with impervious surface guidelines with a 2,400 square foot building.

Mr. Botten replied they would exceed the impervious surface maximum allowed on the property with a 2,400 square foot building. Therefore, if the variance is approved the applicant would then work with engineering staff on a Storm Water Facilities Maintenance Agreement (SWFMA).

Commissioner Simon asked if a 1,600 square foot building would comply with impervious surface standards.

Ms. Botten replied that it was her understanding that no matter the size of the proposed building they would be over the impervious surface maximum allowed.

Commissioner Robertson asked for clarification of how impervious surface was now calculated and whether a variance was needed.

Ms. Botten advised that the way impervious surface is calculated has not changed, but rather the process for residents to exceed the maximum. Instead of going through the public process of getting a conditional use permit, applicants now work with the engineering staff to acquire a SWFMA. In this case the applicant would not need a variance for additional impervious surface as they are exceeding the maximum, but not the additional 10%.

Opening of Public Hearing

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

Tim Salscheider, 2306 - 99th Street, replied in the affirmative. He stated that his property is unique in that he has an 11,000-square foot driveway. Also, all his impervious surface will continue to drain to the drainage easement area on his own property. He noted that the Planning Commission previously recommended approval of a variance for the 10-foot setback of a 1,600 square foot building. Even though this building is larger, in his opinion a building is a building. He felt that City Council led him in the direction that they would perhaps approve a larger structure if there was only one rather than two.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi stated the challenge will be defining a practical difficulty for a 2,400 square foot accessory structure.

Commissioner Wippermann asked if the surrounding properties would be subject to the 1,600 square foot maximum.

Ms. Botten replied in the affirmative.

Commissioner Wippermann stated this would be the exception in the neighborhood and would set a substantial precedent of a 50% increase over the code standard.

Commissioner Niemioja supported the setback variance with topography being the practical difficulty. However, she does not think a building is just a building and was concerned that this could set a precedent that residents could build a structure of any size as long as they do not build multiple structures. She would also be reluctant to use the 11,000 square foot driveway as impervious surface justification since there are many large driveways in the city.

Commissioner Weber stated he would prefer that maximum building size be determined on a ratio basis rather than tied to a specific lot size of 2.5 or 5 acres. A lot 5 acres or larger would allow a 2,400 square foot building. The subject property is so close to 5 acres that he could support allowing a building size close to 2,400 based on lot size ratio.

Commissioner Robertson asked what size structure would be allowed if this lot was 5 acres.

Ms. Botten replied that a lot 5 acres or greater in this zoning district would be allowed up to two detached accessory structures totaling up to 2,400 gross square feet.

Commissioner Robertson stated that recognizing that we do not yet have a code that allows the size of the accessory building to be built based on a ratio, she opposed the first proposal of 1,750 square feet based on precedent and lack of a practical difficulty and she opposed this one

as well which is 50% larger than the original request. Commissioner Robertson then experienced technical difficulties and temporarily lost connection to the meeting.

Commissioner Kramer applauded the applicant for going through the proper process. He agreed with Commissioner Weber's suggestion to look at revising the code to perhaps calculate accessory structure size using a ratio system. At this time, however, they need to abide by the current regulations. In this case he does not believe it changes the character of the neighborhood because only two neighbors would be able to see the proposed building; however, it would set a precedent that could potentially alter the neighborhood in the future. He would like to find a way to allow the applicant to get his building built but, in his opinion, it should be a little closer to what the maximum allowed is at this point.

Commissioner Simon stated she could not find a hardship and was concerned about the precedent this would set if a 2,400 square foot building was allowed. She has seen the allowed size of accessory structures increase continually over the years and for those reasons she could not support the request for a 2,400 square foot building.

Commissioner Weber asked if they could deny the variance to allow a 2,400 square foot building based on lack of a practical difficulty but base the second variance on a ratio and recommend approval of a variance to allow a 2,169 square foot building within the setback. That way if Council decided to move forward with that recommendation, they would not have to bring the request back before the Planning Commission.

Ms. Botten suggested to instead make a motion to approve the setback variance but eliminate the condition limiting the building to 1,600 gross square feet.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Robertson, to deny the request for a variance to allow one detached accessory building 2,400 gross square feet in size, for the property located at 2306 - 99th Avenue, due to lack of a practical difficulty.

Motion carried (9/0).

Motion by Commissioner Weber, second by Commissioner Kramer, to approve the request to allow a structure larger than 1,000 gross square feet to be located 10 feet from the east property and about 25 feet from the north property, with Conditions 1-6, excluding Condition 7, and the practical difficulty as listed in the report.

Motion carried (9/0). This item goes to the City Council on March 8, 2021.

M/I HOMES - CASE NO. 21-06PUD

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a comprehensive plan amendment to change the guided land use from P, Institutional to MDR, Medium Density Residential, a rezoning from P, Public/Institutional to PUD, Planned Unit Development, a preliminary plat and preliminary PUD for an 80-lot development (10 single-family homes, 70 townhomes), and a conditional use permit for a 70-lot townhome development, and any other variances related thereto, for the former South Grove Elementary

school site. 137 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 develop the former South Grove Elementary school site into a residential neighborhood consisting of 70 townhome units and 10 single-family homes. The project is proposed as a planned unit development (PUD) to provide some flexibility in design. The applicants are requesting to change the land use from Public/Institutional to MDR, Medium Density Residential and the zoning from P, Institutional to R-1C/PUD, Single Family Planned Unit Development and R-3B, Multiple Family Planned Unit Development. The site is currently surrounded by a mix of residential uses including townhomes and single-family homes. Staff feels the proposed land use and zoning designations would be consistent with the neighborhood. The plans include extending Cloman Way from the north and constructing a new east-west street that would connect to Clayton Avenue. The balance would be private roads. The public streets would be 28 feet wide which would allow parking on one side. Some of the private streets would be 28 feet wide as well which would provide additional parking on one side. They have provided some guest parking spots as well. The applicant is requesting flexibility from standards to allow 26% building coverage whereas 20% is the maximum allowed. Lot sizes in the single-family neighborhood would range from 6,875 square feet to 9,713 square feet and lot widths would be 55 feet and Lot 1 would be 80 feet. Townhome lots do not have a required minimum lot size or width. The applicants are requesting some internal setback reductions to the front yards and to allow a separation of 15 feet whereas 20 feet is the code standard. All perimeter setbacks would be met. Overall impervious surface of the site would be below allowed impervious surface for both zoning standards. The PUD requires 15% of the site to be in permanent open space and it will be provided primarily in the southeast corner of the site. Most of the trees would be removed but they are meeting the requirements for general landscaping and reforestation. Generally, the stormwater system would be accommodated with a stormwater pond in the southeast corner and it would flow into existing storm systems for the area. Engineering held another virtual meeting last week with three of the residents in the Oaks townhomes to answer some of their questions on stormwater and ponding concerns. Staff believes their questions were answered, and they were satisfied that the design of the system would not add additional runoff going eastward. By code, a conditional use permit is required for all multiple-family developments. The project complies with the review criteria. He noted that the packet included 2 or 3 emails from residents and Planning Commissioners received two additional emails sent separately. He also had a phone conversation with someone living at the Oaks who had some concerns. Staff recommends approval of the request with the conditions listed in the report.

Chair Maggi asked what happened with a previous proposal for this site.

Mr. Hunting replied that the City received an application 3-4 years ago for a couple of apartment buildings and some townhomes, but it was withdrawn before going through the public review process.

Chair Maggi asked if this property was owned by the school district.

Mr. Hunting replied in the affirmative.

Chair Maggi asked if the sale of the property would be between the school district and the developer.

Mr. Hunting replied in the affirmative, stating the City had no involvement in the sale and does not own the property.

Commissioner Simon referred to the preliminary plat and asked for clarification of what looked like proposed buildings within a drainage and utility easement.

Mr. Hunting explained that the verbiage was referring to a common open space area and the driveway area; the lots are separate from any of the drainage easements.

Commissioner Simon asked if there were any comments from the fire department.

Mr. Hunting replied that Fire had no issues with the request as it met their requirements.

Commissioner Simon asked if the fire department required sprinklers in these townhomes.

Mr. Hunting suggested they ask the developer that question.

Commissioner Simon asked if the neighbors to the north would be able to access their backyards once this property was developed.

Mr. Hunting suggested that the applicant address that question.

Commissioner Niemioja asked if this lot was too small for a school to be built under current codes.

Mr. Hunting replied that he was unsure.

Commissioner Niemioja asked if these would be rental or owner-occupied units.

Mr. Hunting replied they will be for sale (\$300,000-plus per unit).

Commissioner Niemioja noted the traffic concerns raised by neighbors and asked what safety measures would be put in place around this neighborhood.

Mr. Hunting replied that the public works director had hoped to have a response to that question for this meeting but was unable to draft it in time.

Commissioner Niemioja asked if Mr. Dodge could address some of the engineering concerns from the surrounding homeowners.

Steve Dodge, Assistant City Engineer, stated the concerns from the Oaks were mainly about drainage coming off the impervious surface towards the Oaks property to the north or east. The developer will be capturing their impervious surface stormwater and they are providing a drainage swale on the north and east that directs stormwater to the proposed pond in the southeast corner of the site. The City has advised the developer that the proposed drainage swale should have the capacity to convey a 100-year storm event. Because they manage things under winter conditions as well, the developer must leave some extra space for water to move. The developer agreed to look at the areas around Lots 13, 22, 14 and 21 to make sure they have the capacity to treat any water draining that way. The Oaks was also concerned about snow

storage and the developer advised they left enough space for snow storage, which would drain towards the pond. Some of the backyards of the Oaks have seen water up to their porches. The developer, the City, and the City's water resources engineer, Barr Engineering, are going to look at the flood elevations for the area, the stormwater management plan, and the emergency overflows to verify that the neighbors on all borders of the plat are protected. Generally, the Oaks seemed to be receptive of the developer's responses and the City requirements.

Chair Maggi noted that the Planning Commission generally looks at stormwater management within the plot of land being developed at the time but asked if engineering staff looked at stormwater management more comprehensively, such as within a five-mile radius.

Mr. Dodge replied in the affirmative, stating they look not only at the subject property, but also at adjacent and downstream properties and the comprehensive design of the trunk storm sewer system.

Commissioner Weber asked if the 10 single-family lots on the southern portion of the plat needed to meet the R-1C 100-foot minimum lot width requirement for corner lots and 85-foot for interior lots.

Mr. Hunting replied that part of their request is for flexibility from the standard lot sizes to allow those to be reduced to 55-feet wide and about 6,800 square feet in total area, with corner lots being a bit larger.

Chair Maggi stated they should consider is how the reduced lot sizes would impact potential homeowner requests for decks and patios in the future.

Commissioner Wippermann stated that typically when the City agrees to flexibility requests for a PUD project, they get something in return, such as extra open space. He asked what the City was gaining in this case.

Mr. Hunting replied it is an opportunity to develop the site to its fullest potential while providing current trends in development that the market is looking for (i.e., smaller lots and reduced lot widths).

Commissioner Wippermann stated the neighborhood to the south had much larger lots compared to what is being proposed and questioned why they were allowing them to pack so many homes onto this piece of property.

Opening of Public Hearing

John Rask, M/I Homes, 5354 Parkdale Avenue, St. Louis Park, advised he was available to answer any questions.

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

Mr. Rask replied in the affirmative. He advised that M/I Homes purchased Hans Hagen Homes about 5 years ago but have been building and developing land in the Twin Cities for nearly 60 years. They were brought into this site by Dick Braun and Mark Gunther, who thought they would be a good fit for this project given the type of townhomes they build and how this site was laid out. To answer previously asked questions, he advised that the units would be fully sprinkled. Each unit has its own fire suppression system as required by code. Regarding access

to the back yards for the development to the north, Mr. Rask advised that the Oaks townhome fences were constructed along the property line which in essence landlocked themselves. They spoke with some of the members of the Oaks HOA Board about that issue and agreed to provide access over that area for any of the adjacent residents that would need to get access to the rear of their fence. In response to the question about whether this site was too small for a school, his understanding was that there was no specific minimum lot size for a school and in this case the school district likely just decided the site was not adequate and elected to sell it. Regarding price and ownership, the townhomes are all for sale units with prices starting at \$300,000-\$350,000, depending on what upgrades buyers choose. All units are three bedrooms, 2.5 baths, and range in size from 1,750 to 2,400 square feet. The single-family villa homes are one-level living. They do not have age restrictions on the homes, but they are designed for the empty nester with main floor master and laundry and smaller lots that are easy to maintain. A patio space design is provided outside the 30-foot setback. The homeowners in the single-family villas will own and maintain their own home but must still adhere to association guidelines, such as not being allowed to build a shed or house addition. The homes will sell in the upper \$300,000's to low \$400,000's. Regarding parks, these homes are not being marketed to families with children so likely that will not be a factor. Also, they realize that the single-family lots are not as large as those to the south, but the idea was to provide an appropriate transition from the single-family neighborhood to the townhomes and apartments to the north. Regarding traffic, they normally do not do traffic studies for townhome communities less than 100-150 units. With townhomes in general there is not a peak demand like you would have in commercial areas where everyone arrives and leaves at the same time. It is similar to single-family neighborhoods with the exception that family size and traffic counts tend to be lower in townhomes than single family. They have worked with the Oaks and understand their concerns and are working through that with the City and their stormwater consultant to come up with a plan that addresses those concerns. The Oaks have existing drainage problems, and their goal is not to add to their problem and perhaps even help them by rerouting stormwater.

Chair Maggi closed the public hearing.

Planning Commission Discussion

Chair Maggi appreciated that the neighbors raised valid questions and the developers seem to have addressed those concerns. She had some concerns about smaller lot sizes based on historical precedence but felt perhaps the single-family homes being targeted to empty nesters would make a difference.

Commissioner Clancy stated the lot size question is still debatable, but the applicant's explanation for why they are the size that they are makes sense. He felt confident that many of the questions posed by the surrounding residents have been answered and he was reassured that the building department will have another chance to look at drainage and utility easements.

Commissioner Niemioja appreciated Mr. Dodge addressing her main concern, which is stormwater management. She believes that traffic will be addressed at some point and having the patio built into the design and this being part of an HOA makes her more comfortable with the single-family home lot sizes.

Commissioner Wippermann stated he did not have an issue with the smaller lots since they were being built as villa homes targeted for empty nesters, similar to what was approved in the Canvas development. He would have had an issue if it were designated as a regular single-family area with families and youngsters.

Commissioner Kramer stated he was comfortable with the smaller lots knowing that there were only 10 villa homes and he felt it would provide a natural progression of uses and densities. He stated this property has been vacant for a long time and he thinks this development will bring vibrancy to the neighborhood with more people walking, using Oakwood Park, and visiting local businesses.

Planning Commission Recommendation

Motion by Commissioner Weber, second by Commissioner Niemioja, to approve the request for a comprehensive plan amendment to change the guided land use from P, Institutional to MDR, Medium Density Residential, a rezoning from P, Public/Institutional to PUD, Planned Unit Development, a preliminary plat and preliminary PUD for an 80-lot development (10 single-family homes, 70 townhomes), and a conditional use permit for a 70-lot town home development, for the former South Grove Elementary school site, with the conditions listed in the report.

Motion carried (9/0). This item goes to the City Council on March 8, 2021.

The meeting was unanimously adjourned at 8:23 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary



PLANNING REPORT

CASE NO: 21-17X

MEETING DATE: March 16, 2021

APPLICANT: City of Inver Grove Heights

PROPERTY OWNER: N/A

REQUEST: Review of Capital Expenditure associated with Carleda Way improvements City Project 2016-09F

LOCATION: N/A

COMPREHENSIVE PLAN: N/A

ZONING: N/A

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

The City Council reviewed a feasibility report at their March 8, 2021 meeting regarding this project

Assistant City Engineer Steve Dodge has prepared a brief memo with a map illustrating the improvements.

Per State Statutes, the Planning Commission must review capital improvement projects for consistency with the Comprehensive Plan (Minnesota Statute 462.356 subd. 2).

EVALUATION OF THE REQUEST

Compliance with the Comprehensive Plan. Minnesota Statutes requires the Planning Commission to review capital improvement projects to verify they are in compliance with the City's Comprehensive Plan.

The capital improvement project would fall under Chapter 5 Transportation of the comprehensive plan. The project would be consistent with the 2040 comp plan.

ALTERNATIVES

A. Approval. If the Planning Commission finds the request acceptable, the following actions should take place:

- An Approval recommendation that the capital expenditures for Carleda Way improvements per City Project 2016-09F is consistent with the Comprehensive Plan.

B. Denial. If the Planning Commission does not find the proposed project consistent with the Comprehensive Plan, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

The Engineering Department and Planning Staff both recommend the capital expenditure be found consistent with the Comprehensive Plan.

Attachment: Memo from Steve Dodge, Assistant City Engineer

Memo



To: Allan Hunting, City Planner

From: Steve Dodge, Assistant City Engineer *SWD*

cc: Klay Eckles, Interim Public Works Director

Thomas J. Kaldunski, City Engineer

Bridget McCauley Nason, City Attorney

Luke Moren, Consultant Project Manager, Kimley-Horn

Date: March 10, 2021

Re: Carleda Way Area Improvements: Review for Consistency with Comprehensive Plan

Review for Consistency with Comprehensive Plan

Carleda Way Area Improvements

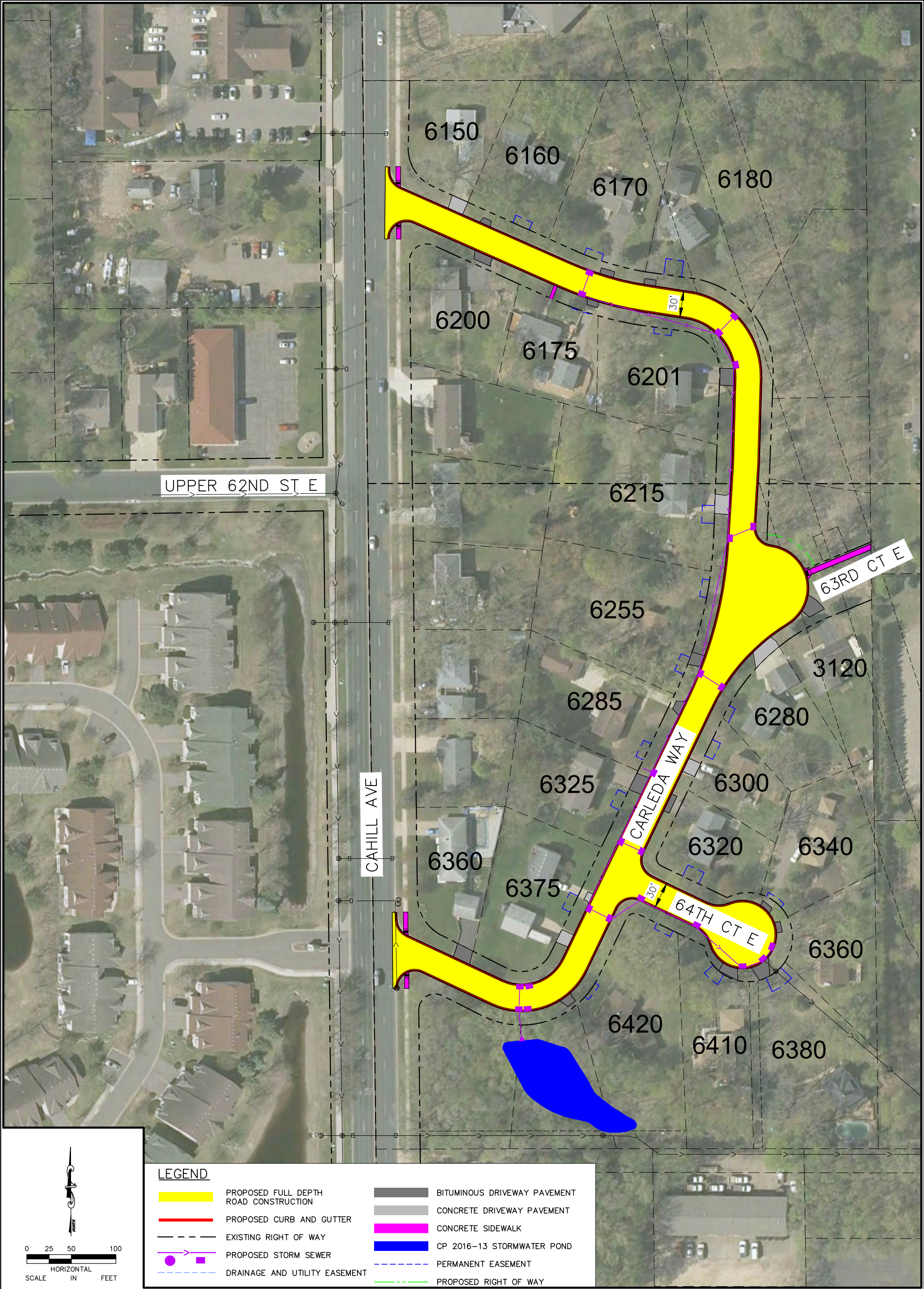
City Project No. 2016-09F

At the March 8, 2021 regular meeting, City Council received the feasibility report for City Project No. 2016-09F Carleda Way Area Improvements and scheduled the Public Improvement Hearing for April 12, 2021. The location map is attached. This project entails a street reconstruction, watermain system replacement, sanitary sewer system replacement, and storm sewer system upgrades and related improvements. The project is scheduled to be constructed in 2022 along with City Project 2016-13 Cahill Trunk Drainage Improvements. Carleda Way Area Improvements was approved in the 2020 Capital Improvement Plan by Council.

The Planning Commission should review the project to ensure it is consistent with the City's Comprehensive Plan.

SWD/sd

Attachments: Exhibit - Street and Storm Improvements
Exhibit - Utility Improvements

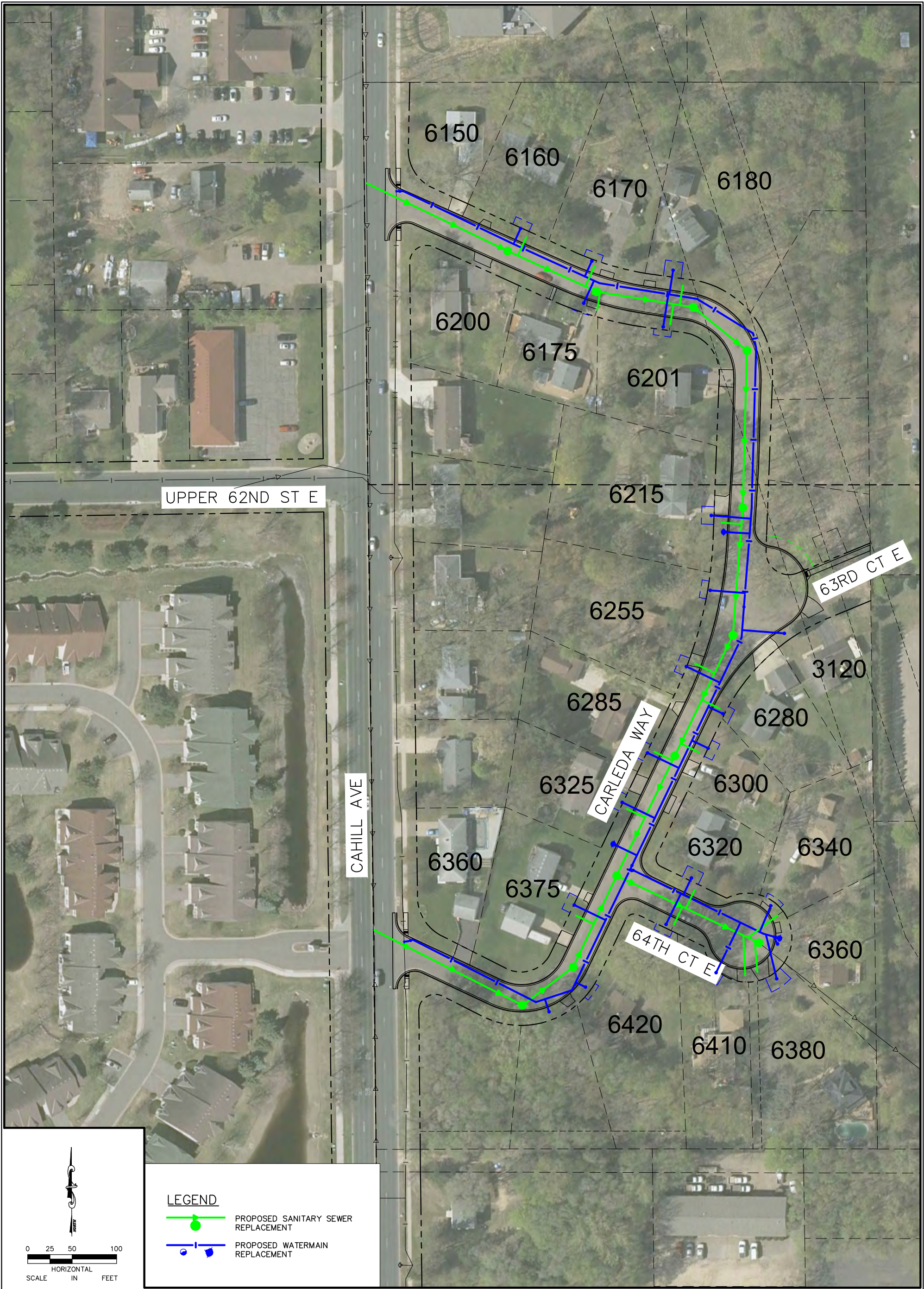


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STREET AND STORM SEWER IMPROVEMENTS MAP

CARLEDA WAY AREA STREET RECONSTRUCTION AND
UTILITY IMPROVEMENTS
CITY PROJECT 2016-09F
EXHIBIT 3



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UTILITY IMPROVEMENTS MAP

CARLEDA WAY AREA STREET RECONSTRUCTION AND
UTILITY IMPROVEMENTS
CITY PROJECT 2016-09F
EXHIBIT 4



PLANNING REPORT

CASE NO: 21-11V

APPLICANT/PROPERTY OWNER: David and Pauline Novack

REQUEST: Variance to allow more than one detached accessory structure

HEARING DATE: March 16, 2021

LOCATION: 8775 Bacardi Avenue

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: R-1C, Single Family Residential

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Heather Botten
Associate Planner

BACKGROUND

The applicant is proposing a detached 512 square foot building that would be used as a hot tub enclosure. The lot contains the principal home, a detached garage approximately 760 square feet in size and a small shed. The property is zoned R-1C which allows only one detached accessory structure over 120 square feet. The applicants have started construction of the structure but stopped work once they were made aware a permit was required. A building permit has been applied for but is on hold for further staff review until the variance process is complete.

The location of the shed would be 16 feet from the rear property line and 6 from the side property line, complying with code requirements.

With all the improvements on the lot, staff did a rough calculation of impervious surface on the lot from aerial photography. The lot in question is 17,399 square feet in size. With a lot of this size, a total of 5,100 square feet of impervious surface is allowed. Staff calculated approximately 4,500 square feet of existing impervious, plus the additional 512 square feet would give a total of approximately 5,012 square feet of impervious surface on the lot. Total calculations to be verified by the homeowner with the building permit. If the property exceeds the total allowance of 5,100 square feet the homeowner shall work with the Engineering Department on obtaining a storm water facilities maintenance agreement.

The applicant has provided a narrative which gives additional details on the request and their rationale for approval.

EVALUATION OF THE REQUEST

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

North: Single family; zoned R-1C; guided LDR
East: Single family; zoned R-1C; guided LDR
West: Single family; zoned R-1C; guided LDR
South: Single family; zoned R-1C; guided LDR

VARIANCE

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

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

The City Council has reviewed and modified the allowed size and number of accessory structures over the years, increasing the size on larger lots, but has held the size and number in the urban areas to control the massing and bulk of structures on a lot. Even though the applicant is complying with setbacks and other zoning code requirements, staff does not believe the variance request is consistent with, or in harmony with the zoning ordinance and comprehensive plan.

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

The property does not have an attached garage. City Code does not allow flexibility for properties that do not have an attached garage to have more than one or larger detached structures. The property can be used in reasonable manner without the need for a variance.

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

There do not appear to be any unique circumstances not created by the landowner. The lot already contains a detached accessory structure.

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

From aerial photo review and photos submitted by the applicant, there does appear to be other lots in the vicinity that contain more than one accessory structure although some of the secondary structures are less than 120 square feet and do not count toward the total number allowed on a property.

5. *Economic considerations alone do not constitute an undue hardship.*
Economic considerations do not appear to be a basis or a sole basis for either of these requests.

ALTERNATIVES

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

- A. Approval.** If the Planning Commission finds the application to be acceptable, the following action should be taken:
- Approval of the **Variance** to allow more than one detached accessory structure subject to the following conditions:
 1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.
 2. Final site, grading, impervious surface, storm water management, and erosion control plans shall be approved by the City Engineer.
 3. The developer shall meet the conditions outlined in the City Engineers review memo and any subsequent correspondence.
 4. All building and electrical permits shall be pulled and approved by the respective agencies before occupying the structure.

Hardship: To be stated

- B. Denial.** If the Planning Commission does not favor the proposed variance request, it should be recommended for denial, which could be based on the following rationale:

1. Denying the variance request does not preclude the applicant from reasonable use of the property.
2. Approval of the variance could set a precedent for the number of accessory buildings allowed on R-1C property.
3. The facts presented did not satisfy the criteria needed to show a practical difficulty on the lot to support granting a variance. Allowing more than one detached accessory structure appears to be a convenience to the landowner and not dictated by unique circumstances of the property.

RECOMMENDATION

Over the years the Council has reviewed the ordinance to address the issue of size and number of accessory structures. Staff considers the direction for the City to limit size and number of

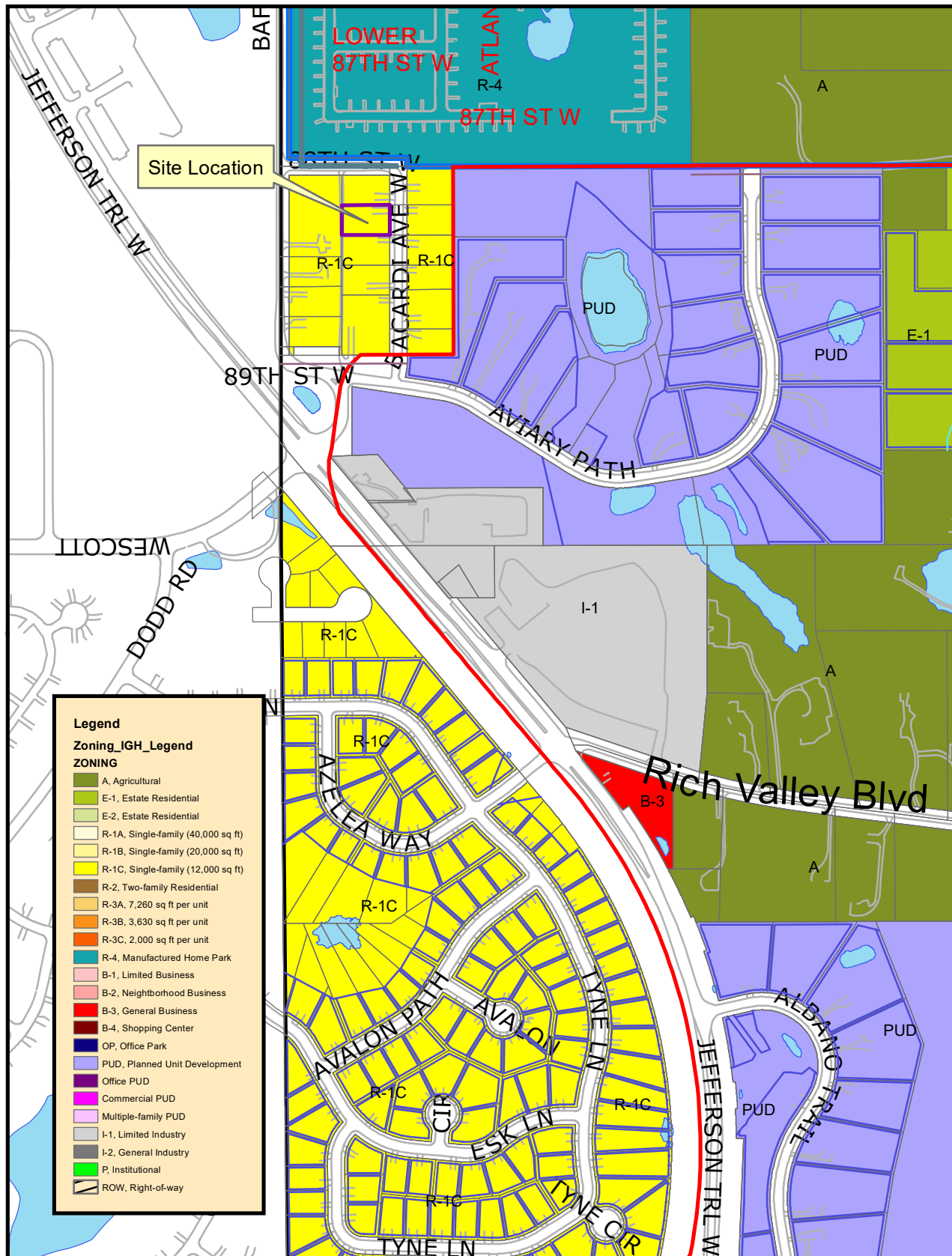
accessory structures to control the massing, bulk and over developing of lots with numerous accessory buildings. For the reasons listed in alternative B staff is recommending denial of the proposed variance request.

*In July 2020, the Planning Commission discussed a possible ordinance amendment to increase the size of detached accessory buildings in urban area. A couple Commission members brought up the possibility of allowing an additional structure for the properties that did not have an attached garage. The general consensus of the discussion was to leave the code requirements as they are and re-evaluate periodically.

Attachments: Zoning and Location Map
Site plan
Applicant Narrative including photos of neighboring properties
Letter from neighbor



8775 Bacardi Avenue Case No. 21-11V



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

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

Map not to scale

David & Polly Novack Family
8775 Bacardi Avenue W
Inver Grove Heights, MN 55077

651.270.8795

polly.novack@yahoo.com

January 30, 2021

City of Inver Grove Heights
8150 Barbara Avenue
Inver Grove Heights, MN 55077

Re: Request for Variance
David L and Pauline M Novack
County Pin #20-0180058111

To Whom It Concerns:

The purpose of this letter is to request a variance for an additional structure to be assembled in the back yard of the above listed property.

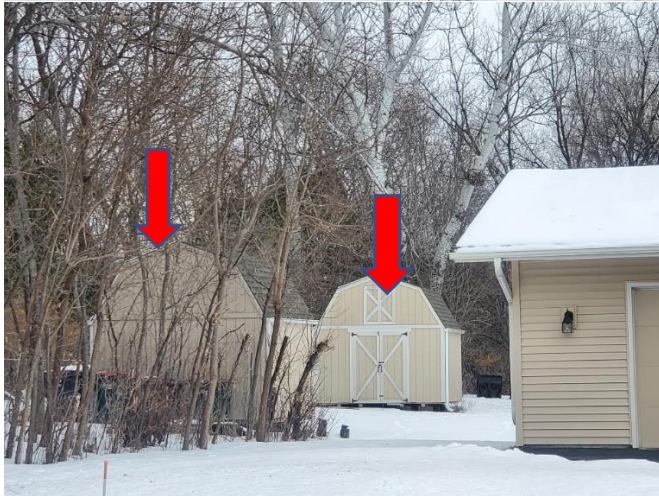
The deck was constructed in late November and finished shortly before the Thanksgiving holiday. We received notification that we did not need a permit for the deck. It was indeed our fault for not pulling a permit on the structure. When we did not need one for the deck or the storage shed, it was an oversight. We had pulled permit for every other project.

All building work has temporarily ceased until this variance request has been approved. The structure covers the entire deck.

The primary reason for enclosing our hot tub is many. One, my wife has a severe bee allergy. So we wanted to give her a place where she could sit outside without the worries of bees. Number two, we wanted to protect our hot tub from neighbor power lines. We buried ours, but we still wanted to be certain we did not have any issues there. Lastly, for security reason. Since installing the hot tub, only two weeks ago we had someone in our hot tub. We want to put a lock on the structure, to prevent unauthorized usage.

We were told that there was an issue with set back but working with Heather, we have been informed that we meet set back and that we only need a variance for having an additional structure. We were not aware of a provision that limits the number of detached buildings on one's property. Numerous properties on our block of Bacardi Avenue West have multiple structures. If like ours, the garage is unattached I am counting that as a separate structure.

8760 Bacardi Ave. has three structures.



8810 Bacardi Ave larger in size then 10x12



8868 Bacardi Ave. Has two additional structures. While they have an attached garage they have a structure as large as their attached garage.



8851 Bacardi Ave. Has three additional structures.



8842 Argenta Trail



8820 Argenta Trail Has multiple structures.



8804 ArgentaTrail Has two additional structures.



8801 Bacardi Ave. Has multiple structures



8820 Bacardi Ave Has multiple structures



NONE of these pictures for any of our neighbors is included to get them in trouble and have them face the issues that we are. We are simply pointing out that others have additional structures; some large some small.

I want to be really clear we are not wanting to get any of our neighbors in trouble. We are simply pointing out that other properties have additional structure. So we do not know why a neighbor would complain.

- The variance is not going to detract from the public or the neighborhoods. We will be using the same color scheme and material, so curb appeal will not be affected.
- The variance does not block any light from any light from our neighbors.
- The variance does not change the open space within our back yard. The deck was already approved. The foot print is the exact same.
- The additional structure has all of the necessary set backs and allows for plenty of access for any maintenance on all sides.
- The variance request is in line with the City Code and Comprehensive plan
 - Comprehensive plan because of the enclosure, we are aware that our property taxes will increase.
 - Comprehensive plan. We did this major renovation so we could make the property ours as we plan on staying for the next 25 years. "The Aging in Place"
 - Comprehensive plan. None of the changes detract from the character of the existing neighbors. IN fact it will proved us with privacy, which on the reverse side provides them with more privacy as well.
 - Comprehensive plan. Does not change the density/LDR of our home.
 - Comprehensive plan. Does not change the zoning of our home.
 - Comprehensive plan. Does not change the characters of neighborhood. I would say the changes are enhancing our neighborhood.
 - The variance does not effect the Northwest area stormwater plan. In fact the roof water will be captured for gardening.
 - Comprehensive plan. LDR none of the variance effect public water or sanitary sewer.

We feel that all of the above reasons, issuing a variance is not an issue with the city zoning plan, does not create any additional burden on the city or our neighbors. For these reasons we ask the city council to grant us a variance.

March 10, 2021

To: The Members of the Planning Commission of the City of Inver Grove Heights
From: Linda Dehrer-Wendt and John Wendt
Re: Opposition to Case No: 21-11v David and Pauline Novack

Dear Members of the Commission,

We own the property at 8804 Argenta Trail in Inver Grove Heights. That property is immediately next to the property located at 8875 Bacardi owned by the Novacks who are seeking a number of variances. We strongly oppose those requests.

Among the variances sought by the owners of 8875 Bacardi, one is to allow more than one detached accessory building on a property. Regarding the new additional structure, there are already three detached structures on the property – a house, an oversized garage, and a detached shed. This new building, the one that they are seeking a variance for, is approximately 25 feet by 15 feet. This is the fourth detached structure all on a lot of 0.4 of an acre!

A second request is for a variance to allow a structure to be located six feet from the rear property line whereas eight feet is required. Please be aware that there has been and continues to be a recorded alley easement that runs the entire length of the block from 88th Street West to the south. All of the properties along the block, including 8875 Bacardi Avenue and 8804 Argenta Trail are “subject to an easement for alley purposes.” That easement is in the recorded deeds of all the neighbors on the block including the Novacks.

Any items placed in the alley easement do and will impede the use of the alley. However, the Novacks, aware of the easement, inserted an electrical box into the alley in violation of the easement. And now, after the fact, a variance is requested for a problem they created? If, the variances that we oppose are approved, the Novacks need to move the box out of alley easement and re-install box onto their property.

We also have a question about the construction of the building. The building that they put up is very large and yet it appears that there are no footings or a proper foundation. It is simply sitting on a few small concrete blocks?

In summary, the variances should be denied because the plight of the landowner is not due to circumstances unique to the property. Here the property owners were the one who created the problem themselves!

This is an inconvenience, not a practical difficulty. It is not a practical difficulty caused by particular physical surroundings, shape, or topographical conditions of the property. The facts presented do not satisfy the criteria needed to show a practical difficulty to support granting of the variances.

And economic considerations alone do not constitute practical difficulties.

Finally, denying the variance does not preclude the applicants from reasonable use of the property. However, the variances would affect the neighbors and the unencumbered use and enjoyment of the easement as well as establishing a dangerous precedent for other variances. If a variance is granted for one property owner, then you create a precedent for all the property owners along the block with the option or opportunity to request their own variances which would be detrimental to the very use and purpose of the easement.

Again, we strongly oppose these requests and respectfully ask the Commission to deny the variances.

Thank you,

Linda Dehrer-Wendt and John Wendt
8804 Argenta Trail, Inver Grove Heights



PLANNING REPORT

CASE NO: 21-13S

APPLICANT: Caragh O'Brien Bartness

PROPERTY OWNER: Caragh O'Brien Bartness

REQUEST: Preliminary and Final Plat

HEARING DATE: March 22, 2021

LOCATION: 12 90th Street E.

COMPREHENSIVE PLAN: RDR, Rural Density Residential

ZONING: E-1, Estate Residential (2.5 acre min)

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

The applicant is proposing to subdivide the property creating one new 2.5 acre lot around the existing house on the property and one lot of approximately 19 acres containing the balance of the property. The new 2.5 acre lot would be sold and the remaining 19 acre lot would be retained by the applicant and used agriculturally.

SPECIFIC REQUESTS

The application consists of the following:

1. A Preliminary and Final Plat for a two lot subdivision to be know as Obrien Oak Terrace.

EVALUATION OF THE REQUEST

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

North: Large lot residential; zoned E-1/PUD; guided RDR

East: Large lot residential; zoned E-1; guided RDR

West: Large lot residential; zoned E-1 and E-2; guided RDR

South: Large lot residential; zoned E-1; guided RDR

PRELIMINARY AND FINAL PLAT

Lots & Blocks. The following lists the required minimum lot size and area for the E-1 district:

	<u>Lot Area</u>	<u>Lot Width</u>
E-1	2.5 acre minimum	200 feet minimum

Lot 1 would be 2.5 acres in size and 390 feet wide along 90th Street. Lot 2 would be 18.81 acres and 523 feet along 90th Street.

Park Dedication. Park dedication would be due for the newly created lot. The applicant has already paid the cash contribution fee so no further action is required.

Access/Streets. The property abuts 90th Street. A portion of 90th from Hwy 3 to approximately 454 feet east is within public right-of-way. As 90th Street heads south, it has functioned as a private street within a 63 foot wide road and utility easement. The plat is dedicating the existing 33 foot half right-of-way to public right-of-way.

Lot 1 would continue to use the existing driveway which goes to the northwest corner of the lot. There is an existing driveway easement that serves the house on the exception lot on the east side of the plat. The applicant has prepared and will record a new section of easement that will connect Lot 1 to the existing driveway easement over Lot 2 (see driveway exhibit). This ensures access for all lots to connect to 90th Street.

ALTERNATIVES

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

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

- Approve the Preliminary and Final Plat of Obrien Oak Terrace as presented.

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

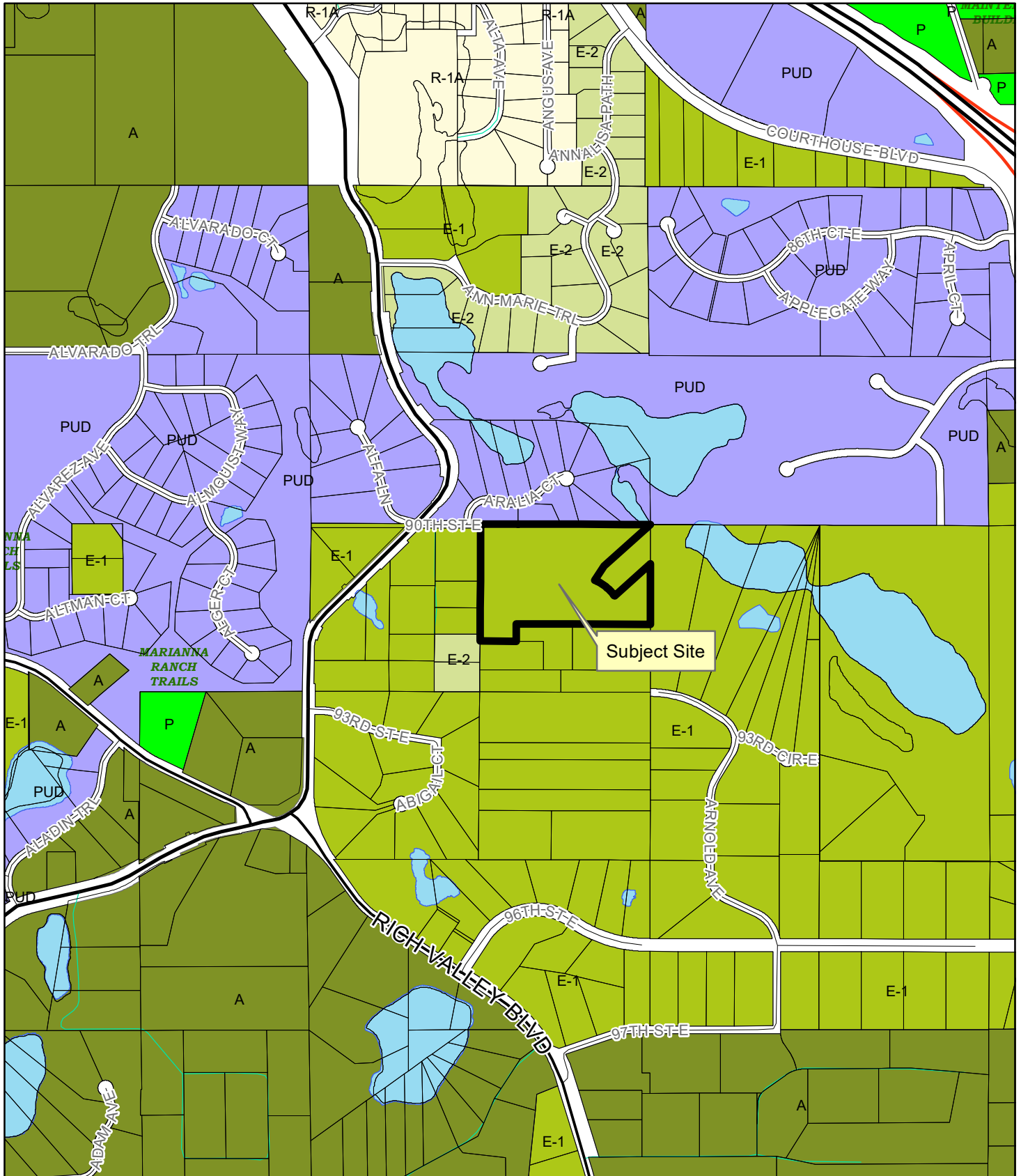
RECOMMENDATION

Staff recommends approval of the preliminary and final plat as presented.

Attachments: Location Map
Applicant Narrative
Preliminary Plat
Final Plat
Driveway Easement Map

Location Map

Case No. 21-13S



1260 90th St E
Inver Grove Heights, MN 55077

City of Inver Grove Heights
8150 Barbara Ave
Inver Grove Heights, MN 55077

February 5, 2021

To Whom It May Concern:

The purpose of the Preliminary Plat and the Final Plat is to split the parcel of land at 1248 90th St E, IGH MN 55077 into two parcels.

- The first parcel will contain the house, the barns and 2.5 acres.
- The second parcel will contain 19.5 acres of agricultural land.

The first parcel will be sold and the second parcel will be retained by the current owner. No development will take place on the second parcel. It will continue to be used agriculturally.

Sincerely,



Caragh O'Brien TSTE Bartness

LEGAL DESCRIPTION

The North 777.5 feet and the South 135.5 feet of the North 913.0 feet of the West 282.0 feet of the East Half of the Northwest Quarter of Section 20, Township 27, Range 22.

LESS:

That part of the Northwest Quarter of Section 20, Township 27 North, Range 22 West, Dakota County, Minnesota, described as follows:

Beginning at the Northeast corner of said Northwest Quarter, thence South 0 degrees 10 minutes 57 seconds West (bearing assumed) along the East line of said Northwest Quarter a distance of 305.00 feet; thence South 48 degrees 10 minutes 57 seconds West 375.88 feet; thence Northwesterly 200.50 feet along a nontangential curve concave to the Southwest having a radius of 359.00 feet and central angle of 32 degrees 00 minutes 00 seconds, the chord of said curve bears North 51 degrees 20 minutes 00 seconds West from the last described point; thence North 33 degrees 30 minutes 00 seconds East 132.00 feet; thence North 48 degrees 25 minutes 00 seconds East 485 to the point of beginning.

GENERAL NOTES

SURVEYOR:

Loucks
7200 Hemlock Lane, Suite 300
Maple Grove, MN 55330
763-424-5505

OWNER/DEVELOPER:

Caragh O'Brien Bartness
1260 - 90th Street East
Inver Grove Heights, MN 55077
651-470-0734

- Prepared September 16, 2020.
- The address, if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork is 1260 - 90th Street East, Inver Grove Heights, MN.
- This property is contained in Flood Insurance Rate Map, Community Panel No. 27037 C0105E, and is a non-printed panel (no special flood hazard areas).
- Topography shown hereon is per LiDAR data (NAVD 88 datum) obtained from the Minnesota Department of Natural Resources on 10/11/2020.
- The field work was completed on September 8, 2020.

ZONING INFORMATION

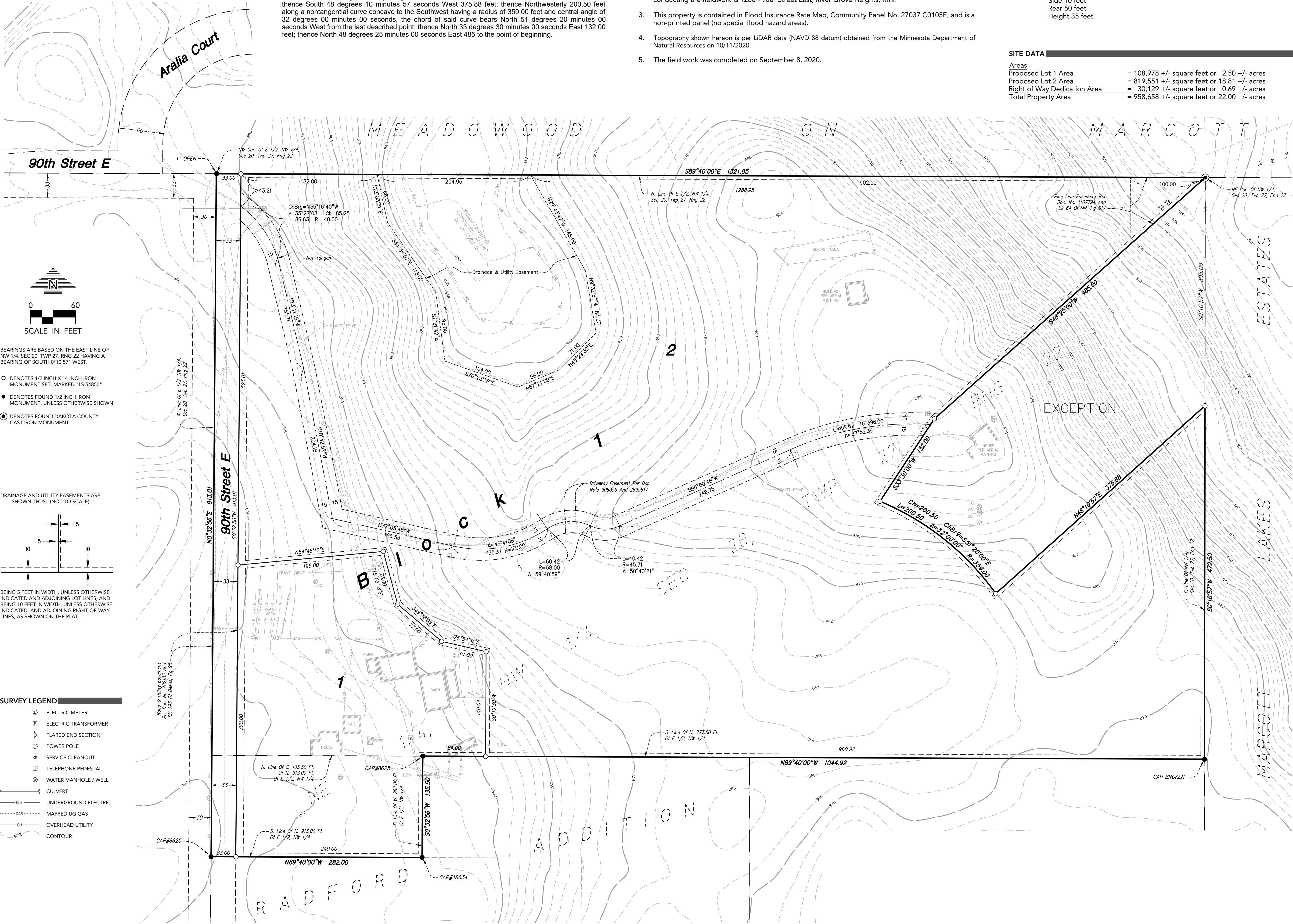
Current Zoning: E-1 with Shoreland District Overlay

Any zoning classification, setback requirements, height and floor space area restrictions, and parking requirements, shown hereon, was researched to the best of our ability and is open to interpretation. Per the City of Inver Grove Heights Zoning Map and City Code, on September 9, 2020, information for the subject property is as follows:

Current Setbacks:
Front 30 feet
Side 10 feet
Rear 50 feet
Height 35 feet

SITE DATA

Areas
Proposed Lot 1 Area = 108,978 +/- square feet or 2.50 +/- acres
Proposed Lot 2 Area = 819,551 +/- square feet or 18.81 +/- acres
Right of Way Dedication Area = 30,129 +/- square feet or 0.69 +/- acres
Total Property Area = 958,658 +/- square feet or 22.00 +/- acres



- BEARINGS ARE BASED ON THE EAST LINE OF NW 1/4, SEC 20, TWP 27, RNG 22 HAVING A BEARING OF SOUTH 0°10'57\"/>

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS: (NOT TO SCALE)

BEING 5 FEET IN WIDTH, UNLESS OTHERWISE INDICATED AND ADJOINING LOT LINES, AND BEING 10 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING RIGHT-OF-WAY LINES, AS SHOWN ON THE PLAT.

SURVEY LEGEND

- ELECTRIC METER
- ELECTRIC TRANSFORMER
- FLARED END SECTION
- POWER POLE
- SERVICE CLEANOUT
- TELEPHONE PEDESTAL
- WATER MANHOLE / WELL
- CULVERT
- UNDERGROUND ELECTRIC
- MAPPED UG GAS
- OVERHEAD UTILITY
- CONTOUR

OBRIEN OAK TERRACE

1248 - 90TH STREET EAST
INVER GROVE HEIGHTS, MN

CARAGH O'BRIEN BARTNESS

1260 - 90TH STREET EAST
INVER GROVE HEIGHTS, MN

LOUCKS

PLANNING
CIVIL ENGINEERING
LAND SURVEYING
LANDSCAPE ARCHITECTURE
ENVIRONMENTAL

7200 Hemlock Lane, Suite 300
Maple Grove, MN 55369
763.424.5505
www.loucksinc.com

CADD QUALIFICATION

CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD drawing files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any and all responsibilities, claims, and liabilities.

SUBMITTAL/REVISIONS

09/16/20 CITY SUBMITTAL
02/08/21 CLIENT COMMENTS
03/02/21 CITY COMMENTS

PROFESSIONAL SIGNATURE

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.

Steven F. Hough
License No. 54850
Date 09/16/20

QUALITY CONTROL

Loucks Project No. 18-496A
Project Lead SFH
Drawn By SFM
Checked By SFH
Field Crew BRS

VICINITY MAP



PRELIMINARY PLAT

1 OF 1

OBRIEN OAK TERRACE

KNOW ALL PERSONS BY THESE PRESENTS: That Caragh O'Brien Bartness, Trustee of the Thomond O'Brien Family Trust, owner of the following described property situated in the County of Dakota, State of Minnesota, to wit:

The North 777.5 feet and the South 135.5 feet of the North 913.0 feet of the West 282.0 feet of the East Half of the Northwest Quarter of Section 20, Township 27, Range 22.

LESS:

That part of the Northwest Quarter of Section 20, Township 27 North, Range 22 West, Dakota County, Minnesota, described as follows:

Beginning at the Northeast corner of said Northwest Quarter, thence South 0 degrees 10 minutes 57 seconds West (bearing assumed) along the East line of said Northwest Quarter a distance of 305.00 feet; thence South 48 degrees 10 minutes 57 seconds West 375.88 feet; thence Northwesterly 200.50 feet along a nontangential curve concave to the Southwest having a radius of 359.00 feet and central angle of 32 degrees 00 minutes 00 seconds, the chord of said curve bears North 51 degrees 20 minutes 00 seconds West from the last described point; thence North 33 degrees 30 minutes 00 seconds East 132.00 feet; thence North 48 degrees 25 minutes 00 seconds East 485 to the point of beginning.

Has caused the same to be surveyed and platted as OBRIEN OAK TERRACE, and does hereby dedicate to the public for public use the public way(s), and does also dedicate the drainage and utility easements as created by this plat.

In witness whereof said Caragh O'Brien Bartness, Trustee of the Thomond O'Brien Family Trust, has caused these presents to be signed by its proper officer this ____ day of _____, 202____.

Caragh O'Brien Bartness,
Trustee of the Thomond O'Brien Family Trust

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 202____, by Caragh O'Brien Bartness, Trustee of the Thomond O'Brien Family Trust.

Signature _____ Printed Name, Notary _____
Notary Public, _____ County, _____
My Commission Expires _____

SURVEYORS CERTIFICATION

I Steven F. Hough do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this Plat; and all public ways are shown and labeled on this plat.

Dated this ____ day of _____, 202____.

Steven F. Hough, Licensed Land Surveyor,
Minnesota License No. 54850

STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this ____ day of _____, 202____, by Steven F. Hough.

Signature _____ Printed Name, Notary _____
Notary Public, Hennepin County, Minnesota
My Commission Expires January 31, 2025

CITY PLANNING COMMISSION OF INVER GROVE HEIGHTS, MINNESOTA

Approved by the planning commission of the city of Inver Grove Heights, Minnesota, this ____ day of _____, 202____.

By: _____
Chair

CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA

This plat was approved by the City Council of the city of Inver Grove Heights, Minnesota, this ____ day of _____, 202____ and hereby certifies compliance with all requirements as set forth in Minnesota Statutes, Section 505.03, Subd.2.

By: _____ By: _____
Mayor Clerk

DAKOTA COUNTY SURVEYOR, MINNESOTA

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this ____ day of _____, 202____.

By: _____
Todd Tollefson, Dakota County Surveyor

DAKOTA COUNTY DEPARTMENT OF PROPERTY TAXATION AND RECORDS, MINNESOTA

Pursuant to Minnesota Statutes, Section 505.021 Subd. 9, taxes payable in the year 202____ on the land hereinbefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer has been entered on this ____ day of _____, 202____.

By: _____
Amy A. Koethe, Department of Property Taxation and Records

DAKOTA COUNTY RECORDER, MINNESOTA

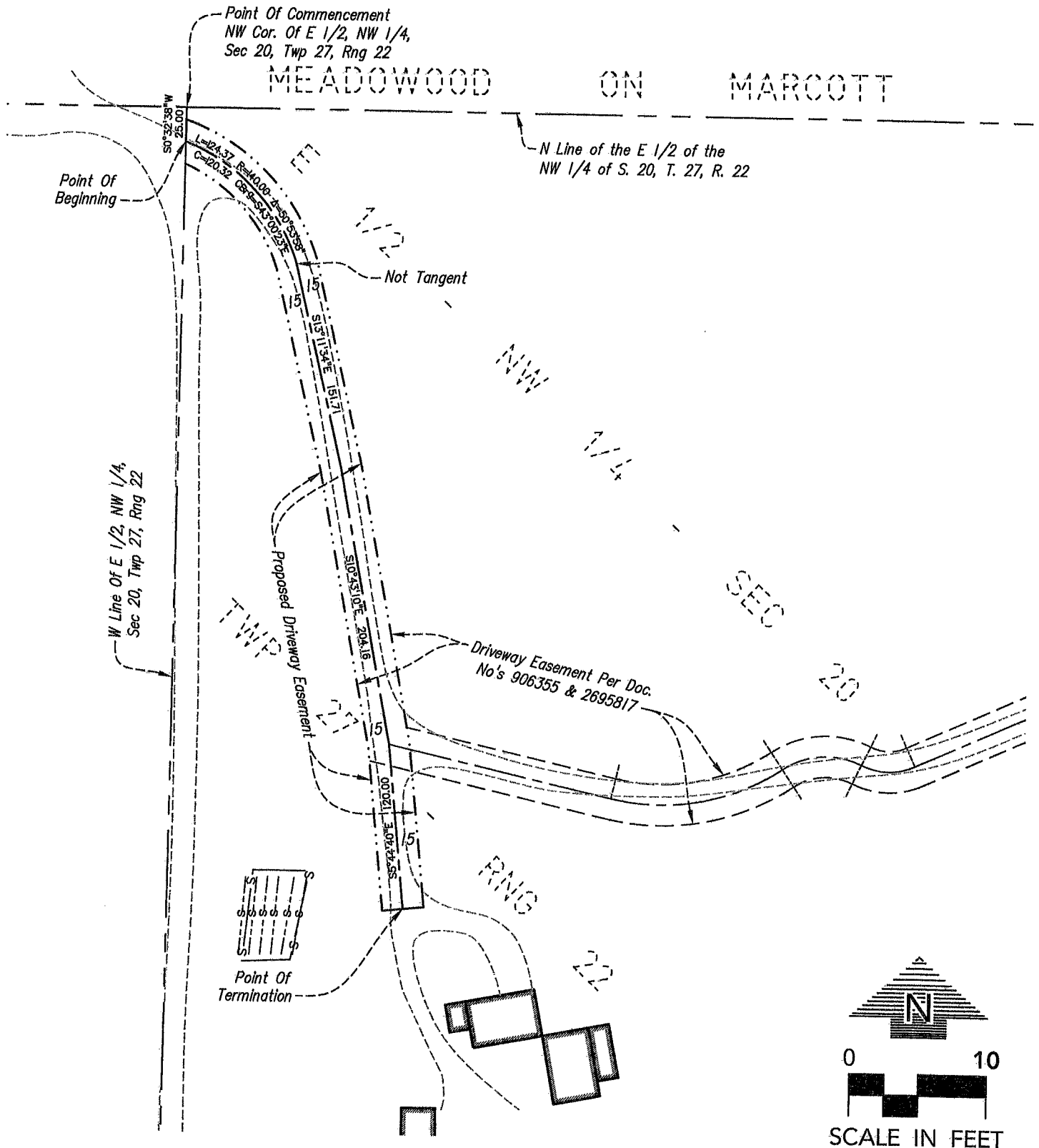
I hereby certify that this plat of OBRIEN OAK TERRACE was filed in the Office of the County Recorder for public record this ____ day of _____, 202____, at ____ o'clock ____M. as Document No. _____.

By: _____
Amy A. Koethe, County Recorder

M E A D O W O O D O N M A R C O T T



EXHIBIT



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.

Steven F. Hough
Steven F. Hough - PLS License No. 54850

09/24/20
Date

LOUCKS
Loucks Project No. 18496A



PLANNING REPORT

CASE NO.: 21-14ZA

APPLICANT: City of Inver Grove Heights – fence amendment

REQUEST: A zoning code amendment to Chapter 10-15-12 Fences

HEARING DATE: March 16, 2021

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten
Associate Planner

BACKGROUND

Over the last few months, the Commission has seen a couple different fence variances relating to properties on corner lots. At the January 11, 2021 City Council meeting Council directed staff to review the current city ordinance relating to fences located in the front and corner front yards of residential properties.

Currently the fence code (Section 10-15-12), has the following requirements for fences located on corner lots.

10-15-12B.1. Fences in the front yard area shall provide no less than 75% clear visibility within 42 inches of the ground and shall be no higher than 42 inches. All fences constructed in other areas than the front yard and corner lot side yard clearance areas may be no more than seven feet (7') in height.

10-15-12C. Traffic Visibility²:

1. No fences, walls or structures exceeding 30 inches in height shall be located where they would obstruct safe view from any driveway, and there shall be no solid fences closer than 15 feet from the face of the curb.
2. The outside corner of any corner lot shall be free from any fence unless it provides 75% clear visible opening. The "outside corner" shall be defined as the area bounded by the property line (street right of way line) and a line between the points 30 feet in each direction from the block corner (lot corner) along said property lines.

EVALUATION OF THE REQUEST

Staff believes the maximum fence height requirement of 42 inches in the front yard is for public safety and may stem from the MnDOT Road Design Manual which states: *the assumed height of both the driver's eye and the object to be seen are 3.5 feet above their respective roadway surfaces.* A second reason could be aesthetics, both in uniformity along front views and visual appeal.

Over the past five years the City has seen eight fence variances, six of them have been for properties located on a corner lot. All six of the corner lot requests the applicants were asking to exceed the 42-inch height requirement on the corner side yard, three of the six were asking for 48- inch chain link.

Staff researched the fence requirements in other cities and found:

Eagan: Fences in the front yard must not impair traffic visibility or exceed 42 inches in height.

A fence shall not exceed 30 inches within a 30-foot visibility triangle measure from the street.

Rosemount: Fences shall not exceed 42 inches in front yards or 48 inches in street side yards of corner lots that abut another front yard, provided that no structure shall interfere with sight distances for vehicles approaching intersections.

No fence is allowed within the 25-foot visibility triangle measure from the lot corner.

West St. Paul: Fences in the front yard shall not exceed 48 inches in height.

South St. Paul: Fences in the front yard shall be a maximum of 42 inches if you cannot see through at least 50% of the approved material. A fence in the front yard can be up to 48 inches high if you can see through at least 50% of the approved material.

Fridley: Fences in the front yard shall not exceed 48 inches in height.

A fence shall not exceed 30 inches within the 40-foot visibility triangle measured from the street.

Staff also reached out to Midwest Fence and Dakota Unlimited Fence, both companies stated that 42-inch fencing is available, but 48 inch is a more standard height. Both companies also said that based on their experience a 48-inch height is a more common height allowed within the front yard setbacks.

Residential properties that are corner lots are at a disadvantage as they have more than one front yard where the maximum fence height is 42 inches within the front setback (typical front setback is 30 feet from the property line).

Staff continues to find a benefit for the maximum fence height of 42 inches with 75% clear visible opening within the "normal" front yard setback based on the recommendation from the MnDOT road design manual. Staff would be in support of an ordinance change to allow

a 48-inch fence height, with 75% clear visible opening for the street side of a corner lot that abuts another front yard, like the Rosemount language.

PROPOSED ORDINANCE LANGUAGE

10-15-12 FENCES

10-15-12B.1. Fences in the front yard area shall provide no less than 75% clear visibility ~~within 42 inches of the ground~~ and shall be no higher than 42 inches or 48 inches in street side yards of corner lots that abut another front yard, provided that no structure shall interfere with sight distances for vehicles approaching intersections. All fences constructed in other areas than the front yard and corner lot side yard clearance areas may be no more than seven feet (7') in height.

ALTERNATIVES

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

- A. Approval.** If the Planning Commission finds the proposed amendment language to be acceptable, the Commission could recommend approval of the ordinance change or amend the proposed language.
- B. Denial.** If the Planning Commission does not find it necessary to modify the existing language, the Commission could recommend denial of the proposed ordinance amendment.

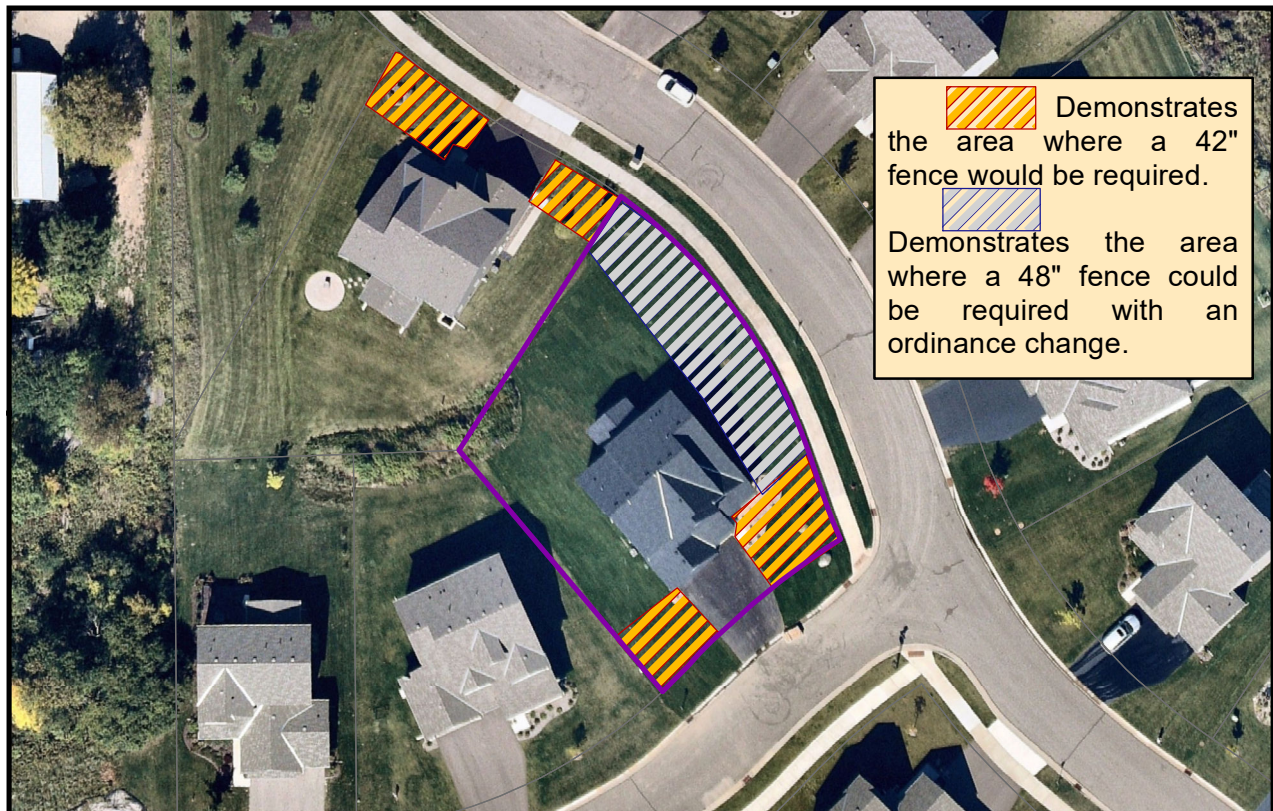
RECOMMENDATION

Staff continues to find the benefit for a maximum fence height of 42-inches with the 75% clear visibility requirement for standard front yards. Staff would be in support of an ordinance change to allow a maximum height of 48 inches with at least 75% clear visible openings on corner lots that abut another front yard.

Attachments: examples of front yard fence locations
Section 10-15-12 Fences



corner lot abutting a front yard



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.

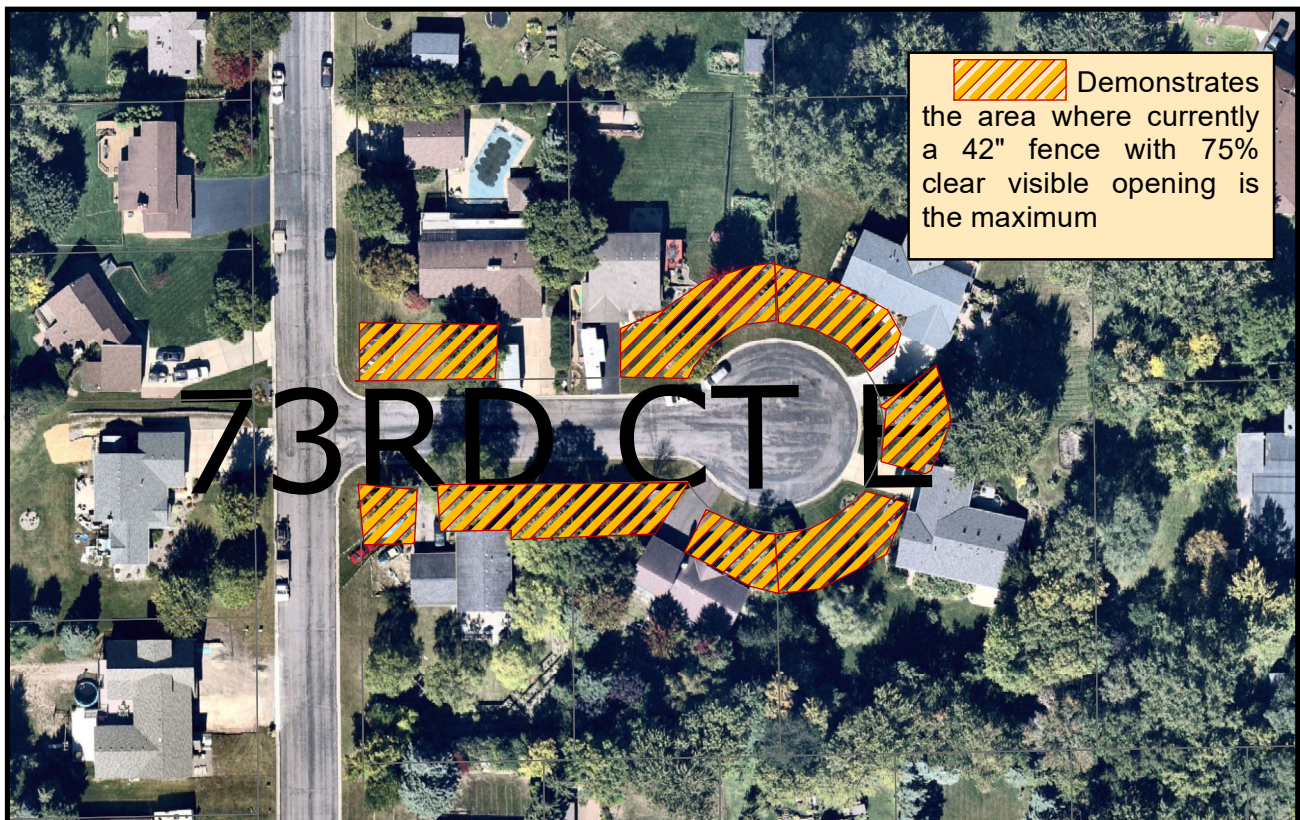
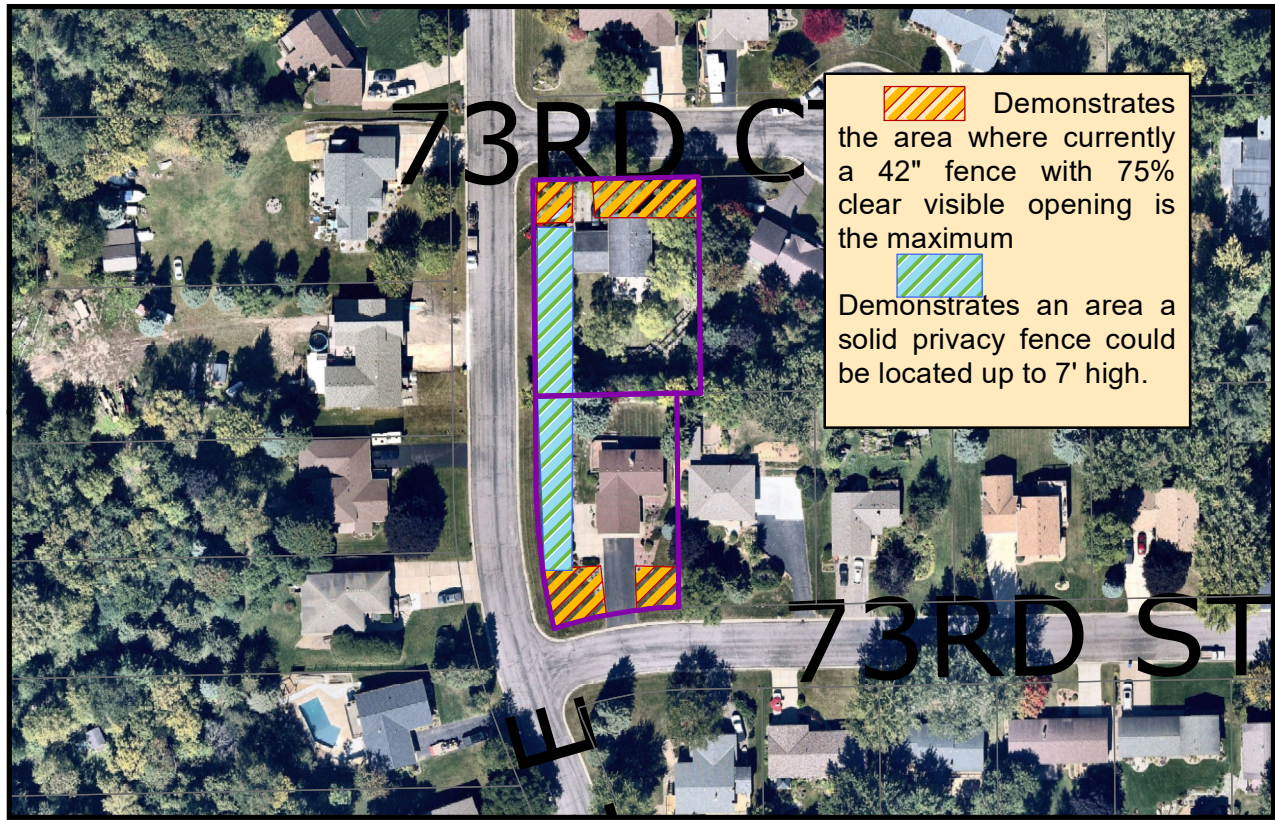
Map produced by the City of Inver Grove Heights GIS Dept.
Copyright© City of Inver Grove Heights 2020



Map not to scale



corner lot abutting a rear yard



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Front yard fence requirements in a cul-de-sac

Map not to scale

10-15-12: FENCES¹:

A. Permit Required; Existing Fences: It shall be necessary for all fence construction in the city to have the owner or his contractor obtain a fence permit before erecting a fence or enclosure. All those fences which are existing on May 12, 1971, are permitted even though they may not comply with this section. However, any major repair to existing fences shall conform to this section.

B. Yard Fences:

1. Fences in the front yard area shall provide no less than seventy five percent (75%) clear visibility within forty two inches (42") of the ground and shall be no higher than forty two inches (42"), plus two (2) additional inches for clearance at the ground line. All fences constructed in other areas than the front yard and corner lot side yard clearance areas may be no more than seven feet (7') in height. Fences in riparian yards shall be no higher than forty two inches (42"), plus two (2) additional inches for clearance at the ground line.

2. Fencing around tennis courts in the P institutional zoning district and the outfields of ball fields in the P institutional zoning district are exempt from the seven foot (7') height limitation.

C. Traffic Visibility²:

1. No fences, walls or structures exceeding thirty inches (30") in height shall be located where they would obstruct safe view from any driveway, and there shall be no solid fences closer than fifteen feet (15') from the face of the curb.

2. The outside corner of any corner lot shall be free from any fence unless it provides seventy five percent (75%) clear visible opening. The "outside corner" shall be defined as the area bounded by the property line (street right of way line) and a line between the points thirty feet (30') in each direction from the block corner (lot corner) along said property lines.

D. Prohibited Materials: Within areas served by the municipal sanitary sewer system, fences shall not be constructed of barbed wire, chainlink with barbs up, or any other material that proves dangerous or hazardous or has intentions of inflicting harm to life or limb.

E. Construction Requirements: All fencing shall be constructed straight, true and plumb. Fences may be constructed on the property line. All fencing shall be constructed so that the exterior or outer face will face to the outside or away from the property being fenced. This means that the fenceposts, bracing and similar material will be located on the inside or the owner's side of the fence. (Ord. 1098, 11-8-2004)