

**City of Ramsey**  
**Agenda**  
**Regular Planning Commission**  
**Thursday, March 2, 2017**  
**7:00 pm**  
**Council Chambers, 7550 Sunwood Drive NW**

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Approve Minutes**
  1. Approve the February 2, 2017 Planning Commission Meeting Minutes
- 5. Public Hearing/Commission Business**
  1. PUBLIC HEARING: Preliminary Plat and Zoning Amendment for Covenant Meadows (Project #17-102); Case of Eric Thomsen.
  2. Stone Brook Children's Academy & Childcare Center Purchase Agreement
  3. Consider Draft Ordinance Amendment Addressing Irrigation Requirements (Discussion Purposes Only)
  4. Discussion Regarding Two Story Accessory Buildings; City Code Section 117-349
- 6. Comprehensive Plan Update Items**
- 7. Commission/Staff Input**
  1. Zoning Bulletins
- 8. Adjournment**

**Regular Planning Commission**

4. 1.

**Meeting Date:** 03/02/2017

**By:** JoAnn Shaw, Community Development

---

**Information**

**Title:**

Approve the February 2, 2017 Planning Commission Meeting Minutes

**Purpose/Background:**

N/A

**Notification:**

**Observations/Alternatives:**

**Funding Source:**

**Recommendation:**

**Action:**

---

**Attachments**

[02-02-17 Planning Commission Meeting Minutes](#)

---

**Form Review**

**Inbox**

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 02/24/2017

**Reviewed By**

JoAnn Shaw

**Date**

02/24/2017 03:09 PM

Started On: 02/24/2017 08:29 AM

**PLANNING COMMISSION  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

The Ramsey Planning Commission conducted a regular meeting on Thursday, February 2, 2017, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:           Chairperson Randy Bauer  
                                  Commissioner Bruce Anderson  
                                  Commissioner Ralph Brauer  
                                  Commissioner Cindy Nosan  
                                  Commissioner Patrick Surma  
                                  Commissioner Gary VanScoy

Members Absent:           None

Also Present:               Community Development Director Timothy Gladhill  
                                  City Planner Chris Anderson

**1.     CALL TO ORDER**

Chairperson Bauer called the regular meeting to order at 7:00 p.m.

**2.     CITIZEN INPUT**

Kyle Swenson, 15049 Iguana Street, talked about the property being rezoned near his home.

Chairperson Bauer encouraged Mr. Swenson to address this matter when discussed by the Planning Commission under agenda Item 5.02.

**3.     APPROVAL OF AGENDA**

Motion by Commissioner VanScoy, seconded by Commissioner Surma, to approve the agenda as presented.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Surma, Anderson, Brauer, and Nosan. Voting No: None. Absent: None.

**4.     APPROVE PLANNING COMMISSION MINUTES**

**4.01: Approve the Following Planning Commission Minutes:**

**4.01.1: Planning Commission Meeting Minutes Dated January 5, 2017**

**4.01.2: Planning Commission Worksession Meeting Minutes Dated January 5, 2017**

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to approve the following minutes as presented: Planning Commission Meeting Minutes and Planning Commission Worksession Minutes dated January 5, 2017.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

**5. PUBLIC HEARINGS/COMMISSION BUSINESS**

**5.01: Public Hearing: Consider Request for Zoning Amendment, Comp Plan Amendment, Site Plan and Variance for Regency Commons (Project No. 16-108); Case of National Self Storage, LLC.**

**Public Hearing**

Chairperson Bauer called the public hearing to order at 7:03 p.m.

**Presentation**

City Planner Anderson presented the staff report stating the City has received an application for approval of a Zoning Amendment, Comprehensive Plan Amendment, Site Plan, Variance, Preliminary Plat and Final Plat approval for Regency Commons. The project proposes to consolidate PID #s 27-32-25-22-0006, 27-32-25-22-0003, and 27-32-25-22-0002 (combined, the "Subject Property") into two (2) lots, one of which would be developed with a self-storage facility and the second would be available for future commercial development. The Planning Commission previously reviewed the Sketch Plan for this project in November of 2016. Staff discussed the request in further detail and recommended approval.

**Citizen Input**

Commissioner VanScoy asked if the maximum building coverage was 45%.

City Planner Anderson reported this was the case.

Reed Schultz, Landform Professional Services, thanked staff for their assistance with his application. He introduced the team members that were in attendance. He briefly reviewed the requests he had before the Planning Commission for consideration and stated he appreciated the comments received from the public during the sketch plan phase. He noted cross access easements would be offered for the two parcels. He explained he reviewed the Resolutions proposed by staff and general supported the conditions recommended by staff. He reported the site would be over landscaped to assist in buffering the site from the neighbors. He stated his

only concern with the request was that he has not received a list of full engineering comments. He hoped to receive this list prior to his application being considered by the City Council.

Community Development Director Gladhill reported the city engineer review memo would be provided to the applicant prior to the City Council meeting.

Chairperson Bauer asked if the architecture of the building had changed since November.

Mr. Schultz reviewed the architectural plans for the self-storage building with the Commission and noted only minor changes have been made to the plans.

Chairperson Bauer requested further information on how the site will be accessed.

Mr. Schultz reported the property would have full access from Ramsey Boulevard.

William Thomas, 14716 Limonite Street NW, questioned what would happen to Lot 2.

Mr. Schultz explained the plan was to have Lot 2 remain as is until it was purchased for commercial development. He noted the ponding and some tree cleanup may occur, along with some grading.

Mr. Thomas expressed concern with the noise and light pollution that would come from this lot after trees were removed from the lot and questioned how the applicant would address this concern.

City Planner Anderson commented he was unaware of the tree clearing the applicant was proposing and this matter would have to be addressed with the applicant.

Motion by Commissioner Anderson, seconded by Commissioner VanScoy, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, VanScoy, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

Chairperson Bauer closed the public hearing closed at 7:29 p.m.

### **Commission Business**

Commissioner Anderson understood the concerns being raised by the resident regarding the trees. He indicated Lot 2 had a thick line of trees and he opposed these being removed. He stated he could support the scrub trees being removed but recommended no significant trees be removed until the site was ready for development.

City Planner Anderson understood there was a nice line of evergreen trees on this property and were considered significant trees.

Chairperson Bauer recommended the site plan be approved contingent upon the tree removal being addressed by City staff prior to being completed.

Mr. Schultz stated he was proposing to remove 54% of the trees and by code he was allowed to remove 70% of the significant trees without replacement. He requested the proposed site plan contingency address this City Code language.

City Planner Anderson reviewed the applicant's tree preservation plan for Lots 1 and 2. Staff was comfortable with the Site Plan as recommended.

Community Development Director Gladhill explained that at some point in the future the row of trees on Lot 2 would go away when the property was developed.

City Planner Anderson clarified that the building coverage was less than 45%, which should be amended within the Findings of Fact.

Motion by Commissioner VanScoy, seconded by Commissioner Surma, to recommend that City Council adopt Resolutions #17-02-034 and #17-02-035 approving Findings of Fact favorable to the Applicant and granting a Variance to the impervious surface requirements in the Shoreland Overlay District, amending the building coverage percentage within the Findings of Fact.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Surma, Anderson, Brauer, and Nosan. Voting No: None. Absent: None.

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to recommend that City Council adopt Ordinance #17-05 to rezone the Subject Property to E-1 Employment District and B-1 Business District.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to recommend that City Council adopt Resolution #17-02-036 granting a Comprehensive Plan Amendment to re-guide the Subject Property as Business Park and Commercial, contingent upon approval by the Metropolitan Council.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to recommend that City Council adopt Resolution #17-02-037 granting Site Plan approval, contingent upon the City Engineer memo.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

Motion by Commissioner VanScoy, seconded by Commissioner Anderson, to recommend that City Council adopt Resolutions #17-02-038 and #17-02-039 approving the Preliminary and Final Plat approval.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Anderson, Brauer, Nosan, and Surma. Voting No: None. Absent: None.

**5.02: Public Hearing: Consider Resolution #17-02-040 Approving a Comprehensive Plan Amendment for the Armstrong West Area.**

**Public Hearing**

Chairperson Bauer called the public hearing to order at 7:48 p.m.

**Presentation**

Community Development Director Gladhill presented the staff report stating the purpose of this case is to hold a public hearing and make a recommendation to City Council regarding a Comprehensive Plan Amendment. Staff discussed the proposed amendment in detail with the Commission and recommended approval of the amendment for the Armstrong West Area.

**Citizen Input**

Chairperson Bauer asked if there was any specific zoning being recommended at this time.

Community Development Director Gladhill stated E1, E2 and E3 were being recommended. He reported the zoning would be addressed after the City approved a Comprehensive Plan Amendment.

Kyle Swenson, 15049 Iguana Street, stated he lived directly north of the proposed business park. His family supported the business park and asked if the DNR wetland would be impacted.

Community Development Director Gladhill stated the DNR wetland would not be impacted in any way.

Al Pearson, 14821 Bowers Drive, stated he owned the 91 acres and supported the proposed rezoning of this land.

Motion by Commissioner Nosan, seconded by Commissioner Surma, to close the public hearing.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Nosan, Surma, Anderson, Brauer, and VanScoy. Voting No: None. Absent: None.

Chairperson Bauer closed the public hearing closed at 8:00 p.m.

### **Commission Business**

Motion by Commissioner Anderson, seconded by Commissioner Surma, to recommend that City Council adopt Resolution #17-02-040 granting a Comprehensive Plan Amendment for portions of the Armstrong West area.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, Surma, Brauer, Nosan, and VanScoy. Voting No: None. Absent: None.

### **5.03: Stone Brooke Academy Site Selection.**

#### **Presentation**

Chairperson Bauer stated it would be appropriate to postpone discussion on this item until the applicant can be in attendance at the Planning Commission meeting. The Commission was in agreement.

Community Development Director Gladhill recommended the Commission hear the presentation from staff regarding the recent developments surrounding the Stone Brooke Academy site selection. The Commission was in agreement to hear the update from staff.

Assistant City Administrator/Economic Development Manager Brama stated Stone Brooke apologized for not being able to attend this evenings meeting. He presented the staff report stating the City Council has indicated more information is needed before a final decision can be made regarding the Stone Brooke Academy site selection. The Council was concerned about the ramifications this single project (about 1 acre) would have on the development of the larger parcel/block (about 5 acres). The Council desires to know more about how the various development challenges associated with this site will play out in various development scenarios (i.e. Stone Brook proposal vs. single developer master planned site).

#### ***Development Challenges***

- (1) Yolite Street connection. Existing curb cuts. Existing intersection. Existing Storm water line.
- (2) Remnant lots. 1/2 acre lot. 3 acre lot.
- (3) The well, and well easement.

(4) Location of existing utility stubs.

Assistant City Administrator/Economic Development Manager Brama explained per Council direction four professional drafted development scenarios were being offered for Commission consideration/discussion. It was noted the Council requested this case be reviewed one more time by the Planning Commission before the Council made a final decision. Staff reported the Council would like to receive feedback from the Planning Commission on the four concepts.

**Commission Business**

Commissioner Anderson thanked staff for the thorough detail included in each of the four site plans. He stated he supported Concept B and Concept A.

Commissioner Nosan respected the wishes of Stone Brooke. She believed they would be a welcome addition to The COR and would draw people to this area. She indicated she supported both Concepts A and B.

Commissioner Anderson recommended Yolite Street be a thru street.

Commissioner VanScoy stated commercial day care centers were an allowed use in COR2. He supported Yolite being a thru street as well. He commented if the City chose not to sell because of land price, he would understand, but otherwise he supported Concept B.

Community Development Director Gladhill reported staff would continue to work through the Yolite Street connection.

Commissioner Brauer understood the state looks at daycare centers and early childhood education and two separate things. He described how the two differed. He appreciated the fact that Stone Brooke wanted to be something different. He believed the proposed use fit the zone and in principle he would offer his support of the request for Concept B.

Commissioner Anderson recommended the Stone Brooke Academy have two entrance points for traffic flow purposes.

Commissioner VanScoy reported educational facilities are not allowed in COR2.

Commissioner Surma stated he liked Concept B but wanted to see the conversation postponed until the applicant could come before the Commission.

Motion by Commissioner Anderson, seconded by Commissioner Nosan, to recommend that City Council pursue negotiating a Purchase Agreement with conditions.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, Nosan, Brauer, and Surma. Voting No: VanScoy. Absent: None.

Commissioner VanScoy recommended staff speak with the applicant and strongly encourage them to attend the March Planning Commission meeting.

**5.04: Review Concept Plan and Policy Document for Pearson Farm; Case of Capstone Homes.**

**Presentation**

Community Development Director Gladhill presented the staff report stating the purpose of this case is to provide preliminary feedback for a future plat currently known as Pearson Farm.

**Commission Business**

Commissioner VanScoy asked if it was appropriate to require storm shelters.

Community Development Director Gladhill stated no storm shelters were being proposed and were not required by the City zoning code.

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to recommend that City Council adopt the Policy Document for Pearson Farm.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Brauer, Anderson, and Nosan. Voting No: None. Absent: Surma.

**5.05: Receive Update on Mississippi River Corridor Critical Area (MRCCA) Revised Rules.**

**Presentation**

Community Development Director Gladhill presented the Staff Report stating the purpose of this case was to receive an update to the newly adopted Revised Rules for the Mississippi River Corridor Critical Area (MRCCA). The rules have been adopted by the Minnesota Department of Natural Resources. Staff explained the City must incorporate the revised rules into City Code.

**Commission Business**

Chairperson Bauer thanked staff for engaging the public on the proposed changes and for addressing the resident's concerns.

Motion by Commissioner VanScoy, seconded by Commissioner Brauer, to direct Staff to allow the utilization of a Variance or a Planned Unit Development (PUD) in instances where proposed project meet the revised State Rules until such time the City is able to update its Comprehensive Plan and Zoning Code.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners VanScoy, Brauer, Anderson, and Nosan. Voting No: None. Absent: Surma.

## **6. COMPREHENSIVE PLAN UPDATE ITEMS**

### **6.01: Receive Progress Report for the 2040 Comprehensive Plan Update**

Community Development Director Gladhill provided the Commission with a progress report on the 2040 Comprehensive Plan. He explained a saturation mailing was being sent to every Ramsey resident. Staff would continue to work on the transportation and parks plan.

## **7. COMMISSION / STAFF INPUT**

### **7.01: Receive Update on Planning Commission Work Plan**

Community Development Director Gladhill reviewed the 2017 Planning Commission Work Plan with the Commission.

Chairperson Bauer was interested in making organics recycling more convenient for Ramsey residents.

### **7.02: Staff Update**

The Staff Update was noted.

### **7.03: Zoning Bulletins**

Zoning Bulletins were noted.

## **8. ADJOURNMENT**

Motion by Commissioner Anderson, seconded by Commissioner Brauer, to adjourn the meeting.

Motion Carried. Voting Yes: Chairperson Bauer, Commissioners Anderson, Brauer, Nosan, and VanScoy. Voting No: None. Absent: Surma.

The regular meeting of the Planning Commission adjourned at 9:07 p.m.

Respectfully submitted,

---

Tim Gladhill  
Development Services Manager

ATTEST:

---

JoAnn Shaw  
Planning Division Secretary

Drafted by Heidi Guenther  
*TimeSaver Off Site Secretarial, Inc.*

DRAFT

**Regular Planning Commission****5. 1.****Meeting Date:** 03/02/2017**Submitted For:** Tim Gladhill, Community Development**By:** Eric Maass, Community Development

---

**Information****Title:**

PUBLIC HEARING: Preliminary Plat and Zoning Amendment for Covenant Meadows (Project #17-102); Case of Eric Thomsen.

**Purpose/Background:**

The purpose of this case is to review an application for a Rezoning of the Subject Project from R-1 Rural Developing to Planned Unit Development (PUD) and Preliminary Plat. The site is generally located south of Trott Brook and west of Germanium Street and is identified as PID 02-32-25-44-0004.

The Applicant has proposed to subdivide the approximately thirty-eight (38) acre Subject Property into twelve (12) single family homes that would be serviced by individual private utilities. The Preliminary Plat proposes deeding approximately fifteen (15) of the thirty eight (38) acres to the City as the public benefit in relation to the PUD application. The proposed fifteen (15) acres straddles both sides of the Trott Brook, has steep slopes, and is also considered to be high quality natural open space.

**Notification:**

Staff attempted to notify all Property Owners within a 700 foot radius of the Subject Property of the Public Hearing via Standard US Mail. The Public Hearing was also published in the City's official newsletter, the Anoka County Union Herald.

**Observations/Alternatives:**

The Applicant is proposing a rezoning of the Subject Property from R-1 Residential (Rural Developing) to Planned Unit Development (PUD) and Preliminary Plat approval of Covenant Meadows.

Properties surrounding all sides of the Subject Property are currently zoned R-1 Residential (Rural Developing) and guided as Rural Developing. While the Applicant is requesting reduced lot sizes than what would normally be required in the R-1 Residential (Rural Developing) district, the proposed parcel sizes are similar in size and nature to surrounding parcels in that an adjacent parcel is 1.04 acres and the smallest parcel being proposed within Covenant Meadows is 1.00 acres. In exchange for the reduced lot size, the Applicant is proposing to deed to the City approximately fifteen (15) acres of land. The land being proposed has a high natural value as it straddles both sides of the Trott Brook and encompasses the steep slopes in the area. The Applicant is willing to provide a trail easement between lots 5 and 6 of block 1 so as to provide all lots in the proposed development and the neighborhood with access to this public amenity.

Upon further review of the contours of the steep slopes, Staff has identified that an ADA compliant trail is not feasible; however, Staff has identified that a twenty (20) foot trail easement should still be included between lots 5 and 6 of block 1 and that an eight (8) foot bituminous trail be constructed within that easement and that the trail terminate with a fifteen (15) foot bituminous bulb within Outlot A as part of the Stage I Improvements. The bituminous trail will need to connect to the bituminous edge of Iodine St NW and that connection will need to be ADA compliant. The Applicant is currently proposing a rural road section with a ditch system to convey runoff, so a culvert will be necessary to allow for the free flowing of runoff as well as elevate the trail connection to the roadway.

With the Preliminary Plat, the Applicant is proposing twelve (12) Single Family lots that would be serviced by individual private utilities. The lots being proposed range in size from 1.00 acres to 2.92 acres in size and in lot width of approximately 100 feet to over 200 feet. In addition to the reduced lot size and lot width, the proposed cul-de-sac length also exceeds 600 feet. Public Safety has reviewed this request. Police does not have any objections to the road configuration. The Fire Department has noted a couple potential concerns. One is that this is a non-hydranted area and thus, if there were a structure fire, tanker trucks would be necessary and maneuverability would be tough. Secondly, if there were trees down, it would also slow response time for first responders. It should be noted though that these conditions already exist with Iodine Street in this same neighborhood (that cul-de-sac is approximately 1,000 feet in length). No additional deviations from City Code are being requested in connection with the Covenant Meadows Preliminary Plat application. Generally speaking the Preliminary Plat is acceptable to Staff with changes to the plan set identified in the Staff Review Letter, which is attached to this case.

The proposed PUD and Subdivision are tentatively scheduled for review by the Parks and Recreation Commission at their March meeting.

#### Alternatives

Alternative 1: Recommend approval of Ordinance #17-08 rezoning the Subject Property from R-1 Residential (Rural Developing) to PUD (Planned Unit Development) and recommend approval of Resolution # 17-02-053 granting Preliminary Plat approval of Covenant Meadows, contingent upon compliance with the Staff Review Letter. Staff believes that the proposed development is reasonable, compatible with the character of the surrounding development, minimizes impacts to steep slopes adjacent to the Trott Brook, and provides the City and its residents with an important natural resource amenity surrounding Trott Brook. Staff supports Alternative 1.

Alternative 2: Recommend denial of Ordinance #17-08 rezoning of the Subject Property from R-1 Residential (Rural Developing) to PUD (Planned Unit Development). If the Planning Commission recommends denial of the rezoning then it should also recommend denial of the proposed Preliminary Plat and Resolution #17-02-053 as the proposed plat would only be considered under the zoning guidance of a PUD. However, the proposed development and public benefit in connection to the PUD request is viewed as adequate by Staff and thus, Staff is not supportive of this alternative.

#### Funding Source:

All costs associated with processing the Application are the responsibility of the Applicant.

#### Recommendation:

Staff recommends approval of Resolution #17-02-053 granting preliminary plat approval of Covenant Meadows and approval of Ordinance #17-08 rezoning of the Subject Property from R-1 Rural Developing to PUD (Planned Unit Development).

#### Action:

Motion to recommend City Council adopt Ordinance #17-05 rezoning the Subject Property from R-1 Residential (Rural Developing) to PUD (Planned Unit Development) and to recommend approval of Resolution #17-02-053 granting preliminary plat approval of Covenant Meadows, contingent upon compliance with the Staff Review Letter dated February 24, 2017.

---

#### Attachments

[Site Location Map](#)

[Application Document](#)

[Complete Plan Set](#)

[Staff Review Letter](#)

[Ordinance #17-08](#)

[Resolution #17-02-053: Preliminary Plat](#)

---

## Form Review

**Inbox**

Chris Anderson

Chris Anderson

Tim Gladhill

Form Started By: Eric Maass

Final Approval Date: 02/24/2017

**Reviewed By**

Eric Maass

Chris Anderson

Tim Gladhill

**Date**

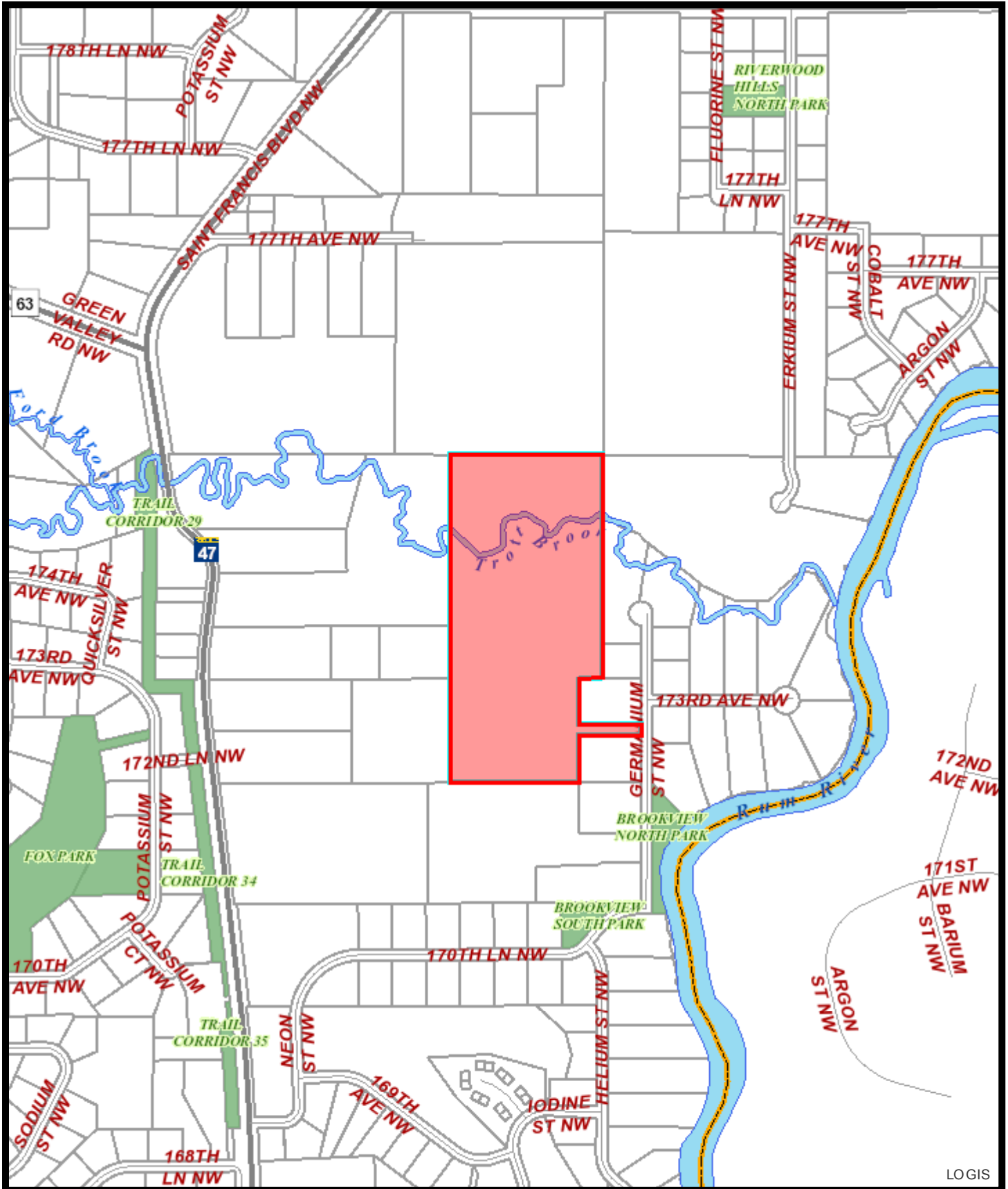
02/23/2017 10:24 AM

02/24/2017 02:43 PM

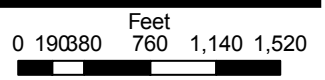
02/24/2017 03:03 PM

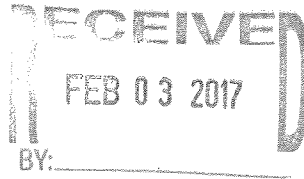
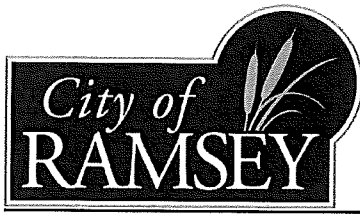
Started On: 02/21/2017 03:34 PM

# Site Location Map



LOGIS





**Land Use Application**

<input type="checkbox"/> Plat – Sketch Plan	<input checked="" type="checkbox"/> Plat – Preliminary Plat	<input type="checkbox"/> Plat – Final Plat
<input type="checkbox"/> Administrative Plat	<input type="checkbox"/> Site Plan Review	<input type="checkbox"/> Easement/ROW Vacation
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Interim Use Permit	<input type="checkbox"/> Comprehensive Plan Amendment
<input checked="" type="checkbox"/> Zoning Amendment	<input type="checkbox"/> Home Occupation Permit	<input type="checkbox"/> Variance
<input type="checkbox"/> Dwelling Moving Permit	<input type="checkbox"/> Environmental Permit	<input type="checkbox"/> Registered Land Survey
<input type="checkbox"/> Non-Traditional Animal License	<input type="checkbox"/> Beekeeping License	<input type="checkbox"/> Private Kennel License

**Applicant Contact Information**

*Please note: All official communication will be routed through this contact.*

Name:	Eric Thomsen		
Street Address:	6210 Green Valley RD		
City, State, ZIP:	Ramsey		
Home Phone:	763 753-5716	Work Phone:	612 919-6862
Email:	cThomsen@cs-p.com	Fax Number:	
Name of Business (if applicable):			
Business Address (if applicable)			
Business City, State, ZIP			
Business Phone:		Business Fax:	

**Subject Property Information**

*(Location of Application)*

Address	172 <sup>nd</sup> Lane NW Ramsey MA
PIN	02-32-25-44-0004
Legal Description	
Zoning District	

Contact the Planning Division at 763-433-9824 or [planning@cityoframsey.com](mailto:planning@cityoframsey.com) to request a Zoning Verification

### Property Owner Information

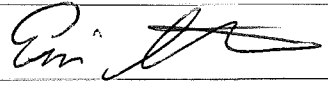
(If different than Applicant)

Name:	National Growth LLC		
Street Address:	11323 E Ridgeline Dr		
City, State, ZIP:	Fountain Hills AZ 85248		
Home Phone:	612-685-5400	Work Phone:	480-634-5965
Email:	alawabni@anmedicaltransport.com	Fax Number:	480-634-5976


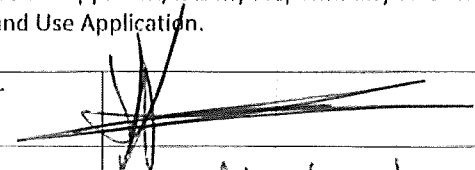
Please provide a detailed description of your request and attached a copy of a scaled site plan

Rezoning to RUD 12 Lots preliminary plat

**A "Land Use Sign" will be placed on the Subject Property to allow Ramsey Residents the opportunity to obtain information about your request.**

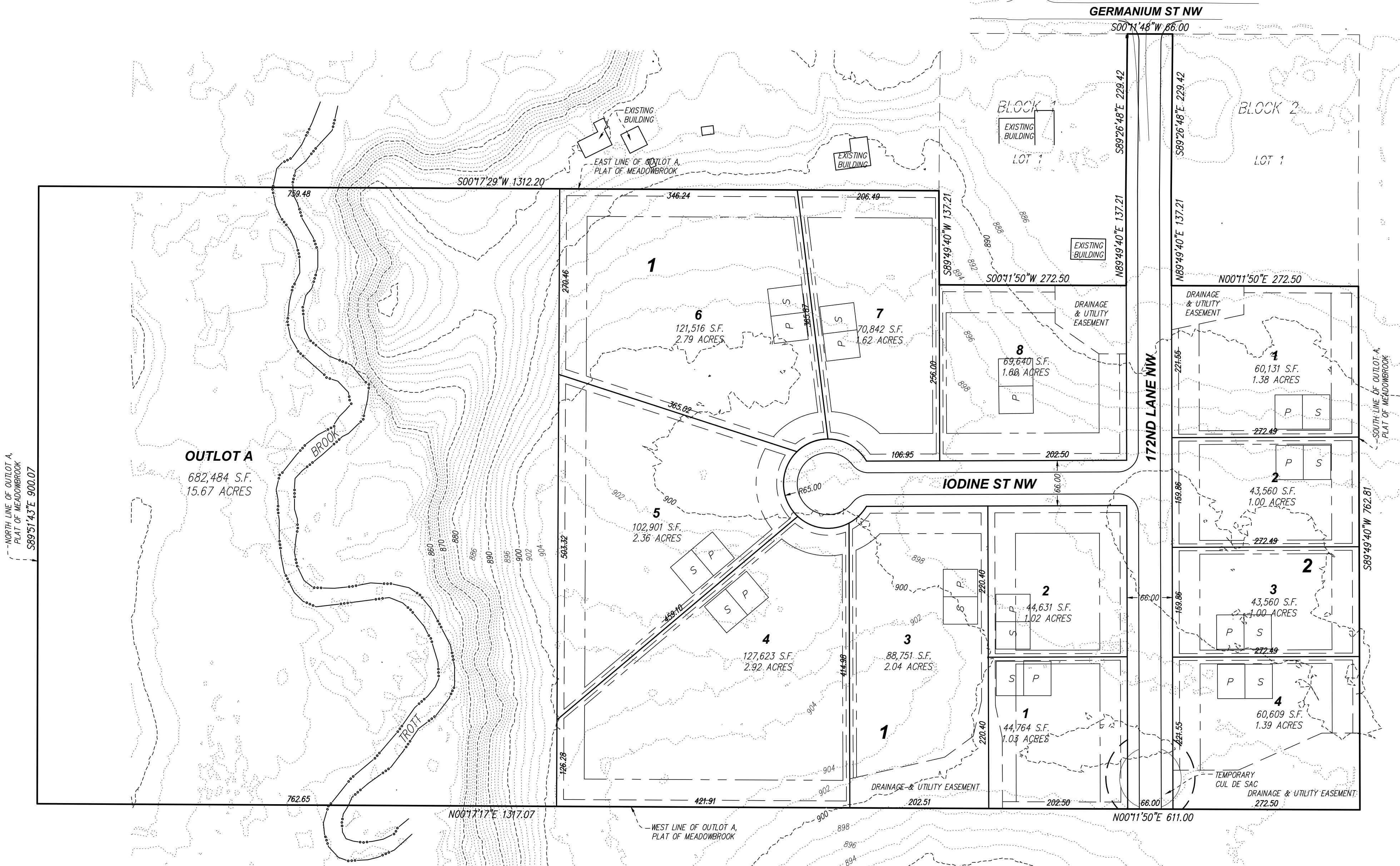
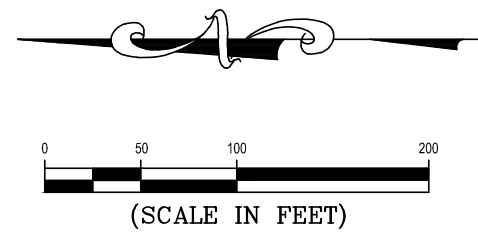
Applicant Signature		Co-Applicant Signature	
Printed Name	Eric Thomson	Printed Name	
Title	Owner	Title	
Date	2/2/2017	Date	

I understand that the application fee is non-refundable. All costs associated with the processing of this application are the responsibility of the applicant whether this application is approved or denied. Any excess of escrow account deposits over expenditures will be refunded at the time of account closure. I also understand that as the applicant, it is my responsibility to obtain all other permits or licenses required by any applicable regulatory agencies for this Land Use Application.

Property Owner Signature		Property Owner Signature	
Printed Name	ABED LAWABNI	Printed Name	Nohad Loaboneh.
Title	C.F.O	Title	CEO
Date	02-02-2017	Date	2/2/17

I hereby certify that I am the fee title owner/contract for deed vendee of record for the above-mentioned property. Failure to prove ownership may void any agreements entered into the City and I will be held liable for any and all costs incurred by the City.

**PRELIMINARY PLAT OF:  
COVENANT MEADOWS**



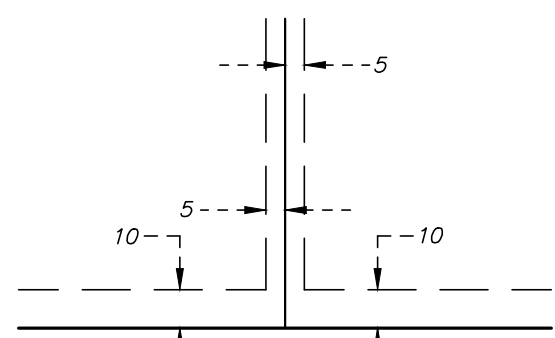
**OWNER/DEVELOPER**

Brookview Estates, LLC  
6210 Green Valley Road  
Ramsey, MN 55303

**PROPERTY DESCRIPTION**

Outlot A, MEADOWBROOK, according to the plat of record thereof,  
Anoka County, Minnesota.

DRAINAGE AND UTILITY EASEMENTS  
ARE SHOWN THUS:

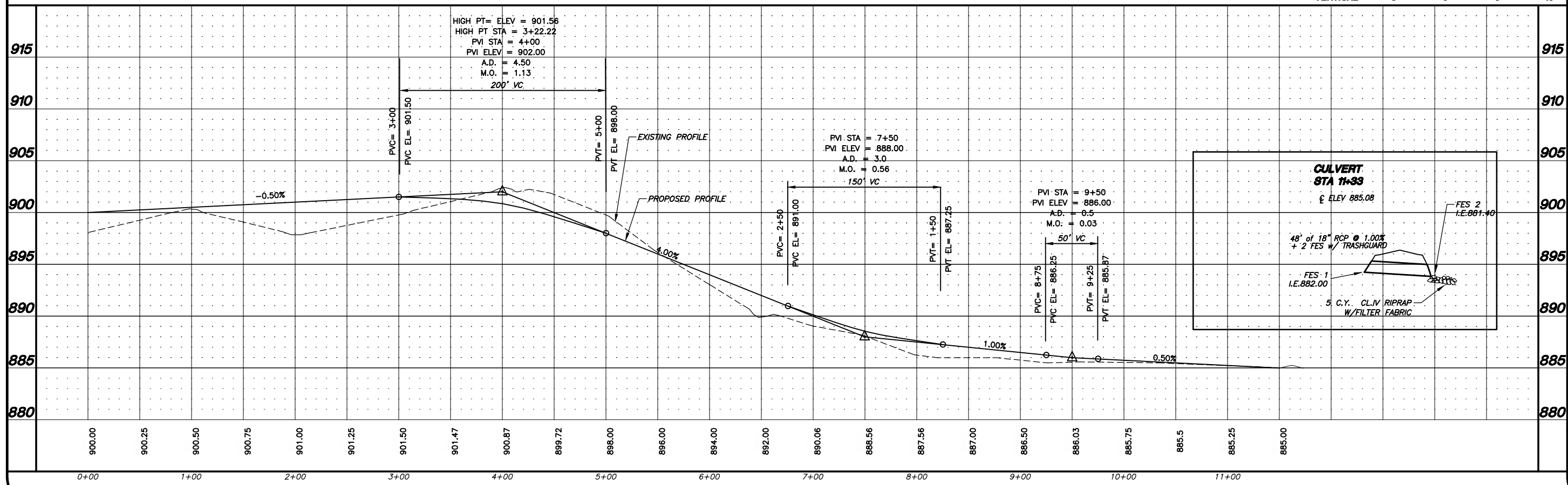
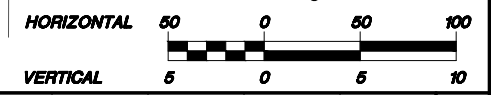
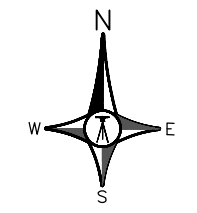
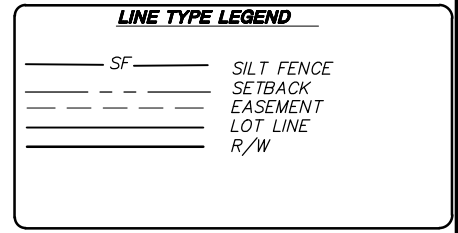
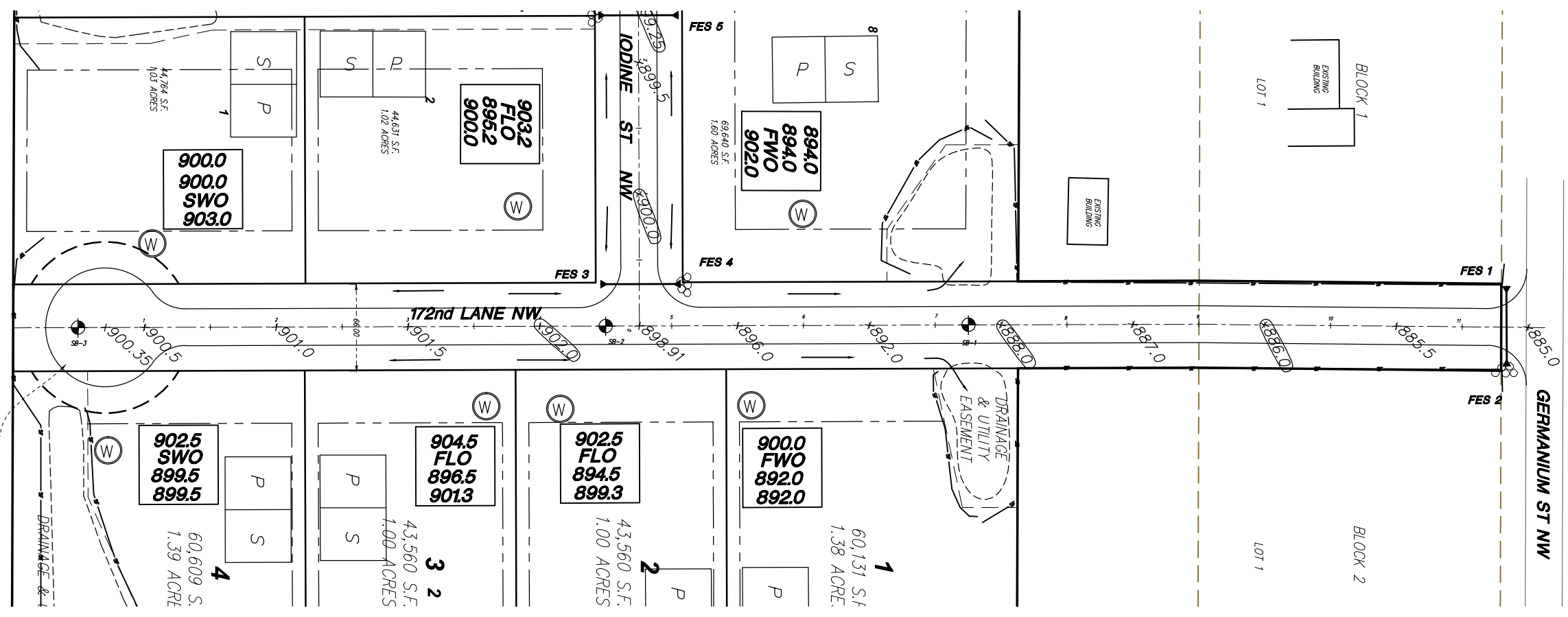


BEING 5 FEET IN WIDTH AND ADJOINING SIDE LOT LINES, ALSO  
BEING 10 FEET IN WIDTH AND ADJOINING RIGHT-OF-WAY AND  
REAR LOT LINES, UNLESS OTHERWISE SHOWN ON THIS PLAT.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR  
UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY  
REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF  
MINNESOTA

*Kyle W. Roddy*  
KYLE W. RODDY, MN LIC. NO 42627 DATED: 2/2/17

172ND LANE NW IS 1163 FEET IN LENGTH FROM THE CENTERLINE OF GERMANIUM ST NW TO THE WESTERN BOUNDARY OF THE PLAT.



**ROSELL ENGINEERING, LLC**  
6192 267 TH CT WYOMING, MN 55092  
PHONE: 763.286.0521

**COVENANT MEADOWS**  
STREET & STORM SEWER  
172nd LANE NW  
RAMSEY, MINNESOTA

**DATE:** 12/19/16  
**SCALE:** 1"=40'  
**PROJECT:** RE-32  
**CHECKED:** BTR  
**APPROVED:** BTR

**DATE:** 2/2/17  
**REG. NO.:** 24212  
**APPROVED:** Brent Roszell

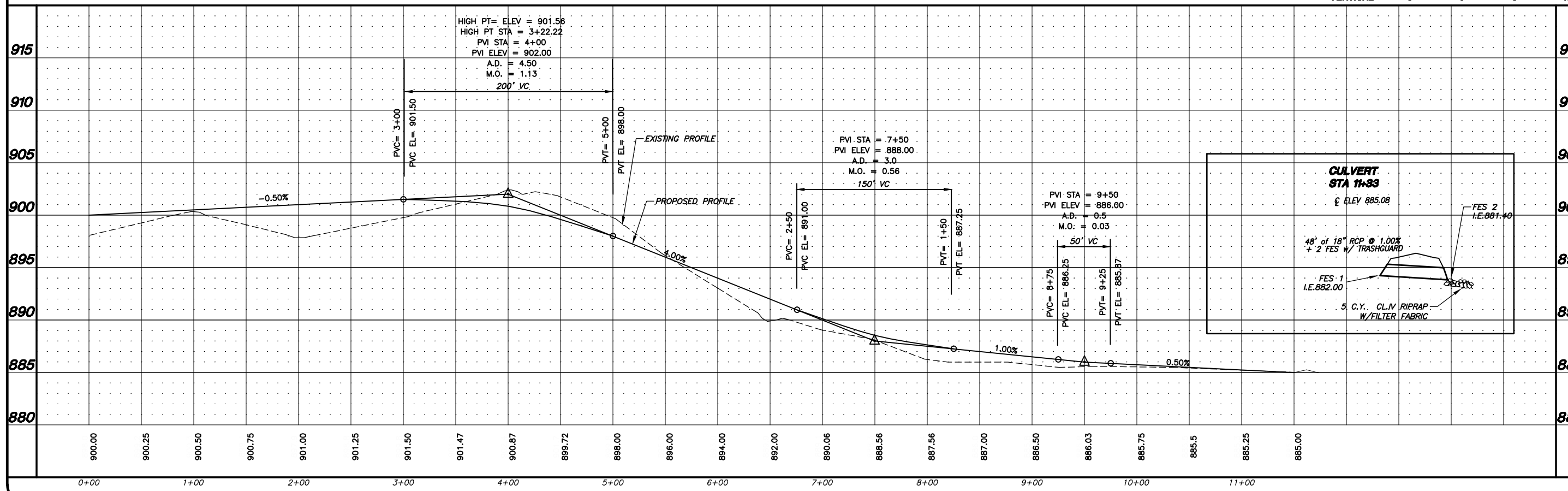
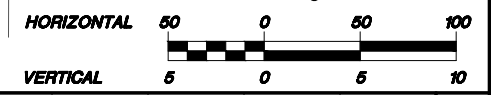
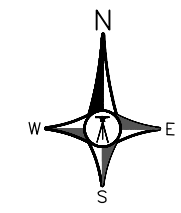
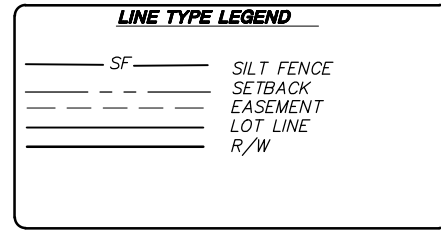
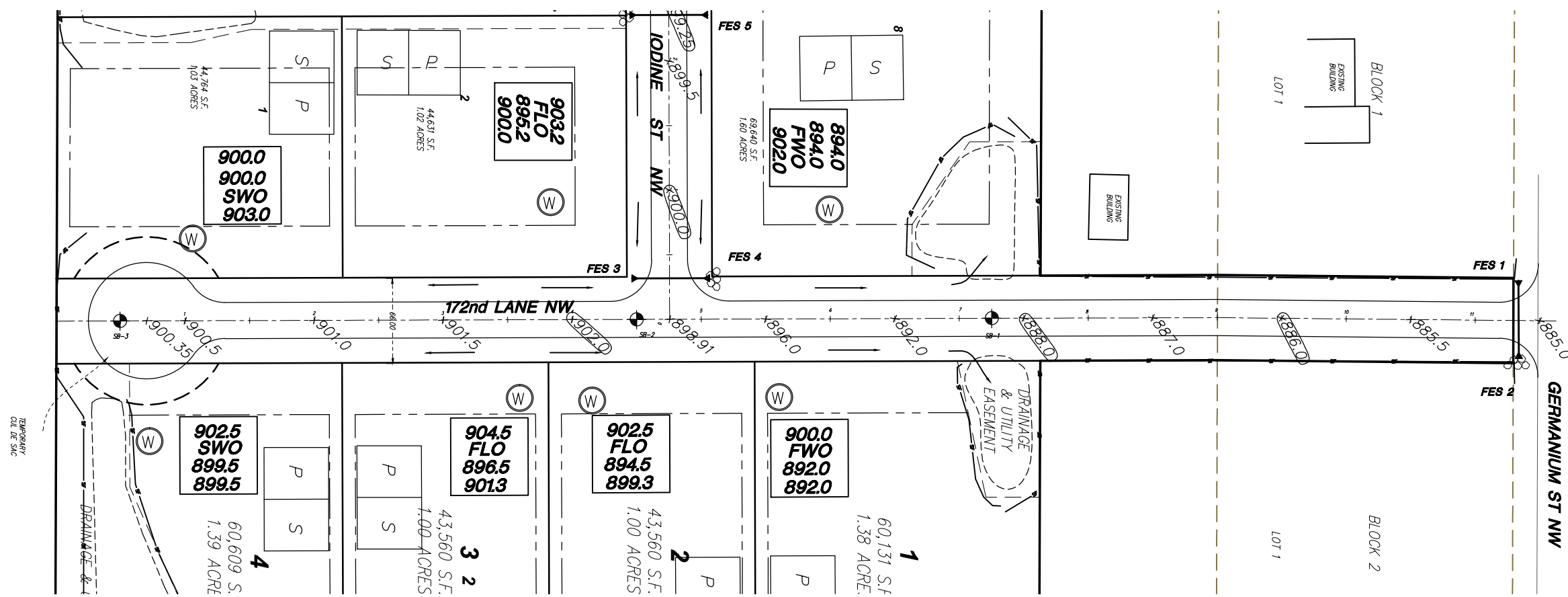
**BR:** BTR  
**REVISIONS:**

NO.	DATE	DESCRIPTION

**RECORD DRAWING**

**C1**

172ND LANE NW IS 1163 FEET IN LENGTH FROM THE CENTERLINE OF GERMANIUM ST NW TO THE WESTERN BOUNDARY OF THE PLAT.

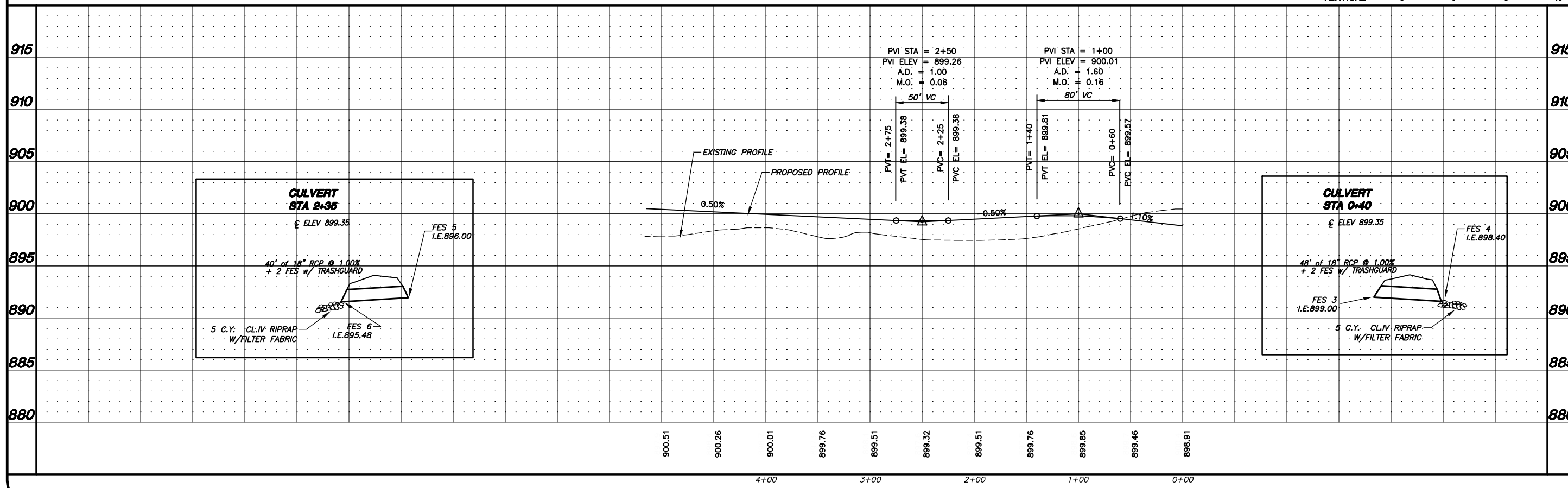
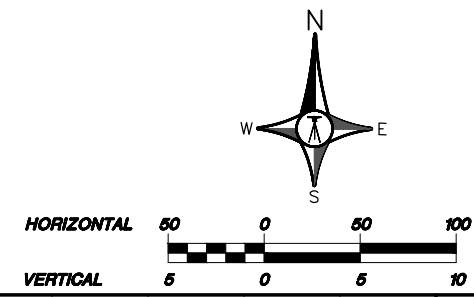
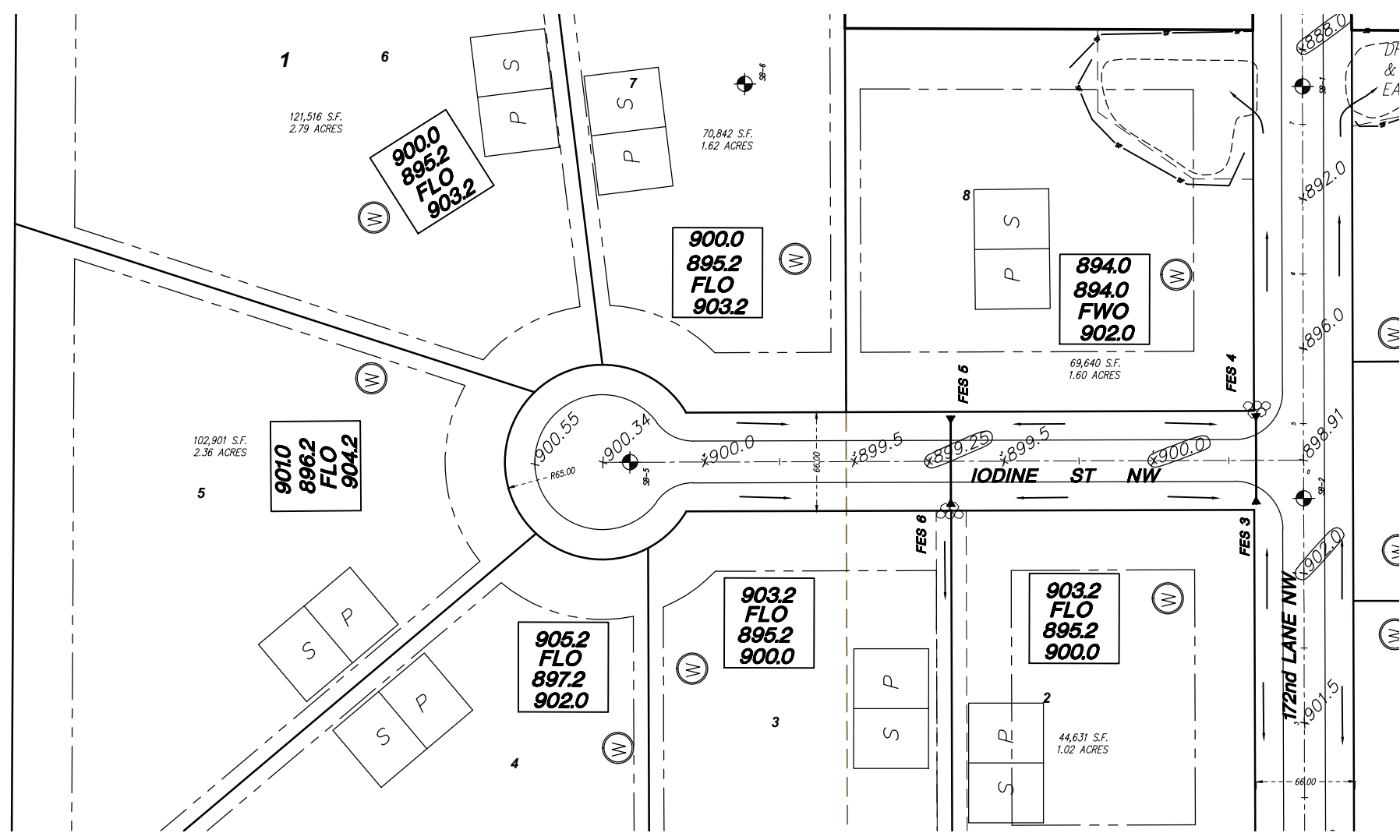


DATE	12/19/16	SCALE	1"=50'	PROJECT	RE-32	CHECKED	BTR	APPROVED	BTR
<p>I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR STATEMENT OF WORK WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.</p> <p>DATE: 2/2/17 REG. NO. 24212</p> <p>Brent Rosnell</p>									
<p>ROSELL ENGINEERING, LLC 6192 267 TH CT WYOMING, MN 55092 PHONE: 763.286.0521</p>					<p>COVENANT MEADOWS STREET &amp; STORM SEWER 172nd LANE NW RAMSEY, MINNESOTA</p>				
REVISIONS	DATE								
BT									
<b>C1</b>									

IODINE ST NW IS 513 FEET IN LENGTH FROM THE CENTERLINE OF 172ND LANE NW TO THE NORTH EDGE OF THE CUL-DE-SAC TRAVEL SURFACE

**LINE TYPE LEGEND**

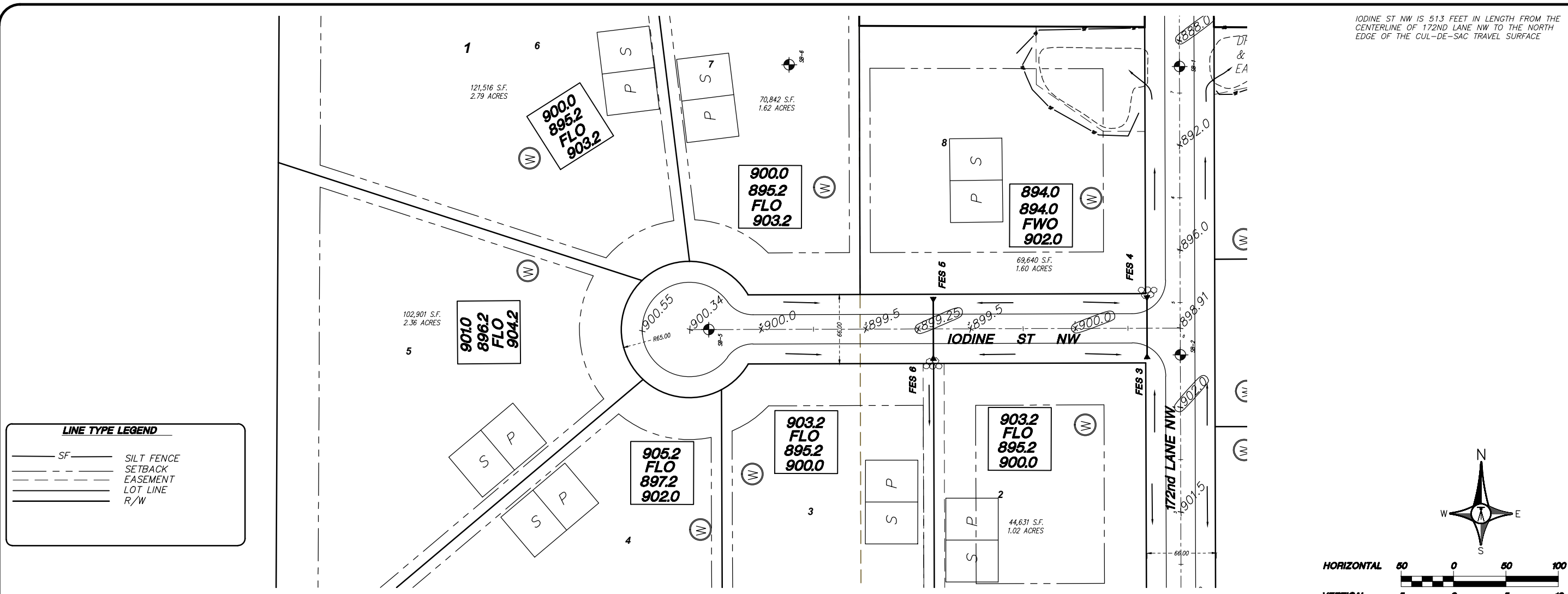
---	SILT FENCE
- - -	SETBACK
- · - · -	EASEMENT
---	LOT LINE
---	R/W



DATE	REVISIONS	BY
<b>ROSELL ENGINEERING, LLC</b> 6192 267 TH CT WYOMING, MN 55092 PHONE: 763.286.0521		
<b>COVENANT MEADOWS</b> STREET & STORM SEWER IODINE ST NW RAMSEY, MINNESOTA		
DRAWN	DATE	REG. NO.
	12/19/16	24219
SCALE	PROJECT	REG. NO.
1"=40'	RE-32	
CHECKED	DATE	
	2/2/17	
APPROVED		

*Brent Rosnell*  
 BRENT ROSNELL

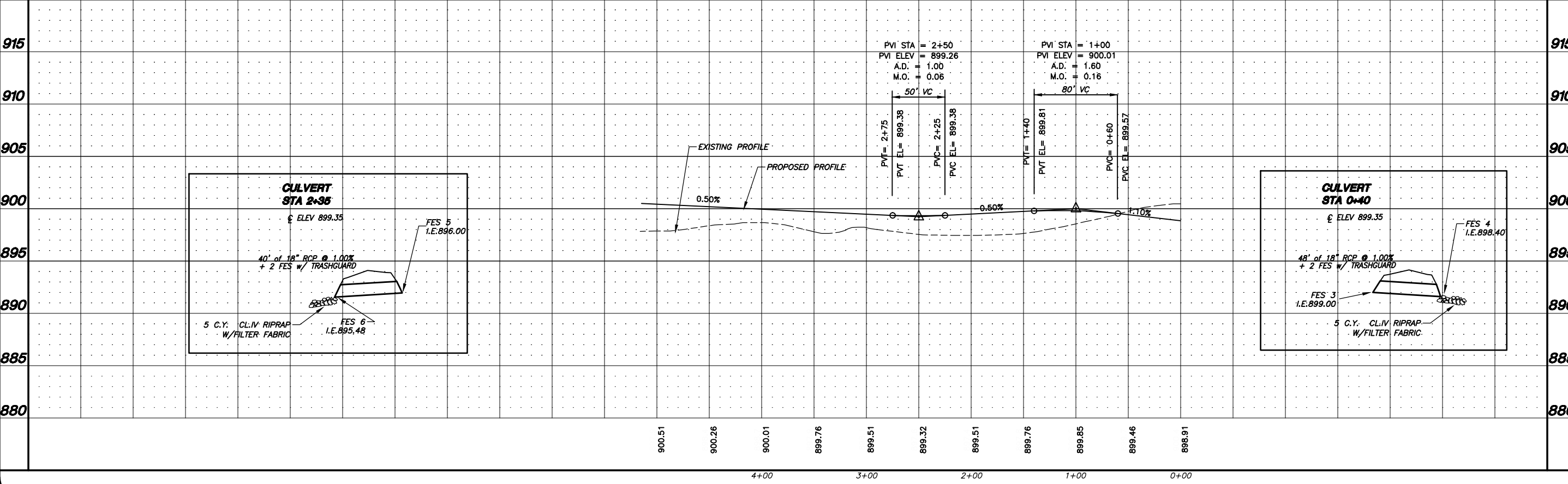
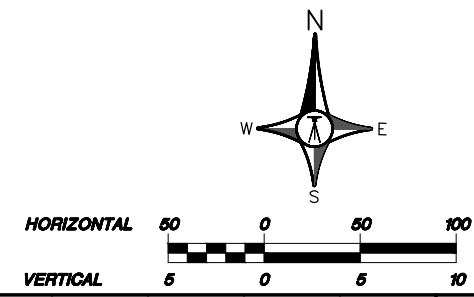
C2



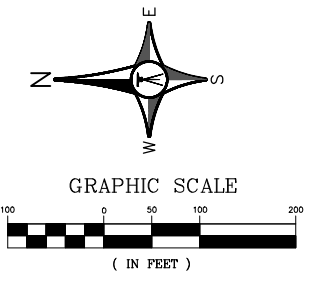
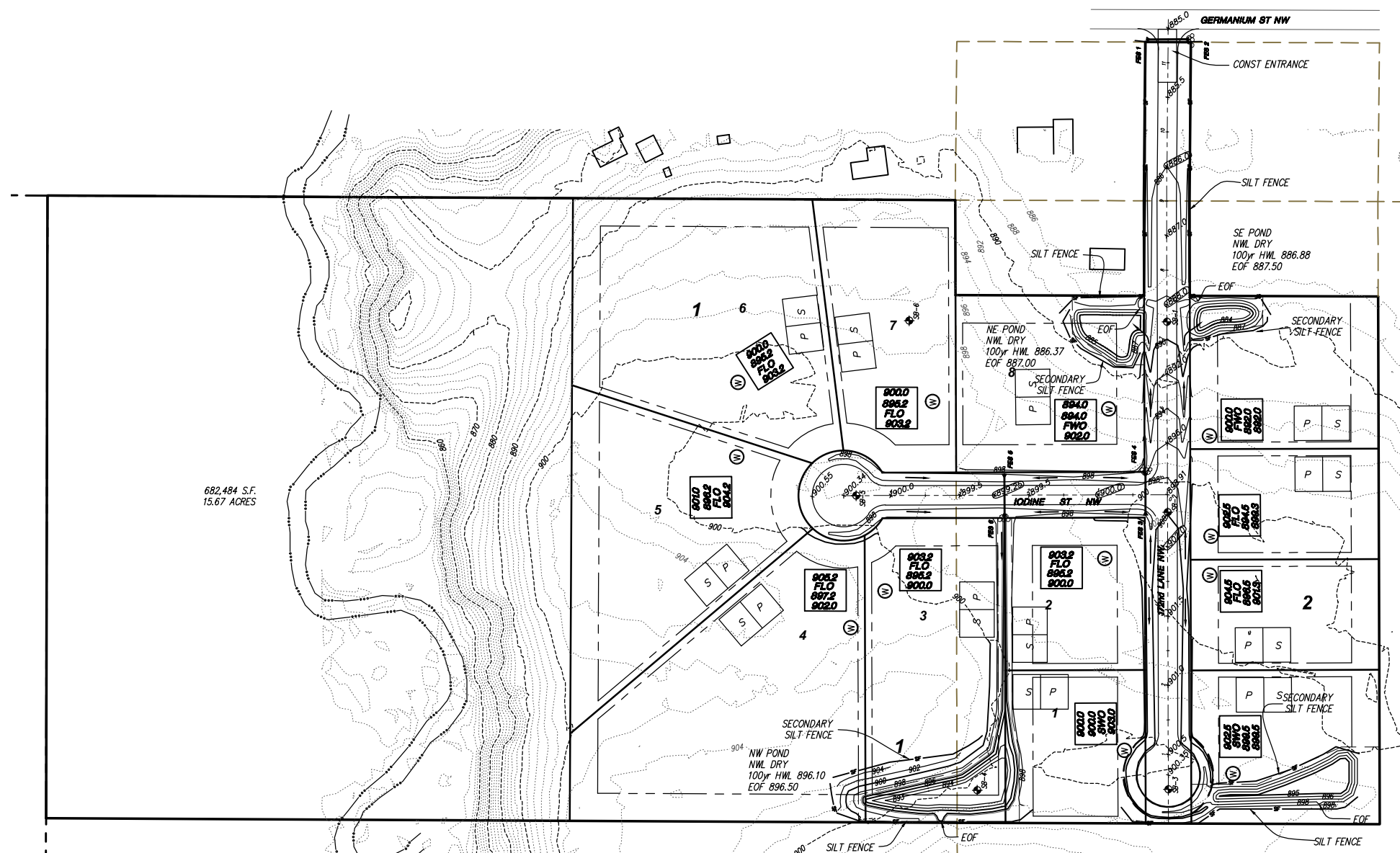
**LINE TYPE LEGEND**

— SF —	SILT FENCE
--- SETBACK ---	SETBACK
- - - EASEMENT - - -	EASEMENT
— LOT LINE —	LOT LINE
— R/W —	R/W

IODINE ST NW IS 513 FEET IN LENGTH FROM THE CENTERLINE OF 172ND LANE NW TO THE NORTH EDGE OF THE CUL-DE-SAC TRAVEL SURFACE



DATE	REVISIONS		BY
<p align="center"><b>ROSELL ENGINEERING, LLC</b>          6192 267 TH CT WYOMING, MN 55092          PHONE: 763.286.0521</p>			
<p align="center"><b>COVENANT MEADOWS</b>          STREET &amp; STORM SEWER          IODINE ST NW          RAMSEY, MINNESOTA</p>			
DATE	REG. NO.	APPROVED	
12/19/16	1-401	Brent Rosnell	
PROJECT	RE-32	BTR	
CHECKED	BTR	BTR	
APPROVED	BTR	BTR	
<b>C2</b>			



682,484 S.F.  
15.67 ACRES

**PROPERTY DESCRIPTION**  
Outlot A, MEADOWBROOK, according to the plat of record thereof,  
Anoka County, Minnesota.

- NOTE: STREETS TO BE SWEEP DAILY OR AS DIRECTED BY THE CITY ENGINEER.
- NOTE: NO ACTIVITY, OTHER THAN THE CONSTRUCTION OF, SHALL BE ALLOWED IN INFILTRATION POND AREAS.
- NOTE: TREES TO REMAIN SHALL BE PROTECTED FROM CONSTRUCTION ACTIVITY BY MEANS OF FENCING OR OTHER APPROVED METHOD.
- NOTE: BUILDING PADS & DRAINFIELD SITE FOR GRAPHICAL PURPOSES ONLY. ACTUAL LOCATION MAY VARY.
- NOTE: DRAINFIELD LOCATIONS, WHEN DETERMINED, ARE TO BE PROTECTED FROM CONSTRUCTION ACTIVITIES.

- POND NOTES**
- INFILTRATION PONDS SHALL BE EXCAVATED BY USE OF BACKHOE WITH A TOOTHED BUCKET.
  - NE POND AND SE POND WILL REQUIRE OVER-EXCAVATION TO REMOVE A CLAY LAYER OF 4 FEET IN THICKNESS
  - BOTTOM OF POND SHALL NOT BE COMPACTED
  - NO TOPSOIL TO BE PLACED IN PONDS
  - PONDS TO BE SEED WITH MnDOT SEED MIX 33-262 (44 lb/ac)
  - PLACE SILT FENCE (SECONDARY) IMMEDIATELY AFTER GRADING COMPLETION
  - ACCESS TO PONDS VIA EASEMENTS ABUTTING PUBLIC ROADS

**BUILDING PAD LEGEND**

909.0	GARAGE FLOOR ELEVATION
FWO/MWO/SWO	TYPE OF BUILDING
FLO/MLO/F	LOWEST FLOOR ELEVATION
901.5	LOWEST OPENING ELEVATION
909.0	

**BUILDING TYPE LEGEND**

F	FULL BASEMENT
FWO	FULL BASEMENT WALKOUT
MWO	MODIFIED (NON STANDARD) WALKOUT BASEMENT VARIABLE 5-12 COURSE BASEMENT
SWO	SPLIT ENTRY WALKOUT BASEMENT (5 COURSE)
FLO	FULL BASEMENT LOOKOUT ON 5 COURSE
MLO	MODIFIED (NON STANDARD) LOOKOUT BASEMENT VARIABLE 5-12 COURSE BASEMENT

**LINE TYPE LEGEND**

— SF —	SILT FENCE
— — —	PROPOSED CONTOUR
— — —	EXIST CONTOUR
— — —	SETBACK
— — —	EASEMENT
— — —	LOT LINE
— — —	R/W

**ROSELL ENGINEERING, LLC**  
6192 267 TH CT WYOMING, MN 55092  
PHONE: 763.286.0521

**COVENANT MEADOWS**  
PRELIMINARY GRADING PLAN  
RAMSEY, MINNESOTA

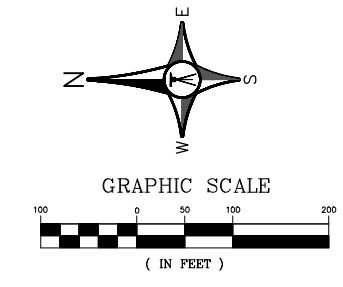
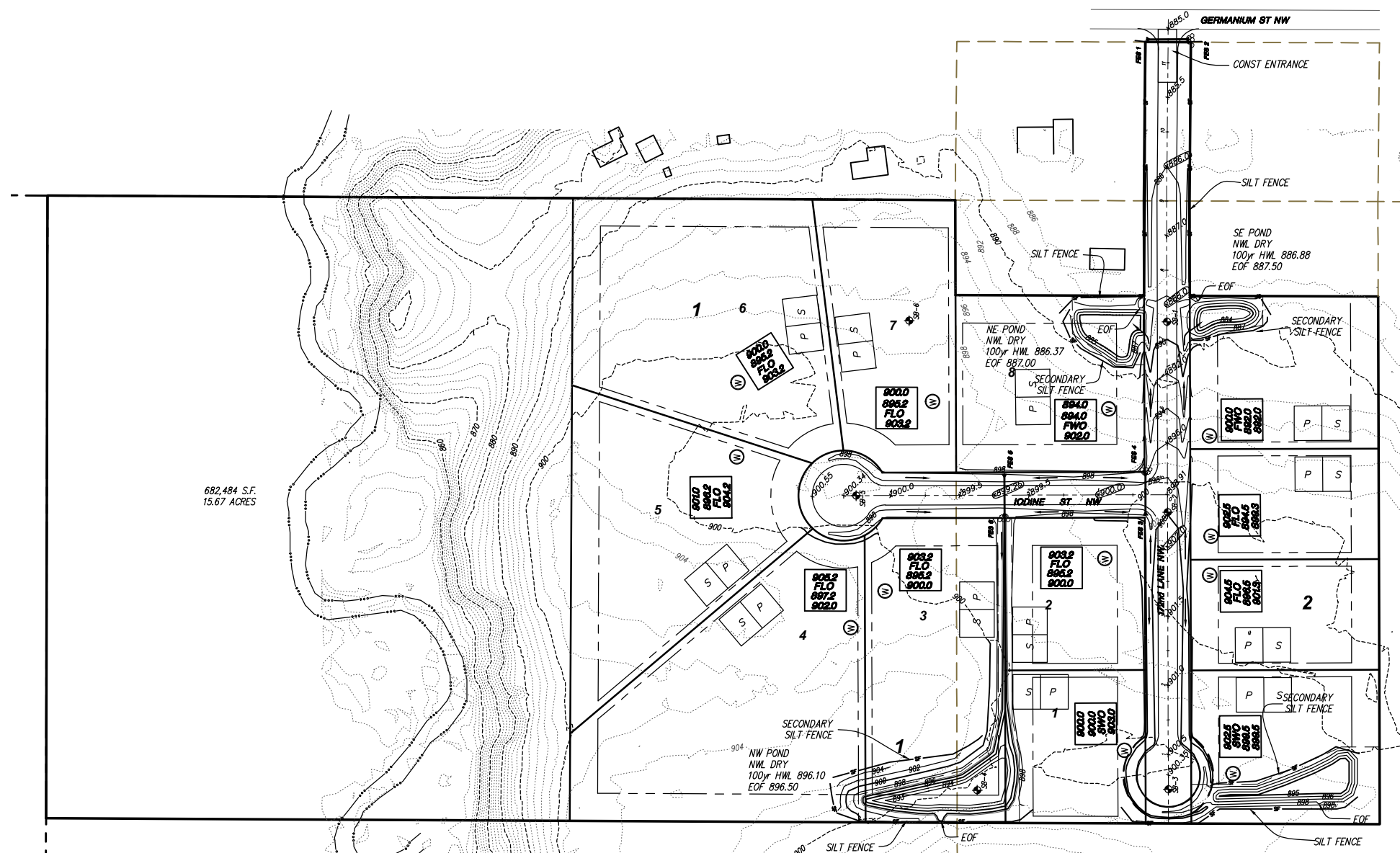
DATE: 12/19/16  
SCALE: AS SHOWN  
PROJECT: RE-32  
CHECKED: BTR  
APPROVED: BTR

REVISIONS  
DATE  
BY

RECORD DRAWING

DATE: 2/2/17  
REG. NO.: 24019  
Brent Roszell  
BRENT ROSZELL

**G1**



682,484 S.F.  
15.67 ACRES

**PROPERTY DESCRIPTION**  
Outlot A, MEADOWBROOK, according to the plat of record thereof,  
Anoka County, Minnesota.

- NOTE: STREETS TO BE SWEEP DAILY OR AS DIRECTED BY THE CITY ENGINEER.
- NOTE: NO ACTIVITY, OTHER THAN THE CONSTRUCTION OF, SHALL BE ALLOWED IN INFILTRATION POND AREAS.
- NOTE: TREES TO REMAIN SHALL BE PROTECTED FROM CONSTRUCTION ACTIVITY BY MEANS OF FENCING OR OTHER APPROVED METHOD.
- NOTE: BUILDING PADS & DRAINFIELD SITE FOR GRAPHICAL PURPOSES ONLY. ACTUAL LOCATION MAY VARY.
- NOTE: DRAINFIELD LOCATIONS, WHEN DETERMINED, ARE TO BE PROTECTED FROM CONSTRUCTION ACTIVITIES.

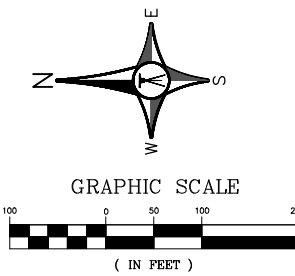
- POND NOTES**
- INFILTRATION PONDS SHALL BE EXCAVATED BY USE OF BACKHOE WITH A TOOTHED BUCKET.
  - NE POND AND SE POND WILL REQUIRE OVER-EXCAVATION TO REMOVE A CLAY LAYER OF 4 FEET IN THICKNESS
  - BOTTOM OF POND SHALL NOT BE COMPACTED
  - NO TOPSOIL TO BE PLACED IN PONDS
  - PONDS TO BE SEED WITH MnDOT SEED MIX 33-262 (44 lb/ac)
  - PLACE SILT FENCE (SECONDARY) IMMEDIATELY AFTER GRADING COMPLETION
  - ACCESS TO PONDS VIA EASEMENTS ABUTTING PUBLIC ROADS

BUILDING PAD LEGEND	
909.0	GARAGE FLOOR ELEVATION
FWO/MWO/SWO	TYPE OF BUILDING
FLO/MLO/F	LOWEST FLOOR ELEVATION
901.5	LOWEST OPENING ELEVATION
909.0	

BUILDING TYPE LEGEND	
F	FULL BASEMENT
FWO	FULL BASEMENT WALKOUT
MWO	MODIFIED (NON STANDARD) WALKOUT BASEMENT VARIABLE 5-12 COURSE BASEMENT
SWO	SPLIT ENTRY WALKOUT BASEMENT (5 COURSE)
FLO	FULL BASEMENT LOOKOUT ON 5 COURSE
MLO	MODIFIED (NON STANDARD) LOOKOUT BASEMENT VARIABLE 5-12 COURSE BASEMENT

LINE TYPE LEGEND	
— SF —	SILT FENCE
— — —	PROPOSED CONTOUR
— — —	EXIST CONTOUR
— — —	SETBACK
— — —	EASEMENT
— — —	LOT LINE
— — —	R/W

DATE	REVISIONS	BY	<b>ROSELL ENGINEERING, LLC</b> 6192 267 TH CT WYOMING, MN 55092 PHONE: 763.286.0521
<b>COVENANT MEADOWS</b> PRELIMINARY GRADING PLAN RAMSEY, MINNESOTA			<small>I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, DIRECTOR'S REPORT AND ALL INFORMATION CONTAINED HEREIN WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.</small>  DATE: 2/2/17 REG. NO. 24019  BRENT ROSSELL
DRAWN	DATE	SCALE	
PROJECT	CHECKED	APPROVED	G1



LINE TYPE LEGEND	
	SETBACK
	EASEMENT
	LOT LINE
	R/W
	CENTERLINE
	CURB & GUTTER
	TREE LINE w/TREE REMOVAL

682,484 S.F.  
15.67 ACRES

THE PLANTING DEPTH OF EACH TREE WILL BE INSPECTED. ANY TREE PLANTED TOO DEEPLY OR WITH FLARE BURIED WILL BE REJECTED.

ALL TREES TO BE PREMIUM QUALITY, NO "PARK GRADE" TREES ARE PERMITTED.  
AFTER INSTALLATION, TRIM OUT DEADWOOD AND/OR DEFORMED TWIGS. DO NOT CUT LEADER.  
AMENDED SOIL SHALL CONTAIN 5% ORGANIC MATTER BY VOLUME.  
DIAMETER OF HOLE SHALL BE THREE TIMES THE DIAMETER OF THE ROOTBALL OR ROOT MASS.  
ORGANIC MATTER SHALL NO BE BANKED AGAINST THE STEM OR TRUNK OF THE TREE.  
TREE SHALL NOT BE STAKED UNLESS IT IS ABSOLUTELY NECESSARY TO DO SO.  
ALL TAGS, BANDS AND WIRES SHALL BE REMOVED FROM TREE IMMEDIATELY AFTER PLANTING.  
THE TREE SHALL BE WATERED AS NECESSARY TO PREVENT WILTING AND PROMOTE ROOT GROWTH.  
A PHOTO DEGRADEABLE TREE TUBE OR EQUIVALENT SHALL BE INSTALLED AROUND ALL NEWLY PLANTED TREES.  
PULL BURLAP AWAY FROM TREE STEM.  
CUT WIRE AND PULL AWAY FROM TREE STEM.

PHOTO DEGRADEABLE TREE TUBE  
STURDY STAKE

UNDISTURBED SOIL OR COMPACTED SUBGRADE

SCARIFY BOTTOM AND SIDES OF HOLE PRIOR TO PLANTING. PLANTING HOLE TO BE 2" LARGER THAN ROOTBALL.

APPROVED		STANDARD DETAILS <b>TREE PLANTING DETAIL</b>
DATE 5-97		CITY PLATE No. PARK-2

- PLANTING DEPTH SHALL BE SUCH THAT THE 1ST STE OF PRIMARY ROOTS IS AT FINISHED GRADE
- ONLY PRUNE OUT DEAD/BROKEN/DEFORMED BRANCHES AT TIME OF INSTALLATION.
- REMOVAL OF UPPER PORTION OF WIRE BASKET AND BURLAP AFTER BEING PLACED IN PLANTING HOLE IF USING B&B STOCK.
- 2-4 INCHES OF WOOD CHIP MULCH SHALL BE INCLUDED AROUND ALL TREES. MULCH SHALL NOT BE PILED AGAINST THE TRUNK OF TREES.

PLANTING REQUIREMENTS

TREES:  
OVERSTORY DECIDUOUS TREES 1" DIAMETER MEASURED 6' FROM THE BASE AT PLANTING

CONIFEROUS TREES MUST HAVE A MINMUM HEIGHT OF 6 FEET

– MINIMUM 25% DECIDUOUS AND CONIFEROUS

- PROPOSED CONIFEROUS TREES /QTY**
- DENOTES BLACK HILLS SPRUCE (PICEA GLAUCA DENSATA) 7 EACH
- PROPOSED DECIDUOUS TREES /QTY**
- DENOTES WHITE OAK (QUERCUS ALBA) 9 EACH
  - DENOTES AUTUMN BLAZE MAPLE (ACER FREEMANII) 8 EACH

TOPSOIL: EACH INDIVIDUAL LOT WILL NEED TO HAVE FOUR (4) INCHES OF TOPSOIL MEETING THE CITY'S TOPSOIL SPECIFICATION. A TOPSOIL INSPECTION IS REQUIRED PRIOR TO LANDSCAPING BEING INSTALLED AND COPIES OF THE LOAD TICKETS ARE REQUIRED AS WELL. THIS IS REVIEWED AT TIME OF BUILDING PERMIT APPLICATION AND REQUEST FOR CERTIFICATE OF OCCUPANCY FOR EACH INDIVIDUAL LOT.

DATE	REVISIONS	ROSELL ENGINEERING, LLC 6192 267 TH CT WYOMING, MN 55092 PHONE: 763.286.0521
DATE		COVENANT MEADOWS TREE / LANDSCAPE PLAN RAMSEY, MINNESOTA
DATE		I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR OTHER DOCUMENT PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND UNDER THE LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. DATE: 2/2/17 REG. NO. 24219 
DATE		DRAWN BY: BT DATE: 2/2/17 SCALE: AS SHOWN PROJECT: REC-32 CHECKED: BTR APPROVED: BTR
<b>L1</b>		

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP) NARRATIVE**

**PROJECT SITE EVALUATION, ASSESSMENT, AND PLANNING**

THIS NARRATIVE IS TO SERVE AS A GUIDANCE PLAN AND MUST BE AMENDED AND MODIFIED AS SITE CONDITIONS CHANGE DURING CONSTRUCTION.

**PROJECT LOCATION/DESCRIPTION**

PROJECT/SITE NAME: COVENANT MEADOWS
PROJECT NUMBERS: RE-33
PROJECT LOCATION: STREET: 173rd & GERMANIUM CITY/TOWNSHIP: RAMSEY COUNTY: ANOKA
STATE: MINNESOTA ZIP: 55303
LATITUDE/LONGITUDE: 45.2845/-93.4102 SECTION: 2 TOWNSHIP: 32N RANGE: 25W

**CONTACT INFORMATION/RESPONSIBLE PARTIES**

ERIC THOMSEN OWNS THE LAND, ADJACENT ROADS, AND EASEMENT AREAS ASSOCIATED WITH THE PROJECT. ERIC THOMSEN IS THE OWNER PERMITTEE APPLYING FOR PERMIT COVERAGE AND WILL BE RESPONSIBLE FOR DEVELOPING THIS SWPPP AND THE LONG-TERM MAINTENANCE PLAN OF THE PERMANENT STORMWATER MANAGEMENT SYSTEM FOR THIS PROJECT (IF APPLICABLE). THE OWNER WILL ENSURE THAT THE DESCRIBED WORK IN THE SWPPP IS BEING COMPLETED BY THE OPERATOR PERMITTEE.

OWNER/PERMITTEE: ERIC THOMSEN
6210 GREEN VALLEY RD
RAMSEY, MN 55303
612-919-6862

THE PRIMARY CONTRACTOR WILL ENTER INTO A CONTRACT WITH ERIC THOMSEN TO COMPLETE THE REQUIRED WORK FOR THIS PROJECT. THE PRIMARY CONTRACTOR WILL BECOME (UNDER CONTRACT) THE OPERATOR CO-PERMITTEE ON THE NPDES PERMIT (THROUGH EXECUTION OF A NPDES PERMIT MODIFICATION FORM), AND THEREBY AGREE TO IMPLEMENT THIS SWPPP IN COOPERATION WITH THE OWNER. THE OPERATOR IS RESPONSIBLE FOR DEVELOPING A CHAIN OF RESPONSIBILITY PRIOR TO STARTING CONSTRUCTION (REFER TO SWPPP AMENDMENT SECTION). THE NPDES PERMIT MODIFICATION FORM SHALL BE SUBMITTED TO THE MPCA AFTER THE PROJECT IS AWARDED TO THE PRIMARY CONTRACTOR, PRIOR TO LETTING THE PROJECT.

THE OPERATOR WILL INSURE THAT INDIVIDUALS OVERSEEING OR IMPLEMENTING THE SWPPP HAVE BEEN PROPERLY TRAINED AND THAT CERTIFICATIONS WILL BE MADE AVAILABLE UPON REQUEST. THIS INCLUDES ANY SUB-CONTRACTORS THAT THE OPERATOR EMPLOYS UNDER SEPARATE CONTRACT. THE OPERATOR WILL PROVIDE THE CONTACT INFORMATION FOR THE EROSION CONTROL SUPERVISOR, SITE SUPERINTENDENT/FORAMAN, AND BMP INSTALLERS. THE EROSION CONTROL SUPERVISOR SHALL BE A RESPONSIBLE EMPLOYEE OF THE PRIME CONTRACTOR AND/OR DULY AUTHORIZED BY THE PRIME CONTRACTOR TO REPRESENT THE PRIME CONTRACTOR ON ALL MATTERS PERTAINING TO THE NPDES CONSTRUCTION STORMWATER PERMIT COMPLIANCE. THE EROSION CONTROL SUPERVISOR SHALL HAVE AUTHORITY OVER ALL OPERATOR OPERATIONS WHICH INFLUENCE NPDES PERMIT COMPLIANCE, INCLUDING GRADING, EXCAVATION, BRIDGE CONSTRUCTION, CULVERT INSTALLATION, UTILITY WORK, CLEARING/GRUBBING, DEWATERING, AND ANY OTHER OPERATION THAT INCREASES THE EROSION POTENTIAL ON THE PROJECT.

THE OPERATOR WILL PERFORM A PRECONSTRUCTION SITE VISIT TO ADDRESS ANY AREAS OF CONCERN PERTAINING TO ENVIRONMENTAL COMPLIANCE. THE OPERATOR WILL IMPLEMENT AND MAINTAIN BMPs FOR THE DURATION OF CONSTRUCTION PROJECT. THE OPERATOR WILL COMPLETE THE REQUIRED SITE INSPECTIONS TO REMAIN IN COMPLIANCE WITH NPDES PERMIT REQUIREMENTS PART II.B, II.C, III.B-F, IV, V, AND APPLICABLE CONSTRUCTION ACTIVITY REQUIREMENTS FOUND IN APPENDIX A, PART C.

OPERATOR/PERMITTEE: (TO BE DETERMINED THROUGH TRANSFER OF NPDES-CSW PERMIT)

ROSELL ENGINEERING, LLC HAS BEEN CONTRACTED BY THE OWNER TO DEVELOP THE SWPPP PLAN FOR THIS PROJECT. THIS SWPPP WAS PREPARED BY AN INDIVIDUAL THAT HAS BEEN PROPERLY TRAINED IN ACCORDANCE TOM PART III.F OF THE NPDES PERMIT (CERTIFICATION CARDS ARE AVAILABLE UPON REQUEST). ROSHELL ENGINEERING, LLC WILL OFFER GUIDANCE FOR COMPLIANCE WITH THE NPDES PERMIT BEFORE, DURING, AND AFTER CONSTRUCTION OF THE PROJECT.

SWPPP DEVELOPER/WATER RESOURCE ENGINEER: ROSHELL ENGINEERING (BRENT ROSHELL)
6192 267TH CT WYOMING, MN 55092
763-286-0521/rosshellengineering@gmail.com
SWPPP CERTIFICATION: DESIGN OF CONSTRUCTION SWPPP
DR. SHRI WAMASWAMY
EXPIRATION MAY 31, 2018

Table with 3 columns: AGENCY CONTACTS, PERMIT, NAME, PHONE NUMBER/E-MAIL. Rows include MPCA (EMERGENCY), MPCA, ACOE, DNR, ANOKA SWCD, WATERSHED DISTRICT.

**PROJECT DESCRIPTION & SCHEDULE**

COVENANT MEADOWS IS A RESIDENTIAL SUBDIVISION COMPRISED OF 12 LOTS TO BE CONSTRUCTED IN 1 PHASE. THE CONSTRUCTION ACTIVITIES WILL INCLUDE GRADING OPERATIONS OF STREETS, HOUSEPADS, SURFACE DRAINAGE, AND PONDS. UTILITY CONSTRUCTION, EXPOSED SOIL STABILIZATION, AND PAVING WILL OCCUR AFTER GRADING OPERATIONS.

TENTATIVE CONSTRUCTION SCHEDULE (OPERATOR SHOULD PROVIDE ESTIMATED CONSTRUCTION SCHEDULE TO THE ENGINEER)

Table with 2 columns: CONSTRUCTION ACTIVITIES, DATE. Rows include CLEARING & GRUBBING OPERATIONS, POND, BRIDGE, CULVERT REMOVAL AND REPLACEMENT, CURB & GUTTER/SIDEWALK, SMALL UTILITIES, PAVING, INITIAL TURF, BRIDGE RAILING/LIGHTING, LANDSCAPING, FINAL TURF, MISC.

**PRE-CONSTRUCTION IMPERVIOUS SURFACE AND DISTURBED AREA CALCULATIONS**

TOTAL AREA TO BE DISTURBED - 9.70 ACRES

IMPERVIOUS AREA: PRE-CONSTRUCTION = 0.00/POST-CONSTRUCTION = 2.30 ACRES

NET INCREASE OF IMPERVIOUS AREA = 2.30 ACRES

**PERMANENT STORMWATER MANAGEMENT SYSTEMS**

THE NPDES PERMANENT WATER QUALITY VOLUME (PART III.D) FROM THE NET NEW IMPERVIOUS SURFACES OF THE PROJECT IS PROVIDED IN THE STORM WATER SUMMARY. HYDROLOGIC AND WATER QUALITY MODELING DATA IS AVAILABLE UPON REQUEST.

Table with 3 columns: LOCATION OF SWPPP COMPONENTS DESCRIPTION, TITLE, LOCATION. Rows include SWPPP NARRATIVE, SITE CONDITIONS, SITE MAP (SOILS, WATER RESOURCES, POTENTIAL POLLUTANT GENERATING ACTIVITIES), CONSTRUCTION PHASING/STAGING, BUFFERS & AREAS NOT TO BE DISTURBED, DIRECTION OF FLOW (PRE- & POST-CONSTRUCTION), IMPERVIOUS SURFACES, TEMPORARY EROSION & SEDIMENT CONTROL BMPs/STEEP SLOPES (3:1), DNR FISH EXCLUSION "WORK IN WATER RESTRICTIONS - REFER TO SWPPP", PERMANENT EROSION CONTROL BMPs, STORM SEWER GRADING, ESTIMATED BMP QUANTITIES, BMP DETAILS/SPECIFICATIONS, HYDROLOGIC/WATER QUALITY MODELING.

**EXISTING SITE CONDITIONS, SOILS, & WATER RESOURCES**

SOILS AND NATIVE TOPSOIL: NATIVE TOPSOIL WILL BE STRIPPED AND STOCKPILED AND FINAL GRADING OPERATIONS, WHERE INDICATED IN THE CONSTRUCTION PLANS AND SPECIFICATIONS. METHODS AND EQUIPMENT TO MINIMIZE SOIL COMPACTION (IN PROPOSED INFILTRATION AREAS, DRIP LINE OF TREES TO BE PRESERVED, ETC.) SHALL BE DETERMINED BY THE OPERATOR'S SWPPP AMENDMENT. TRACKED VEHICLES ARE PREFERRED AND WHEELED VEHICLES ARE DISCOURAGED IN THESE AREAS.

DESCRIPTION OF RECEIVING WATERS (LOCATED WITHIN 1-MILE): STORMWATER FROM THIS PROJECT WILL BE CONVEYED INTO SEVERAL STORM SEWER PIPES AND STORMWATER PONDS. PROJECT DISCHARGE POINTS. THE NPDES PERMANENT WATER QUALITY VOLUME (PART III.D) FROM THE NET NEW IMPERVIOUS SURFACES OF THE PROJECT IS PROVIDED IN THE CONSTRUCTED PONDS. HYDROLOGIC AND WATER QUALITY MODELING DATA IS AVAILABLE UPON REQUEST.

DESCRIPTION OF IMPAIRED WATERS OR WATER SUBJECT TO TMDLS: A SPECIAL AND IMPAIRED WATERS SEARCH WAS COMPLETED USING THE MPCA'S ESW/INDEX TOOL ON 12-7-2016 BASED ON THIS REVIEW, THE FOLLOWING SPECIAL OR IMPAIRED WATERS (WITH CONSTRUCTION RELATED IMPAIRMENTS) ARE LOCATED WITHIN ONE MILE OF, AND DOWNSTREAM OF ANY PROJECT DISCHARGE POINTS: NO DISCHARGE POINTS

C.1.A EXPOSED SOILS: OPERATOR SHALL STABILIZE ALL EXPOSED SOIL AREAS WITH (7) DAYS AFTER THE CONSTRUCTION ACTIVITY IN THAT PORTION OF THE SITE HAS TEMPORARILY OR PERMANENTLY CEASED (APPENDIX A.C.1.A).

C.1.B TEMPORARY BASIN: OPERATOR SHALL ADHERE TO THE REQUIREMENTS DESCRIBED IN PART III.C. 1-5 OF THE NPDES CONSTRUCTION PERMIT FOR COMMON DRAINAGE LOCATIONS THAT SERVE AN AREA WITH FIVE (10) OR MORE ACRES DISTURBED.

C.2 POST CONSTRUCTION: THE WATER QUALITY VOLUME THAT MUST BE TREATED BY THE PROJECT'S PERMANENT STORMWATER MANAGEMENT SYSTEM DESCRIBED IN PART III.D. SHALL BE ONE (1) INCH OF RUNOFF FROM THE NEW IMPERVIOUS SURFACES CREATED BY THE PROJECT. WHERE SITE CONDITIONS ALLOW, AT LEAST ONE (1) INCH OF THE WATER QUALITY VOLUME MUST BE INFILTRATED. SEE PART III.D. FOR MORE INFORMATION ON INFILTRATION DESIGN AND APPROPRIATE SITE CONDITIONS. IF IT IS DETERMINED THAT SITE CONDITIONS ARE NOT APPROPRIATE FOR INFILTRATION (E.G. LACK OF 3 FT. OF SEPARATION TO SEASONALLY SATURATED GROUND WATER, PROXIMITY TO BEDROCK, CONTAMINATED SOILS) THE REASONS SHOULD BE DOCUMENTED IN THE SWPPP FOR THE PROJECT. INFILTRATION IS NOT REQUIRED IN HYDROLOGIC SOIL GROUP D SOILS.

C.3 BUFFER ZONE: AN UNDISTURBED BUFFER ZONE OF NOT LESS THAN 50 LINEAR FEET FROM THE SPECIAL WATER (NOT INCLUDING TRIBUTARIES) SHALL BE MAINTAINED AT ALL TIMES. EXCEPTIONS FROM THIS REQUIREMENT FOR AREAS, SUCH AS WATER CROSSINGS, LIMITED WATER ACCESS AND RESTORATION OF THE BUFFER ARE ALLOWED IF THE PERMITTEE FULLY DOCUMENTS IN THE SWPPP THE CIRCUMSTANCES AND REASONS THAT THE BUFFER ENCROACHMENT IS NECESSARY. REPLACEMENT OF EXISTING IMPERVIOUS SURFACE WITHIN THE BUFFER IS ALLOWED UNDER THIS PERMIT. ALL POTENTIAL WATER QUALITY, SCENIC AND OTHER ENVIRONMENTAL IMPACTS OF THESE EXCEPTIONS MUST BE MINIMIZED BY THE USE OF ADDITIONAL OR REDUNDANT BMPs AND DOCUMENTED IN THE SWPPP FOR THE PROJECT. C.4 ENHANCED RUNOFF CONTROLS: THE PERMANENT STORMWATER MANAGEMENT SYSTEM MUST BE DESIGNED SUCH THAT THE PRE- AND POST-PROJECT RUNOFF RATE AND VOLUME FROM THE 1 AND 2-YEAR 24-HOUR PRECIPITATION EVENTS REMAIN THE SAME OR ARE REDUCED.

C.5 TEMPERATURE CONTROLS: THE PERMANENT STORMWATER MANAGEMENT SYSTEM MUST BE DESIGN SUCH THAT THE DISCHARGE FROM THE PROJECT WILL MINIMIZE ANY INCREASE IN THE TEMPERATURE OF TROUT. STREAM RECEIVING WATERS RESULTING FROM THE 1- AND 2-YEAR 24-HOUR PRECIPITATION EVENTS. THIS INCLUDES ALL TRIBUTARIES OF DESIGNATED TROUT STREAMS WITHIN THE SECTION THAT THE TROUT STREAM IS LOCATED. PROJECTS THAT DISCHARGE TO TROUT STREAMS MUST MINIMIZE THE IMPACT USING ONE OR MORE OF THE FOLLOWING MEASURES, IN ORDER OF PREFERENCE: A. MINIMIZE NEW IMPERVIOUS SURFACES. B. MINIMIZE THE DISCHARGE FROM THE CONNECTED IMPERVIOUS SURFACES BY DISCHARGING TO VEGETATED AREAS, OR GRASS SWALES, AND THROUGH THE USE OF OTHER NON-STRUCTURAL CONTROLS. C. INFILTRATION OR EVAPO-TRANSPIRATION OF RUNOFF IN EXCESS OF PRE-PROJECT CONDITIONS (UP TO THE 2-YEAR 24-HOUR PRECIPITATION EVENT.

**POTENTIAL FOR SEDIMENT AND/OR OTHER POLLUTANT(S) DISCHARGING FROM THE PROJECT SITE**

THE TEMPORARY EROSION AND SEDIMENT CONTROL BMPs IN THIS SWPPP HAVE BEEN DESIGNED TO MINIMIZE THE POTENTIAL OF SEDIMENTS DISCHARGING OFF-SITE FROM A 0.5 INCH RAINFALL WITHIN A 24-HOUR PERIOD. THE NOAA ATLAS 14 POINT PRECIPITATION FREQUENCY ESTIMATE FOR THE PROJECT LOCATION WAS REVIEWED AND USED FOR ANTICIPATED INSPECTION FREQUENCY, BMP DESIGN, AND ESTIMATING CONSTRUCTION ACTIVITIES IN THIS SWPPP. ATLAS 14 RESULTS DO NOT NECESSARILY REFLECT ANY DESIGN CRITERIA IN THE PERMANENT STORMWATER MANAGEMENT SYSTEM.

ROUTINE INSPECTION AND BMP MAINTENANCE BY THE OPERATOR IS CRUCIAL IN ENSURING THE FUNCTIONALITY OF EACH BMP. STEEP SLOPES AND OTHER ENVIRONMENTALLY SENSITIVE AREAS THAT ARE AT A HIGHER RISK OF SEDIMENTATION ARE DEFINED IN THE SWPPP (IF APPLICABLE).

**CONSTRUCTION PHASING/STAGING, BUFFERS, & AREAS NOT TO BE DISTURBED**

THE PRESERVED AREAS OF EXISTING VEGETATION WILL BE IDENTIFIED ON THE PLAN SHEETS AS "DO NOT DISTURB AREA". THE OPERATOR IS RESPONSIBLE FOR PRESERVING A 50 FOOT NATURAL BUFFER OR (IF INFEASIBLE) PROVIDE REDUNDANT SEDIMENT CONTROL BMPs, WHEN A SURFACE WATER IS LOCATED WITHIN 50 FEET AND RECEIVES DRAINAGE FROM THE PROJECT'S GRADING LIMITS. THIS REQUIREMENT DOES NOT APPLY TO ADJACENT ROAD SIDE DITCHES, JUDICIAL/COUNTY DITCHES, STORMWATER CONVEYANCES, STORM DRAIN INLETS, AND SEDIMENT BASINS.

THERE IS NO CONSTRUCTION PHASING OR STAGING DEFINED BY THE OWNER FOR THIS PROJECT. THE SCHEDULE FOR INSTALLING TEMPORARY BMPs SHALL BE INCORPORATED INTO THE OPERATOR'S WEEKLY SCHEDULE FOR EACH CONSTRUCTION STAGE AND PRESENTED TO THE OWNER'S REPRESENTATIVE 9PER MNDOT SPEC 1717.D).

**ENVIRONMENTALLY SENSITIVE AREAS**

STEEP SLOPES: EXISTING AND PROPOSED SLOPES 1 IN 3 (33.33% AND STEEPER) THAT ARE PROPOSED TO BE DISTURBED ARE ILLUSTRATED ON THE STEEP SLOPES MAYBE TEMPORARILY CREATED DURING GRADING OPERATIONS, AT WHICH TIME TEMPORARY BMPs MUST BE IMPLEMENTED BY THE OPERATOR (THROUGH AN APPROVED SWPPP AMENDMENT) WITHIN 14 DAYS OF NO LONGER WORKING THE STEEP SLOPE.

CONTAMINATED PROPERTIES: THE MPCA'S "WHAT'S IN MY NEIGHBORHOOD" DATABASE (PCA-GIS02.PCA.STATE.MN.US/WIMN2/INDEX.HTML) WAS REVIEWED ON 12-7-16. THE RESULTS OF THIS REVIEW SHOW NO KNOWN CONTAMINATED PROPERTIES OR LEAK SOURCES LOCATED WITHIN AND ADJACENT TO THE PROJECT LIMITS. NO PRE-EXISTING HAZARDOUS MATERIALS OR WASTES ARE ANTICIPATED TO BE IMPACTED BY THE PROJECT.

STORMWATER POLLUTION MITIGATION MEASURES (AS IDENTIFIED FROM ENVIRONMENTAL REVIEW): NO FORMAL ENVIRONMENTAL REVIEW WAS REQUIRED FOR THIS PROJECT, THEREFORE, NO ADDITIONAL STORMWATER RELATED MITIGATION MEASURES APPLY.

KARST AREAS: THERE ARE NO KNOWN KARST AREAS WITHIN OR ADJACENT TO THE PROJECT LIMITS.

SITE PLAN REQUIRED AREAS: NO AREAS OF "HIGH ENVIRONMENTAL RISKS" ARE KNOWN TO BE LOCATED WITHIN OR IMMEDIATELY ADJACENT TO THE PROJECT LIMITS.

EACH SITE PLANS MUST DETAIL PROPOSED ACTIVITIES, CORRESPONDING SCHEDULING, STAGING, TEMPORARY EROSION AND SEDIMENT CONTROLS, AND BMP DETAILS PER SECTION 1717 OF THE MNDOT STANDARD SPECIFICATIONS FOR CONSTRUCTION. SITE PLANS MUST BE APPROVED BY PROJECT ENGINEER PRIOR TO INITIATING THE SPECIFIED WORK WITHIN EACH SITE PLAN AREA.

FLOOD CONTINGENCY PLAN: NO PROJECT ACTIVITIES ARE LOCATED WITHIN A 100-YEAR FLOODPLAIN OR FLOODWAY, THEREFORE, A FLOOD CONTINGENCY PLAN IS NOT REQUIRED. THE PROJECT ENGINEER (AT THEIR DISCRETION) MAY REQUIRE A PREVENTATIVE FLOOD CONTINGENCY PLAN FOR SPECIFIC PROJECT ACTIVITIES AND AREAS THAT ARE NOT LOCATED IN A 100-YEAR FLOODPLAIN OR FLOODWAY.

FISH EXCLUSION DATES: OPERATOR IS PROHIBITED FROM CONDUCTING IN-STREAM WORK DURING THE FISH SPAWNING AND MIGRATION DATES OF APRIL 15 TO JUNE 30 FOR NON-TROUT WATERS. IF WORK MUST BE CONDUCTING DURING THIS TIMEFRAME, CONTRACTOR SHALL CONTACT THE LOCAL DNR FISHERIES MANAGER FOR WRITTEN APPROVAL PRIOR TO CONDUCTING THE IN-STREAM WORK.

AQUATIC INVASIVE SPECIES: ALL IN-STREAM AND DEWATERING EQUIPMENT SHALL BE DECONTAMINATED OF ALL AQUATIC PLANTS AND PROHIBIT INVASIVE SPECIES PRIOR TO USING WITHIN SURFACE WATERS ON-SITE AND TRANSPORTING OFF-SITE. ALL DECONTAMINATION ACTIVITIES SHALL MEET THE CHAPTER 1 STANDARDS OF THE MINNESOTA DNR'S BEST PRACTICES MANUAL FOR MEETING DNR GENERAL PUBLIC WATERS WORK PERMIT GP 2004-001.

WETLANDS: WETLANDS, IF ANY, WITHIN THE PROJECT AREA AND MUST BE PROTECTED TO THE MAXIMUM EXTENT POSSIBLE.

APPLICABLE FEDERAL, TRIBAL, STATE OR LOCAL PROGRAMS: THE PROJECT FALLS UNDER THE JURISDICTION OF SEVERAL ENTITIES, AS IDENTIFIED IN THE 'AGENCY CONTACTS' TABLE OF PAGE 1 OF THE SWPPP. THE MORE STRINGENT OF LOCAL VS. STATE VS. FEDERAL RULES SHALL APPLY WHERE THEY CONFLICT. INFORMATION PERTAINING TO THE STATE NPDES PERMIT CAN BE FOUND AT: (HTTP://WWW.PCA.STATE.MN.US/INDEX.PHP/WATER/WATER-TYPES-AND-PROGRAMS/STORMWATER/CONSTRUCTION-STORMWATER/INDEX.HTML). THE OPERATOR IS RESPONSIBLE TO COMPLY WITH ALL APPLICABLE PERMITS, MNDOT SPECIAL PROVISION, MNDOT SPEC BOOK (2014 EDITION), MNDOT SPECIFICATIONS 1717.

Table with 2 columns: REVISIONS, DATE. Rows include SWPPP CERT, 6/16/16, and RECORD DRAWING.

ROSELL ENGINEERING, LLC
6192 267 TH CT WYOMING, MN 55092
PHONE: 763.286.0521

COVENANT MEADOWS
STORM WATER POLLUTION PREVENTION PLAN
RAMSEY, MINNESOTA

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, DIRECT MEASUREMENT AND TEST DATA WAS PREPARED BY A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
DATE: 2/2/17 REG. NO.: 24819
Brent Rosshell

Table with 2 columns: DRAWN, DATE, SCALE, PROJECT, CHECKED, APPROVED. Rows include 12/19/16, REC-12, BTR, BTR.

SW1

**SEQUENCE OF CONSTRUCTION/TIMING OF BMP INSTALLATION**

NO CONSTRUCTION OPERATIONS, INCLUDING REMOVALS, THAT REQUIRE EROSION & SEDIMENT CONTROL PER THE SWPPP CAN COMMENCE UNTIL THE OPERATOR'S EROSION CONTROL SUPERVISOR CERTIFIES THE PROPER INSTALLATION OF BMP'S AND A CHAIN OF RESPONSIBILITY FOR SWPPP IMPLEMENTATION IS CREATED FOR ALL OPERATORS ON THE SITE. PERIMETER SEDIMENT CONTROLS (SILT FENCE, INLET PROTECTION, CONSTRUCTION ENTRANCES, ETC.) SHALL BE INSTALLED PRIOR TO THE START OF CONSTRUCTION. THESE PRACTICES SHALL REMAIN IN PLACE UNTIL FINAL STABILIZATION IS ACHIEVED. OPERATOR SHALL IMPLEMENT THE NECESSARY ON SITE BMP'S IN ACCORDANCE WITH THE NPDES PERMIT REQUIREMENTS TO PREVENT NUISANCE CONDITIONS (MN RULES 7050.2010) FROM ANY DISCHARGES UNDER COVERAGE OF THE NPDES PERMIT. IN SOME CASES, MULTIPLE OR REDUNDANT APPLICATIONS OF SOME BMP'S MAY BE NEEDED TO MEET THESE REQUIREMENTS.

**INSPECTION SWPPP AMENDMENTS, RECORD KEEPING, & TRAINING**

- THE SWPPP CHAIN OF RESPONSIBILITY MUST BE AMENDED BY THE OPERATOR WHEN THE IDENTITY OF RESPONSIBLE SITE OPERATORS (EROSION CONTROL SUPERVISOR, SUB-CONTRACTORS, ETC.) ARE KNOWN.
- THE OPERATOR MUST INSPECT THE ENTIRE CONSTRUCTION SITE AT LEAST ONCE EVERY SEVEN (7) DAYS DURING ACTIVE CONSTRUCTION AND WITHIN 24 HOURS AFTER A RAINFALL EVENT GREATER THAN 0.5 INCHES IN 24 HOURS. THE OPERATOR SHALL PROVIDE A RAINFALL GAUGE ON-SITE, WITHIN ONE MILE OF THE SITE, OR SOURCE OF THE WEATHER REPORTING SYSTEM THAT USES SITE SPECIFIC RAINFALL DATA FROM RADAR SUMMARIES. THE LOCATION AND SOURCE OF THE RAINFALL GAUGE OR REPORTING SYSTEM MUST BE DOCUMENTED IN THE FIRST SWPPP INSPECTION REPORT. THE INSPECTION FREQUENCY MAY BE REDUCED TO ONCE PER MONTH, IF SITE CONDITIONS MEET PART IV.E3 OF THE NPDES PERMIT. ALL INSPECTIONS AND MAINTENANCE CONDUCTED MUST BE RECORDED IN WRITING BY THE OPERATOR AND RETAINED WITH THE SWPPP. RECORDS OF EACH INSPECTION AND MAINTENANCE ACTIVITY SHALL INCLUDE:
  - DATE, TIME AND NAME OF PERSON(S) CONDUCTING INSPECTIONS;
  - FINDINGS OF INSPECTIONS, INCLUDING RECOMMENDATIONS FOR CORRECTIVE ACTIONS;
  - CORRECTIVE ACTIONS TAKEN (INCLUDING DATES, TIMES AND PARTY COMPLETING MAINTENANCE ACTIVITIES); INCLUDING DOCUMENTATION/PHOTOS OF IMPLEMENTED BMPS INTENDED TO CORRECT A PROBLEM BUT FAILED.
  - DATE AND AMOUNT OF ALL RAINFALL EVENTS GREATER THAN 1/8 INCH (0.5 INCHES) IN 24 HOURS;
  - DOCUMENTATION OF CHANGES MADE TO THE SWPPP.
- SWPPP AMENDMENTS AND SITE PLANS WILL BE PREPARED BY THE OPERATOR AND SUBMITTED TO THE OWNER FOR REVIEW AND WRITTEN APPROVAL BY THE PROJECT OWNER (OR DESIGNATED REPRESENTATIVE). ALL OWNER ACCEPTED AND DENIED SWPPP AMENDMENTS AND SITE PLANS MUST BE RECORDED IN WRITING RETAINED WITH THE SWPPP.
- THE SWPPP SHALL BE AMENDED TO INCLUDE ADDITIONAL OR MODIFIED BMP'S, DESIGNED TO CORRECT IDENTIFIED PROBLEMS OR ADDRESS SITUATIONS (UNDER PART III.B OF THE NPDES PERMIT), PRIOR TO CONDUCTING SPECIFIC STAGES/PHASES OF THE PROJECT, AS REQUIRED BY THE OWNER AND DEFINED IN THIS PROJECT SWPPP.

SUMMARY OF OPERATOR PREPARED SWPPP AMENDMENT NAME	SWPPP AMENDMENTS (REQUIRED BY OWNER)	SWPPP AMENDMENT DETAILS	SUBMITTAL TIMEFRAME
OPERATOR CHAIN OF RESPONSIBILITY	REFER TO "CONTACT INFORMATION/RESPONSIBLE PARTIES" SECTION	REFER TO "CONTACT INFORMATION/RESPONSIBLE PARTIES" SECTION	7 DAYS PRIOR TO INITIATING WORK
BMP AMENDMENTS	REFER TO "CONTACT INFORMATION/RESPONSIBLE PARTIES" SECTION	DURING/AFTER CONSTRUCTION ACTIVITIES	7 DAYS PRIOR TO INITIATING WORK
METHODS TO MINIMIZE SOIL COMPACTION	REFER TO "EXISTING SITE CONDITIONS, SOILS AND WATER RESOURCES" SECTION	7 DAYS PRIOR TO WORK WITHIN INFILTRATION BASINS AND PRESERVED TREE AREAS	
STEEP SLOPES PHASING PLAN	REFER TO "ENVIRONMENTALLY SENSITIVE AREAS" SECTION	7 DAYS PRIOR TO INITIATING WORK	
SPILL PREVENTION & RESPONSE PLAN	REFER TO "POLLUTION PREVENTION MEASURES" SECTION	7 DAYS PRIOR TO INITIATING WORK	
DEWATERING PLAN	REFER TO "DEWATERING" SECTION	7 DAYS PRIOR TO ACTIVITY	

- THE SWPPP (ORIGINAL OR COPIES), ALL CHANGES TO THE SWPPP, PROJECT MANUAL, AND INSPECTIONS/MAINTENANCE RECORDS MUST BE KEPT AT THE SITE DURING CONSTRUCTION BY THE OPERATOR WHO HAS OPERATIONAL CONTROL OF THAT PORTION OF THE SITE. THE SWPPP CAN BE KEPT IN THE FIELD OFFICE OR ON SITE VEHICLE DURING NORMAL WORKING HOURS.
- THE OPERATOR MUST ASSIGN A TRAINED INDIVIDUAL (S) (PURSUANT TO PARTS III.A.3 & III.F) TO OVERSEE THE IMPLEMENTATION, MAINTENANCE, AND REPAIR OF BMP'S. THIS INDIVIDUAL (S) SHALL ALSO PERFORM INSPECTIONS, REVISE/AMEND THE SWPPP (DOCUMENT IN SWPPP AS NECESSARY), AND BE AVAILABLE FOR AN ON-SITE INSPECTION WITHIN 72 HOURS UPON REQUEST BY THE PERMITTED OWNER FOR ITS DESIGNEE), LOCAL GOVERNMENT UNITS, OR MPCA.

**POLLUTION PREVENTION MANAGEMENT MEASURES**

- POTENTIAL SOURCES OF POLLUTANTS FROM CONSTRUCTION ACTIVITIES INCLUDE:
- SEDIMENT AND FUGITIVE DUST GENERATED FROM CLEARING AND GRUBBING, IMPORT/EXPORT OPERATIONS, REMOVALS/COMPACTION, MASS/FINE GRADING, EXCAVATIONS, TRENCHING, TOPSOIL STRIPING STOCKPILING, WET/DRY PAVEMENT CUTTING, STREET CONSTRUCTION.
  - BASIC/ACIDIC PH LEVELS FROM CURB AND GUTTER, MANHOLE STRUCTURES, SIDEWALKS, DRIVEWAY APRONS, FOUNDATIONS, BRIDGE ABUTMENTS, WET/DRY PAVEMENT CUTTING, MASONRY WASHOUT/CLEANOUT.
  - EXCESS NUTRIENTS FROM LANDSCAPING INSTALLATIONS, SOIL ADDITIVES, FERTILIZATION, MULCHING.
  - HYDROCARBONS FROM STREET CONSTRUCTION, DEMOLITION/REMOVALS, WET/DRY PAVEMENT CUTTING.

OPERATOR WILL COMPLY WITH ALL OF THE POLLUTION PREVENTION AND MANAGEMENT MEASURES IDENTIFIED IN THE NPDES PERMIT. OPERATOR WILL SUBMIT A SPILL PREVENTION AND RESPONSE PLAN (SPRP) TO THE ENGINEER PRIOR TO ANY CONSTRUCTION ACTIVITY. THE SPRP MUST SATISFACTORILY ADDRESS (AT A MINIMUM) THE FOLLOWING NPDES REQUIREMENTS BY THE PROPOSED IMPLEMENTATION AND MAINTENANCE OF APPROPRIATE BMP'S:

**NO-EXPOSURE:** CONSTRUCTION AND BUILDING PRODUCTS (THAT HAVE THE POTENTIAL TO LEACH POLLUTANTS), PESTICIDES, HERBICIDES, INSECTICIDES, FERTILIZERS, TREATMENT CHEMICALS, AND LANDSCAPING MATERIALS MUST BE UNDER COVER (PLASTIC SHEETING OR TEMPORARY ROOFS) TO MINIMIZE CONTACT WITH STORMWATER AND PRECIPITATION.

**SOLID WASTE:** (SEDIMENT, ASPHALT, CONCRETE MILLINGS, CONSTRUCTION, AND DEMOLITION DEBRIS) AND OTHER WASTES MUST BE DISPOSED OF PROPERLY AND SHALL COMPLY WITH MPCA DISPOSAL REQUIREMENTS (CH. 7035).

**HAZARDOUS MATERIALS:** (E.G. GAS, DIESEL, OIL, ANTIFREEZE, PAINT SOLVENTS, SOAPS, DETERGENTS, WOOD PRESERVATIVES, CLEANING SOLVENTS, CURING COMPOUNDS, ACIDS, ETC.) MUST BE STORED IN SEALED CONTAINERS (WITH SECONDARY SPILL CONTAINMENT) IN RESTRICTED ACCESS AREAS TO PREVENT VANDALISM. STORAGE AND DISPOSAL OF HAZARDOUS WASTE AND MATERIALS MUST BE IN COMPLIANCE WITH MPCA REGULATIONS (CH. 7045) INCLUDING SECONDARY CONTAINMENT.

**PORTABLE TOILETS:** MUST BE POSITIONED AND SECURED SO THEY ARE NOT TIPPED OR KNOCKED OVER. WASTE MUST BE DISPOSED OF PROPERLY IN ACCORDANCE WITH MPCA GUIDELINES (CH. 7041).

**EQUIPMENT/VEHICLE FUELING, EXTERNAL WASHING, AND MAINTENANCE PRACTICES:** WHEN VEHICLE FUELING, MAINTENANCE, OR EXTERNAL WASHING MUST OCCUR ON-SITE, THE ACTIVITY IS LIMITED TO A CONTAINED PORTION OF THE STAGING AREA, UNLESS INFEASIBLE THROUGH A SWPPP AMENDMENT. PROCEDURES FOR SPILL RESPONSE AND MATERIALS FOR CONTAINMENT AND CLEAN UP (DRIP PANS, DRY ABSORBENTS, AND SPILL KITS) WILL BE AVAILABLE AT ALL TIMES ON-SITE. ENGINE DEGREASING IS PROHIBITED ON-SITE.

**CONCRETE, STUCCO, PAINT, CURING COMPOUNDS, SOLVENTS, AND OTHER WASHOUT WASTES:** TEMPORARY OR LONG-TERM STORAGE OF WASHOUT WASTE IS PROHIBITED ON-SITE (SLURRY MUST BE HAULED IMMEDIATELY OFF-SITE). OPERATOR MUST SUBMIT A CONCRETE WASHOUT PLAN TO THE PROJECT ENGINEER FOR APPROVAL OF ALL ON-SITE WASHOUT LOCATIONS. ON-SITE WASHOUT LOCATIONS MUST BE LOCATED 200 FEET FROM AN ENVIRONMENTALLY SENSITIVE AREA AND SURFACE WATERS. HAVE "CONCRETE WASHOUT AREA" SIGNAGE, AND BE CONTAINED IN A LEAK PROOF CONTAINER OR IMPERMEABLE LINER. LIQUID AND SOLID WASTES SHOULD NOT CONTACT THE GROUND (UNLESS PERMITTED IN THE CONCRETE WASHOUT PLAN), BE CONTAINED TO PREVENT RUNOFF FROM THE WASHOUT LOCATION, AND MUST BE DISPOSED OF PROPERLY AND IN COMPLIANCE WITH MPCA REGULATIONS.

**CONCRETE, STUCCO, PAINT, CURING COMPOUNDS, SOLVENTS, AND OTHER WASHOUT WASTES:** TEMPORARY OR LONG-TERM STORAGE OF WASHOUT WASTE IS PROHIBITED ON-SITE (SLURRY MUST BE HAULED IMMEDIATELY OFF-SITE). OPERATOR MUST SUBMIT A CONCRETE WASHOUT PLAN TO THE PROJECT ENGINEER FOR APPROVAL OF ALL ON-SITE WASHOUT LOCATIONS. ON-SITE WASHOUT LOCATIONS MUST BE LOCATED 200 FEET FROM AN ENVIRONMENTALLY SENSITIVE AREA AND SURFACE WATERS, HAVE "CONCRETE WASHOUT AREA" SIGNAGE, AND BE CONTAINED IN A LEAK PROOF CONTAINER OR IMPERMEABLE LINER. LIQUID AND SOLID WASTES SHOULD NOT CONTACT THE GROUND (UNLESS PERMITTED IN THE CONCRETE WASHOUT PLAN), BE CONTAINED TO PREVENT RUNOFF FROM THE WASHOUT LOCATION, AND MUST BE DISPOSED OF PROPERLY AND IN COMPLIANCE WITH MPCA REGULATIONS.

**BURNING:** BURNING OF GARBAGE, CONSTRUCTION DEBRIS, TREES, BRUSH, OR OTHER VEGETATIVE MATERIAL IS NOT ALLOWED ON-SITE, UNLESS PRIOR APPROVAL IS GRANTED BY THE OWNER.

**EROSION CONTROL PRACTICES, PROCEDURES, & MAINTENANCE STANDARDS**  
THE OPERATOR IS RESPONSIBLE FOR THE INSTALLATION, OPERATION, AND CONTINUED MAINTENANCE OF ALL TEMPORARY AND PERMANENT WATER QUALITY MANAGEMENT BMP'S, AS WELL AS ALL EROSION PREVENTION AND SEDIMENT CONTROL BMP'S, FOR THE DURATION OF THE CONSTRUCTION WORK AT THE SITE, UNTIL FINAL STABILIZATION IS ACHIEVED. ALL BMP'S MUST BE ADEQUATELY LOCATED, DESIGNED, INSTALLED, AND MAINTAINED TO PREVENT EROSION FROM A MINIMUM 0.5 INCH TOTAL RAINFALL EVENT WITHIN 24 HOURS.

ALL NONFUNCTIONAL BMP'S MUST BE REPAIRED, REPLACED, OR SUPPLEMENTED WITH FUNCTIONAL BMP'S BY THE END OF THE NEXT BUSINESS DAY AFTER DISCOVERY, OR AS SOON AS FIELD CONDITIONS ALLOW ACCESS UNLESS ANOTHER TIME FRAME IS SPECIFIED IN THE SWPPP. ALL ERODED MATERIAL THAT LEAVES THE SITE SHALL BE COLLECTED BY THE OPERATOR AND RETURNED TO THE SITE AT THE OPERATOR'S EXPENSE AND INCIDENTAL TO THE PROJECT COST.

TEMPORARY OR PERMANENT STABILIZATION SHALL BE INITIATED AS SOON AS POSSIBLE, BUT NO LATER THAN THE END OF THE NEXT WORK DAY FOLLOWING THE DAY EARTH-DISTURBING ACTIVITIES IN THAT PORTION OF THE SITE HAS TEMPORARILY OR PERMANENTLY CEASED. ALL EXPOSED SOIL AREAS SHALL BE STABILIZED WITHIN 14 DAYS AFTER THE CONSTRUCTION ACTIVITY IN THAT PORTION OF THE SITE HAS TEMPORARILY OR PERMANENTLY CEASED. INITIATED STABILIZATION IS DEFINED AS COMPLETING ONE (OR MORE) OF THE FOLLOWING: SOIL PREPARATION FOR VEGETATION, MULCHING (OR OTHER TEMPORARY NONVEGETATIVE BMP), SEEDING/PLANTING, OR SCHEDULING STABILIZATION MEASURES TO BE FULLY INSTALLED AND COMPLETED WITHIN THE 14 DAY TIMEFRAME.

ALL EXPOSED SOILS WITHIN 200 FEET AND DRAINING TO A DNR PUBLIC WATERS MUST BE STABILIZED WITHIN 24 HOURS OF TEMPORARILY OR PERMANENTLY CEASING WORK, DURING THE FISH SPAWNING PERIOD. TEMPORARY STOCKPILES WITHOUT SIGNIFICANT SILT, CLAY OR ORGANIC COMPONENTS (E.G., CLEAN AGGREGATE STOCKPILES, DEMOLITION CONCRETE STOCKPILES, SAND STOCKPILES) AND THE CONSTRUCTED BASE COMPONENTS OF ROADS, PARKING LOTS AND SIMILAR SURFACES ARE EXEMPT FROM THIS REQUIREMENT, BUT MUST BE IN COMPLIANCE WITH PART IV.C.5.

TEMPORARY STABILIZATION BMP'S SHALL ONLY BE IMPLEMENTED WHEN PERMANENT STABILIZATION BMP'S CANNOT BE IMPLEMENTED WITHIN THE 14 DAY TIMEFRAME FOR EXPOSED SOILS.

**TEMPORARY/PERMANENT DRAINAGE DITCHES & SWALES:** THE NORMAL WETTED PERIMETER (2-YEAR, 24-HOUR PRECIPITATION EVENT) OF ANY TEMPORARY OR PERMANENT DRAINAGE DITCH, CHANNEL, OR SWALE THAT DRAINS WATER FROM ANY PORTION OF THE CONSTRUCTION SITE, OR DIVERTS WATER AROUND THE SITE, MUST BE STABILIZED WITHIN THE LAST 200 LINEAL FEET FROM THE PROPERTY EDGE, OR FROM THE POINT OF DISCHARGE INTO ANY SURFACE WATER WITHIN 24 HOURS OF CONNECTION. STABILIZATION REMAINING OF THE REMAINING PORTIONS OF THE CHANNEL MUST BE STABILIZED WITHIN 14 DAYS. ALL STORMWATER CONVEYANCE CHANNELS MUST USE EROSION CONTROL AND VELOCITY DISSIPATION DEVICES WITHIN AND ALONG THE LENGTH OF THE CHANNEL AND AT ANY OUTLETS. TEMPORARY OR PERMANENT DITCHES OR SWALES THAT ARE BEING USED AS A TEMPORARY SEDIMENT CONTAINMENT SYSTEM (WITH PROPERLY DESIGNED ROCK DITCH CHECKS, BIO ROLLS, SILT DIKES ETC.) DO NOT NEED TO BE STABILIZED. THESE AREAS MUST BE STABILIZED WITHIN 24 HOURS AFTER NO LONGER BEING USED AS A SEDIMENT CONTAINMENT SYSTEM. MULCH, HYDROMULCH, TACKIFIER, OR POLYACRYLAMIDE BELOW THE WETTED PERIMETER OF A DITCH, SWALE, OR OTHER SURFACE WATER CONVEYANCE IS NOT ACCEPTABLE STABILIZATION.

**EROSION CONTROL BLANKETS/MATS:** OPERATOR SHALL VERIFY DURING REGULAR INSPECTIONS THAT NO GULLIES, RILLS, OR SCOUR HOLES HAVE FORMED UNDER EROSION CONTROL BLANKETS AND MATS. ALL REPAIRS MUST BE COMPLETED WITHIN 24 HOURS OF DISCOVERY, OR AS SOON AS FIELD CONDITIONS ALLOW ACCESS.

**MULCH:** OPERATOR MUST APPLY MULCH IN A UNIFORM PATTERN OVER THE DISTURBED SOILS, TO ACHIEVE A MINIMUM OF 90% GROUND COVER.

**DUST CONTROL:** DUST FROM THE SITE WILL BE CONTROLLED BY INCREASED STREET SWEEPING AND/OR USING A MOBILE PRESSURE-TYPE DISTRIBUTOR TRUCK TO APPLY POTABLE WATER TO DISTURBED AREAS. THE MOBILE UNIT WILL APPLY WATER AT A RATE NECESSARY TO PREVENT RUNOFF AND PONDING.

**STORM SEWER OUTLETS:** PIPE OUTLETS MUST HAVE TEMPORARY OR PERMANENT ENERGY DISSIPATION WITHIN 24 HOURS AFTER HYDRAULIC CONNECTION TO A RECEIVING SURFACE WATER.

**TEMPORARY & PERMANENT EROSION CONTROL BMP'S**  
**TYPE 1 MULCH:** APPLY TO DISTURBED SLOPES LESS THAN 1:3 WITH BLOWER EQUIPMENT OR CONCURRENTLY WITH HYDROMULCH AT 2 TONS/ACRE. IMMEDIATELY OVERSPRAY (IF NOT HYDROMULCHED) WITH TACKIFIER (PER MANUFACTURER'S RECOMMENDED RATES) OR DISC-ANCHORED.

**RAPID STABILIZATION METHOD #3:** THIS WORK SHALL CONSIST OF OPERATIONS NECESSARY TO RAPIDLY STABILIZE SMALL CRITICAL AREAS WITHIN 200 FT OF SURFACE WATERS, TO PREVENT OFF-SITE SEDIMENTATION AND OR TO COMPLY WITH PERMIT REQUIREMENTS. INSTALL PER MNDOT SPECIFICATIONS 2575-3N.

**RAPID STABILIZATION METHOD #4:** (WOOD FIBER, NATURAL NET ONLY) IS AN ACCEPTABLE BMP FOR DISTURBED AREAS ADJACENT TO ENVIRONMENTALLY SENSITIVE AREAS, SURFACE WATERS, AND WITHIN THE LAST 200 FEET OF DITCH BOTTOMS.

**TEMPORARY WINTER COVER:** AREAS OF EXPOSED SOILS THAT ARE NOT COMPLETED BEFORE THE WINTER WILL BE STABILIZED WITH TYPE #3 (CERTIFIED AS WEED FREE) ADJACENT TO WETLAND OR STORMWATER PONDS. ALL OTHER DISTURBED AREAS SHALL BE STABILIZED WITH TYPE #1 MULCH, UNLESS ALTERNATIVE MORE PROTECTIVE BMP'S ARE SPECIFIC WITHIN THE SWPPP. ALL EXPOSED SOILS SHALL BE STABILIZED BEFORE CONSTRUCTION IS COMPLETED FOR THE SEASON.

**HYDRO-MULCH TYPE #5:** HYDRAULIC SOIL STABILIZER IN COMBINATION WITH A TACKIFIER WILL BE INSTALLED PER MANUFACTURER'S SPECIFICATIONS TO EXPOSED SOILS AREAS TO PROVIDE TEMPORARY LONG-TERM OR PERMANENT COVER FOR VEGETATION ESTABLISHMENT.

**SEDIMENT CONTROL PRACTICES, PROCEDURES, & MAINTENANCE STANDARDS**

**DOWN GRADIENT SYSTEMS:** IF THE DOWN GRADIENT TREATMENT SYSTEM IS OVERLOADED, ADDITIONAL UP GRADIENT SEDIMENT CONTROL PRACTICES OR REDUNDANT BMP'S MUST BE INSTALLED TO ELIMINATE THE OVERLOADING, AND THE SWPPP MUST BE AMENDED TO IDENTIFY THESE ADDITIONAL PRACTICES.

**PERIMETER CONTROL BMP'S (SILT FENCES, CHIP/SLASH MULCH SACKS, BIOROLLS, FLOATING SILT CURTAIN, ETC.):** PERIMETER CONTROL BMP'S SHALL BE INSTALLED ON ALL DOWN GRADIENT PERIMETERS AND UPGRADIENT OF ANY BUFFER AREAS, PRIOR TO INITIATING UPGRADIENT LAND DISTURBANCE ACTIVITIES. UPLAND PERIMETER CONTROLS BMP'S SHALL BE PLACED AS CLOSE AS POSSIBLE TO FOLLOW A SINGLE CONTOUR ELEVATION. ALL SILT FENCES MUST BE REPAIRED, REPLACED, OR MAINTAINED WHEN THEY BECOME NONFUNCTIONAL OR THE SEDIMENT REACHES 1/4 OF THE HEIGHT OF THE FENCE. ALL REPAIRS MUST BE COMPLETED BY THE END OF THE NEXT BUSINESS DAY AFTER DISCOVERY, OR AS SOON AS FIELD CONDITIONS ALLOW ACCESS. FLOATING SILT CURTAIN SHALL BE INSTALLED AS CLOSE TO THE SHORELINE AS POSSIBLE FOR SHORELAND/IN-WATER SHORT-TERM CONSTRUCTION ACTIVITIES. AFTER THE SHORT-TERM ACTIVITY IS COMPLETE, AN UPLAND PERIMETER CONTROL MUST BE INSTALLED IF EXPOSED SOILS CONTINUE TO DRAIN TO THE SURFACE WATER.

**TEMPORARY & PERMANENT SEDIMENT CONTROL BMP'S**

SILT FENCE ALONG PROJECT PERIMETER

TEMPORARY ROCK ENTRANCE FOR CONSTRUCTION OPERATIONS.

50 FOOT NATURAL BUFFER (S): REFER TO "CONSTRUCTION PHASING/STAGING, BUFFERS, & AREAS NOT TO BE DISTURBED" SECTION OF THIS SWPPP.

**TEMPORARY SEDIMENTATION BASINS:** WHERE TEN (10) OR MORE ACRES OF DISTURBED SOIL DRAIN TO A COMMON LOCATION, A TEMPORARY SEDIMENT BASIN MUST BE PROVIDED PRIOR TO RUNOFF LEAVING THE CONSTRUCTION SITE OR ENTERING SURFACE WATERS. ALL TEMPORARY BASINS SHALL BE CONSTRUCTED AND OPERATIONAL PRIOR TO GRADING TEN (10) OR MORE ACRES. BASINS MUST PROVIDE A LIVE STORAGE VOLUME FROM A TWO YEAR 24-HOUR STORM EVENT FROM EACH ACRE (DISTURBED AND UNDISTURBED) DRAINING TO THE BASIN. AT A MINIMUM, IF CALCULATIONS ARE NOT PERFORMED THE BASIN SHALL PROVIDE 3,600 CUBIC FEET OF LIVE STORAGE FROM EACH ACRE. THE BASIN INTAKE MUST BE DESIGNED TO WITHDRAW WATER FROM THE SURFACE, PREVENT SHORT CIRCUITING AND THE DISCHARGE OF FLOATING DEBRIS, INCLUDE AN EMERGENCY OVERFLOW ABOVE THE LIVE STORAGE ELEVATION, AND PROVIDE ENERGY DISSIPATION AT THE BASIN OUTLET. BASINS MUST BE DRAINED AND SEDIMENT REMOVED WHEN THE DEPTH OF COLLECTED SEDIMENT IN THE BASIN REACHES 1/2 THE LIVE STORAGE VOLUME. DRAINAGE AND REMOVAL MUST BE COMPLETED WITHIN 72 HOURS OF DISCOVERY, OR AS SOON AS FIELD CONDITIONS ALLOW ACCESS. IF A BASIN IS INFEASIBLE WITHIN THE PROJECT LIMITS, EQUIVALENT SEDIMENT CONTROL BMP'S MUST BE IMPLEMENTED AND DOCUMENTED IN THE SWPPP OR SWPPP AMENDMENT.

**SEDIMENT TRAPS:** WHERE A TEMPORARY SEDIMENT BASIN MEETING THE REQUIREMENTS OF THIS PART IS INFEASIBLE, EQUIVALENT SEDIMENT CONTROLS SUCH AS SMALLER SEDIMENT BASINS, AND/OR SEDIMENT TRAPS, SILT FENCES, VEGETATIVE BUFFER STRIPS, OR ANY APPROPRIATE COMBINATION OF MEASURES ARE REQUIRED FOR ALL DOWN-SLOPE BOUNDARIES OF THE CONSTRUCTION AREA AND FOR SIDE-SLOPE BOUNDARIES AS DICTATED BY INDIVIDUAL SITE CONDITIONS. IN DETERMINING WHETHER INSTALLING A SEDIMENT BASIN IS INFEASIBLE, THE PERMITTEE(S) MUST CONSIDER PUBLIC SAFETY AND MAY CONSIDER FACTORS SUCH AS SITE SOILS, SLOPE, AND AVAILABLE AREA ON SITE. THIS DETERMINATION OF INFEASIBILITY MUST BE DOCUMENTED IN THE SWPPP PER PART III.A.5.m.

**TEMPORARY STOCKPILES:** ALL STOCKPILES MUST HAVE SILT FENCE OR EQUIVALENT PERIMETER SEDIMENT CONTROLS IMPLEMENTED AND MAINTAINED AT ALL TIMES. PILES CANNOT BE PLACED IN BUFFER AREAS OR SURFACE WATERS, INCLUDING STORMWATER CONVEYANCES SUCH AS CURB AND GUTTER SYSTEMS, OR CONDUITS AND DITCHES UNLESS THERE IS A BYPASS IN PLACE TO PREVENT STORMWATER RUN-ON INTO THE STOCKPILE.

**CONSTRUCTION SITE ENTRANCE/VEHICLE TRACKING:** OPERATOR MUST MINIMIZE SEDIMENT FROM LEAVING THE CONSTRUCTION SITE (OR ONTO STREETS WITH THE SITE) BY IMPLEMENTING BMP'S SUCH AS ROCK PADS, SLASH MULCH, CONCRETE OR STEEL WASH RACKS, OR EQUIVALENT SYSTEMS. STREET SWEEPING MUST BE DONE DAILY DURING CONSTRUCTION OPERATIONS IF SUCH BMP'S ARE NOT ADEQUATE TO PREVENT SEDIMENT FROM BEING TRACKED ONTO THE STREET. TRACKED SEDIMENT MUST BE REMOVED FROM ALL PAVED SURFACES (ON AND OFF-SITE) WITHIN 24 HOURS OF DISCOVERY, OR SOONER AS DIRECTED BY THE PROJECT OWNER. MULTIPLE STREET SWEEPINGS AT THE OPERATOR'S EXPENSE MAY BE REQUIRED ON ALL ENTRY/EXIT POINTS TO THE SITE AT THE DISCRETION OF THE PROJECT OWNER.

**SURFACE WATERS:** INCLUDING OFF-SITE AND DOWNSTREAM DRAINAGE DITCHES, CATCH BASINS, AND CONVEYANCE SYSTEMS, MUST BE INSPECTED FOR EVIDENCE OF EROSION AND SEDIMENT DEPOSITION. THE REMOVAL AND STABILIZATION OF EXPOSED SOILS MUST TAKE PLACE WITHIN SEVEN (7) DAYS OF DISCOVERY UNLESS PRECLUDED BY LEGAL, REGULATORY, OR PHYSICAL ACCESS CONSTRAINTS. IF PRECLUDED, REMOVAL AND STABILIZATION MUST TAKE PLACE WITHIN SEVEN (7) CALENDAR DAYS OF OBTAINING ACCESS. THE PERMITTEES ARE RESPONSIBLE FOR CONTACTING ALL LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND RECEIVING ANY APPLICABLE PERMITS, PRIOR TO CONDUCTING ANY WORK.

**INLET PROTECTION:** ALL STORM DRAIN INLETS (INCLUDING DOWN GRADIENT, OFF-SITE) MUST BE PROTECTED BY APPROPRIATE BMP'S DURING CONSTRUCTION UNTIL ALL SOURCES WITH POTENTIAL FOR DISCHARGING TO THE INLET HAVE BEEN STABILIZED. SILT FENCE IS NOT AN ACCEPTABLE CATCH BASIN INLET PROTECTION BMP. CONTRACTOR SHALL CLEAN, REMOVE AND DISPOSE OF SEDIMENT, AND/OR REPLACE STORM DRAIN INLET PROTECTION ON A ROUTINE BASIS TO ENSURE THE DEVICE IS FULLY FUNCTIONAL PRIOR TO THE NEXT FORECASTED PRECIPITATION EVENT (30% OR GREATER). INLET PROTECTION MAY BE REMOVED FOR A PARTICULAR INLET IF A SPECIFIC SAFETY CONCERN (STREET FLOODING/FREEZING) HAS BEEN IDENTIFIED AND THE PERMITTEES(S) HAVE RECEIVED WRITTEN CORRESPONDENCE FROM THE JURISDICTIONAL AUTHORITY (E.G. CITY/COUNTY/TOWNSHIP/MNDOT ENGINEER) VERIFYING THE NEED FOR REMOVAL. WRITTEN CORRESPONDENCE MUST BE DOCUMENTED IN THE SWPPP AND AVAILABLE WITHIN 72 HOURS UPON REQUEST. PERMISSION TO REMOVE INLET PROTECTION BASED ON A SPECIFIC SAFETY CONCERN MUST STILL BE OBTAINED FROM THE LOCAL JURISDICTIONAL AUTHORITY WITHIN 30 DAYS OF REMOVAL.

**CHEMICAL TREATMENTS:** OPERATOR MUST AMEND THE SWPPP TO INCLUDE THE INTENDED USES AND LOCATIONS OF FLOCCULANTS, POLYMERS, AND OTHER SEDIMENTATION TREATMENT CHEMICALS. CHEMICAL TREATMENTS MAY ONLY BE APPLIED IN AREAS WHERE TREATED STORMWATER IS DIRECTED TO A RECEIVING SEDIMENT CONTROL SYSTEM (NOT DIRECTLY DISCHARGED TO NATURAL WATER BODIES). THIS INCLUDES DOCUMENTING THE EXPECTED SOIL TYPES, MANUFACTURER'S RECOMMENDED DOSING, APPLICATION RATES/QUANTITIES, AND MONITORING RESULTS (TURBIDITY, PH).

**DEWATERING, STREAM DIVERSION, AND BASIN DRAINING**

DEWATERING, STREAM DIVERSION, OR BASIN DRAINING IS ANTICIPATED DURING CONSTRUCTION OF THIS PROJECT. DITCH REALIGNMENT, CULVERT CONSTRUCTION, AND NEW POND GRADING WILL REQUIRE SITE DEWATERING. WHEN DEWATERING OR BASIN DRAINING IS REQUIRED, THE CONTRACTOR SHALL SUBMIT A DEWATERING PLAN AND NARRATIVE TO THE PROJECT ENGINEER FOR APPROVAL PRIOR TO UNDERTAKING THESE ACTIVITIES. DEWATERING PLAN MUST INCLUDE BMP'S TO PREVENT SEDIMENT TRANSPORT, EROSION, AND ADVERSE IMPACTS TO DOWNSTREAM RECEIVING WATERS. THE DEWATERING PLAN MUST ALSO INCLUDE ANY SPECIFIC CHEMICAL TREATMENTS (FLOCC POLYMERS, ETC.) THAT WILL BE USED. IF AN APPROVED TMDL WASTE LOAD ALLOCATION IS ESTABLISHED FOR CONSTRUCTION ACTIVITIES ON A RECEIVING WATERBODY, THE OPERATOR MUST IMPLEMENT ALL NECESSARY BMP'S TO MEET THE ASSIGNED WLA. THE DEWATERING PLAN AND DNR APPROPRIATIONS PERMIT WILL BECOME PART OF THE SWPPP. WATER THAT IS TURBID OR HAS SEDIMENT MUST BE DISCHARGED TO A TEMPORARY OR PERMANENT SEDIMENTATION BASIN (AND/OR OTHER APPROPRIATE BMP'S) ON THE PROJECT SITE WHENEVER POSSIBLE. DISCHARGE FROM THE TEMPORARY OR PERMANENT SEDIMENTATION BASIN MUST BE VISUALLY CHECKED TO ENSURE ADEQUATE TREATMENT IS OBTAINED IN THE BASIN AND THAT NUISANCE CONDITIONS (SEE MINN. R. 7050.0210, SUBP. 2), IMPACTS TO WETLANDS, AND EROSION IN RECEIVING CHANNELS OR ON DOWNSLOPE PROPERTIES WILL NOT RESULT FROM THE DISCHARGE. THE DISCHARGE MUST BE DISPERSED OVER NATURAL ROCK RIPRAP, SAND BAGS, PLASTIC SHEETING, OR OTHER ACCEPTED ENERGY DISSIPATION MEASURES. ADEQUATE SEDIMENTATION CONTROL MEASURES AND ADDITIONAL FILTRATION BMP'S ARE REQUIRED FOR DISCHARGE WATER THAT CONTAINS SUSPENDED SOLIDS, OIL, OR GREASE.

**FINAL STABILIZATION**

FINAL STABILIZATION IS ACHIEVED WHEN THE FOLLOWING FOUR PARAMETERS ARE COMPLETED, PRIOR TO SUBMISSION OF THE NOTICE OF TERMINATION TO MPCA. SEE PERMANENT EROSION CONTROL PRACTICES FOR SPECIFIC METHODS AND APPLICATIONS.

- 70% VEGETATIVE COVER: ALL SOIL DISTURBING ACTIVITIES AT THE SITE HAVE BEEN COMPLETED AND ALL EXPOSED SOILS ARE STABILIZED BY A UNIFORM, LIVE PERENNIAL VEGETATIVE COVER WITH A DENSITY OF 70% OVER THE ENTIRE PREVIOUS SURFACE AREA, OR OTHER EQUIVALENT MEANS NECESSARY TO PREVENT SOIL FAILURE UNDER EROSION CONDITIONS. REFER TO PART IV.G.5 IF THE PROJECT IS ON AGRICULTURAL LAND.
- FINAL CLEAN OUT OF PERMANENT STORMWATER MANAGEMENT SYSTEMS & CONVEYANCE SYSTEMS: ALL SEDIMENT MUST BE REMOVED FROM PERMANENT STORMWATER MANAGEMENT SYSTEMS, CONVEYANCE SYSTEMS, AND DITCHES MUST BE STABILIZED WITH PERMANENT COVER.
- REMOVAL OF ALL TEMPORARY SYNTHETIC BMP'S: ALL TEMPORARY SYNTHETIC AND STRUCTURAL EROSION PREVENTION AND SEDIMENT CONTROL BMP'S (SUCH AS SILT FENCE) MUST BE REMOVED ON THE PORTIONS OF THE SITE FOR WHICH THE PERMITTEE IS RESPONSIBLE. BMP'S DESIGNED TO DECOMPOSE ON SITE (SUCH AS SOME COMPOST LOGS) MAY BE LEFT IN PLACE.
- OPERATOR PROVIDES THE OWNER ALL INSPECTION AND SWPPP AMENDMENT RECORDS FOR THE PROJECT: OWNER IS RESPONSIBLE FOR KEEPING ALL RECORDS (AS DEFINED IN PART II.E.1-5) ON FILE FOR THREE YEARS AFTER SUBMITTAL OF THE NOTICE OF TERMINATION.

DATE	REVISIONS

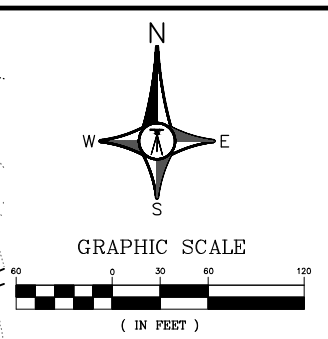
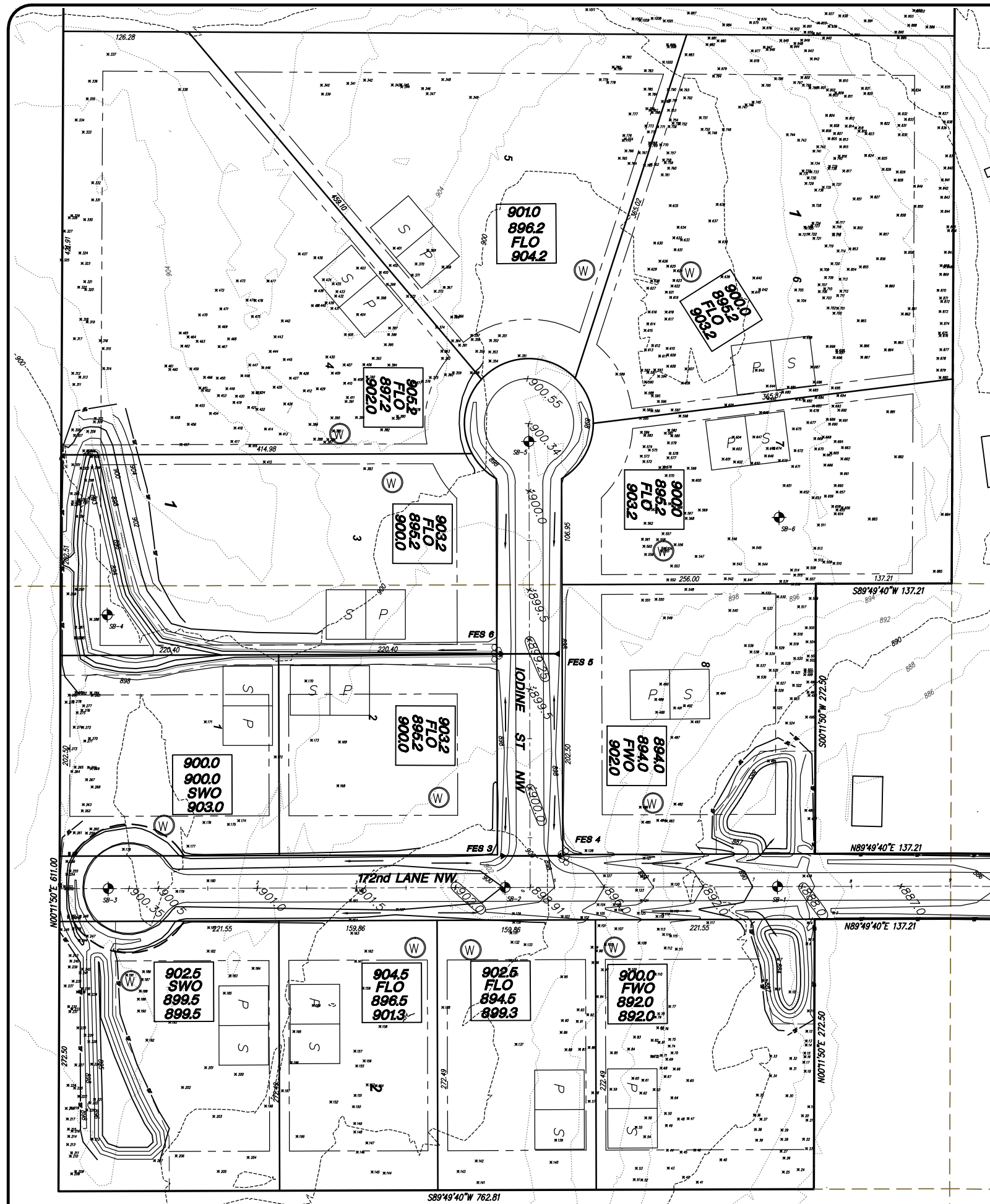
ROSELLE ENGINEERING, LLC  
6192 267 TH CT WYOMING, MN 55092  
PHONE: 763.286.0521

COVENANT MEADOWS  
STORM WATER  
POLLUTION PREVENTION PLAN  
RAMSEY, MINNESOTA

DATE: 2/2/17 REG. NO. 24019  
PROJECT: RE-32  
CHECKED: BTR  
APPROVED: BTR  
BENT ROSSHELL

DATE	SCALE	CHECKED	APPROVED
12/19/16			

SW2



12	Pine, red	13
13	Pine, red	13
14	Pine, red	9
15	Pine, red	9
16	Pine, red	8
17	Pine, red	10
18	Pine, red	12
19	Pine, red	12
20	Pine, red	11
21	Pine, red	11
22	Pine, red	10
23	Pine, red	10
24	Pine, red	16
25	Pine, red	14
26	Pine, red	13
27	Pine, red	12
28	Pine, red	14
29	Pine, red	15
30	Pine, red	15
31	Pine, red	13
32	Pine, red	16
33	Pine, red	12
34	Pine, red	6
35	Pine, red	15
36	Pine, red	18
37	Pine, red	18
38	Pine, red	16
39	Pine, red	16
40	Cedar, red	7
41	Pine, red	18
42	Pine, red	13
43	Pine, red	14
44	Pine, red	12
45	Pine, red	15
46	Pine, red	18
47	Pine, red	16
48	Pine, red	10
49	Pine, red	18
50	Pine, red	20
51	Pine, red	10
52	Pine, red	11
53	Pine, red	13
54	Pine, red	15
55	Pine, red	13
56	Pine, red	12
57	Pine, red	16
58	Pine, red	11
59	Pine, red	20
60	Pine, red	12
61	Pine, red	7
62	Pine, red	12
63	Pine, red	11
64	Pine, red	14
65	Pine, red	14
66	Pine, red	11
67	Pine, red	11
68	Pine, red	9
69	Pine, red	13
70	Pine, red	8
71	Pine, red	8
72	Pine, red	9
73	Pine, red	10
74	Pine, red	10
75	Pine, red	11
81	Pine, red	6
82	Pine, red	15
83	Pine, scotch	5
84	Pine, red	13
85	Pine, red	18
86	Pine, red	14
87	Pine, red	11
88	Pine, red	17
89	Pine, red	12
90	Pine, red	15
91	Pine, red	16
92	Pine, red	15
93	Pine, red	14
94	Pine, red	12
95	Pine, red	13
96	Pine, red	14
98	Pine, red	15
99	Pine, red	13
101	Pine, red	15
111	Pine, red	15
112	Pine, red	14
113	Pine, red	10
114	Pine, red	9
115	Pine, red	14
116	Pine, red	13
117	Pine, red	13
128	Pine, red	11

131	Pine, red	12
132	Pine, red	11
133	Pine, red	13
137	Pine, red	14
138	Cedar, red	7
140	Pine, red	11
141	Pine, red	12
142	Pine, red	11
143	Pine, red	11
144	Cedar, red	7
145	Pine, red	12
146	Pine, red	11
147	Pine, red	13
148	Pine, red	13
149	Pine, red	12
150	Pine, red	12
151	Pine, red	22
152	Pine, red	13
153	Pine, red	15
154	Pine, red	12
155	Pine, red	13
156	Pine, red	12
157	Pine, red	10
162	Pine, red	14
163	Pine, red	12
164	Pine, red	12
168	Pine, red	6
169	Cedar, red	7
171	Pine, red	13
172	Pine, red	11
173	Pine, red	10
174	Pine, red	8
175	Pine, red	10
176	Pine, red	13
177	Pine, red	13
181	Pine, red	12
182	Cedar, red	8
184	Cedar, red	6
189	Pine, red	15
190	Pine, red	12
192	Pine, red	14
194	Pine, red	10
195	Pine, red	13
196	Pine, red	12
197	Pine, red	14
198	Pine, red	13
199	Pine, red	7
200	Pine, red	12
201	Pine, red	7
202	Pine, red	14
203	Pine, red	15
204	Cedar, red	6
205	Pine, red	9
206	Pine, red	22
207	Pine, red	11
208	Pine, red	20
209	Pine, red	12
210	Pine, red	12
211	Pine, red	14
214	Pine, red	15
215	Pine, red	12
216	Pine, red	16
217	Pine, red	13
218	Pine, red	12
219	Pine, red	10
223	Pine, red	12
224	Pine, red	12
225	Pine, red	16
227	Pine, red	13
230	Pine, red	10
231	Pine, red	12
232	Pine, red	11
233	Pine, red	11
235	Pine, red	14
236	Pine, red	11
237	Pine, red	11
238	Pine, red	10
239	Pine, red	12
240	Pine, red	9
241	Pine, red	12
243	Pine, red	8
245	Pine, red	7
261	Pine, red	9
262	Pine, red	11
263	Pine, red	13
264	Pine, red	11
265	Pine, red	15
266	Pine, red	11
267	Pine, red	12
268	Pine, red	14
269	Pine, red	14
270	Cedar, red	6
271	Pine, red	16
272	Pine, red	14
273	Pine, red	10
274	Pine, red	12
275	Pine, red	10
276	Pine, red	15
277	Pine, red	11

TREES SAVED

278	Pine, red	11
279	Pine, red	9
280	Pine, red	8
281	Pine, red	14
282	Pine, red	12
283	Pine, red	10
284	Pine, red	14
289	Pine, red	12
311	Pine, red	13
312	Pine, red	13
313	Pine, red	12
314	Pine, red	13
315	Pine, red	16
316	Pine, red	14
317	Pine, red	12
318	Pine, red	11
319	Pine, red	13
320	Pine, red	13
321	Pine, red	18
322	Pine, red	10
323	Pine, red	12
324	Pine, red	12
325	Pine, red	9
326	Pine, white	16
327	Pine, red	11
328	Pine, red	8
329	Pine, red	9
330	Pine, red	9
331	Pine, red	12
332	Pine, red	10
333	Pine, red	6
334	Pine, red	15
335	Pine, red	16
336	Pine, red	9
337	Pine, red	13
338	Pine, red	9
339	Pine, red	16
340	Pine, red	14
341	Pine, red	19
342	Pine, red	15
343	Pine, red	13
344	Pine, red	14
345	Pine, red	13
346	Pine, red	12
347	Pine, red	13
348	Pine, red	15
349	Pine, red	11
351	Pine, red	9
351	Pine, red	7
352	Oak, red	6
353	Oak, red	8
354	Oak, red	7
355	Oak, red	9
356	Oak, red	7
357	Oak, bur	23
358	Oak, red	10
359	Oak, red	22
360	Oak, red	5
361	Oak, red	23
362	Oak, red	14
363	Oak, red	13
364	Oak, red	4
365	Oak, red	25
366	Oak, bur	6
367	Oak, red	36
372	Oak, red	12
373	Oak, red	29
374	Oak, red	32
383	Pine, scotch	15
384	Oak, red	40
385	Oak, red	21
386	Oak, red	5
387	Oak, red	4
388	Oak, red	7
389	Oak, red	5
390	Oak, red	34
393	Oak, red	27
395	Oak, red	35
396	Oak, red	11
397	Oak, red	11
399	Oak, red	22
400	Oak, red	42
402	Oak, red	7
405	Oak, red	35
407	Oak, red	20
409	Oak, red	12
410	Oak, red	8
412	Oak, red	21
413	Oak, red	32
414	Oak, red	36
415	Oak, red	24
416	Oak, red	4
417	Oak, red	5
418	Oak, red	4
419	Oak, red	7
420	Oak, red	6
421	Oak, red	4
422	Oak, red	4
423	Oak, red	6
424	Oak, red	4
425	Oak, red	9

BR	DATE	SCALE	PROJECT	CHECKED	APPROVED
	2/27/17	AS SHOWN			
DRAWN BY: BRENT ROSSELL					
DATE: 2/27/17					
REG. NO. 54202					
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, DIRECTOR'S PROFESSIONAL SEAL AND SIGNATURE ARE THE WORK OF A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.					
BRENT ROSSELL					

REVISIONS: \_\_\_\_\_

DATE: \_\_\_\_\_

RECORD DRAWING

**ROSELL ENGINEERING, LLC**  
 6192 267 TH CT WYOMING, MN 55092  
 PHONE: 763.286.0521

**COVENANT MEADOWS**  
 TREE PLAN  
 RAMSEY, MINNESOTA

**T1**

NOTE: TREES TO REMAIN SHALL BE PROTECTED FROM CONSTRUCTION ACTIVITY BY MEANS OF FENCING OR OTHER APPROVED METHOD.

TREES SAVED

672	Pine, red	15
675	Pine, red	11
677	Pine, red	17
678	Pine, red	12
679	Pine, red	12
680	Pine, red	11
682	Pine, red	10
683	Pine, red	12
684	Pine, red	8
685	Pine, red	13
689	Pine, red	12
690	Pine, red	12
691	Pine, red	14
692	Pine, red	13
693	Pine, red	13
694	Pine, red	15
695	Pine, red	12
696	Pine, red	14
697	Pine, red	14
698	Pine, red	16
699	Pine, red	12
700	Pine, red	17
701	Pine, red	10
702	Pine, red	16
703	Pine, red	14
704	Pine, red	13
705	Pine, red	8
706	Pine, red	12
707	Pine, red	12
708	Pine, red	10
709	Pine, red	9
710	Pine, red	10
711	Pine, red	16
712	Pine, red	12
713	Pine, red	10
714	Pine, red	13
715	Pine, red	9
716	Pine, red	9
717	Pine, red	11
718	Pine, red	14
719	Pine, red	11
720	Pine, red	13
721	Pine, red	13
722	Pine, red	7
723	Pine, red	12
724	Pine, red	12
725	Pine, red	11
726	Pine, red	13
727	Pine, red	14
728	Pine, red	14
729	Pine, red	13
730	Pine, red	11
731	Pine, red	14
732	Pine, red	8
733	Pine, red	10
734	Pine, red	12
735	Pine, red	15
736	Pine, red	17
737	Pine, red	11
738	Pine, red	15
739	Pine, red	9
740	Pine, red	6
741	Pine, red	12
742	Pine, red	15
743	Pine, red	16
744	Pine, red	13
745	Pine, red	11
746	Pine, red	10
747	Pine, red	20
748	Pine, red	17
749	Pine, red	16
750	Pine, red	14
751	Pine, red	15
752	Pine, red	20
753	Pine, red	12
754	Pine, red	8
755	Pine, red	9
756	Pine, red	12
757	Pine, red	11
758	Pine, red	10
759	Pine, red	12
760	Pine, red	13
761	Pine, red	16
762	Pine, red	15
763	Pine, red	11
764	Pine, red	11
765	Pine, red	10
766	Pine, red	13
767	Pine, red	12
768	Pine, red	9
769	Pine, red	9
770	Pine, red	12
771	Pine, red	10
772	Pine, red	10
773	Pine, red	11
774	Pine, red	13
775	Pine, red	19
776	Pine, red	15
777	Pine, red	14
778	Pine, red	14
779	Pine, red	18

780	Pine, red	23
781	Pine, red	12
782	Cedar, red	9
783	Pine, red	14
784	Pine, red	16
785	Pine, red	16
786	Pine, red	9
787	Pine, red	14
788	Pine, red	10
789	Pine, red	13
790	Pine, red	15
791	Pine, red	12
792	Pine, red	14
793	Pine, red	26
794	Cedar, red	7
795	Pine, red	17
796	Pine, red	18
797	Pine, red	12
798	Pine, red	20
799	Pine, red	11
800	Pine, red	16
801	Pine, red	17
802	Pine, red	14
803	Pine, red	14
804	Pine, red	14
805	Pine, red	13
806	Pine, red	15
807	Pine, red	10
808	Pine, red	12
809	Pine, red	8
810	Pine, red	10
811	Pine, red	15
812	Pine, red	13
813	Pine, red	14
814	Pine, red	11
815	Pine, red	11
816	Pine, red	10
817	Pine, red	13
818	Pine, red	12
819	Pine, red	15
820	Pine, red	16
821	Pine, red	14
822	Pine, red	19
823	Pine, red	16
824	Pine, red	19
825	Pine, red	14
826	Pine, red	19
827	Cedar, red	8
828	Pine, red	16
829	Pine, red	16
830	Pine, red	18
831	Pine, red	12
832	Pine, red	14
833	Pine, red	15
834	Pine, red	14
835	Pine, red	15
836	Pine, red	11
837	Pine, red	14
838	Pine, red	9
839	Pine, red	14
840	Pine, red	16
841	Pine, red	9
842	Pine, red	9
843	Pine, red	15
844	Pine, red	12
845	Pine, red	10
846	Pine, red	8
847	Pine, red	13
848	Pine, red	11
849	Pine, red	19
850	Pine, red	14
851	Pine, red	16
852	Pine, red	11
853	Pine, red	15
854	Pine, red	13
855	Pine, red	14
856	Pine, red	15
857	Pine, red	12
858	Pine, red	16
859	Pine, red	14
860	Cedar, red	6
861	Pine, red	12
862	Pine, red	13
863	Pine, red	15
864	Pine, red	11
865	Cedar, red	7
866	Pine, red	13
867	Pine, red	14
868	Pine, red	12
869	Pine, red	10
870	Pine, red	16
871	Pine, red	7
872	Pine, red	13
873	Pine, red	14
874	Pine, red	11
875	Pine, red	12
876	Pine, red	13
877	Pine, red	13
878	Pine, red	11
879	Pine, red	14
880	Pine, red	18

881	Pine, red	12
882	Pine, red	12
883	Pine, red	9
884	Pine, red	13
885	Oak, red	21
886	Oak, bur	16
887	Basswood	12
888	Aspen	13
889	Aspen	8
890	Aspen	13
891	Ash, green	23
892	Aspen	10
893	Oak, red	17
894	Aspen	9
895	Aspen	10
896	Aspen	8
897	Aspen	12
898	Aspen	10
899	Aspen	8
900	Aspen	13
901	Aspen	10
902	Aspen	9
903	Aspen	13
904	Aspen	8
905	Aspen	10
906	Aspen	14
907	Aspen	13
908	Oak, red	16
909	Aspen	9
910	Aspen	9
911	Aspen	11
912	Aspen	13
913	Cherry, black	16
914	Aspen	9
915	Aspen	18
916	Ash, green	14
917	Basswood	8
918	Basswood	8
919	Aspen	13
920	Aspen	10
921	Aspen	11
922	Aspen	9
923	Aspen	14
924	Aspen	12
925	Aspen	8
926	Aspen	8
927	Ash, green	9
928	Aspen	8
929	Aspen	9
930	Aspen	9
931	Aspen	10
932	Aspen	8
933	Oak, red	19
934	Aspen	9
935	Aspen	8
936	Aspen	9
937	Oak, red	8
938	Oak, red	12
939	Ash, green	12
940	Oak, red	8
941	Oak, bur	7
942	Oak, red	7
943	Oak, red	6
944	Oak, bur	6
945	Oak, bur	5
946	Oak, red	4
947	Oak, bur	5
948	Oak, red	7
949	Oak, red	7
950	Oak, red	7
951	Ash, green	13
952	Oak, red	14
953	Oak, red	12
954	Aspen	9
955	Oak, red	8
956	Aspen	9
957	Aspen	11
958	Aspen	8
959	Aspen	8
960	Aspen	12
961	Aspen	12
962	Oak, red	7
963	Aspen	14
964	Oak, red	25
965	Oak, bur	7
966	Oak, red	33
967	Oak, red	22
968	Oak, bur	15
969	Oak, red	12
970	Oak, red	22
971	Oak, red	24
972	Oak, red	18
973	Oak, red	17
974	Oak, red	50
975	Oak, red	15
976	Oak, bur	16
977	Oak, bur	7
978	Basswood	10
979	Oak, red	5
980	Oak, red	12
981	Oak, red	5

982	Oak, red	7
983	Oak, red	16
984	Oak, red	20
985	Oak, red	20
986	Oak, red	17
987	Oak, red	15
988	Oak, red	16
989	Oak, red	15
990	Oak, red	13
991	Oak, red	14
992	Oak, red	14
993	Oak, red	24
994	Oak, white	17
995	Basswood	8
996	Oak, red	28
997	Oak, red	40
998	Oak, red	6
999	Cedar, red	13
1000	Oak, red	10
1001	Oak, red	38
1002	Cedar, red	8
1003	Basswood	18
1004	Basswood	13
1005	Basswood	9
1006	Ash, green	10
1007	Oak, red	21
1008	Oak, red	14
1009	Ash, green	15
1010	Oak, red	9
1011	Oak, red	24
		<b>10653</b>

TREES REMOVED HOME CONST

76	Pine, red	12
77	Pine, red	14
78	Pine, red	14
79	Pine, red	12
80	Pine, red	13
97	Pine, red	21
107	Pine, red	15
108	Pine, red	18
109	Cedar, red	7
110	Pine, red	13
134	Pine, red	15
135	Pine, red	15
136	Pine, red	15
139	Pine, red	13
158	Pine, red	12
159	Pine, red	13
160	Pine, red	13
161	Pine, red	13
170	Pine, red	12
183	Pine, red	9
185	Pine, red	13
186	Pine, red	12
187	Pine, red	14
188	Pine, red	11
191	Pine, red	13
193	Pine, red	14
368	Oak, red	6
369	Oak, red	7
370	Oak, red	23
371	Oak, red	24
375	Oak, red	6
376	Oak, red	4
377	Oak, red	4
378	Oak, red	7
380	Oak, red	32
381	Oak, red	24
382	Oak, red	27
391	Oak, red	30
392	Oak, red	37
394	Oak, red	17
398	Oak, red	54
401	Oak, red	7
403	Oak, red	32
404	Oak, red	17
406	Oak, red	17
408	Oak, red	11
411	Oak, red	21
432	Oak, red	18
433	Oak, red	24
434	Oak, red	27
435	Oak, red	25
487	Pine, red	11
488	Pine, red	11
489	Pine, red	9
490	Pine, red	11
491	Pine, red	11
492	Pine, red	13
557	Pine, red	8
558	Pine, red	12
561	Pine, red	10
562	Pine, red	12
563	Pine, red	12
564	Pine, red	12
565	Pine, red	14
566	Pine, red	8
567	Pine, red	12
568	Pine, red	15
569	Pine, red	17
570	Pine, red	14
571	Pine, red	14
572	Pine, red	12
573	Pine, red	11
577	Pine, red	9
578	Pine, red	9
601	Pine, red	17
602	Pine, red	14
603	Pine, red	8
604	Pine, red	13
639	Pine, red	7
640	Pine, red	12
641	Pine, red	12
642	Pine, red	10
643	Pine, red	13
644	Pine, red	11
647	Pine, red	11
648	Pine, red	15
649	Pine, red	10
650	Pine, red	12
673	Pine, red	12
674	Pine, red	12
681	Pine, red	11
686	Pine, red	14
687	Pine, red	13
688	Pine, red	14
		<b>1355</b>

TREES REMOVED POND CONST

5	Pine, red	14
6	Pine, red	13
7	Pine, red	12
8	Pine, red	18
9	Pine, red	14
10	Pine, red	13
11	Pine, red	16
212	Pine, red	17
220	Pine, red	13
221	Pine, red	16
222	Pine, red	12
226	Pine, red	14
228	Pine, red	12
229	Pine, red	12
234	Pine, red	15
242	Pine, red	12
285	Pine, red	8
286	Pine, red	8
287	Pine, red	8
288	Pine, red	8
290	Pine, red	12
291	Pine, red	12

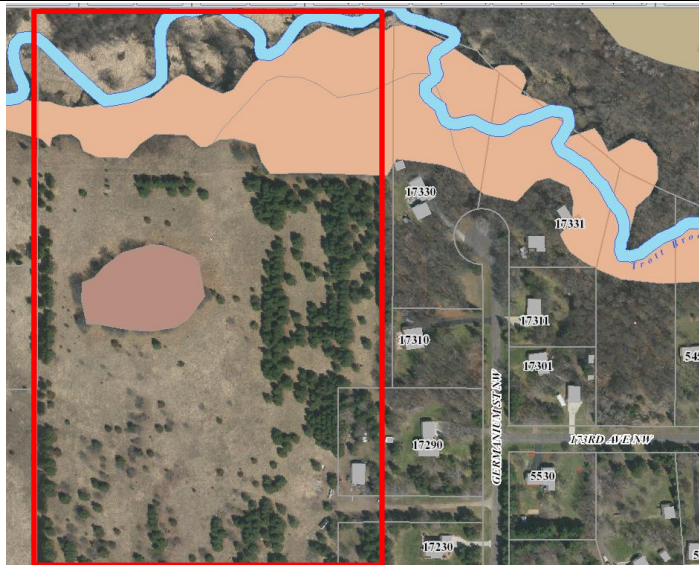
**CITY OF RAMSEY LAND USE APPLICATION  
TECHNICAL REVIEW FILE**

<b>DATE</b>	FEBRUARY 24, 2017	<b>PROJECT ADDRESS</b>	TBD
<b>PROJECT. TITLE</b>	COVENANT MEADOWS: PRELIMINARY PLAT AND REZONING		
<b>ESCROW #</b>	115528		
<b>DEPARTMENT:</b>	Community Development: Planning Division		
<b>TECHNICAL REVIEWER:</b>	Name: Eric Maass, Consultant Planner Phone: 763-433-4302 Email: <a href="mailto:EMaass@wsbeng.com">EMaass@wsbeng.com</a>		

**Preliminary Plat Review**

We offer the following comments regarding the Preliminary Plat submittal for Covenant Meadows as it relates to the City’s Zoning Code. Preliminary Plat submittal consists of nine (9) sheets. LHB prepared 1 sheet and Roshell Engineering, LLC prepared the remaining 8 sheets. All of the plan sheets are dated February 2, 2017. The proposal includes a request a Zoning Amendment and a Preliminary Plat.

**Staff provides the following comments that require revision:**



**Preliminary Plat Sheet**

1. Trail easement between lots 5 and 6 of Block 1 will need to be shown.
2. Note indicating “Temporary Cul De Sac” at the termination of 172<sup>nd</sup> Lane NW will need to be revised to read “Full Cul De Sac”. Associated line work with the cul-de-sac will need to be revised in conjunction with the note change.
3. Indicate location of soil borings completed for each proposed lot. Adjust indicated primary and secondary septic locations in connection with location of actual soil borings. Note that on Lot 8 Block 1 the indicated primary and secondary septic areas are located in the center of the property. This is not acceptable and will need to be relocated to allow for the siting of the building pad.
4. Indicate total development acreage, acreage within proposed right-of-way, and proposed density of the development.
5. Add lot width to each lot at the front yard setback line.
6. Add the length of each segment of cul-de-sac.

**General Comment Requiring Revision**

1. The plan should delineate the boundaries of the shoreland district tiers as well as the structure setback and bluff impact zones outlined in City Code Section 117-225 titled Shoreland Overlay District Development Standards. The identification and delineation of those zones will allow Staff to verify conditions of the shoreland management district are in fact met. This information will need to be shown on a separate sheet. The City has an example exhibit that it can provide.

**Staff provides the following comments for general review of applications:**

**General.** The Preliminary Plat proposes re-platting Outlot A, MeadowBrook, Anoka County, Minnesota, into twelve (12) single family residential lots. The twelve (12) new lots would be accessed by a one of two roadway extensions off of Germanium Street NW through the building of 172<sup>nd</sup> Lane NW and Iodine St NW. The Applicant has requested a rezoning from R-1 Rural Developing to Planned Unit Development (PUD). In exchange for allowing smaller lot sizes than what would generally be permitted, the proposed public benefit of this project is approximately fifteen (15) acres of the Subject Property being deeded to the City. The fifteen (15) acres would straddle both sides of the Trott Brook trail and the steep slopes located on the property.

**Lot Sizes.** The minimum lot size in the R-1 Rural Developing District is 2.5 acres with a minimum lot width of 200 feet, measured at the building setback line. Through a Planned Unit Development (PUD) the Applicant is permitted to deviate from those lot requirements due to the presence of a public benefit. The Applicant is proposing lots which range in size from 1.00 acres to 2.92 acres in size.

**Setbacks and Dimensional Standards.**

R-1 Rural Developing Base Zoning / Proposed PUD Dimensions	
Required	Proposed
Front yard: 40 feet	40 feet
Side yard: 10 feet	10 feet
Rear yard: 10 feet	10 feet
Minimum lot width*: 200 feet	Minimum lot width*: 80 feet
Lot depth**: 100 feet with a minimum width of 60 feet	Satisfactory

*\*Note: Minimum Lot Width is measured at front yard setback line, property must abut built street.*

*\*\* Lot depth required is 100 feet for a width of 60 feet that is not encumbered by wetland, wetland setback area, floodway, or other unbuildable areas.*

The Applicant is not seeking any deviation from the R-1 Rural Developing bulk lot standards except for lot size.

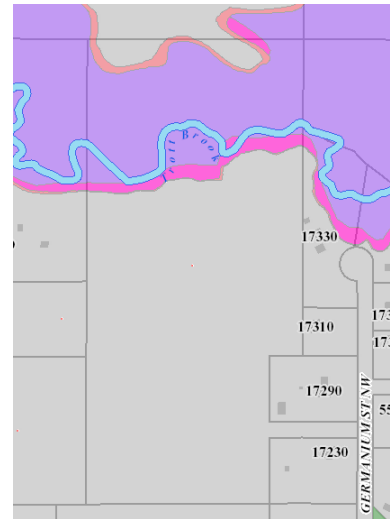
**Density.** The proposed density is 0.58 units per acre. This density increase from the normally allowed 1 unit per 2.5 acres is permitted through the Planned Unit Development (PUD) zoning.

**DNR Review.** Metro Area Hydrologist Kate Drewry review the proposed development and indicated that the plan appeared to meet the open space requirement with 50% of the area along the Creek and the steep slopes proposed for dedication to the City and the smaller lots located in the tiers furthest from the Creek. They indicated that the plan should delineate the boundaries of the shoreland district tiers as well as the structure setback and bluff impact zones.

**Floodplains.** There are floodplains within the boundaries of the project area, including both Floodway and Floodfringe. There shall be no fill placed within the Floodway (purple shading).

As proposed, the lots are laid out in such a fashion that each of the home sites is located in the upland area of the property.

**Trott Brook.** A portion of the lots will back up to Trott Brook, which is a tributary of the Rum River. Thus, the project is subject to the Scenic River Overlay District, which includes a 100 foot setback from the OHW of Trott Brook and has controlled vegetative cutting standards as well. Additionally, lands within 300 feet of the OHW of Trott Brook are subject to Shoreland Management requirements.



**Landscaping.** A tech report regarding landscaping requirements including Tree Preservation requirements was produced and presented to the City's Environmental Policy Board (EPB). Alterations to the plan set are provided in that report.

The Environmental Policy Board (EPB) recommended approval of the landscape and tree preservation plans with revisions as noted in the landscaping tech report.

**Streets and Access.** The Preliminary Plat indicates that 172<sup>nd</sup> Lane NW will be a new road and will connect to an existing road, Germanium St NW. A second proposed roadway, Iodine St NW will connect to the proposed 172<sup>nd</sup> Lane NW. Cul-de-sac length is limited to a maximum of 600 feet; the proposed length of the cul-de-sac is in excess of that limit. The Applicant is showing a complete cul-de-sac at the termination of 172<sup>nd</sup> Lane NW; however, the platted right-of-way for 172<sup>nd</sup> Lane NW does extend to the edge of the plat which would allow for 172<sup>nd</sup> Lane NW to be extended in the future eventually eliminating its status as a cul-de-sac. Exceeding the allowed length of a cul-de-sac is being requested as a deviation to the City's Code in connection with the Applicants Planned Unit Development (PUD) application.

**Trails.** The Applicant has indicated the intention to include a trail easement between Lots 5 and 6 of Block 1 that would provide the area necessary to eventually construct a trail that would connect to an extension of the Trott Brook Trail at which time the Trott Brook Trail was constructed in this area. After further review and discussion with our review team, it was determined that an eight (8) foot wide bituminous trail should be constructed as a Stage I Improvement provide access now to the land being deeded to the City. That cost can be credited toward the Trail Development Fees that would be due on the plat. It will be required that that proposed trail connection to the road be ADA compliant.

**Grading and Drainage Plans.** Please see Engineering Comments with regard to grading and drainage.

**Development Fees.** Development Fees will be due with the Plat including, but not limited to, Park Dedication, Trail Development, and Stormwater Management. These fees are collected at the time the Final Plat is recorded and at the rate in effect when the plat is recorded.

**Development Agreement:** An executed Development Agreement will be required prior to releasing the plat for recording.

---

### **ReZoning Application Review**

As proposed Covenant Meadows would result in the creation of twelve (12) new single family lots.

The Applicant has proposed rezoning the property from R-1 (Rural Developing) to PUD (Planned Unit Development). The Planned Unit Development (PUD) zoning designation would allow for the Applicant to exceed the normal 1 unit per 2.5 acres in exchange for providing approximately 15 acres of high quality natural land surrounding the Trott Brook Trail. The proposed lots would range between 1.00 acres and 2.92 acres in size with an overall development density of 0.58 units per one acre in comparison to the usual 1 unit per 2.5 acres.

Staff is supportive of the proposed rezoning due to the high quality natural land proposed to be deeded to the City as a result of this project and would provide local residents with access to open space upon the a trail eventually being completed down to the Trott Brook.

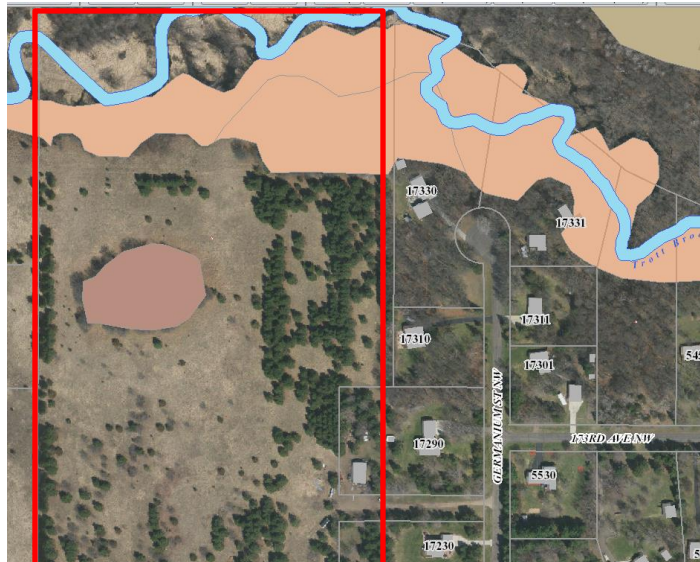
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
<b>Lot Size</b>	2.5 acres	1.00 + acres
<b>Lot Width</b>	200 feet	100 + feet
<b>Front Setback</b>	40 feet	40 feet
<b>Rear Setback</b>	40 feet	40 feet
<b>Side Setback</b>	10 feet	10 feet
<b>Side Corner Setback</b>	40 feet	40 feet
<b>Cul-de-Sac Length</b>	600 feet	1000 +/- feet

**CITY OF RAMSEY LAND USE APPLICATION**  
**TECHNICAL REVIEW FILE**

<b>DATE</b>	FEBRUARY 24, 2017	<b>PROJECT ADDRESS</b>	TBD
<b>PROJECT. TITLE</b>	COVENANT MEADOWS		
<b>ESCROW #</b>	115528		
<b>DEPARTMENT:</b>	Community Development: Planning Division (Landscape Plan & Environmental Resources)		
<b>TECHNICAL REVIEWER:</b>	Name: Chris Anderson, City Planner Phone: 763-433-9817 Email: <a href="mailto:canderson@cityoframsey.com">canderson@cityoframsey.com</a>		

We offer the following comments regarding the Tree Inventory and Protection Plan and the Landscape Plan, both prepared by Roshell Engineering, LLC and dated February 2, 2017:

The City's Natural Resources Inventory (NRI) identifies some moderate quality forest floodplain and oak woodlands adjacent to Trott Brook and a high quality oak woodland in the north central portion of the site. Most, if not all of the moderate quality areas are within the proposed Outlot A, which is to be deeded to the City as part of the Planned Unit Development (PUD). Per the Tree Inventory and Preservation Plan, it appears that much of the high quality oak woodland will also be preserved through the development process.



As part of this proposed project, almost sixteen (16) acres of land, straddling Trott Brook, would be deeded to the City. The City would like to work with the Developer to ensure that there is a trail corridor reserved along the common lot line of either Lots 4 and 5 or Lots 5 & 6 for future access to the Trott Brook trail.

The Landscape Plan is acceptable.

The Tree Plan indicates that fifteen percent (15%) of the existing significant trees will be removed, excluding those removed for ponding purposes, which is below the allowable threshold of thirty percent (30%). Due to the presence of larger stands of oak trees, tree clearing activities shall occur prior to April 15 or after July 15 to minimize the potential introduction of Oak Wilt to the site. This note must be added to both the Grading, Plan and the Tree Plan. Additionally, please

consult with the Certified Arborist that prepared the Tree Preservation Plan to prepare a plan that identifies the precautionary steps to be taken on site to protect oak trees from Oak Wilt. This should be included with the submittal of the Final Plat.

### **Required Sheet Revisions**

#### **Sheet G1 (Preliminary Grading Plan)**

- Revise to show tree preservation fence.
- Tree preservation fence must be installed and then approved by City prior to any clearing work.
- Add note stating that any clearing within oak stands shall be performed prior to April 15 or after July 15 to minimize exposure to and/or introduction of oak wilt.
- Add precautionary steps to be taken on site to protect oak trees from Oak Wilt and/or reference said plan and that it is incorporated by reference.

#### **Sheet L1 (Tree/Landscape Plan)**

- Add note stating that any clearing within oak stands shall be performed prior to April 15 or after July 15 to minimize exposure to and/or introduction of oak wilt.
- Add precautionary steps to be taken on site to protect oak trees from Oak Wilt and/or reference said plan and that it is incorporated by reference.
- Revise to show tree preservation fence.

#### **Sheet T1 (Tree Plan)**

- Add note stating that any clearing within oak stands shall be performed prior to April 15 or after July 15 to minimize exposure to and/or introduction of oak wilt.
- Add precautionary steps to be taken on site to protect oak trees from Oak Wilt and/or reference said plan and that it is incorporated by reference.
- Revise to show tree preservation fence.

**CITY OF RAMSEY LAND USE APPLICATION  
TECHNICAL REVIEW FILE**

<b>DATE</b>	FEBRUARY 22, 2017	<b>PROJECT ADDRESS</b>	WEST OF GERMANIUM STREET, NORTH OF 172 <sup>ND</sup> LANE (NEW)
<b>PROJECT. TITLE</b>	COVENANT MEADOWS		
<b>ESCROW #</b>	115528		
<b>DEPARTMENT:</b>	Engineering		
<b>TECHNICAL REVIEWER:</b>	Name: Leonard Linton Phone: 763 433-9834 Email: llinton@ci.ramsey.mn.us		

The Engineering Department offers the following comments regarding the Preliminary Plat Exhibits for Covenant Meadows. The submittal consists of 9 sheets. LHB prepared 1 sheet and Roshell Engineering, LLC prepared the remaining 8 sheets. All of the plan sheets are dated February 2, 2017.

**General comments:**

1. A cover sheet must be added to the plan set with a location map, sheet index and general project information.
2. A partial legend is shown on all sheets. All symbols used on that sheet must be added to the legend for the sheet. The symbols must be the same size in plan view and in the legend.
3. Ramsey City Details are not included in the set and must be added.
4. Class 5 shall meet the Ramsey modified gradation. This gradation must be included in the details.
5. Plan readability – Proposed grading lines and symbols must be the most prominent items on the grading sheets. Proposed storm sewer lines and symbols and pavement edges must be the most prominent on the street and storm sewer sheets. All other lines on the sheet must be screened so the lines and symbols for proposed features stand out. This includes the symbols in the legends which must match the plan view in size, pattern, weight, and color.
6. Underlying lines must be broken where they are under text boxes to enhance readability. Underlying text must be moved so there is not text on text.
7. This project will require a stormwater permit from the Lower Rum River Watershed Management Organization (LRRWMO).
8. The LRRWMO requirements are presented at the end of this memo.
9. Add Street/ Storm Sheets to the plan set that show the center line profile, horizontal and vertical curve information. The street width must be dimensioned on these sheets.

10. Move the typical street section to one of the Street/ Storm Sheets.
11. Add match lines and continuation notes to all sheets where part of the street is shown on a different page. Station numbers must be darker in plan view.

**Sheet Specific Comments:**

**Preliminary Plat:**

1. All line types and symbols on sheet must be added to the legend.

**G1:**

1. All line types and symbols used on the sheet must be added to the legend.
2. Must demonstrate positive drainage away from rear of all houses. Label existing contours in back yards, add spot elevations as needed to show that runoff flows away from walkout/lookout area.
3. Identify rectangular boxes on lots 1 & 2, Block 1 that touch houses.
4. The edge of pavement should be a lighter pen weight so that the grading is most prominent.
5. Soil classification information is required for the proposed drainfield areas.
6. Infiltration areas shall be excavated to final grade and vegetated after upland areas have permanent cover and are stabilized. Add a note to the plan: The secondary silt fence must remain in place until the infiltration basin vegetation is established.
7. The easement on lot 3, block 1 must be wide enough to allow maintenance vehicles to reach the pond without disturbing the bottom of the swale or driving on the steep side slope.
8. Identify or remove the black symbols along 172<sup>nd</sup> Lane adjacent to the existing lots.
9. The scale of the sheet must be changed so that spot elevations in the proposed ditches can be added.
10. Tree protection fencing must be shown on this sheet. It must be installed by hand prior to installing silt fence.
11. The potential flow route from each

**C1, C2:**

1. All line types and symbols on sheet must be added to the legend.
2. The pad grading information must only be shown on the grading plan.
3. Verify slope of all culverts in profile view.

**SW1, SW2:**

1. An area map must be added to the set.
2. A table listing erosion control measures to be installed and quantities of each item must be added to the sheet.

**L1, T1, T2:**

1. Trees to be removed must be clearly identified on the plan and in the tables. Add a column to the tables identifying trees to be removed.
2. Tree protection fencing must be shown on the plan and installed as noted above.

**Detail Sheets:**

1. Detail sheets must be added to the plan set.

**Stormwater Calculations**

A stormwater summary report was provided. The report states the 100 year storm is retained in the pond. The LRRWMO rules require sizing the basins for back to back 100 year storms if there is no outlet. The ponds will need to be enlarged.

The LRRWMO requires volume reduction (infiltration) on all projects. The LRRWMO rules require that infiltration basins empty completely within 48 hours after a 1" rainfall. The report must be revised to include the 1 inch, 2 year, 10 year, 100 year and 100 year back to back rain events. The HydroCAD report needs the Project Name and the Company Name on the page headers. These reports become part of the City's permanent stormwater records.

The report states onsite soils in the mitigation area will be removed and replaced with more permeable soils to promote infiltration. Details for the soil replacement must be included in the plans. The Minnesota Pollution Control Agency has produced the free MIDS calculator for evaluating stormwater practices like infiltration. The pond and infiltration basin must be evaluated with the MIDS calculator. The stormwater report must include the infiltration summary for each pond.

Draft boring logs were included with the stormwater report. A location map for the borings was not included.

A project manual which includes the bid form, contract and specifications must be submitted with the final plat.

Revised plans which address **all** of these changes must be submitted.

**CITY OF RAMSEY LAND USE APPLICATION**  
**TECHNICAL REVIEW FILE**

<b>DATE</b>	2/24/17	<b>PROJECT ADDRESS</b>	
<b>PROJECT. TITLE</b>	Covenant Meadows		
<b>ESCROW #</b>			
<b>DEPARTMENT:</b>	Fire Dept.		
<b>TECHNICAL REVIEWER:</b>	Name: Carey Schiferli Phone: 763-433-9832 Email: cschiferli@ci.ramsey.mn.us		

General: No issues with the development itself. The primary concern is that there is no other entrance/exit from this neighborhood. At this time, the only entrance/exit to this entire neighborhood (existing and proposed) is 169<sup>th</sup> Ave NW. This creates potential for several issues. First, if there were a structure fire in this area, we would have to transport water in tanker trucks and the maneuverability would be tough. Second, if we had a tree come down, it could block the only access for emergency responders.

**CITY OF RAMSEY LAND USE APPLICATION**  
TECHNICAL REVIEW FILE

<b>DATE</b>	2.24.17	<b>PROJECT ADDRESS</b>	OUTLOT A, MEADOWBROOK
<b>PROJECT. TITLE</b>	COVENANT MEADOWS PRELIMINARY PLAT		
<b>ESCROW #</b>			
<b>DEPARTMENT:</b>	Police Department		
<b>TECHNICAL REVIEWER:</b>	Name: Tim Frankfurth Phone: 763-433-9846 Email: <a href="mailto:tfrankfurth@ci.ramsey.mn.us">tfrankfurth@ci.ramsey.mn.us</a>		

**Public Safety Review of Proposed Development:**

The Police Department has no issues with the development itself; however, some concern was raised with regard to access to the development as the area is already a one in/one out accessed neighborhood. That access point is around Rum River Hills golf course from Highway 47.

The Covenant Meadows preliminary plat is proposing twelve (12) lots for this development and while it would add additional people to an emergency response scenario, public safety does not view the proposed development as an additional risk over and above the risk already present due to the singular access point from Highway 47 for the entire neighborhood. The proposed development provides for a westward roadway that may eventually lead to a connection back out to Highway 47 that would provide a second access point and lessen the risk in relation to an emergency response due to the secondary access point. It remains to be seen if MnDOT would be supportive of such a connection that would result in another access onto Highway 47.

**ORDINANCE #17-08**

**CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

**AN AMENDMENT TO CHAPTER 117 WHICH IS KNOWN AS THE ZONING AND SUBDIVISIONS CHAPTER OF THE CITY CODE OF RAMSEY, MINNESOTA.**

**AN ORDINANCE AMENDING SECTION 117-90 "MAP" OF CHAPTER 117 OF THE CITY CODE OF RAMSEY, MINNESOTA.**

**SECTION 1. AMENDMENT**

The following legally described properties or portions thereof, are hereby rezoned from R-1 Residential (Rural Developing) to PUD (Planned Unit Development).

Outlot A, MEADOWBROOK, Anoka County, Minnesota

(the "Subject Property")

The following table outlines what deviations are permitted through this rezoning:

<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
<b>Lot Size</b>	2.5 acres	1.00 + acres
<b>Lot Width</b>	200 feet	92 + feet
<b>Front Setback</b>	40 feet	40 feet
<b>Rear Setback</b>	40 feet	40 feet
<b>Side Setback</b>	10 feet	10 feet
<b>Side Corner Setback</b>	40 feet	40 feet
<b>Cul-de-Sac Length</b>	600 feet	1000 +/- feet

**SECTION 2. MAP**

The City is hereby instructed to cause this amendment to be shown on the "City of Ramsey Zoning Map", which map was adopted pursuant to Section 117-90 of the Ramsey City Code.

**SECTION 3. EFFECTIVE DATE**

This ordinance becomes effective 30 days after its passage and publication, subject to City Charter Section 5.04.

PASSED by the City Council of the City of Ramsey, Minnesota the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor

ATTEST:

---

City Administrator

Introduction date:

Posting dates:

Adoption date:

Publication date:

Effective date:

Councilmember \_\_\_\_\_ introduced the following resolution and moved for its adoption:

**RESOLUTION # 17-02-053**

**RESOLUTION GRANTING PRELIMINARY PLAT APPROVAL OF COVENANT MEADOWS**

**WHEREAS**, Brookview Estates, LLC, hereafter referred to as “Developer”, properly applied for Preliminary Plat approval of the following described property located in the City of Ramsey:

Outlot A, MEADOWBROOK, Anoka County, Minnesota

(the ‘Subject Property’);

**WHEREAS**, the City of Ramsey received a sketch plan for Brookview Estates from Brookview Estates, LLC on December 1, 2016; and

**WHEREAS**, the Planning Commission reviewed the sketch plan on January 5, 2017; and;

**WHEREAS**, the Developer changed the name of the proposed subdivision from Brookview Estates to Covenant Meadows due to a plat titled Brookview Estates already existing within Anoka County; and

**WHEREAS**, on March 2, 2017, the Ramsey Planning Commission conducted a public hearing regarding the proposed preliminary plat; and

**WHEREAS**, the Ramsey Environmental Policy Board (EPB) considered tree preservation, landscape plan, and potential wetland impacts pertaining to the preliminary plat on February 22nd, 2017; and

**WHEREAS**, the Ramsey Parks Commission considered the preliminary plat on March 9, 2017; and

**WHEREAS**, on March 14, 2017, the City Council reviewed the preliminary plat.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:**

- 1) That the Ramsey City Council hereby grants preliminary plat approval of Brookview Estates in accordance with relevant City Codes, subject to the following conditions:
  - a) Compliance with the Staff Review Letter dated February 24, 2017.
  - b) The Developer entering into a Development Agreement with the City.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember \_\_\_\_\_, and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

and the following abstained:

and the following were absent:

whereupon said resolution was declared duly passed and adopted by the Ramsey City Council this 14<sup>th</sup> day of March, 2017

---

Mayor

**ATTEST:**

---

City Clerk

## Regular Planning Commission

5. 2.

**Meeting Date:** 03/02/2017

**Submitted For:** Patrick Brama, Administrative Services

**By:** Patrick Brama, Administrative Services

---

### Information

**Title:**

Stone Brook Children's Academy & Childcare Center Purchase Agreement

**Purpose/Background:**

**Purpose**

The EDA and City Council are considering the attached purchase agreement (PA) with Stone Brook Academy for 1-acre of land located near the center of The COR for a children's academy and childcare center. It is customary for the City to allow the Planning Commission to comment on purchase agreements for City-owned land before they are executed. Specifically, the City Council is seeking preliminary comments on the proposed land use/ concept site layout.

**Staff suggests three major talking points for the Planning Commission:**

- (1) The proposed Stone Brook project has sparked the discussion of the Yolite Street connection. At this point, the EDA, Planning Commission, and City Council have all generally agreed, a connection is needed. However, the "type" of connection is an outstanding item. Should the City require Yolite to be a formal public roadway, designed to public road standards (much like Sapphire Street in The COR). Or, can the Yolite Street connection be constructed as a private drive connection (much like Residence at The COR or Casey's). Stone Brook would prefer a private drive connection. Staff is open to either option.
- (2) The proposed Stone Brook building orientation does include portions of the building set-back from Sunwood Drive (much like the City's Municipal Center Building). Generally speaking, The COR Design Standards require the building to be pushed up against Sunwood Drive. Staff believes this project meets the general intent of The COR Design Standards. However, the proposed Stone Brook building orientation, partially set-back from Sunwood, will likely require some sort of deviation (or variance) from the City's COR Design Standards. Staff would like to know if the Planning Commission is open to the proposed building orientation on Sunwood Drive? From a preliminary perspective, Staff is generally comfortable with the proposed building orientation.
- (3) The Planning Commission reviewed the attached four master plan options in February. At the time, the Planning Commission showed general support for layout "B" due to the internal east-to-west road connection. Staff would like to confirm the Planning Commission's position on that item.

It should be noted, this case is not an "official/ formal review" of the site plan by the Planning Commission. That will occur formally in the future, during the entitlement process (i.e. official site plan/ plat). The purpose of this case is to gather "preliminary" input on the site layout for the benefit of the Council and Stone Brook, as they negotiate the attached purchase agreement. The site layout of any project drastically effects project costs, and therefore has a direct effect on the purchase agreement negotiation. Additionally, this feedback will help Stone Brook with providing direction to their architects/ engineers that will formally design the project (and prepare for official applications). Therefore, any preliminary Planning Commission comments are valuable.

**Notification:**

**Observations/Alternatives:**

### Review Summary

This case was reviewed by the EDA on 12/08/16 and 01/12/17. This case was reviewed by the Planning Commission on 01/05/17 and 02/02/17. This case was reviewed by the Council on 01/24/17 and 02/14/17. All parties are generally very supportive of the use/ proposed project. However, the site location has been the focal point of conversations to-date.

The EDA is in general support of Stone Brook's proposed site location, Site #1 (5-1 vote on 01/12/17). The Planning Commission is in general support of Stone Brook's proposed site location, Site #1 (5-1 vote on 02/02/17). The Council is in general support of Stone Brook's proposed site location, Site #1 (7-0 vote on 02/14/17).

It appears all boards/ commissions have indicated support for a north-to-south road connection (Veteran's to Sunwood). It appears there is not consensus on whether that road connection be a private drive or a public road. Additionally, it appears there is general support for the attached master plan "B" which shows an east-to-west internal connection through the proposed Stone Brook site. Please see attached Site #1 Feedback Log for details.

### City Review process

This case is being addressed in several separate steps:

Step 1: Site Location/ Site Concept

The purpose of this case is to provide direction from a master developer perspective (site location, concept project layout).

Step 2: Real Estate transaction (current case)

The purpose of this step will be to consider a formal purchase agreement (i.e. deal terms).

Step 3: Entitlement

The purpose of this step is to review Plat and Site Plan applications (i.e. site plan/ zoning/ land use regulations).

### **Funding Source:**

NA

### **Recommendation:**

Provide preliminary feedback on the proposed concept site layout.

### **Action:**

Provide preliminary feedback on the proposed concept site layout. Below are talking points suggested by staff.

**(A) the north-to-south road connection.** Should it be a public road, or private road?

**(B) building orientation.** Is there comfort in the proposed building orientation?

**(C) east-to-west internal driveway connection.** Can the Planning Commission confirm support for that connection?

---

### **Attachments**

Proposed Concept Site Layout

Four Concept Master Site Layouts

Feedback Log

Purchase Agreement

---

### **Form Review**

Inbox

Reviewed By

Date

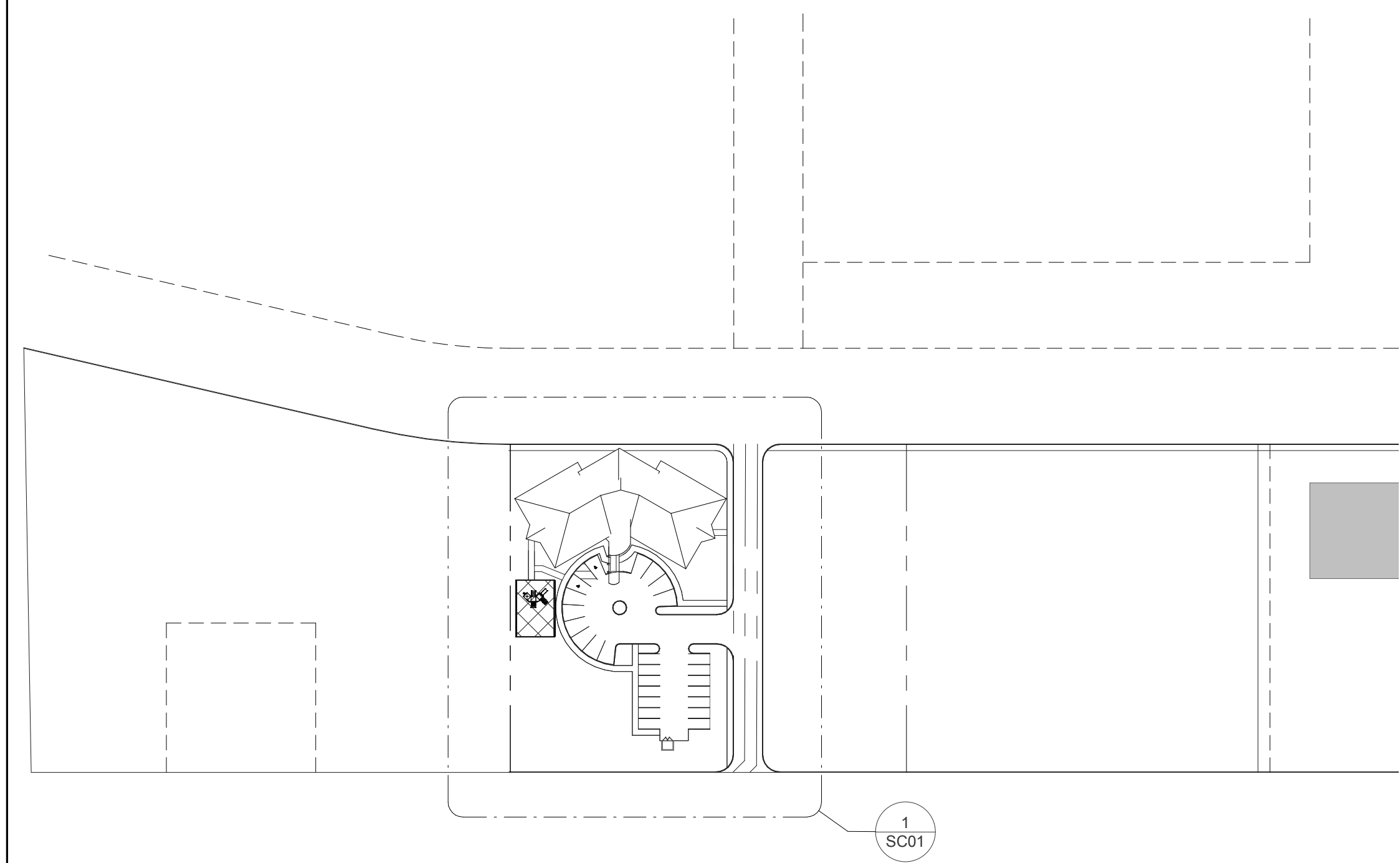
Tim Gladhill  
Form Started By: Patrick Brama  
Final Approval Date: 02/28/2017

Tim Gladhill

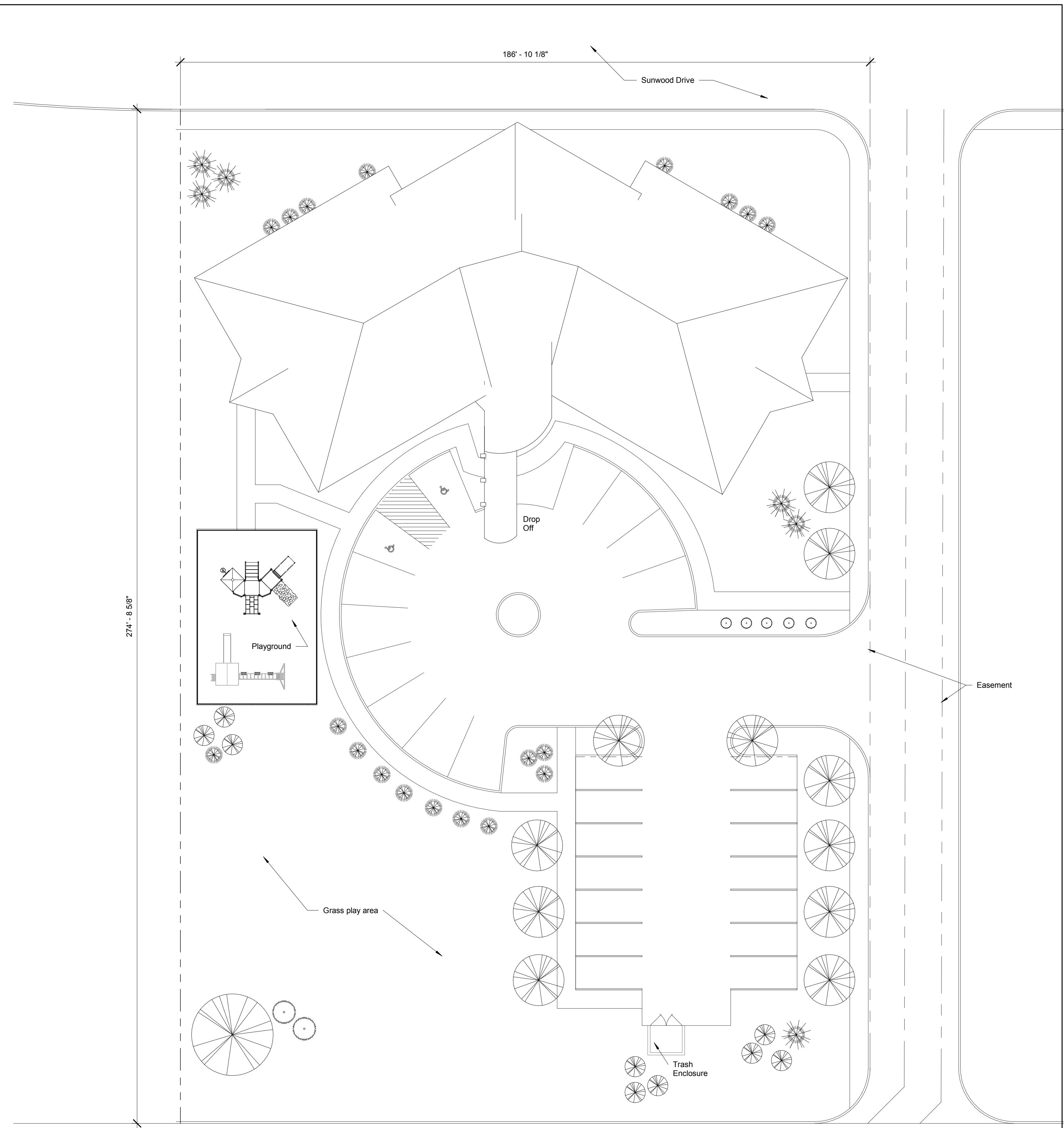
02/28/2017 03:11 PM  
Started On: 02/24/2017 07:09 PM

**Schematic Site Information:**

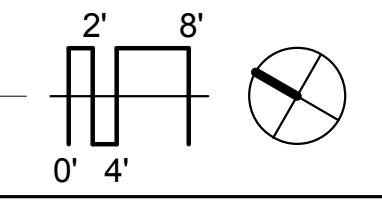
Site: 51,334 square feet (or 1.17 Acres)  
Building: 9,995 s.f.  
Playground: 1,500 s.f.  
Parking: 26 stalls (2 handicap accessible)



**2 Site Plan - Overall**  
 SC01 / 1" = 100'-0"



**1 Site Plan**  
 SC01 / 1/16" = 1'-0"



CNH NO.: 16096  
 DATE: 11-28-16  
 REVISIONS:




**Ramsey DayCare**  
 Sunwood Drive  
 Ramsey, MN

Site Plan -  
 Schematic Design

**SC01**

NOT FOR CONSTRUCTION

LEGEND

-  55,000 SF
-  243 Parking Stalls
-  Open Space



Sunwood Drive

Zeolite Street

Veteran Drive

On-street parking along Zeolite Street, Veteran Drive, and Sunwood help meet overall parking demands (approx. 5 per 1,000 ratio).

All layouts assume regional ponding meets stormwater requirements.



LEGEND

- 53,100 SF
- 223 Parking Stalls
- Open Space

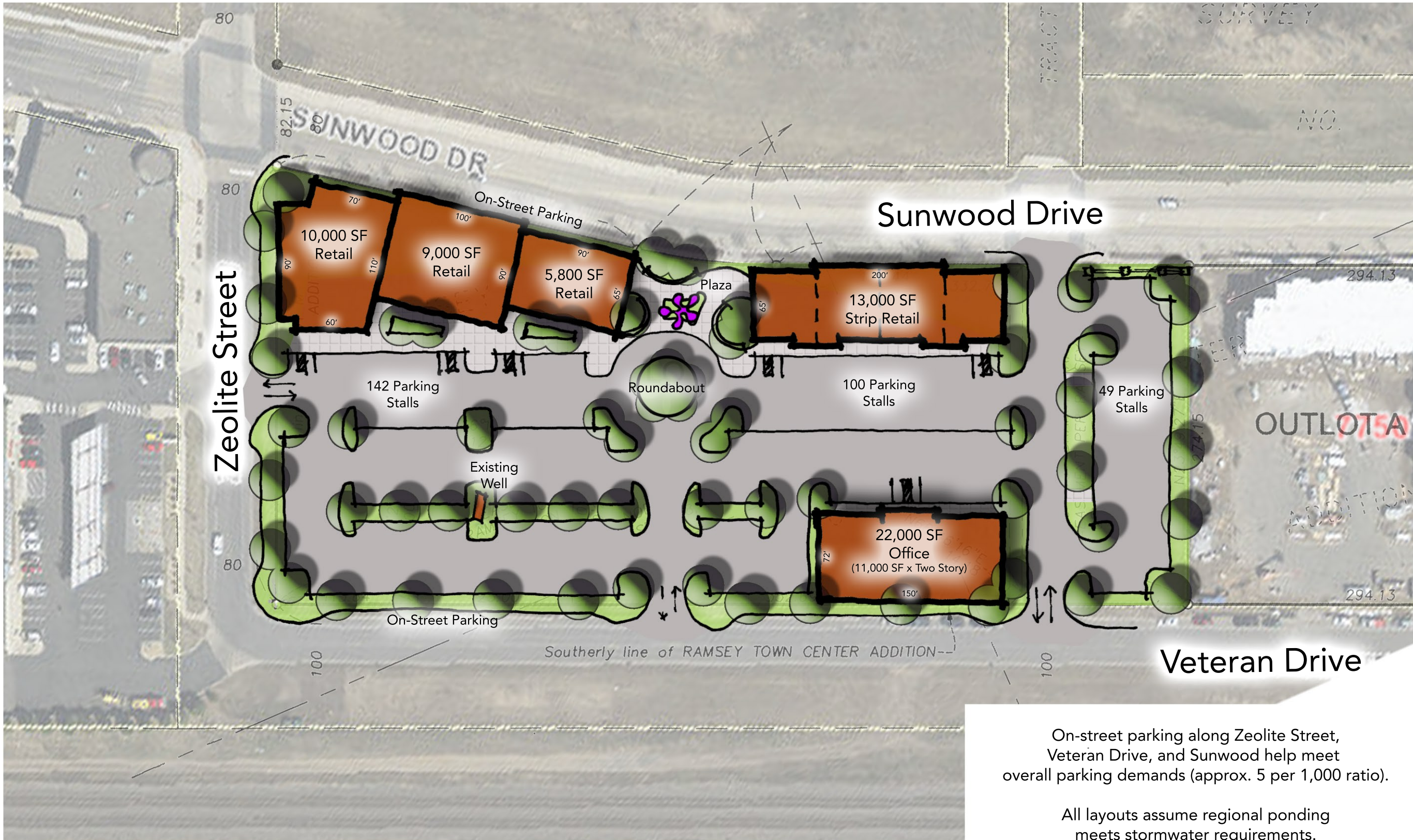


On-street parking along Zeolite Street, Veteran Drive, and Sunwood help meet overall parking demands (approx. 5 per 1,000 ratio).

All layouts assume regional ponding meets stormwater requirements.

LEGEND

- 59,800 SF
- 291 Parking Stalls
- Open Space



On-street parking along Zeolite Street, Veteran Drive, and Sunwood help meet overall parking demands (approx. 5 per 1,000 ratio).

All layouts assume regional ponding meets stormwater requirements.



LEGEND

- 61,300 SF
- 290 Parking Stalls
- Open Space



Sunwood Drive

Zeolite Street

Veteran Drive

On-street parking along Zeolite Street, Veteran Drive, and Sunwood help meet overall parking demands (approx. 5 per 1,000 ratio).

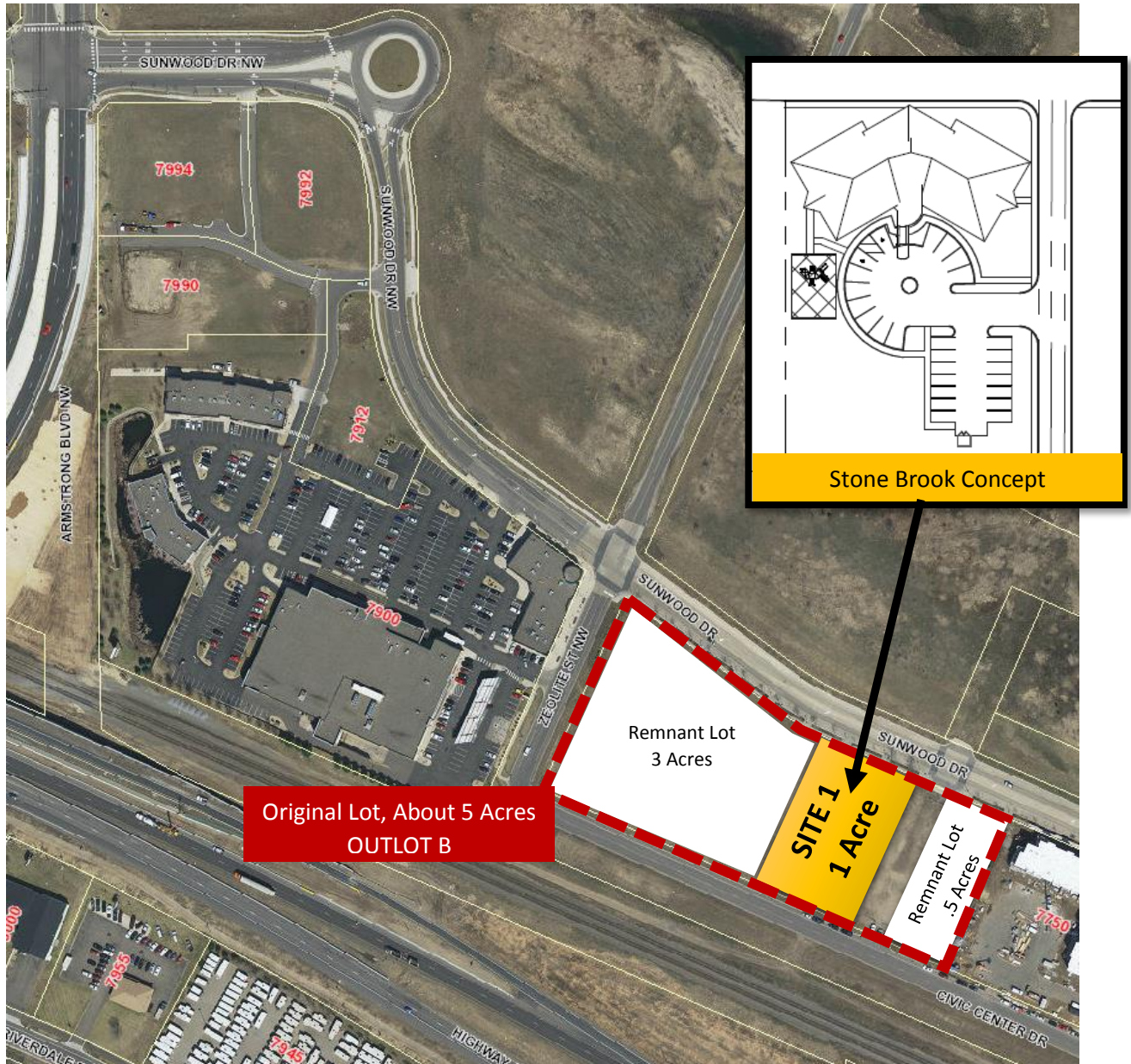
All layouts assume regional ponding meets stormwater requirements.



Stone Brook Academy  
(previously known as Prestmore Academy)  
Site Selection Log

**SITE 1**  
02/20/2017

# SITE 1



Outlot B is a roughly 4.95-acre parcel. The user, Stone Brook Academy, would like to utilize a roughly 1-acre portion of the property. This site is located in the COR-2 Retail district, on the border of the COR-1 Mixed district.

The shape/ dimensions of this site is ideal for development (rectangular). This site will require fill (is low), which will increase project costs for Stone Brook. Infrastructure generally is in place, and surrounds this site. The one question mark RE infrastructure is the potential Yolite Street connection. The other item worth noting, is this project will solidify the two remnant lots.

# (1) Stone Brook Feedback

## A. Why does Stone Brook think they need to be located on this site?

1. For the reasons outlined below, Stone Brook is confused why this question is being discussed—as it appears the City is providing mixed and conflicting direction/ messages on The COR.
  - The City’s adopted COR Master Plan specifically shows a childcare center on this site.
  - The City’s adopted COR Master Plan shows three individual projects on this site, including a very small project (not one single large project as many have discussed recently).
  - The City’s adopted COR-2 Zoning District allows for this use.
  - The City is formally marketing this parcel for sale. Stone Brook is willing to purchase at a reasonable price—and is not asking for a formal business subsidy.
  - Stone Brook is proposing a quality project, a quality service, and a destination use for The COR.
2. Stone Brook has reviewed all available site locations in The COR on multiple occasions, over the past six months. This includes reviewing sites with developers, architects, banks, and walking sites. Stone Brook wants to purchase this property now (purchase agreement). They have been saving for the past two plus years—and are very interested in this specific site. They desire to begin construction in early summer 2017.
3. Look/ feel/ vision are very important to Stone Brook. This site (near center of The COR) meets the vision of Stone Brook. They want a high-class, high-tech, high-amenity, well-respected, nice looking academy/ childcare center, that fronts Sunwood Drive, and fits in *WELL* with the surrounding area—which they believe is near the center of The COR. This facility will be much more of a state-of-the-art children’s academy, rather than simply just a childcare center. This will be an asset/ destination for this community.
4. Stone Brook believes in the City’s vision of The COR—and they are drawn to this specific site. They believe near the heart of The COR is where family oriented uses/ destination uses are best located—like academy’s, community centers, theaters, train stations, municipal, parks, etc. (details in location section below).
5. Being located near the center of The COR, versus on one extreme end or the other, provides better ability for Stone Brook to evenly pull from Ramsey’s major population areas (north and east of Ramsey Boulevard), and also to pull from future developable areas (west of new Armstrong interchange).
6. Being located near the center of The COR allows Stone Brook to draw from nearby dense housing—including apartments, townhomes, and other residential developments within The COR—as a result, in many cases, this location may be walkable. Being located near the center of The COR may also attract people using the Northstar Commuter Rail.
7. This site (Site #1) allows for a nice transition of uses, from multiple apartment users (i.e. COR-1 zoning district) to a traditional retail area (COR-2 retail district). Naturally, this site is a transition site. A transition user, like Stone Brook, makes sense.
8. Stone Brook believes being located on Sunwood Drive, near the center of The COR, is important for fit/ feel/ safety of the academy. Traffic flow (ease of access, congestion) and nearby users impact the perceived safety/ security/ fit of their facility. Stone Brook believes being located on either end of The COR detracts from these principles (i.e. convenience retail areas).

9. The McDonald's sites are 25%-35% bigger than what Stone Brook needs, and will result in wasted space/ remnant lots (which the City will be unhappy with). The Casey's sites on the east end of The COR have several more "development issues" than Site #1. PSD is not willing to sell their site for less than \$12.00 psf. The Northgate site is too small. Not only is this their #1 desired site, Stone Brook believes other options in The COR don't work well.
10. This type of business, a high-end children's academy, is not commonly seen in Anoka County, if at all (however, is common in Hennepin County for example). It is critically important, to the owners, that they are able to *deliver* top-notch services in a high-class facility. They will not open a facility in Ramsey if they cannot achieve that goal. Stone Brook believes their pricing structure is very sensitive/ risky in Ramsey (unproven market for this product). They need to do everything they can to keep user costs as low as possible in Ramsey (Site #1 works for their budget).

## **B. Is this a daycare or a pre-school?**

1. Stone Brook is a center based childcare. Stone Brook is not a daycare. [Based on State regulations,] daycares are centers located inside peoples' homes. A center based childcare, under MN Dept of Human Services guidelines, has specific requirements for number of children, as well as, staff qualifications. Stone Brook will be applying for a childcare license [though the State]. This license will enable Stone Brook to service children ages 6 weeks-preschool.
2. [With the above in mind,] Stone Brook is not just opening up a childcare center just to open up a childcare center. Childcare centers are a very tough and regulated business. Therefore, to spend time and energy and personal assets just for a business would be foolish. Stone Brook has been in contact with many people and [childcare] centers for two years now, trying to gather information and to produce a quality product. First and foremost for the children, but second of all, for the community.

Stone Brook will be regulated by the MN Dept of Human Services. Requirements, see website [pages](#). Supporting a childcare center in the community is vital to the growth of the community. Yes, the family is a powerful influence on a child's ability to succeed, but Stone Brook's goal is to also work collaboratively in a process that is fun, educational, and have a beneficial social impact. Therefore, Stone Brook will be [include] special events for families, a large multi-purpose room for events and learning, computer-smart boards for learning, and the privilege to share the stages of growth and development with the families. Just remember that when a center for childcare exists and successful, the community in which they serve will also show success and a positive influence.

## (2) Staff Feedback

### A. YOLITE STREET CONNECTION

- Development of this site *could* trigger the construction of a 275' public roadway connection (known as Yolite Street)--which would connect Sunwood Drive with Veterans Drive. Yolite Street is the only potential public mid-block connection between Zeolite and Sapphire Street in The COR (which are a half mile apart). Requiring the construction of Yolite Street is a policy question for the City to answer—and is very important to this proposed development. Direction is needed in order to move this project forward on this particular site.



- Stone Brook Academy is proposing to pay for 20% of costs related to Yolite Street (if the City requires this road). Stone Brook would like to use the City's previously utilized cost share arrangement on public roads located in commercial areas in The COR--which is a 60/40 split (60% City, 40% developer). Stone Brook is proposing to pay 20%, as they are only utilizing one side of the road. They are proposing the user on the other side of Yolite Street pay for the remaining share of the 40% developer portion (i.e. 20%).
- Another option to consider is a private drive/ road connection (much like Casey's). It appears, based on initial comments from the EDA/ PC/ CC, this is an option worth pursuing. In this case, Stone Brook would propose a 50:50 cost share.
- The current COR Master Plan (left) does *NOT* call for a public road connection at Yolite Street. The original COR Master Plan (right) *DOES*.
- Yolite has *NOT* been platted (ROW has not been secured) on the south side of Sunwood Drive (property currently being considered by Stone Brook). Yolite *HAS* been platted (ROW has been secured) on the north side of Sunwood Drive (to service a potential parking ramp).

- Sunwood Drive and Veteran’s Drive were constructed ahead of development, based on the original COR Master Plan. Yolite Street was stubbed in on both Sunwood and Veteran’s Drive. An intersection has been constructed on Sunwood (for the anticipated Yolite Street).
- There is an existing stormwater line that runs through the proposed Yolite Street connection (between Sunwood and Veteran’s Drive). Therefore, even if the Yolite Street connection is not made, this storm water line will effect where buildings can be constructed (i.e. cannot be built over the stormwater line).
- From a traffic flow/public safety perspective, staff recommends the City make the proposed connection of Yolite Street between Sunwood Drive and Veterans Drive. At this point, there is no road connection for about a half mile. In the event of an emergency or heavy traffic in The COR, having this connection, to allow for detours/ alternative routes, will be very important.
  - i. Furthermore, if the Yolite Street connection is not made, and one of the two existing connections is blocked (in the case of an emergency/ major event/ construction), the next available connection will be more than a half mile away (which is a great distance in a dense/ walkable/ transit oriented development).
  - ii. Staff is also concerned that existing private driveways (such as Residents at The COR) will continue to experience significant public through traffic, due to the lack of public road connections. As The COR develops, this problem is expected to worsen—especially if connections like Yolite are not made.

## B. REMNANT PARCELS

- If Stone Brook was allowed to move forward with this proposed 1-acre site, it would create two remnant lots.
- The **first remnant lot** is roughly 1/2 acre, rectangular shaped, remnant parcel, located just east of the proposed 1-acre Stone Brook Academy site (just east of the potential Yolite Street connection). The lot would be roughly 85' wide and 275' deep.



This size of lot is not ideal/ and is not something the City should be seeking (staff would not recommend for standard practice). This size of lot will reduce the pool of potential projects/ users. This risk factor should be known.

However, considering it's location (within The COR), this remnant site still carries merit/ marketable value. The COR allows for zero setbacks/ green spaces, significant lot coverages, on-street parking, and does not require storm water on-site. In fact, density is strongly encouraged in this development. These COR development characteristics allow for this particular remnant site to be viable and usable.

Staff anticipates a 4,000-8,000 sf "foot-print" building could be placed on this site (could be two stories). Water/ sewer stubs are available to this site. Furthermore, staff would like to note, this type sized lot/ building foot-print is not uncommon for downtowns/ urban developments in cities across the country.

In many ways, the 1/2 remnant parcel is the result of two previous decisions: (1) the Common Bond project, not extending their site to Yolite Street created the 1/2 parcel, and (2) the location of pre-installed/ pre-determined infrastructure on Sunwood and Veterans. These issues will need to be addressed, now or in the future (by the City as current master developer, or by a future master developer).

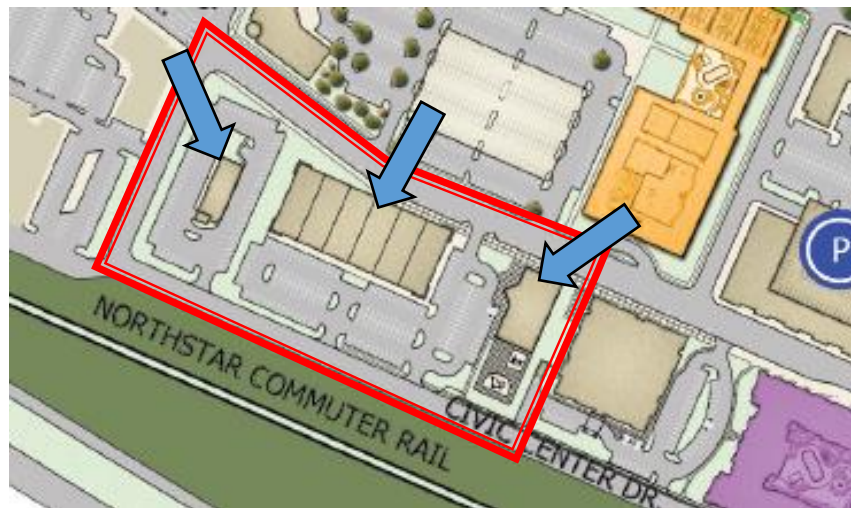
- The **second remnant lot** is roughly 3-acres, located just west of the proposed Stone Brook Academy 1-acre lot, and is generally rectangular shaped.



Although this lot is smaller than the original larger 5-acre lot, this remnant 3-acre parcel is still of considerable size, and holds strong merit to be marketed/ developed. Sewer/ water stubs exist. Good access points exist. Location is good.

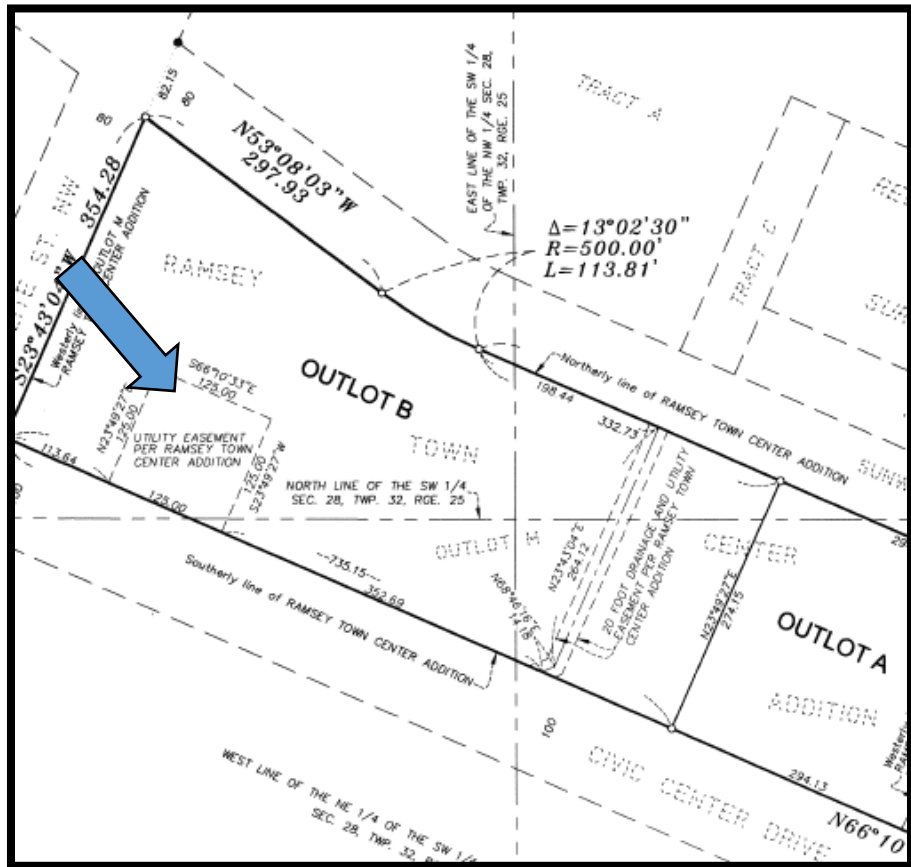
### C. PROPOSED USE/ SITE LOCATION

- The COR master plan coincidentally shows a childcare center in this general location. The COR master plan generally shows three buildings on this site, pushed up against Sunwood Drive, at the following estimated sizes: 20-40K sf, 3-5k sf, and 4-8K sf. Stone Brook is proposing a 10K sf building, pushed up against Sunwood Drive. Therefore, the proposed project appears to generally fit The COR master plan.
- This proposed use (childcare center) generally appears to be an allowed use in the The COR-2 zoning district. This site is located in The COR-2 zoning district.
- From an objective perspective, this project appears to be in an acceptable location, and an acceptable use (based on zoning and master plan). However, the City retains ultimate discretion as property owner/ master developer to pick and choose which projects they want, or don't want; and how property should be developed.



**D. WELL, WELL EASEMENT**

- There is a public well in the SW corner of the larger 5-acre site. This well includes a 125' easement. The well/ easement is *NOT* located on the proposed Stone Brook site. However, it will affect the 3-acre remnant lot (located west of the 1-acre Stone Brook lot). Generally speaking, when the 3-acre remnant site is developed, the well easement it will restrict potential building layouts. Buildings can't be constructed over the easement—however, parking and greenspace may be allowed. Staff wanted to simply note this item. This will be an issue to deal with, regardless of Stone Brook.



## **(3) EDA Feedback**

- The EDA reviewed this case 12/08/2016 and 01/12/2017. The EDA is generally supportive of moving forward with Site #1.

### **12/08/2016 NOTES**

- The EDA is very interested in this project, and would like to welcome Stone Brook to Ramsey (and The COR). The EDA wants this deal to happen, and is excited to work with Stone Brook to find a solution. The EDA understands the many benefits this project can bring to Ramsey.
- The EDA was generally interested in obtaining more information from staff (RE the Yolite Street discussion/ the remnant lots), and hearing back from Stone Brook (on other potential site locations), before making a final recommendation on this particular site.
- The EDA was generally concerned about this specific site location/ site layout. The EDA is most interested in a comprehensive approach to developing this larger site (nearly 5 acres). The EDA generally believes a master developer can most effectively/ efficiently plan around the current site limitations/ challenges (listed below). The EDA would rather have Stone Brook located on another site, to avoid solidifying the development challenges for this site (listed below).

- **Yolite intersection/ connection.**

The EDA was concerned this connection is un-needed, and a waste of public dollars (originally \$394K total cost, now about \$284K). The COR master plan no longer calls for the Yolite connection. The EDA was generally open to discussing a private connection/ and or private stub road solution.

- **Remnant Parcels**

The EDA was concerned with the relatively fixed location of existing public infrastructure. These items create development layout/ lot size limitations—which restrict future development options. Please see “Staff Feedback Section” for details/ background.

This proposed Stone Brook 1-acre site will solidify two remnant parcels. The EDA is generally concerned about the potential affects these remnant parcels will have on future development projects. Please see “Staff Feedback Section” for details/ background.

### **01/12/2017 NOTES**

- EDA supported moving forward with this site, with a 5-1 vote. The EDA felt that this project was a real project. Stone Brook is here today. It appears to be an acceptable use of Site #1. The user appears to be quality, and the proposed building should fit The COR. This site can be sold to Stone Brook without providing a formal business subsidy.
- The EDA supported making a counter offer to Stone Brook (@ \$3.30 psf). The EDA supported the Planning Commission’s request, that if a project was to move forward on this particular site, that a connection be made from Sunwood to Veterans Drive. The EDA understood the significant traffic Stone Brook will create, and wants to avoid the drop off/pick up taking place on Sunwood. The EDA does not think a public road connection should be required, the EDA does support a private drive connection (like Residence at The COR). Generally, the EDA understood Stone Brook would likely desire to split the cost of a private drive with the City (50:50).

- The EDA did have a robust discussion. Many topics were covered. In most situations, the EDA acknowledged there was no single clear/ correct/ easy way to move forward with this project, and address all individual concerns. This was a very challenging discussion for the EDA.
- Some EDA members felt that this use was a good fit for this site—considering it's proximity to apartments, and the Northstar Rail. Some EDA members felt this use was a good transition user, from the apartments to traditional retail. Some EDA members believe that having a master developer/ large 1-time project for this site is ideal—however, were concerned that alternative has never occurred in reality, and will likely take a long time before it ever does (if at all). Some EDA members were concerned that, to make the project work on other sites, the level of subsidy needed could not be justified. Some EDA members indicated that getting this project moving forward will result in land proceeds, jobs, tax base, will provide a good service to the community, and will generate traffic in The COR. Some EDA members believe that the several development issues with Site #1 (remnant lots, Yolite, the well, etc.) are the result of previous decisions, and at some level are now a moot point—those issues are not Stone Brook issues.
- Some EDA members were concerned with allowing Stone Brook on this site. This action will confirm/ solidify many development issues: remnant lots, Yolite, the well, etc. These issues limit the City's ability to market sell remaining lots (specifically, the remnant half acre lot), and will eliminate the option for a master developer to take the entire site (and deploy creative solutions to address the issues of this site). One EDA member formally opposed Site #1 for this reason.
- Generally, the EDA was unclear what the City's vision was for this property. Below is their concern.

What is the vision for this parcel?

1. Is the vision traditional retail, as the adopted zoning district indicates?
2. Is the vision apartments/ COR-1 density, to be consistent with the block?
3. Is the vision a large, mixed-use, master planned, significant project(s), as the Planning Commission suggests?
4. Is the vision large, multi-tenant retail/ commercial buildings, master planned, as the EDA has contemplated?
5. Is the vision the current COR Master Plan, which shows three individual buildings/projects, one being a daycare center.
6. Is the vision the old COR Master Plan, which shows 3-4 commercial (potentially mixed use) buildings?

## **(4) Planning Commission Feedback**

### 01/05/2017 NOTES

- By consensus, the Planning Commission was opposed to the project being located on this site (Site #1).
  - The Planning Commission is uncomfortable with the many development issues that encumber this site (remnant lots, storm sewer, well, Yolite, etc.). The Planning Commission is uncomfortable with Stone Brook etching out a 1-acre parcel on this site, and further solidifying the various encumbrances on this site.
  - The Planning Commission believes great opportunity exists for the City on this site, and this project may remove the ability to make a large project(s) happen. The Planning Commission believes this site is better suited for a larger project(s), and/ or a master developer to take down the site all at once. The Planning Commission discussed several better-suited options for development on this site (including many larger destination users). One option discussed included destination type attractions, such as a ferris wheel. Another option included building a skyway/ or building over the Yolite connection. Another option included a mixed use building (living above and commercial below).
  - The Planning Commission does not agree with Stone Brook, that this project is best fit on this particular site (Site #1). The Planning Commission believes Stone Brook is best suited on other sites: (i.e. #2, #3, #4, #6, #7, #8).
- The Planning Commission indicated that, if this project moved forward on this site, they would recommend a connection be made between Sunwood and Veteran's drives. The Planning Commission was concerned about the large amount of traffic this user will generate, and that having direct access to Sunwood Drive would be problematic. The Planning Commission appeared to be open to discussing an private or public connection.
- Assuming this project is classified as a "daycare" user specifically (and academy as a secondary use), the Planning Commission believes this site generally works form a zoning/ COR master plan perspective.
  - Staff did check into this item (classification of user). Stone Brook will have a daycare/ childcare license through the State of Minnesota (Department of Human Resources). They are technically considered a childcare center. Daycares are technically a home based business (per the State of Minnesota).
  - The City of Ramsey uses the terms "childcare" and "daycare" interchangeably throughout zoning code.
  - To have a childcare center, Stone Brook must develop a written child care program plan, along with a plan for daily access for interest activities, plan for naps and rest, behavior guidance plan, proper furnishings/ equipment/ materials/ supplies for each age group, have a program for special needs, drop in programs/ supervision, sick child program, food/ snack program, parent information, emergency and accident policy, protective personal records program, health records, facility inspection (floor plan, occupancy, fire inspection, hazards, hygiene).
  - With the above in mind, Stone Brook will also be providing/ specializing in early childhood education services. They want to be more than simply a childcare center—education is very important to their brand/ strategy.

## 02/02/2017 NOTES

- By a 5-1 vote, the Planning Commission was in support of the project being located on this site (Site #1). The PC made a motion to move this project to the next step, which is negotiating a purchase agreement.
  - The PC was in support of this project being located on Site #1 for the reasons outlined below.
    - The COR-2 Zoning District allows for this use (permitted use). Site #1 is located in the COR-2 zoning district.
    - The COR Master Plan shows a childcare center in a similar location as Site #1.
    - The COR Master Plan shows site layouts similar to what is being proposed by Stone Brook.
    - The reasons Stone Brook is requesting Site #1 generally appear to be reasonable, and Site #1 appears to work for the user.
    - The PC still feels this project is *ideally* located elsewhere in The COR--for the reasons outlined in the 01/05/2017 meeting notes (above). However, the PC felt it would be unreasonable for the City to allow this project via our adopted Master Plan and Zoning Code, and then choose not move it forward now, because it's not the City's current #1 ideal location.
  - RE the four site layouts, the PC liked Master Site Layout "B" the most (attached to this case), and was the focus of their discussion. They liked Master Site Layout "B" for the following reasons:
    - Allowed for internal traffic flow, and multiple access points to Stone Brook site, which will be important during the peak drop-off and pick-up hours of this business.
    - Separation of drop-off area from parking area is likely safer with this design.
    - PC preferred site layouts that covered Sunwood Drive with buildings as much as possible (on the remnant lots).
  - The PC remains in favor of the road connection (Yotlie). They are open to either a public or private road, for the reasons previously stated in the 01/05/2017 PC Notes.
  - One PC member opposed the project. They were in support of the attached Master Site Layout "B". However, they couldn't support the Stone Brook project on Site #1, if the remaining portion of the larger parcel/ development was not guaranteed. In other words, there is nothing requiring the remaining portion of the larger site to be developed as proposed in Master Site Layout "B". And, therefore, would result in too many future development challenges.
  - Some PC members stated that the .5-acre remnant lot and the well issue are both moot points. They are issues created by the City that are not going to go away, and will affect *any* master site layout for this larger site. They are not Stone Brook issues. Also, the 3-acre remnant lot is large enough to do many things with, and lots of options still exist.
  - Most PC members felt this use was a destination user, and would drive traffic to The COR, which will benefit The COR overall. One PC member wanted more information on Stone-Brook's demographic model, and where specifically will Stone Brook be pulling their customer base—is this business truly going to pull users from outside of Ramsey?
  - One PC member made a note, that this use is technically not an academy or early childhood learning center, based how they are licensed through the State of Minnesota. Stone Brook is seeking a childcare center license (primary use). They will be providing educational services as an added benefit.

## ***(5) City Council Feedback***

### **01/24/2017 NOTES**

- The City Council has indicated more information is needed before a final decision can be made (RE site location). The Council was concerned about the ramifications this single project (about 1 acre) would have on the development of the larger parcel/ block (about 5 acres). The Council desires to know more about how the various development challenges associated with this site will play out in various development scenarios (i.e. Stone Brook proposal vs. single developer master planned site).
- Per Council direction, various professional development scenarios were drafted for consideration/ discussion. The Council requested this case be reviewed one more time by the Planning Commission before the Council made a final decision. The Council would like to receive feedback from the Planning Commission on the attached four concepts.
- The Council was generally very supportive of the use/ proposed project. The Council would like to explore options on how to make this project work on Site #1. However, the Council remains undecided about site location.

### **02/14/2017 NOTES**

- By consensus, the Council is generally supportive of Site location #1, and has invited Stone Brook to bring forward a purchase agreement.
- The Council generally supports a road connection (Sunwood to Veterans). Some Councilmembers were in support of a public road connection specifically. The Council didn't have enough information to provide final direction on this item (public or private).
- The Council believes the internal road connection, as shown in master plan B, from east to west, is important to the Council. Also, proper easements are important to allow the site to function as a single master-planned block.

## PURCHASE AGREEMENT

This Agreement is entered into by and between the **City of Ramsey**, a Minnesota municipal corporation (“Seller”), and **Michael & Kristen Johnson**, (“Buyer”).

In consideration of the Earnest Money, the mutual covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **EFFECTIVE DATE.** The effective date of this Agreement is March 15, 2017 (the “Effective Date”).
2. **SALE OF PROPERTY.** Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, roughly one acre of the Property, legally described as follows:

*Outlot B, COR ONE PLAT, City of Ramsey, County of Anoka*

and further identified by Anoka County by the following property identification number(s):

**28-32-25-23-0010**

3. **PURCHASE PRICE.** The purchase price for the Property is \$3.30 per square foot (the “Purchase Price”). Buyer intends to purchase roughly 1-acre of land. Buyer is responsible for subdividing property, providing the City of Ramsey with a legal description of the new parcel, and an official parcel size.
4. **EARNEST MONEY.** By March 22, 2017 Buyer must deposit the sum of \$7,500 (the “Earnest Money”) with Commercial Partners Title Company, 200 South 6<sup>th</sup> Street, #1300, Minneapolis, MN 55402 (“Escrow Agent”), via wire transfer or delivery of a certified check payable to Escrow Agent.
  - a. If Buyer does not deposit the Earnest Money with Escrow Agent as required above, then Seller may terminate this Agreement by written notice to Buyer; provided, however, if Buyer deposits the Earnest Money with Escrow Agent before Seller exercises Seller’s right to terminate, Seller’s right to terminate is extinguished.
  - b. Unless Buyer has previously terminated this Agreement pursuant to Section 9, \$7,500 of the Earnest Money (the “Initial Disbursement”) becomes non-refundable to Buyer (except in accordance with Section 23 as a result of a default by Seller) 120 business days after the Effective Date, and on that date Escrow Agent must disburse the Initial Disbursement to Seller.
  - c. Upon Seller’s receipt of a Notice to Proceed from Buyer in accordance with Section 9(b), all of the Earnest Money becomes non-refundable (except in accordance with Section 23 as a result of a default by Seller).

- d. If Buyer does not provide a Notice to Proceed to Seller in accordance with Section 9(b), this Agreement automatically terminates and Escrow Agent must disburse all Earnest Money Escrow Agent holds to Buyer, other than Earnest Money Escrow Agent is obligated to disburse to Seller pursuant to Sections 4(b) and (c).
  - e. At Closing, Escrow Agent shall disburse to Seller any Earnest Money not previously disbursed to Seller, and Buyer shall receive a credit against the Purchase Price owing at Closing in an amount equal to the amount of the Earnest Money.
5. **SURVEY.** Seller shall, at Seller's expense, obtain an ALTA/NSPS 2016 survey (Table A, items 1-4 and 6, 8, and 11) (the "Survey") from a duly licensed surveyor and deliver it to Buyer within thirty (30) days after the Effective Date. Buyer may arrange with the surveyor to include additional information on the Survey at Buyer's expense.

6. **TITLE COMMITMENT.**

- a. Seller makes no representations or warranties with respect to the status of title to the Property. Within thirty (30) business days after the Effective Date, Seller shall, at Seller's expense, obtain a commitment from Escrow Agent to issue an owner's policy of title insurance insuring Buyer's title to the Property (the "Title Commitment") and deliver the Title Commitment and copies of or internet access to copies of all recorded documents referenced in the Title Commitment to Buyer.
- b. Buyer shall have until the date ten business days after the receipt of the Title Commitment and the Survey (collectively, "**Title/Survey**") to review Title/Survey and to give Seller written notice of (i) any defects in the marketability of Seller title to the Property or any encumbrances on Seller's title to the Property that are objectionable to Buyer, and (ii) the specific actions Buyer requests that Seller take with respect to each such defect or encumbrance (a "**Title Objection Notice**"). Any defects in or encumbrances on Seller's title that Buyer does not identify in a timely Title Objection Notice are each a "**Permitted Exception.**" Within three (3) business days after Seller's receipt of a Title Objection Notice from Buyer, Seller will notify Buyer, in writing, of the actions, if any, that Seller is willing to take with respect to each of the matters identified in the Title Objection Notice and the time frame in which Seller will take those actions ("**Seller's Title Notice**"). If Seller's Title Notice indicates that Seller unconditionally agrees to make Seller's title to the Property marketable on or before the closing date established pursuant to Section 10, the parties shall proceed to closing pursuant to the terms of this Agreement. If Seller's Title Notice indicates that Seller does not unconditionally agree to make Seller's Title to the Property marketable on or before the closing date established in Section 10, Buyer may, at any time with three (3) business days after Buyer's receipt of Seller's Title Notice, terminate this Agreement by written notice to Buyer in

which case this Agreement is terminated and Escrow Agent must disburse any Earnest Money (other than Earnest Money that Escrow Agent has disbursed to Seller pursuant to Sections 4(b) and (c)) (“**Buyer’s Title Termination Notice**”). If Buyer does not deliver a Buyer’s Title Termination Notice to Seller within the three (3) business days after Buyer’s receipt of Seller’s Title Notice, than Seller must perform in accordance with Seller’s Title Notice, Buyer shall be deemed to have waived Buyer’s objections to the extent Seller has not agreed to address them in Seller’s Title Notice, the matters to which Buyer objected and Seller did not agree to resolve are deemed Permitted Exceptions, and the parties shall proceed to Closing in accordance with the terms of this Agreement and the terms of Seller’s Title Notice.

- 7. RIGHT OF ENTRY.** At all times after Buyer has deposited the Earnest Money with Seller and before the expiration of the Inspection Period (as defined in Section 9), Buyer (and its employees, agents, and contractors) may enter the Property for the purpose of conducting soil tests, environmental tests and additional survey work, subject to the following conditions:
- a. Upon the earlier of the date one week after Buyer’s completion of its activities on the Property or the date one week after the termination of this Agreement, if either Seller or Buyer terminate this Agreement in accordance with the provisions hereof prior to Closing, Buyer must repair and or restore any damage Buyer or its employees, agents or contractors cause to the Property and remove any personal property, refuse or debris Buyer or its employees, agents or contractors brought onto or authorized third parties to bring onto the Property.
  - b. Buyer must defend and indemnify Seller from and against and hold Seller harmless Seller from all “Claims,” as defined in Section 10, arising out of, resulting from or relating to any loss of or damage to any property or business or out of any injury to or death of any person, if the loss, damage, injury, or death arises or is alleged to arise either directly or indirectly and either wholly or in part from: (a) any action or omission of Buyer or its employees, agents, or contractors, while on the Property pursuant to this Section; or (b) actions or omissions of Buyer or Buyer’s employees, agents, or contractors that cause or result in the release of any Hazardous Substance onto the Property or onto other property.
  - c. Buyer must comply with and shall cause it employees, agents, and contractors to comply with all applicable laws, while on the Property.
  - d. Buyer may not commence any environmental testing on the Property until Buyer submits a work plan for such testing to Seller and Seller approves the work plan, in writing. Seller may not unreasonably withhold, condition or delay Seller’s approval of a work plan.
  - e. Buyer must, promptly and without demand from Seller, provide Seller with true and complete copies of all draft and final reports relating to Buyer’s geotechnical

and environmental investigations and testing of the Property including, without limitation, any reports relating to any Phase I Environmental Site Assessment of the Property.

f. The cost of any test or additional survey work will be borne solely by Buyer.

**8. PROPERTY SOLD AS IS.** Subject to Buyer's right to terminate this Agreement pursuant to Section 9, Buyer agrees to accept the Property in its current condition, including, without limitation, its current environmental and geological condition, and in an "AS-IS" and with "ALL FAULTS" condition. Buyer's payment of the Purchase Price at Closing constitutes Buyer's acknowledgment and agreement that:

- a. Seller has not made any written or oral representations or warranties of any kind with respect to the Property (including without limitation express or implied warranties of title, merchantability, or fitness for a particular purpose);
- b. Buyer has not relied on any written or oral representation or warranty made by Seller, its agents or employees with respect to the condition or value of the Property;
- c. Buyer has had an adequate opportunity to inspect the condition of the Property, including without limitation any environmental testing, and to inspect documents applicable thereto, and Buyer is relying solely on such inspection and testing; and
- d. The condition of the Property is fit for Buyer's intended use.
- e. Buyer accepts all risk of Claims (including without limitation all Claims under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation) whether past, present or future, existing or contingent, known or unknown, arising out of, resulting from or relating to the condition of the Property, known or unknown, contemplated or un contemplated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.

**9. INSPECTION PERIOD.**

- a. Except as otherwise provided in Section 6, Buyer shall have from the date that Buyer deposits the Earnest Money with Escrow Agent to August 01, 2017 (the "**Inspection Period**") to investigate the Property and determine, in Buyer's sole judgment, whether (i) the condition of the Property is suitable to Buyer's intended use; and (ii) Buyer will be able to obtain all governmental approvals and utilities necessary for Buyer's intended use of the Property. Buyer acknowledges and agrees that Seller has not made any covenants, representations or warranties regarding Buyer's ability to obtain governmental approvals from the City of

Ramsey or any other governmental entity. The City of Ramsey will review, consider and act on any applications Buyer submits to the City for governmental approvals in accordance with City Code.

- b. Buyer may, at any time on or before 5:00 p.m. on the last day of the Inspection Period, terminate the Agreement by written notice to Seller based on Buyer's determination, in Buyer's sole and absolute discretion, that the condition of the Property is not suitable for Buyer's intended use or that Buyer may not be able to obtain all governmental approvals and utilities necessary for Buyer's intended use of the Property. In addition, this Agreement automatically terminates at 5:00 p.m. on the last day of the Inspection Period unless, prior to that time Buyer delivers a written notice of Buyer's intention to proceed (a "**Notice to Proceed**") to Seller.
- c. If, pursuant to Section 9(b) either Buyer terminates this Agreement or this Agreement is automatically terminated, the Escrow Agent must disburse to Buyer any Earnest Money Escrow Agent holds, other than Earnest Money Escrow Agent is obligated to disburse to Seller pursuant to Sections 4(b) and (c).

**10. DEFINITIONS.** As used in this Agreement:

**"Claim"** or **"Claims"** means any and all liabilities, suits, claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorney's fees, consultant's fees, costs, remedial action costs, cleanup costs and expenses which may be related to any claims).

**"Environmental Law"** means the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act (the Clean Water Act), 33 U.S.C. § 1251 et seq. the Clean Air Act, 42 U.S.C. § 7401 et seq., and the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., all as amended from time to time, and any other federal, state, local or other governmental statute, regulation, rule, law or ordinance dealing with the protection of human health, safety, natural resources or the environment now existing or hereafter enacted.

**"Hazardous Substance"** or **"Hazardous Substances"** means any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product, distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any other chemical, substance or material listed or identified in or regulated by any Environmental Law.

- 11. RELEASE.** Buyer, for itself, its directors, officers, stockholders, divisions, agents, affiliates, subsidiaries, predecessors, successors, and assigns and anyone acting on its behalf or their behalf hereby fully releases and forever discharges Seller from any and all Claims (including without limitation all Claims arising under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute,

rule or regulation), past, present and future, known and unknown, existing and contingent, arising out of, resulting from, or relating to the condition of the Property, and Buyer hereby waives any and all causes of action (including without limitation any right of contribution) Buyer had, has or may have against Seller and anyone acting on its behalf with respect to the condition of the Property, whether arising at common law, in equity or under a federal, state or local statute, rule or regulation. The foregoing shall apply to any condition of the Property, known or unknown, contemplated or unanticipated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property.

**12. INDEMNITY.** Buyer agrees to indemnify, hold harmless and defend Seller or anyone acting on its behalf for, from and against any and all Claims (including without limitation all Claims arising under any Environmental Law and all Claims arising at common law, in equity or under a federal, state or local statute, rule or regulation) past, present and future, existing and contingent, known and unknown arising out of, resulting from, or relating to the condition of the Property. The foregoing shall apply to any condition of the Property, known or unknown, contemplated or unanticipated, suspected or unsuspected, including without limitation the presence of any Hazardous Substance on the Property, whether such Hazardous Substance is located on or under the Property, or has migrated from or to the Property, regardless of whether the foregoing condition of the Property was caused in whole or in part by the Seller's actions or inactions.

**13. NOTICES.** Notices permitted or required by this Agreement must be in writing and shall be deemed given when delivered in legible form to the party to whom addressed. Notices may be sent by certified mail, fax or e-mail. Notices are effective two business days after they are mailed via certified mail, return receipt requested or, if delivered in any other manner, when the party to whom the notice is directed actually receives the notice. If delivered at the Closing, a notice shall be deemed given when hand-delivered to the party's representative at the Closing. The business addresses of the parties are as follows:

Seller: City Administrator  
City of Ramsey  
7550 Sunwood Drive N.W.  
Ramsey, MN 55303

Buyer: Stone Brook Academy  
Michael & Kristen Johnson  
XXXXXXXXXX  
XXXXXXXXXX

Notices not given in the manner or within the time limits set forth in this Agreement are of no effect and may be disregarded by the party to whom they are directed.

**14. CLOSING.** This transaction shall close within 14 days after Buyer delivers a Notice to Proceed to Seller or on such earlier date as Seller and Buyer may establish by mutual, written agreement. The Closing shall take place at the offices of the Escrow Agent, or at some other place as the parties may mutually agree prior to such date. At the option of either Party, the executed closing documents, Purchase Price and closing costs may be deposited with the Escrow Agent and disbursed by the Escrow Agent pursuant to avoid the necessity for a Closing at which the Parties are present.

a. **Seller's Obligations at Closing.** At Closing, Seller must deliver to Escrow Agent, for delivery to Buyer:

- i. A quit claim deed, duly executed and acknowledged on behalf of the City and with the City's seal affixed, conveying title to the Property, subject to (A) the lien of real estate taxes, if any, not yet due and payable and any installments of special assessments certified for payment therewith; (B) Building, Subdivision and Zoning Ordinances; (C) Matters that would be disclosed by an accurate survey of the Property; and (D) matters that constitute Permitted Exceptions pursuant to Section 6;
- ii. A certified copy of a duly adopted City Ordinance and Resolution authorizing Seller's sale of the Property to Buyer; and
- iii. Seller's affidavits, well disclosure certificate (if required), settlement statement approved by Seller and Buyer, and any other documents required by the Escrow Agent.

b. **Buyer's Obligations at Closing.** At Closing, Buyer must:

- i. Wire Transfer (or deliver a certified check in) an amount equal to the amount of the Purchase Price adjusted for to reflect Buyer's prior payment of the Earnest Money and to reflect amounts Buyer must pay or will receive pursuant to Section 14(c), to Escrow Agent for disbursement to Seller and others pursuant to this Agreement and the Settlement Statement; and
- ii. File or cause Escrow Agent to file an Electronic Certificate of Real Estate Value.

c. **Closing Costs.**

- i. At Closing, the following Seller closing costs and expenses must be paid from the Purchaser Price or, if the Purchase Price is not sufficient, paid by Seller:
  1. Seller's portion of the prorated property taxes.
  2. Seller's own attorney's fees.

3. One-half the cost of any closing fees.
4. The cost of providing Title Commitment as prescribed in Section 6
5. The cost of real estate broker commission fees as prescribed in Section 15.

ii. At Closing Buyer must pay the Purchase Price to Seller and the following costs and expenses:

1. Buyer's portion of prorated property taxes.
2. Buyer's own attorney's fees.
3. One-half the cost of any closing fees.
4. Documentary and recording fees for the deed(s).
5. The cost of the owner's title insurance policy if Buyer elects to purchase an Owner's title insurance policy.
6. State deed tax

d. **Possession.** Seller must deliver possession of the Property to Buyer at Closing.

**15. REAL ESTATE BROKERS.** Seller and Buyer represent and warrant to each other that they have dealt with no brokers, real estate agents, finders or the like in connection with this transaction, other than CBRE, Inc. ("Seller's Broker"), which represents Seller. Seller shall pay Seller's Broker as required by their agreement (5% of final sale price). Seller and Buyer agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any broker's fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, other than the fees payable to Seller's Broker, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

**16. ASSIGNMENT.** This Agreement may not be assigned without the written consent of the non-assigning Party. The City recognizes the Buyer intends to bring a future request to reassign this Agreement to Stone Brook Academy LLC, a company that will be registered officially with the State of Minnesota.

**17. THIRD PARTY BENEFICIARY.** There are no third party beneficiaries of this Agreement, intended or otherwise.

**18. JOINT VENTURE.** Seller and Buyer, by entering into this Agreement and completing the transactions described herein, shall not be considered joint venturers or partners.

**19. CAPTIONS.** The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

**20. ENTIRE AGREEMENT / MODIFICATION.** This written Agreement, and the related Development Agreement, if any, constitutes the complete agreement between the parties

and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement and no waiver or modification of any of its terms will be effective unless in writing executed by the parties. In the event the terms of this Agreement conflict with the terms of the Development Agreement, the latter shall control.

**21. BINDING EFFECT.** This Agreement binds and benefits the Parties and their successors and assigns.

**22. CONTROLLING LAW.** This Agreement is made under the laws of the State of Minnesota and such laws will control its interpretation.

**23. REMEDIES.**

- a. If Buyer fails to perform any of the terms or conditions of this Agreement within the specified time limits, Seller may declare this Agreement terminated pursuant to Minnesota Statutes section 559.21. Seller's sole remedy in the event of Buyer's default is retention of the Earnest Money, unless Buyer defaults under Section 7 or 12 of this Agreement, in which case Seller may retain the Earnest money or suspend the performance of its obligations under this Agreement and commence an action in Anoka County District Court to recover its actual damages arising from the default.
- b. If Seller fails to perform any of the terms or conditions of this Agreement within the specified time limits, Buyer may, as its sole remedy, declare this Agreement terminated in which case Escrow Agent and, if applicable, Seller, shall refund the Earnest Money (both the Initial Disbursement and the Remaining Earnest Money) to Buyer, or, in the alternative, Buyer may have this Agreement specifically enforced. Buyer waives all claims for consequential damages against Seller based on Seller's breach or alleged default hereunder.

**24. WAIVER.** Failure of Seller or Buyer to insist upon the performance of any of the covenants, agreements and/or conditions of this Agreement or to exercise any right or privilege herein shall not be deemed a waiver of any such covenant, condition or right.

**25. SURVIVAL OF TERMS AND CONDITIONS.** The terms and conditions of this Agreement shall survive and be in full force and effect after the delivery of the deed, and shall not be deemed to have merged therein.

**26. SEVERABILITY.** Each provision of this Agreement shall apply to the extent permitted by applicable law and is intended to be severable. If any provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement.

**27. CONSTRUCTION.** The Parties acknowledge that this Agreement was initially prepared by Seller solely as a convenience and that all Parties and their counsel hereto

have read and full negotiated all the language used in this Agreement. The Parties acknowledge that because all Parties and their counsel participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement to construe ambiguous or unclear language in favor of or against any Party.

- 28. COUNTERPARTS; DIGITAL COPIES.** This Agreement may be executed in any number of counterparts and the signature pages of the separate counterparts combined into a single copy of this Agreement which will then constitute a fully executed version of this Agreement. A facsimile, .pdf file or digital copy of a signed counterpart or of an assemblage of counterparts of this Agreement shall be deemed to be an original thereof.
- 29. OPTION TO EXTEND.** In the event Buyer requests a 60-day extension of the Inspection Period or Closing Date, and the extension is agreed to in writing by Seller, Buyer must deposit an additional \$2,500 Earnest Money with the Escrow Agent. The additional Earnest Money is nonrefundable immediately, and will comply with terms outlined in Section 4 of this Agreement. Buyer is granted a maximum two extensions.
- 30. CONSTRUCTION DEADLINE.** Buyer shall obtain a certificate of occupancy from the City of Ramsey for the construction of a roughly 10,000 square foot commercial building, by September 1, 2018. At Closing, a “Right of Re-Entry Agreement” must be executed and recorded to the Property providing that, in the event the above deadline is not met, Seller has the right to reclaim title to the parcels for which a certificate of occupancy was not obtained, or in the alternative, and at Seller’s sole discretion, Buyer shall pay Seller \$20,000.
- 31. PLATTING & DEVELOPMENT AGREEMENT.** Buyer must obtain an approved final plat, development agreement, and building exterior visual renderings with the City of Ramsey for a roughly 1-acre, 10,000 square foot commercial building before Closing. Development Agreement and Site Plan must comply with all local zoning ordinances and design standards, including The COR Design Standards.
- 32. ROAD CONNECTION.** Both the Buyer and Seller understand that a road connection must be constructed between Sunwood Drive and Veteran’s Drive as part of this proposed development project. If the road connection is required to be a public road, the Buyer will be assigned 20% of total projects costs. If the road connection is required to be a private road connection, the Buyer will be assigned 50% of total project costs. This item will be discussed and finalized during the City of Ramsey’s official Site Plan Review process.

**SELLER: The City of Ramsey, Minnesota**

By: \_\_\_\_\_  
Sarah Strommen, Mayor

Dated: March 15, 2017

By: \_\_\_\_\_  
Kurt Ulrich, City Administrator

**BUYER: Kristen & Michael Johnson**

By: \_\_\_\_\_

Dated: \_\_\_\_\_, 2017

By: \_\_\_\_\_

**Regular Planning Commission**

**5. 3.**

**Meeting Date:** 03/02/2017

**By:** Chris Anderson, Community  
Development

---

**Information**

**Title:**

Consider Draft Ordinance Amendment Addressing Irrigation Requirements (Discussion Purposes Only)

**Purpose/Background:**

Over the past two months, the Environmental Policy Board (EPB) has discussed a potential ordinance amendment regarding irrigation requirements for multi-family and commercial/industrial developments. The intention originally was simply to eliminate the City Code requirement that in-ground irrigation systems shall be installed in all multi-family and commercial/industrial projects. However, based on information received at their January meeting from a guest speaker, the EPB directed Staff to revise the DRAFT Ordinance so that it also stipulates that if an irrigation system is installed (including single family parcels), it shall be equipped with a rain sensor (per state statute) as well as one or more water efficient technologies. This could include, but would not be limited to, a smart controller, soil moisture sensor(s), and/or an evapotranspiration (ET) sensor(s). This provides enough flexibility so that as future advances in water efficient irrigation technologies are developed, it will not require additional ordinance amendments.

The cost of these 'smart', water efficient technologies has come down as they have become more commonplace. Again, based on input from a guest speaker from Conserva Irrigation, including a smart controller, for example, to a new irrigation system, only adds about \$250-\$350 to the overall cost. It is more expensive to retrofit existing systems with the more water efficient technologies, approximately \$650-\$750. However, the Return on Investment (ROI) for a standard residential system could be realized relatively quickly, maybe in as few as 2-4 years (and would be even quicker on larger, commercial systems).

As water supply continues to be a prominent concern for the City and as the 'smart' technologies become more commonplace (and therefore with prices coming down), the EPB believes that requiring water efficient technologies is appropriate. However, the EPB has also noted that they want to ensure that this is enforceable. Thus, Staff is still assessing how the water efficient requirement could be verified in the field. At this time, it does not appear that it could be addressed through any existing inspection. Additional review is still needed on this aspect.

**Notification:**

Notification is not required. Proper notification procedures will be followed to advertise the official public hearing for the ordinance amendment.

**Funding Source:**

This is being handled as part of Staff's regular duties.

**Action:**

No action is being sought. This is simply an opportunity for feedback from the Planning Commission prior to advertising for a formal public hearing.

---

**Attachments**

Redlined Sections

EPB Meeting Minutes Dated January 18, 2017

DRAFT EPB Meeting Minutes Dated Feb. 22, 2017

DRAFT Ordinance #17-04

---

### **Form Review**

**Inbox**

Tim Gladhill

Form Started By: Chris Anderson

Final Approval Date: 02/24/2017

**Reviewed By**

Tim Gladhill

**Date**

02/24/2017 01:39 PM

Started On: 02/23/2017 04:44 PM

Sec. 117-111. - R-1 Residential District.

(g) *General R-1 residential performance standards.*

(1) *Fences.*

- a. *Height.* Fencing or walls (except retaining walls) located in the required front yard setback shall not exceed four feet in height except for "ornamental fences" as defined in section 117-1. Fencing or walls located in the side or rear yard shall not exceed eight feet in height. A zoning permit is required for all fences that are not addressed by the Minnesota State Building Code.
- b. *Materials and construction.* Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for its intended purpose. Fencing material shall consist only of wood, chain link, wrought iron, maintenance free vinyl, aluminum, or steel. Any other material must be approved by the zoning administrator prior to installation.
  - 1. No boards, planks, or panels shall be larger than 12 inches in width.
  - 2. Link fences shall be constructed such that no barbed ends shall be at the top.
    - (i) *Agricultural uses.*
      - A. Fences may be constructed of barbless wire or have the capability to carry an electric charge to accommodate agricultural activities and the raising of livestock and animals as defined by chapter 10, Animals. Lots of record as of July 1, 2002, within the MUSA that are currently used for agricultural activities or the raising of livestock and animals also qualify under this provision.
      - B. Electric fences must be set back a minimum of three feet from property lines and must be posted as being electric.
      - C. A sketch drawing shall be submitted to the city showing the proposed location of an electric fence.
  - 3. Fence framing must face inward on the fence owner's lot.
- c. *Location.* Fencing must be located 100 percent on the fence owner's lot and it is the responsibility of the fence owner to accurately locate property boundaries.
  - 1. For corner lots, no fence shall be located within the vision clearance triangle as described in section 117-348.
  - 2. The zoning administrator may require the owner of the property upon which a fence will be constructed to establish the boundary lines of the property by a survey thereof to be made by any registered land surveyor.

(2) *Garbage receptacle storage.* Outdoor garbage receptacles serving multifamily units must be in either the rear or side yard and must be screened from public view and adjacent lots.

(3) *Lot landscaping.*

a. *Number of plantings.* The minimum number of overstory trees on any given lot shall be as required below:

Required planting types	Required number of plantings
Overstory deciduous/coniferous trees	2 trees per dwelling unit

b. *Minimum size of plantings.* Required trees shall be of the following minimum planting size:

Planting Type	Size
Deciduous trees	1-inch diameter as measured six inches above ground
Coniferous trees	5 feet in height

c. *Planting types.* Acceptable plantings shall be determined by the city planting schedule. The compliment of trees fulfilling the landscaping requirements shall not be less than 25 percent deciduous and not less than 25 percent coniferous.

(4) Irrigation. If a landscape irrigation system is provided, the system shall be equipped with the following:

a. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).

b. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

(5) Lighting. Lighting used to illuminate an off-street parking area, sign or structure, shall be arranged to deflect light away from adjacent residential districts or public streets. Bulbs emitting in excess of 3,000 lumens (150 watts) shall be directed so that the bulb is not visible from off the property where the light source is located.

(56) Exterior building materials. The type of building materials used on exterior walls on all structures in the R-1 Residential District shall be face brick, natural stone, stucco, aluminum, steel, or vinyl siding, wood, masonite products or other compatible residential materials that may be approved by the city.

Sec. 117-112. - R-2 Residential District.

(e) *General R-2 residential performance standards.*

(6) *Lot landscaping.*

- a. *Minimum landscaping requirements.* All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the lot. A reasonable attempt should be made to preserve as many existing trees as practicable in order to incorporate the trees into the development.
- b. *Minimum planting requirements.* The minimum number of plantings required shall be determined based on crown or canopy cover. To fulfill the planting requirements, a combination of trees and shrubs shall meet or exceed the minimum required canopy cover square footage. The minimum canopy cover shall be calculated as follows:
  - 1. Determine ratio of impervious area to entire site area.
  - 2. Multiply the impervious area/site area ratio by the square footage of the pervious area to calculate the required canopy cover square footage for the project area.
  - 3. The following formula shall be utilized to determine the average canopy cover of a species:  

$$[(\text{Minimum} + \text{Maximum Spread}) \div 4]^2 \times \pi \times (0.65 \text{ for preferred species or } 0.50 \text{ for acceptable species, as identified in the Ramsey Tree Book}).$$
- c. *Minimum size of plantings.* Required trees shall be of the following minimum planting size:

Planting Type	Size
Deciduous trees	1-inch diameter as measured six inches above ground
Coniferous trees	5 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1-inch diameter as measured six inches above ground

- d. *Planting types.* Acceptable and preferred plantings shall be identified in the Ramsey Tree Book. The compliment of trees fulfilling the landscaping requirements shall not be less than 25 percent deciduous and not less than 25 percent coniferous. No more than 25 percent of the canopy cover requirements shall be fulfilled with the use of shrubs and ornamental trees.
- e. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:

1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).

2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~All landscaped areas shall include underground irrigation systems. Exceptions to this requirement include natural areas that are left undisturbed.~~

f. *Open space.* Each townhouse development shall have at a minimum, 40 percent open space for the enjoyment of its residents that may be held as private lots or in common areas. Qualifying areas include grassed lawns, landscape areas, gardens, natural areas, landscape rock, mulch, wetlands, and ponding areas. Of the 40 percent open space, ten percent is to be dedicated as an identifiable common area for use by residents of the development.

Sec. 117-113. - R-3 Residential District.

(e) *General R-3 residential performance standards.*

(5) *Lot landscaping.*

- a. *Minimum landscaping requirements.* All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the lot. A reasonable attempt should be made to preserve as many existing trees as practicable in order to incorporate the trees into the development.
- b. *Minimum planting requirements.* The minimum number of plantings required shall be determined based on crown or canopy cover. To fulfill the planting requirements, a combination of trees and shrubs shall meet or exceed the minimum required canopy cover square footage. The minimum canopy cover shall be calculated as follows:
  - 1. Determine ratio of impervious area to entire site area.
  - 2. Multiply the impervious area/site area ratio by the square footage of the pervious area to calculate the required canopy cover square footage for the project area.
  - 3. The following formula shall be utilized to determine the average canopy cover of a species:  

$$[(\text{Minimum} + \text{Maximum Spread}) \div 4]^2 \times \pi \times (0.65 \text{ for preferred species or } 0.50 \text{ for acceptable species, as identified in the Ramsey Tree Book}).$$
- c. *Minimum size of plantings.* Required trees shall be of the following minimum planting size:

	Size
Deciduous trees	1-inch diameter as measured six inches above ground
Coniferous trees	5 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1-inch diameter as measured six inches above ground

- d. *Planting types.* Acceptable and preferred plantings shall be identified in the Ramsey Tree Book. The compliment of trees fulfilling the landscaping requirements shall not be less than 25 percent deciduous and not less than 25 percent coniferous. No more than 25 percent of the canopy cover requirement shall be fulfilled with the use of shrubs and ornamental trees.

~~e.~~ *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:

1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).

2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~Irrigation. All landscaped areas shall include underground irrigation systems. Exceptions to this requirement include natural areas that are left undisturbed.~~

f. *Open space.* Each townhouse development shall have at a minimum, 40 percent open space for the enjoyment of its residents that may be held as private lots or in common areas. Qualifying areas include grassed lawns, landscape areas, gardens, natural areas, landscape rock, mulch, wetlands, and ponding areas. Of the 40 percent open space, ten percent is to be dedicated as an identifiable common area for use by residents of the development.

Sec. 117-114. - B-1 General Business District.

(e) *Standards.* (Also refer to article II, division 6 of this chapter for general performance standards.)

(14) Landscaping and buffering.

a. Site landscaping.

1. Minimum landscaping requirements. All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt should be made to preserve as many existing trees as is practicable and to incorporate them into the development. For each existing significant tree retained one overstory tree can be deducted from the minimum requirements.
2. Number of plantings. The minimum number of overstory trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented with other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site.

	Business Districts
Deciduous/coniferous trees	1 per 50 lineal feet of site perimeter, or 1 tree per 1,000 square feet of building footprint, whichever is greater. For expansions to buildings, 1 additional tree is required for each 1,000 square feet of additional building footprint area.
Shrubs	1 per 30 feet of site perimeter or 1 per 300 square feet of building footprint area, whichever is greater.

3. Minimum size of plantings. Landscaping material shall be of the following minimum planting size:

Landscape Material	Size
Deciduous trees	2.5 inches diameter as measured three feet above ground
Coniferous trees	6 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1.5 inches diameter as measured three feet above ground

4. Planting types.

- (i) Acceptable plantings shall be determined by the City of Ramsey Tree Book.
  - (ii) The compliment of trees fulfilling the landscaping requirements shall be not less than 25 percent deciduous and lot less than 25 percent coniferous. No more than 25 percent of the required plantings shall consist of ornamental trees.
  - (iii) For every 35 feet of public road frontage, one overstory tree shall be planted on the private property adjacent to the public road right-of-way.
- b. *Topsoil.* All exposed ground areas of a site not occupied by building, parking or storage, excluding natural areas that are left undisturbed, shall be covered with four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348.
- c. *Sodding and ground cover.* All areas not otherwise improved in accordance with approved site plans shall be finished with sod up to the edge of improved streets. Any alternative to the sod requirement shall require city council approval.
- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
- 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  - 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~Irrigation-~~

- ~~1. All landscaping areas required under this section shall include underground irrigation systems.~~
- ~~2. Exceptions include natural areas that are left undisturbed.~~

Sec. 117-115. - B-2 Highway Business District.

(e) *Standards.* (Also refer to article II, division 6 of this chapter for general performance standards).

(16) Landscaping and buffering.

a. Site landscaping.

1. Minimum landscaping requirements. All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt should be made to preserve as many existing trees as is practicable and to incorporate them into the development. For each existing significant tree retained one overstory tree can be deducted from the minimum requirements.
2. Number of plantings. The minimum number of overstory trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented with other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site.

	Business Districts
Deciduous/coniferous trees	1 per 50 lineal feet of site perimeter or 1 tree per 1,000 square feet of building footprint area, whichever is greater. For expansions to buildings, 1 additional tree is required for each 1,000 square feet of additional building area.
Shrubs	1 per lineal feet of site perimeter or 1 per 300 square feet of building footprint area, whichever is greater.

3. Minimum size of plantings. Landscaping material shall be of the following minimum planting size:

Landscape Material	Size
Deciduous trees	2.5 inches diameter as measured three feet above ground
Coniferous trees	6 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1.5 inches diameter as measured three feet above ground

4. Planting Types.

- (i) Acceptable plantings shall be determined by the City of Ramsey Tree Book.
  - (ii) The compliment of trees fulfilling the landscaping requirements shall be not less than 25 percent deciduous and not less than 25 percent coniferous. No more than 25 percent of the required plantings shall consist of ornamental trees.
  - (iii) For every 35 feet of public road frontage, one overstory tree shall be planted on the private property adjacent to the public road right-of-way.
- b. *Topsoil.* All exposed ground areas of a site not occupied by building, parking or storage, excluding natural areas that are left undisturbed, shall be covered with four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348.
- c. Sodding and ground cover. All areas not otherwise improved in accordance with approved site plans shall be finished with sod up to the edge of improved streets. Any alternative to the sod requirement shall require city council approval.
- d. Irrigation. If a landscape irrigation system is provided, the system shall be equipped with the following:
- 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  - 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~Irrigation-~~

- ~~1. All landscaping areas required under this section shall include underground irrigation systems.~~
- ~~2. Exceptions include natural areas that are left undisturbed.~~

Sec. 117-116. - E-2 Employment District.

(e) *Standards.* (Also refer to article II, division 6 of this chapter for general performance standards).

(3) Landscaping and buffering.

a. Site landscaping.

1. Minimum landscaping requirements. All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt should be made to preserve as many existing trees as is practicable and to incorporate them into the development. For each existing significant tree retained one overstory tree can be deducted from the minimum requirements.
2. Number of plantings. The minimum number of overstory trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented with other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site.

Type	Number of Plantings
Deciduous/coniferous trees	1 per 50 lineal feet of site perimeter or 1 tree per 1,000 square feet of building footprint area, whichever is greater. For expansions to buildings, 1 tree is required for each 1,000 square feet of additional building footprint area.
Shrubs	1 per 30 lineal feet of site perimeter or 1 per 300 square feet of building footprint area, whichever is greater.

3. Minimum size of plantings. Landscaping material shall be of the following minimum planting size:

Type	Size
Deciduous trees	2.5 inches diameter as measured three feet above ground
Coniferous trees	6 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1.5 inches diameter as measured three feet above ground

4. Planting types.

- (i) Acceptable plantings shall be determined by the City of Ramsey Tree Book.
- (ii) The compliment of trees fulfilling the landscaping requirements shall be not less than 25 percent deciduous and not less than 25 percent coniferous. No more than 25 percent of the required plantings shall consist of ornamental trees.
- (iii) For every 35 feet of public road frontage, one overstory tree shall be planted on the private property adjacent to the public road right-of-way.

- b. *Topsoil.* All exposed ground areas of a site not occupied by building, parking or storage, excluding natural areas that are left undisturbed, shall be covered with four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348.
- c. *Sodding and ground cover.* All areas not otherwise improved in accordance with approved site plans shall be finished with sod up to the edge of improved streets. Any alternative to the sod requirement shall require city council approval.

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:

- 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
- 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~Irrigation.~~

- ~~1. All landscaping areas required under this section shall include underground irrigation systems.~~

- ~~2. Exceptions include natural areas that are left undisturbed.~~

Sec. 117-117. - E-1 Employment District.

(e) *Standards.* (Also refer to article II, division 6 of this chapter for general performance standards)

(3) *Landscaping and buffering.*

a. *Site landscaping.*

1. *Minimum landscaping requirements.* All open space areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt should be made to preserve as many existing trees as is practicable and to incorporate them into the development. For each existing significant tree retained one overstory tree can be deducted from the minimum requirements.
2. *Number of plantings.* The minimum number of overstory trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented with other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site.

Type	Number of Plantings
Deciduous/coniferous trees	1 per 50 lineal feet of site perimeter or 1 tree per 1,000 square feet of building footprint area, whichever is greater. For expansions to buildings, 1 tree is required for each 1,000 square feet of additional building footprint area.
Shrubs	1 per 30 lineal feet of site perimeter or 1 per 300 square feet of building footprint area, whichever is greater.

3. *Minimum size of plantings.* Landscaping material shall be of the following minimum planting size:

Type	Size
Deciduous trees	2.5 inches diameter as measured three feet above ground
Coniferous trees	6 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1.5 inches diameter as measured three feet above ground

4. *Planting types.*

- (i) Acceptable plantings shall be determined by the City of Ramsey Tree Book.
  - (ii) The compliment of trees fulfilling the landscaping requirements shall not be less than 25 percent deciduous and lot less than 25 percent coniferous. No more than 25 percent of the required plantings shall consist of ornamental trees.
  - (iii) For every 35 feet of public road frontage, one overstory tree shall be planted on the private property adjacent to the public road right-of-way.
- b. Topsoil. All exposed ground areas of a site not occupied by building, parking or storage, excluding natural areas that are left undisturbed, shall be covered with four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348.
- c. *Sodding and ground cover.* All areas not otherwise improved in accordance with approved site plans shall be finished with sod up to the edge of improved streets. Any alternative to the sod requirement shall require city council approval.
- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
- 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  - 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~*Irrigation.*~~

- ~~1. All landscaping areas required under this section shall include underground irrigation systems.~~
- ~~2. Exceptions include natural areas that are left undisturbed.~~

Sec. 117-120. - H-1 Highway 10 Business District.

(e) *Standards.* (Also refer to article II, division 6 of this chapter for general performance standards.)

(14) Landscaping and buffering.

a. Site landscaping.

1. Minimum landscaping requirements. All open space areas of a lot which are not used or improved for required parking areas, drives or display areas shall be landscaped with a combination of overstory trees, ornamental trees, shrubs, flowers, ground cover, decorative walks, or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt should be made to preserve as many existing trees as is practicable and to incorporate them into the development. For each existing significant tree retained one overstory tree can be deducted from the minimum requirements.
2. Number of plantings. The minimum number of overstory trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented with other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site.

	Business Districts
Deciduous/coniferous trees	1 per 50 lineal feet of site perimeter or 1 tree per 1,000 square feet of building footprint area, whichever is greater. For expansions to buildings, 1 additional tree is required for each 1,000 square feet of additional building footprint area.
Shrubs	1 per 30 lineal feet of site perimeter or 1 per 300 square feet of building footprint area, whichever is greater.

3. Minimum size of plantings. Landscaping material shall be of the following minimum planting size:

Landscape Material	Size
Deciduous trees	2.5 inches diameter as measured three feet above ground
Coniferous trees	6 feet in height
Deciduous shrubs	2 feet in height
Evergreen shrubs	2 feet in height or 2 feet in width, whichever applies
Ornamental trees	1.5 inches diameter as measured three feet above ground

4. Planting types:

- (i) Acceptable plantings shall be determined by the City of Ramsey Tree Book.
  - (ii) The compliment of trees fulfilling the landscaping requirements shall be not less than 25 percent deciduous and not less than 25 percent coniferous. No more than 25 percent of the required plantings shall consist of ornamental trees.
  - (iii) For every 35 feet of public road frontage, one overstory tree shall be planted on the private property, adjacent to the public road right-of-way.
- b. *Topsoil.* All exposed ground areas of a site not occupied by building, parking or storage, excluding natural areas that are left undisturbed, shall be covered with four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348.
- c. *Sodding and ground cover.* All areas not otherwise improved in accordance with approved site plans shall be finished with sod up to the edge of improved streets. Any alternative to the sod requirement shall require city council approval.
- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
- 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  - 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

~~Irrigation.~~

- ~~1. All landscaping areas required under this section shall include underground irrigation systems.~~
- ~~2. Exceptions include natural areas that are left undisturbed.~~

Sec. 117-121. - B-3 Business District.

(g) *Standards.*

(2) *Performance standards.*

- a. *Building design.* Building massing shall be varied throughout the development site and should include building components such as columns, articulated rooflines and facades, specialized window and door treatments, and unique architectural details. A common architectural theme shall be employed throughout the development site, with an emphasis on integration of color, style, and materials between buildings.
- b. *Building materials.* All exterior wall surfaces shall be brick, glass, stone, stucco, or pre-cast concrete units whose surface has been integrally treated with an applied decorative material, texture, or color. Other exterior materials may be used as approved by the planning commission and city council. Exterior materials shall not include smooth-faced concrete block, steel panels, fiberglass or vinyl siding. The use of metal for architectural accents may be permitted. A color palette for all materials shall be included in the site plan submittal.
  1. At least 50 percent of the front facade and street-facing facades must be comprised of brick.
  2. Windows must be utilized extensively on the front facade of all buildings to allow visual access into the store. Windows are also required on all facades with street frontage. For buildings where this is not feasible, additional architectural details and/or landscaping will be required.
- c. *Building orientation.* Buildings should be oriented to face public streets where possible. When this is not possible, additional landscaping and/or improved building design will be required to improve street-facing facades. Multiple buildings are permitted on one lot, if approved as part of the master plan.
- d. *Street system.* The street system internal to the development site is an essential element of the master plan. The new system must connect to existing city streets.
- e. *Pedestrian circulation/sidewalks/trails.* A comprehensive pedestrian network is required in the overall master plan for this zoning district. While this zoning district is intended to accommodate larger-scale retail uses, safe pedestrian access is required throughout the zoning district and between the district and adjacent neighborhoods. Sidewalks are required on both sides of all streets within the zoning district. Crosswalks are required where all sidewalks meet the street and shall be indicated with paver bricks or integrally-treated pavement rather than paint.
- f. *Landscaping. The master plan shall include a landscape plan for the entire development site. Landscaping shall be integrated throughout the site and shall include a combination of overstory trees, ornamental trees, shrubs, flowers (planting beds and raised planters), ground cover, and other landscaping elements. The required number of plantings will be site specific and will be determined largely by the total pervious area of a site. Landscaping should be used to soften and shade parking areas, line sidewalks and streets, accent building entrances, and break up large building facades. Plant selection should focus on functionality and take into account characteristics such as tolerance of soil compaction, poor drainage, and deicing salts. All landscaping shall be over at least four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348. If a landscape irrigation system is provided, the system shall be equipped with the following:*
  - 1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).*
  - 2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.*

~~Landscaping. The master plan shall include a landscape plan for the entire development site. Landscaping shall be integrated throughout the site and shall include a combination of overstory trees, ornamental trees, shrubs, flowers (planting beds and raised planters), ground cover, and other landscaping elements. The required number of plantings will be site specific and will be determined largely by the total pervious area of a site. Landscaping should be used to soften and shade parking areas, line sidewalks and streets, accent building entrances, and break up large building facades. Plant selection should focus on functionality and take into account characteristics such as tolerance of soil compaction, poor drainage, and deicing salts. All landscaping shall be over at least four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348, and all landscaped areas shall include underground irrigation systems.~~

- g. *Stormwater.* The master plan shall include a stormwater plan for the entire development site. In addition to traditional stormwater management methods, low impact development (LID) strategies are encouraged throughout the development site, particularly in parking areas. Such methods might include special soil systems, pervious pavements, storm ceptors, underground storage, and bio-retention strips and cells (rain gardens).
- h. *Parking areas.* A parking plan shall be included as part of the master site plan submittal. Parking lots, stalls, and drive accesses shall be designed to accommodate a variety of vehicle sizes and turning movements.
- i. *Building service areas (loading docks, trash storage and removal).* Such areas shall be internal to the building wherever possible and in all cases constructed of the same exterior materials and screened from adjacent lots, public streets, and building entrances.
- j. *Mechanical equipment.* All mechanical equipment associated with buildings must be completely screened from view, whether located on the roof or ground level.
- k. *Outdoor storage.* All storage, including open storage, storage in containers, trailers, or similar enclosures, is prohibited, except as permitted under subsection (f) of this section.
- l. *Lighting.* A lighting plan shall be included as part of the master plan submittal. Lighting must be used to illuminate off-street parking areas, signs, structures, and pedestrian walkways. The scale of lighting fixtures must be appropriate to the scale of what is proposed to be lighted. Fixtures must be arranged so that the bulb is not visible from outside the area proposed to be lighted by that fixture.
- m. *Signs.* A sign plan shall be included as part of the master plan submittal. No temporary signs are permitted anywhere in the zoning district.

(Code 1978, § 9.20.28; Ord. No. 06-29, 8-8-2006; Ord. No. 07-04, 2-13-2007; Ord. No. 09-06, § 2(9.20.28), 4-28-2009; Ord. No. 10-04, § 2, 4-13-2010; Ord. No. 11-09, § 2, 6-28-2011)

**ENVIRONMENTAL POLICY BOARD  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

On Wednesday, January 18, 2017, the Environmental Policy Board (EPB) met in the Lake Itasca Conference Room at the Ramsey Municipal Center, 7550 Sunwood Drive N.W., Ramsey, Minnesota.

Members Present:     Chairperson Thomas Stodola (arrived at 6:34 p.m.)  
                           Board Member Colleen Anderson  
                           Board Member Reid Bernard  
                           Board Member Jane Covart  
                           Board Member Lucas Trossen  
                           Board Member Michael Valentine

Members Absent:     Board Member Michael Hiatt

Also Present:         City Planner Chris Anderson  
                           Councilmember John LeTourneau

**1.     CALL TO ORDER**

Vice Chairperson Valentine called the meeting to order at 6:32 p.m.

**2.     CITIZEN INPUT**

None.

**3.     APPROVE AGENDA**

Motion by Board Member Covart and seconded by Board Member Bernard to approve the agenda as submitted.

Motion carried.   Voting Yes: Vice Chairperson Valentine, Board Member Covart, Bernard, Anderson, and Trossen. Voting No: None. Absent: Commissioner Hiatt and Chairperson Stodola.

**4.     APPROVE MINUTES**

**4.01:   Approve Meeting Minutes December 19, 2016**

Motion by Board Member Covart and seconded by Board Member Trossen to approve the regular meeting minutes dated December 19, 2016.

Motion carried.   Voting Yes: Vice Chairperson Valentine, Board Member Covart, Trossen, Anderson, and Bernard. Voting No: None. Absent: Commissioner Hiatt and Chairperson Stodola.

**5.     POLICY BOARD BUSINESS**

## **5.01: Receive Presentation on Irrigation System Components and an Overview of Incentive Programs**

City Planner Anderson introduced the topic and guest speaker Russ Jundt of Conserva Irrigation, and stated that Mr. Jundt would provide a presentation on water conserving technologies available for irrigation systems and an overview of Minnesota Nursery and Landscape Association (MNLA) incentive/rebate programs that encourage use of these newer technologies.

Russ Jundt, Conserva Irrigation, shared a presentation that outlined his background and explained water conservation as it relates to irrigation in residential, commercial, and municipal areas with over 46 million residential irrigation systems nationwide. He stated irrigation systems waste more water than any other source.

Councilmember John LeTourneau asked if the waste comes from systems not being designed properly.

Mr. Jundt explained components are very inexpensive and that every head needs to be check-valved, which is not an expensive upgrade. He said zoning needs to be done per micro-climates and that a smart controller is much better than a simple timer in saving water. He shared a sketch outlining zones versus time watering and explained how less watering is needed in April versus August which results in massive overwatering. Mr. Jundt explained how rain sensors operate like a “snooze alarm” and shuts off but then returns to programmed time resulting in overwatering. He said smart controllers can be programmed based on weather data by zip code which saves substantial amounts of water and shared an example in a Hugo homeowners association where over 2,200 sprinkler heads were broken in their 7,800 head system.

Mr. Jundt shared changing industry dynamics including landscaping demand, control consumption, increased pricing, fines, and penalties and said most water wasted is through irrigation systems. He shared how smart controllers can reduce water usage by 40-60% and that they developed a proprietary system where low scores provide motivation. He shared their partnerships with Toro and The Wyland Foundation which are dedicated to water conservation.

Mr. Jundt displayed samples of ET sensors and controllers and outlined the Metropolitan Council’s water efficiency grant program and cities who offer rebates, adding the return on investment for commercial systems can be seen in days and residential systems within one to two seasons.

City Planner Anderson asked if ET sensors are different than soil moisture sensors.

Mr. Jundt said ET sensors are different as they operate based on 40 years of weather data.

Board Member Trossen inquired about the life expectancy of these controllers.

Mr. Jundt replied controllers are warranted up to five years and that data is updated every year.

Chairperson Stodola asked how much would be added to a system in new construction.

Mr. Jundt said smart controllers cost \$250-350 more than standard controllers on new installations.

Board Member Anderson clarified the total additional cost for an existing system to be retrofitted would be \$475-675 and asked if one system is better than another.

Mr. Jundt said a system that includes a smart controller with an ET sensor would be better than just a soil moisture sensor and would result in the City saving a lot in water.

Informational; no action required.

**5.02: Receive Update from Anoka County Community Health and Environmental Services Department related to Water Resources**

City Planner Anderson introduced Bret Biernat, Anoka County Environmental Services (ACES) who would provide an update on water related initiatives/activities.

Mr. Biernat, ACES, shared his background beginning in 1991 with the ground water management act established in 1989 to address watershed management issues and creating the groundwater protection plan. He reviewed priorities and said Anoka County created a task force to prioritize water, including coordination of water resources protection and management. He said it is important not to work as silos and that Ramsey's citizen survey included very good scores rating the drinking water. Mr. Biernat reviewed the Board's priorities and outlined the County's Water Task Force statement as a committee charged with making water a priority. He said the wellhead protection act ensures no pollution sources and the Community Health Services Plan includes measurable goals such as well sealing to reduce pollution.

Mr. Biernat outlined the goal of reducing wells by two percent per year and to test private wells and collaborate better with all the organizations. He shared that the Irrigation Association has declared July as Smart Irrigation Month and reviewed community health issues including water quality and sustainable drinking water. Mr. Biernat shared how the County has provided water testing for homeowners since 1972 which is important from a public health standpoint and outlined how they can support the Board. He shared water conservation goals as a partner with WaterSense and the EPA and referred to their "KnowTheFlow" coordination tool website and outreach and education efforts. Mr. Biernat outlined drinking water protection and the Water Task Force focus and shared how the County can be an advocate for cities such as creating a well sealing video.

City Planner Anderson distributed a sign-up sheet for notification of Task Force meetings and offerings then referred to Ray Renner of Renner & Sons well drilling, who provided the Department of Health with well locations in Ramsey.

Mr. Biernat said the records were very helpful and that Mr. Renner's brother is on the Water Task Force.

City Planner Anderson shared how the City offers water testing kits at City Hall.

Mr. Biernat said he is pleased with this partnership as cities can distribute bottles for testing instead of plastic bags which provides better results.

City Planner Anderson inquired about WaterSense program obligations such as reporting requirements.

Mr. Biernat said an annual report is required for the EPA to promote water efficiency as a collaborative effort which could be done separately.

Mr. Jundt inquired about the fee for a water test.

Mr. Biernat said the cost is relatively inexpensive at \$30 per test.

### **5.03: Consider DRAFT Ordinance #17-04 Eliminating the Requirement for In-Ground Irrigation in Multiple Zoning Districts**

City Planner Anderson presented the staff report and draft ordinance to amend multiple sections of City Code to eliminate the in-ground irrigation requirement for multi-family and commercial/industrial projects. He explained this would not prohibit a project from including such a system, if they wished, but simply removes it as a required improvement. City Planner Anderson stated revisions can be made to this draft, if desired, based on the information received tonight about technological improvements to irrigation systems.

City Planner noted the proposed ordinance could be amended if the Board wishes to include language regarding smart technologies. He said due to the rescheduled meeting the public hearing notice deadlines could not be met so if brought forward the ordinance now it would be discussed at the March Planning Commission with Council consideration in March or possibly April. City Planner Anderson asked Mr. Jundt if the State Statute requirement refers to rain sensors only as it seems that it could be interpreted to require smart technologies.

Mr. Jundt said the Statute's intention was for rain sensors but the legislation is looking at broadening language to include any device affected by rain.

Chairperson Stodola said the ordinance drafted satisfies our direction and asked if staff is requesting the Board go further by requiring different technologies.

City Planner Anderson said that he was not requesting that but thought it should be discussed based on input from the Board last month. He said the timing would provide for an opportunity to include ET sensors, smart controllers, moisture control sensors and other technologies if the Board desired.

Chairperson Stodola confirmed the recommendation of incentives.

City Planner Anderson said staff intended that language would be formalized after the evening's discussion on Item 5.01 so staff will bring forward an outline for incentive programs for both retrofits and new systems and could include irrigation as well as indoor appliances and fixtures at a future meeting. He noted they now understand that outdoor water conservation provides the most return but that the Board could expand any type of rebate program.

Board Member Anderson said she would like to see incentives rather than rebates as it would provide better participation.

Chairperson Stodola said he is not advocating for incentivizing upgrades but would prefer language requiring smart sensors, ET sensor, etc. for new construction and at incentivizing retrofitting existing system.

Board Member Bernard agreed.

Board Member Trossen said he supported eliminating the requirement for systems but if someone is going to install a new system it should be water efficient.

Board Member Valentine agreed, stating the return on investment is huge.

City Planner Anderson noted an in-ground irrigation system is not required for single family home construction and asked for an estimate for multi-family/homeowner associations, and commercial/industrial projects.

Mr. Jundt said the cost is usually not much more and noted the return on investment for large systems is much quicker because of the larger water source.

Board Member Anderson referred to the need for fees and inspections and asked how we guarantee the system works.

City Planner Anderson said irrigation permits are currently required to ensure backflow preventers are installed but agreed that this is something that will need to be reviewed in greater detail.

Board Member Anderson suggested the requirements be included as part of the Certificate of Occupancy process.

Chairperson Stodola said more research is needed.

Board Member Covart confirmed the proposed ordinance is for new construction only for multi-family and homeowners associations.

City Planner Anderson said once the Board reaches consensus staff can include language on permitting processes.

Chairperson Stodola said the overall goal is to use less water and that he wants to be bold in their recommendation.

Board Member Trossen agreed, stating pricing makes this action obvious and suggested an incentive for retrofit.

City Planner Anderson said staff will develop an ordinance outlining requirements for single family, multi-family, commercial, and industrial projects. A potential incentive program for retrofitting existing systems will be explored and brought back at a future meeting.

Chairperson Stodola clarified incentives will not be included in the ordinance amendment but instead Staff will work to develop a program for retrofitting existings systems.

It was the consensus of the Environmental Policy Board to bring forward an ordinance for Council consideration outlining irrigation system requirements for all properties, including single family, multi-family, commercial, and industrial and separately develop an incentive program to encourage retrofitting existing irrigation systems with more water efficient components.

Mr. Jundt said he would offer proposed language for the ordinance and applauded the Board for their work in water conservation.

Board Member Valentine referred to revenue loss due to this ordinance.

City Planner Anderson said staff will discuss those implications with the Finance and Public Works Departments.

Chairperson Stodola said with discussions of constructing an additional treatment plant this action could potentially delay that need.

Mr. Biernat said this action could delay some demand costs and allow the City to work together with Nowthen and Oak Grove when they are ready for increased water needs.

Board Member Anderson asked who pays for the rebates.

City Planner Anderson said grant programs could potentially be renewed or similar programs created.

Board Member Anderson asked if this type of proposal is typical throughout the country.

Mr. Jundt said no as California's need is much higher. He added the City of Andover odd/even water restrictions do not apply if a homeowner's system includes a smart controller.

Board Member Anderson said Metropolitan Council grants need to be included in these discussions.

City Planner Anderson noted that the decision not to participate in past grant opportunities was based on the lack of staff resources to administer the program.

Chairperson Stodola asked that direction could be changed.

City Planner Anderson said the direction could potentially be changed if the program is renewed.

#### **5.04: Review Concept Plan and Mandatory Environmental Review for Pearson Farm Residential Development**

City Planner Anderson presented the staff report, noting the City received a Concept Plan for the potential future residential development currently named Pearson Farm. If approved, it could result in approximately 350 new housing units on City services. Due to its scale and size, the project will be subject to an Environmental Assessment Worksheet (EAW).

City Planner Anderson noted the EAW process takes 2-3 months to review and could result in the need for an Environmental Impact Statement (EIS). He said the Board will have a significant role in the EAW review and will include support of a planning consultant who focuses on EAWs. He asked if the Board had any comments otherwise prior to the review and stated this will be a complex process including navigation with the public. He added that the Environmental Quality Board is looking for volunteers for their review panel on how this process can be improved and to let him know if any Board Members are interested in being involved.

Board Member Trossen inquired about the developer.

City Planner Anderson said the developer is Capstone Homes and the property owner is Al Pearson. He said Capstone Homes is located in Ramsey and has experience in the City with closing out the Brookfield project. He said Capstone Homes has proven to be a good developer and that the proposed 350 units will be phased over a number of years.

Chairperson Stodola asked what type of housing the developer proposes.

City Planner Anderson said although they have not received a formal application the project would include both single and multi-family homes with multi-family on the north and south portions and single-family in between with a community building and small neighborhood parks.

Board Member Covart inquired about road improvements.

City Planner Anderson said road improvements are planned for Bunker Lake Boulevard and Puma Street with a proposed second connection to Alpine Drive.

Informational; no action required.

## **6. BOARD / STAFF INPUT**

- **Pilot Program for Collecting Extra Cardboard over Holidays**

City Planner Anderson advised the implemented pilot program with ACE Solid Waste for cardboard collection was very popular. He stated over the three weeks it was available, the 20-yard container was dumped four times. He said the effort was at no cost to the City to gauge how well it would be utilized and was successful with a total of over 2 tons of cardboard recycled with no illegal dumping. City Planner Anderson said staff will likely continue with this program over the holidays in the future.

City Planner Anderson stated the Board's February meeting will be rescheduled to Wednesday, February 22 due to the President's Day holiday.

## **7. ADJOURNMENT**

Motion by Chairperson Stodola and seconded by Board Member Valentine to adjourn the meeting.

The meeting adjourned at 8:53 p.m.

Respectfully submitted,

---

Chris Anderson  
City Planner

ATTEST:

---

JoAnn Shaw  
Community Development Secretary

Drafted by Cathy Sorensen  
*TimeSaver Off Site Secretarial, Inc.*

## **5.02: Consider Draft Ordinance Amendment Addressing Irrigation Requirements**

City Planner Anderson presented the staff report. He stated that over the past two months, the Board has discussed a potential ordinance amendment regarding irrigation requirements for multi-family and commercial/industrial developments. He stated that based on the discussed at the January meeting, staff has updated a draft ordinance that eliminates the irrigation requirement and also stipulates that if an irrigation system is installed (including single family parcels), it must be equipped with a rain sensor, per state statute, as well as one or more water efficient technologies. This could include, but would not be limited to, a smart controller, soil moisture sensor(s), and/or an evapotranspiration (ET) sensor(s). He stated that this provides enough flexibility so that as future advances in water efficient irrigation technologies are developed, it will not require additional ordinance amendments. He noted that while not specifically included in the draft ordinance, it may be worth noting that this could be an opportunity to encourage more native landscaping within projects; noting that the Board would contemplate some sort of landscaping credit for projects incorporating a native grass and plant community. He noted that staff is not suggesting that this be contemplated as part of the draft ordinance but something that the Board may wish to keep in mind from a broader water conservation perspective. He noted that staff is still assessing how the water efficient requirement would be verified in the field and any potential action on the draft ordinance could be contingent upon finalizing an effective and efficient inspection methodology.

Board Member Anderson asked if there is some sense of how an inspection could occur.

City Planner Anderson stated that the building official did not say he could not do an inspection but simply stated that it would not fit in with an existing inspection. He stated that he believes that there is a way to fit in the inspection but simply wants to ensure that the proper methodology can be identified. He stated that he has heard positive comments from the staff members he has spoken with, noting that they all agree that it makes sense to have the sensors as a requirement.

Board Member Anderson asked whether staff would be looking for the sensor or ensure that it is functional during the inspection.

City Planner Anderson stated that staff is most likely going to check to ensure that it's installed.

Chairperson Stodola stated that he likes the language proposed as it provides flexibility for future technology that is developed. He asked if City Planner Anderson believed that the Council would agree with the vague language or whether they would like it more defined.

City Planner Anderson stated that there are specific examples listed, but the language simply leaves the door open for future technologies. He stated that if the Council is in agreement with the concept he did not believe that there would be a problem with the language.

Board Member Anderson noted that another option would be to use different language and state other approved technologies. She stated that she does prefer the language as proposed but was simply providing an alternative.

City Planner Anderson noted that City Attorney Langel has reviewed the language and approves of the proposed language. He confirmed the consensus of the Board to use the language as proposed and if there is a problem the alternate suggested could be used.

Motion by Chairperson Stodola and seconded by Board Member Covart to recommend adoption of Ordinance #17-04, Amending Multiple Sections of the Ramsey City Code Relating to Irrigation Requirements, contingent upon staff developing an efficient and effective inspection methodology.

Motion carried. Voting Yes: Chairperson Stodola, Board Member Covart, Anderson, Bernard, Trossen, and Valentine. Voting No: None. Absent: Board Member Hiatt.

It was the consensus of the Board to direct staff to vet out the opportunity to encourage more native landscaping within project, with the use of some sort of landscaping credit for projects incorporating a native grass and plant community; as well as the possibility to retrofit existing irrigation systems.

DRAFT

**ORDINANCE #17-04  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

**AN AMENDMENT TO CHAPTER 117 OF THE CITY CODE, WHICH CHAPTER IS KNOWN AS  
ZONING AND SUBDIVISIONS OF THE CITY CODE OF RAMSEY, MINNESOTA**

**AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE RAMSEY CITY CODE  
RELATING TO IRRIGATION REQUIREMENTS.**

The City of Ramsey Ordains:

**SECTION 1 AUTHORITY**

This ordinance is adopted pursuant to and under the authority of the City Charter of the City of Ramsey.

**SECTION 2 AMENDMENTS**

Section 117-111. – R-1 Residential (g) (4) is amended as follows and the existing (4) and (5) are renumbered to (5) and (6):

- (4) *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
- a. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  - b. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-112. - R-2 Residential District (e) (6) e. is amended as follows:

- e. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-113. – R-3 Residential District (e) (5) e. is amended as follows:

- e. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).

2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-114. – B-1 General Business District (e) (14) d. is amended as follows:

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
  1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-115. – B-2 Highway Business District (e) (16) d. is amended as follows:

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
  1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-116. – E-2 Employment District (e) (3) d. is amended as follows:

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
  1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-117. – E-1 Employment District (e) (3) d. is amended as follows:

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
  1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-120. – H-1 Highway 10 Business District (e) (14) d. is amended as follows:

- d. *Irrigation.* If a landscape irrigation system is provided, the system shall be equipped with the following:
  2. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  3. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

Section 117-121. – B-3 Business District (g) (2) f. is amended as follows:

- f. *Landscaping.* The master plan shall include a landscape plan for the entire development site. Landscaping shall be integrated throughout the site and shall include a combination of overstory trees, ornamental trees, shrubs, flowers (planting beds and raised planters), ground cover, and other landscaping elements. The required number of plantings will be site specific and will be determined largely by the total pervious area of a site. Landscaping should be used to soften and shade parking areas, line sidewalks and streets, accent building entrances, and break up large building facades. Plant selection should focus on functionality and take into account characteristics such as tolerance of soil compaction, poor drainage, and deicing salts. All landscaping shall be over at least four inches of topsoil, as defined in section 117-1, or an approved alternative as referenced in section 117-348. If a landscape irrigation system is provided, the system shall be equipped with the following:
  1. Technology that inhibits or interrupts operation of the irrigation system during periods of sufficient moisture (rain sensor).
  2. One or more water efficient technologies. This could include, but is not limited to, WasterSense labeled weather-based irrigation controllers, soil moisture sensors, and/or evapotranspiration (ET) sensors.

### **SECTION 3. SUMMARY**

The following is the official summary of Ordinance #17-04, which has been approved by the City Council of the City of Ramsey as clearly informing the public of the intent and effect of the Ordinance.

It is the intent and effect of Ordinance #17-04 to amend Ramsey, Minnesota City Code Chapter 117 to eliminate the requirement for in-ground irrigation systems in all zoning districts and to specify that if an irrigation system is installed, it shall be equipped with a rain sensor as well as one or more water efficient technologies.

### **SECTION 4. EFFECTIVE DATE**

The effective date of this Ordinance is thirty (30) days after its passage and publication, subject to City Charter Section 5.07.

Adopted by the Ramsey City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

---

Mayor

**ATTEST:**

---

City Clerk

**Introduction Date:**

**Posting Dates:**

**Adoption Date:**

**Publication Date:**

**Effective Date:**

DRAFT

**Regular Planning Commission**

5. 4.

**Meeting Date:** 03/02/2017**Submitted For:** Tim Gladhill, Community Development**By:** Eric Maass, Community Development

---

**Information****Title:**

Discussion Regarding Two Story Accessory Buildings; City Code Section 117-349

**Purpose/Background:**

Recently, City Staff received an application for a two-story accessory building, which has brought about lengthy discussions about the standards that apply to such structures. While City Code allows for two-story accessory buildings, either by right (on parcels two [2] acres or larger and outside the MUSA) or through the issuance of a conditional use permit, there is no provision for such structures to deviate from the height limitation for accessory buildings (either sixteen [16] or twenty-two [22] feet), without the issuance of a variance.

A two story accessory structure being approved through a conditional use permit was originally put into place due to oversized attics that contained enough room between the floor and the ceiling that Building Code deemed the attic space a second story even though from the exterior the structure did not appear to have a full two (2) levels. This is the reason for the height limitation remaining at sixteen (16) feet for two story accessory buildings on parcels less than two (2) acres rather than allowing for additional height allowances at this time.

Staff would like to have a discussion on this topic to determine if a text amendment that would allow for an increase in accessory building height for a two-story accessory building is warranted. Note, City Staff is not advocating for or recommending that an amendment is needed. There are several items to consider:

1. What does the Planning Commission feel was the intention of allowing a two (2) story accessory buildings: to accommodate a 'bonus room' or if it was to truly allow for two (2) full stories?
2. Would allowing a deviation from height standards by Conditional Use Permit rather than by Variance be a more appropriate tool to address accessory building height (similar to how deviations to sign standards are addressed)?

Addressing the two above points will indicate whether a text amendment should be contemplated. However, Staff also wanted to raise a potential concern related to two (2) story accessory buildings being converted to an accessory dwelling unit (complete independent living facilities entirely isolated from the primary dwelling unit). If the intention is to allow a true, two (2) story building, Staff would need to work with the City Attorney to develop proper and enforceable language prohibiting converting these into accessory dwelling units. That is, unless that is something the Planning Commission believes is worth exploring as well.

**Notification:**

No additional notification beyond the meeting date and agenda were sent out as a result of this agenda item.

**Observations/Alternatives:****Funding Source:**

This is being handled as part of Staff's regular duties.

**Recommendation:**

Staff is looking for direction from the Planning Commission as to whether or not a text amendment should be pursued. If the Planning Commission feels that this conversation warrants further discussion and that a draft text amendment should be drafted, Staff would ask that the Planning Commission provide such direction.

**Action:**

Direct Staff as to whether or not a text amendment should be drafted based on discussion held during the March meeting for future consideration by the Planning Commission.

---

---

**Attachments**

Accessory Building Code

2-Story Accessory Building Elevation

2-Story Accessory Building Floor Plan

---

---

**Form Review**

**Inbox**

Chris Anderson

Tim Gladhill

Form Started By: Eric Maass

Final Approval Date: 02/24/2017

**Reviewed By**

Chris Anderson

Tim Gladhill

**Date**

02/23/2017 04:03 PM

02/24/2017 11:44 AM

Started On: 02/08/2017 09:21 AM

17-349(d)(5): Accessory building height.

- a. The height of detached accessory buildings shall not exceed 22 feet on parcels two acres (87,120 square feet) or greater in size.
- b. The height of detached accessory buildings shall not exceed 16 feet on parcels less than two acres (87,120 square feet) in size. On parcels less than two acres, the height of side walls shall not exceed 14 feet.
- c. The height of attached accessory buildings shall not exceed the height of the principal structure.
- d. A variance will be required to exceed the established height restrictions for accessory buildings. The variance shall be processed in accordance with the procedures established in [section 117-53](#). Criteria governing consideration of a variance request to exceed height restrictions on accessory buildings shall include, but not be limited to the following:
  1. Whether the variance will impair an adequate supply of light and air to adjacent property.
  2. Whether the variance will have the effect of allowing a use that is prohibited in the applicable zoning district.
  3. Whether the variance will impair established property values within the neighborhood.
  4. Whether the increased height will be compatible with the principal building on the same parcel.
  5. Whether the increased height will be compatible with existing development in the immediate neighborhood.
  6. Whether the variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.

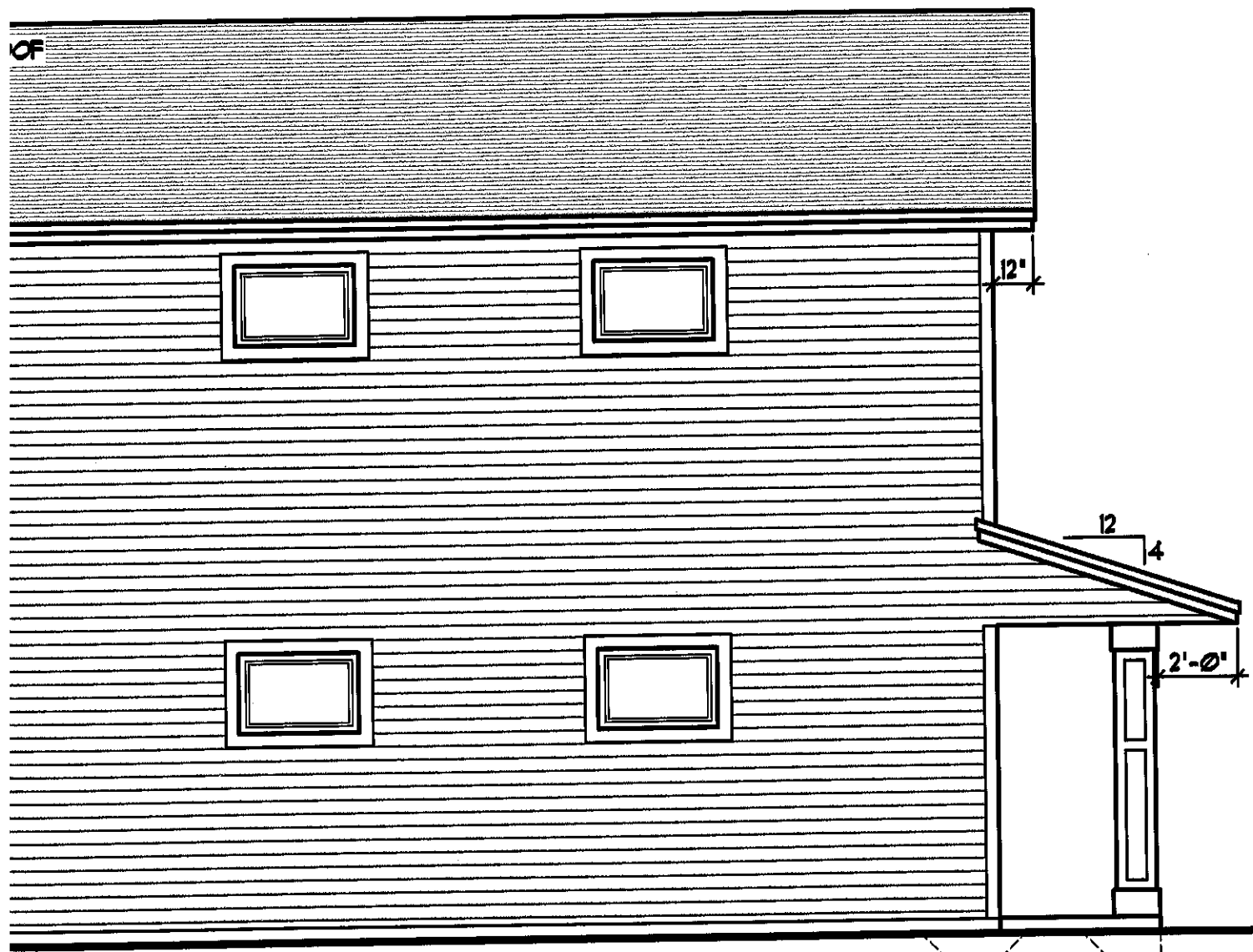
---

117-349(d)(8): Detached accessory buildings shall be prohibited from containing complete independent living facilities (accessory apartments), which would include permanent provisions for living, sleeping, eating, and sanitation. Independent living facilities shall be considered those which meet three or more of the criteria in subsection (6)d of this section and have provisions for separating the living space.

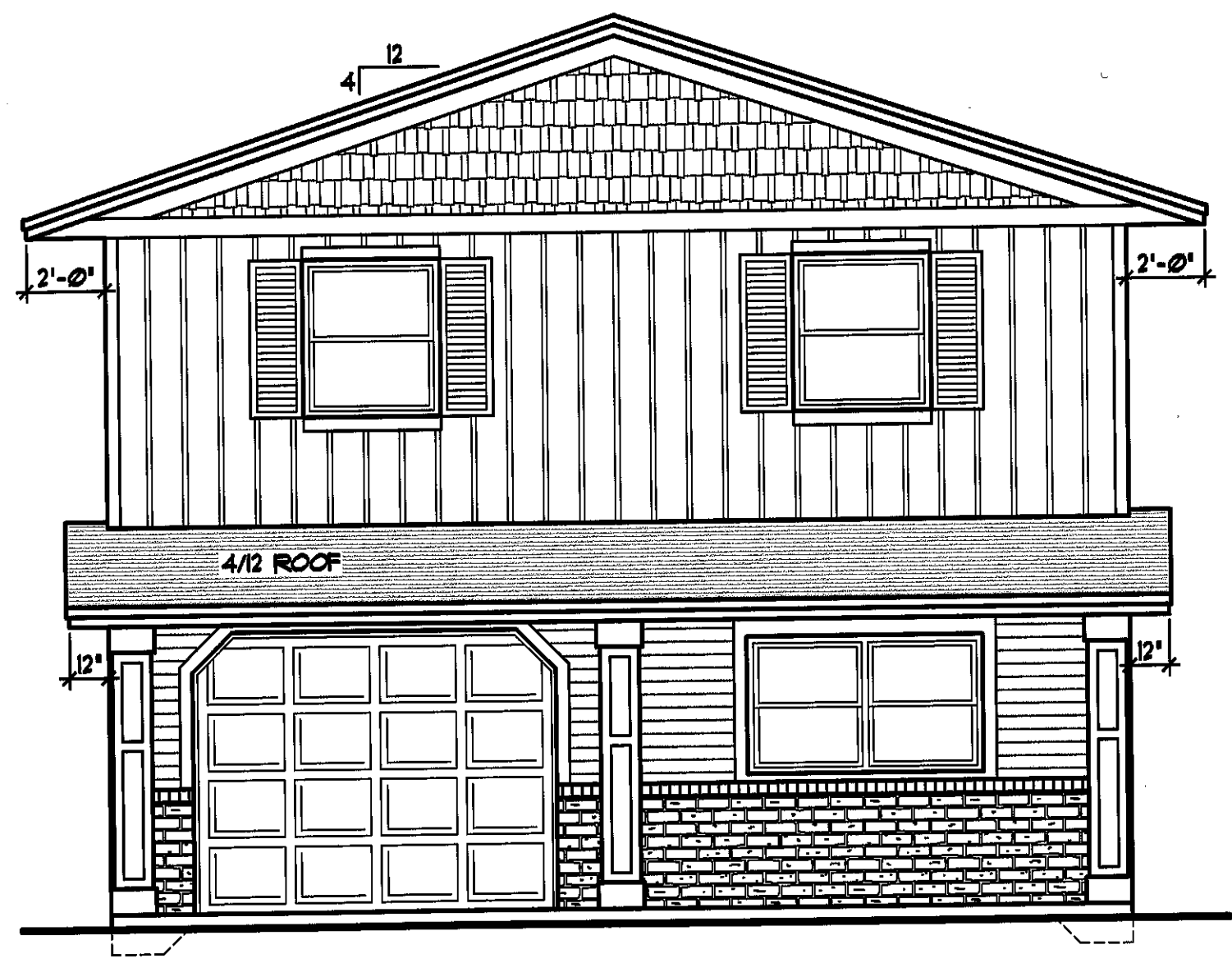
---

117-349(d)(9): Two-story accessory buildings shall be permitted on properties under the following conditions:

- a. Within MUSA with the issuance of a conditional use permit in accordance with City Code [section 117-51](#).
- b. Outside the MUSA on parcels less than two acres in size with the issuance of a conditional use permit in accordance with City Code [section 117-51](#).
- c. Outside the MUSA on parcels two acres in size or greater.

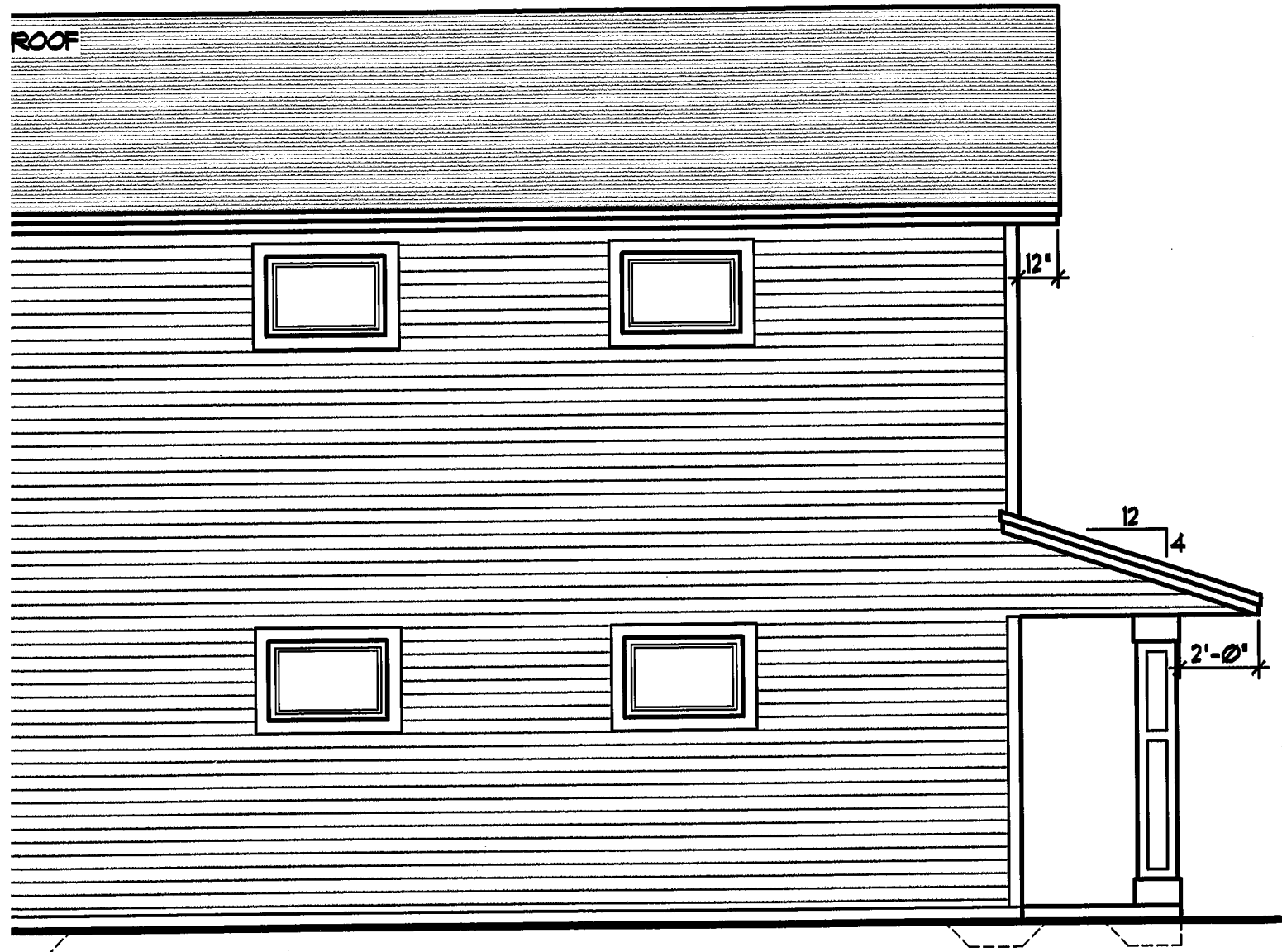


LEFT ELEVATION 1/4"=1'-0"



FRONT ELEVATION 1/4"=1'-0"

26'-0"



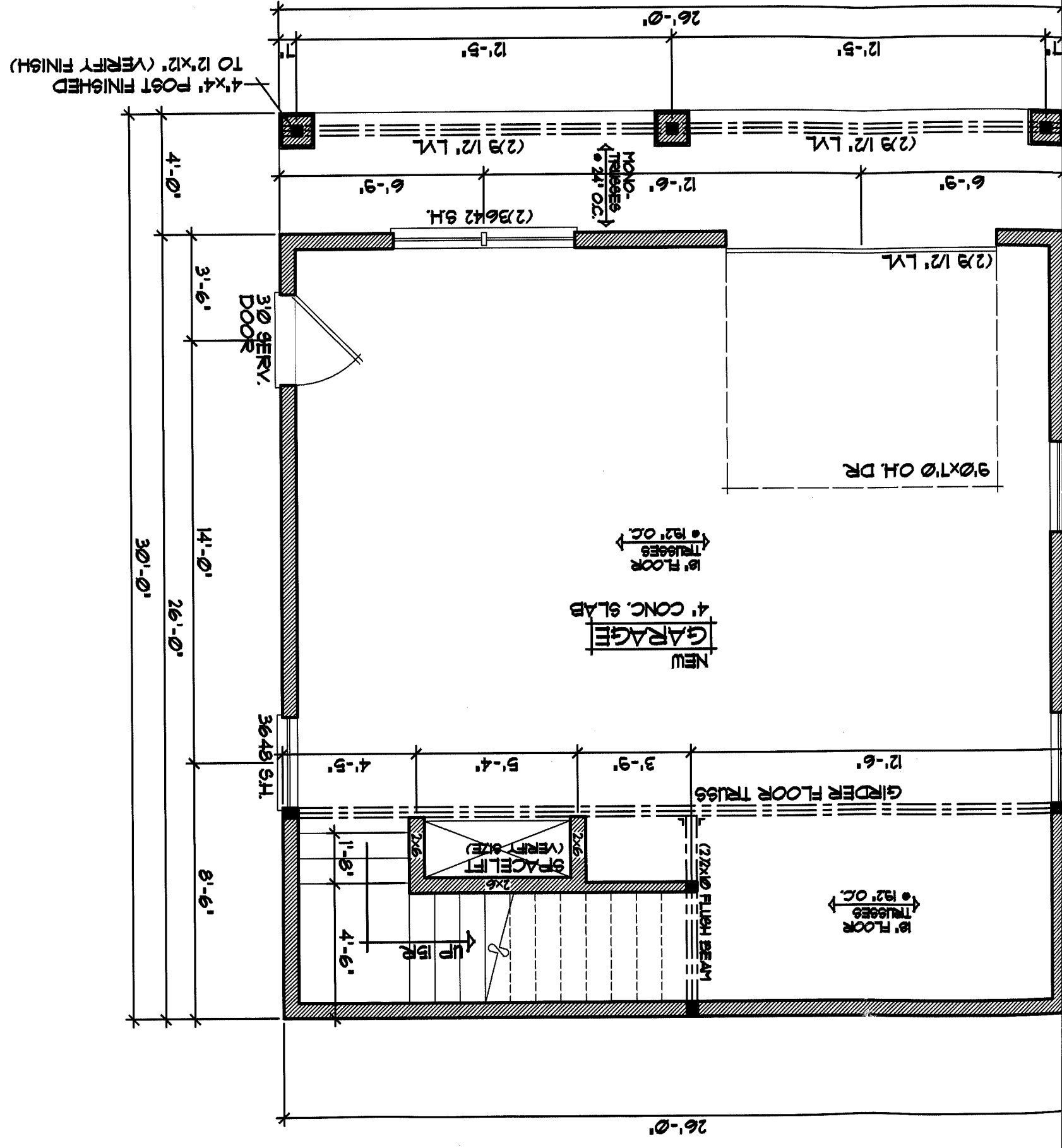
LEFT ELEVATION | 1/4" = 1'-0"



FRONT ELEVATION | 1/4" = 1'-0"

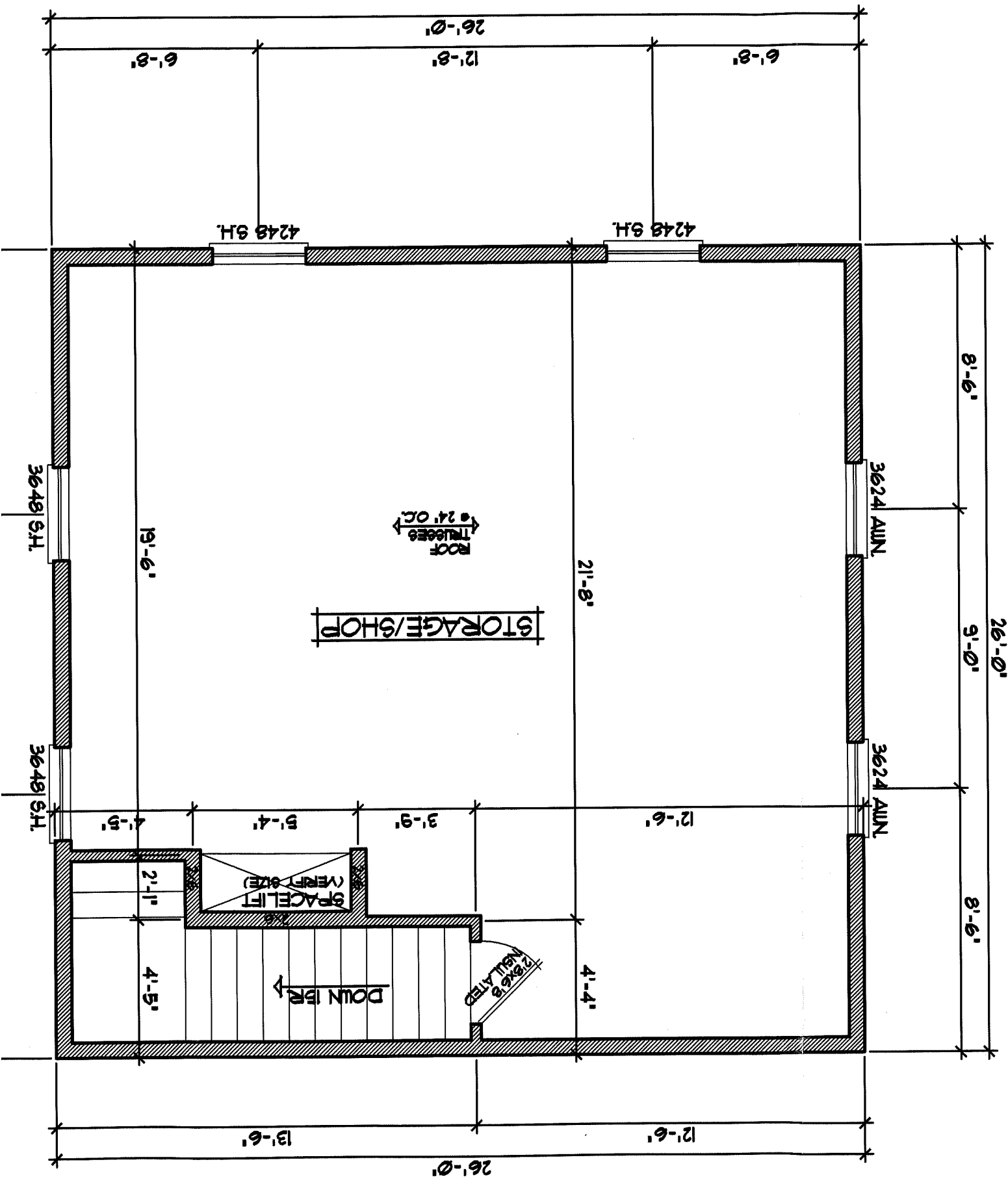
# GARAGE PLAN

1/4"=1'-0"



# SECOND FLOOR PLAN

1/4"=1'-0"



**Regular Planning Commission**

7. 1.

**Meeting Date:** 03/02/2017

**By:** JoAnn Shaw, Community Development

---

**Information**

**Title:**

Zoning Bulletins

**Purpose/Background:**

Enclosed are zoning periodicals for your review.

**Notification:**

**Observations/Alternatives:**

**Funding Source:**

**Recommendation:**

**Action:**

---

**Attachments**

Zoning Bulletins

---

**Form Review**

**Inbox**

Tim Gladhill

Form Started By: JoAnn Shaw

Final Approval Date: 02/24/2017

**Reviewed By**

Tim Gladhill

**Date**

02/24/2017 11:43 AM

Started On: 02/24/2017 08:26 AM

# Zoning Bulletin

## in this issue:

Agreements/Zoning Power—Under settlement agreement, city agreed to exempt certain billboards from billboard ordinance	2
Use—Town finds private school's proposed use of lots as an outdoor classroom and administrative offices qualified as "Secondary School" use permitted in the zoning districts	5
Special Exception—Company applies for special exception but fails to submit site plan as required by ordinance	7
Use—Applicant proposes use of a funeral home with accessory crematory use	9
Zoning News from Around the Nation	12



## Agreements/Zoning Power—Under settlement agreement, city agreed to exempt certain billboards from billboard ordinance

City later claims agreement is void because it contracts away the City's police powers

Citation: *The Lamar Company, LLC v. City of Columbia*, 2016 WL 7094040 (Mo. Ct. App. W.D. 2016)

### Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS

610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)

ISSN 0514-7905

©2017 Thomson Reuters

All Rights Reserved

Quinlan™ is a Thomson Reuters brand

MISSOURI (12/06/16)—This case addressed the issue of whether an agreement prohibiting a city from enforcing its billboard ordinance was void *ab initio* (i.e., of no legal effect).

**The Background/Facts:** The Lamar Company (“Lamar”) is an outdoor advertising company. In 1999, Lamar acquired Whiteco Metrocom, Inc. (“Whiteco”), another outdoor advertising company. Prior to its acquisition, Whiteco had been involved in a legal dispute with the City of Columbia (the “City”) with regard to four applications for permits to erect new billboards in the City. That legal dispute was resolved with in a May 1998 Stipulation for Settlement Agreement (the “Agreement”) between Whiteco and the City. Pursuant to that Agreement, among other things, the City agreed to issue permits for three new billboards subject only to compliance with City’s electrical and wind load requirements and state statutes. Whiteco and the City also agreed that 42 of Whiteco’s billboards (39 existing billboards and the three new billboards promised by the Agreement) would be subject to a “cap and replace” agreement. Whiteco would be permitted to rebuild in the same location, or remove and relocate to a new location, any of the 42 billboards identified in the Agreement, subject only to compliance with state statutes and City wind load and electrical requirements. Whiteco could apply to build additional billboards beyond the 42 described in the Agreement, but those applications would be subject to compliance with the City’s then existing billboard ordinance.

As Whiteco’s successor, Lamar assumed Whiteco’s rights and obligations under the Agreement. In May 2014, Lamar applied for permits to either rebuild in the same location, or to remove and relocate to new locations, eight of the 42 billboards described in the Agreement. The City denied the applications because the proposed billboards did not meet the requirements of City’s billboard ordinance.

Lamar appealed those denials. Lamar argued that the Agreement exempted permits to replace any of the 42 signs from the City’s billboard ordinance. Lamar maintained that the Agreement required the City to approve its applications. The City denied Lamar’s request for an appeal.

Lamar then sued the City. Among other things, Lamar sought a declaratory judgment that the Agreement was valid and enforceable, and entitled Lamar to the permits for which it had applied.

The City asserted an affirmative defense that the Agreement was void *ab initio* (i.e. without legal effect) because “it impermissibly contracted away [the] City’s police powers.”

Lamar responded that the City, which had benefitted from the Agreement, was equitably estopped from denying the validity and enforceability of the Agreement.

The trial court held that the Agreement violated Missouri statutory law, RSMo § 432.0709, because it exceeded the scope of the City’s powers by contracting away the City’s police powers. The court concluded that the Agreement was therefore void *ab initio*. The court further concluded that the doctrine of equitable estoppel, argued by Lamar, could not be relied on to enforce a void municipal contract. Finding no material issues of fact, and deciding the

matter on the law alone, the court issued summary judgment in favor of the City and against Lamar on all of Lamar's claims.

Lamar appealed.

**DECISION: Judgment of Circuit Court affirmed.**

The Missouri Court of Appeals, Western District, first held that the Agreement exceeded the scope of the City's powers in violation of RSMo § 432.070 and was therefore void and unenforceable. The court explained that § 432.070 imposes three requirements on government contracts. It requires a contract must be: (1) within the scope of the governmental entity's powers; (2) for proper consideration; and (3) and duly authorized and in writing. A contract that fails to satisfy any one of those mandatory requirements is not only voidable, but wholly void, and of no legal effect, said the court.

Here, only one of those three requirements was implicated—the requirement that a contract “shall be within the scope of [a city's] powers or expressly authorized by law.” The court explained that under settled law, a city cannot contract away its governmental functions and police powers. If a city does so, then it exceeds the scope of the city's powers and the contract is void.

The court noted that zoning ordinances constitute an exercise of a state's police power, and here the City's billboard ordinance was enacted pursuant to its delegated zoning police power. Here, found the court, “[t]he plain language of the Agreement prohibited the City from enforcing its billboard ordinance, save wind load and electrical requirements,” and thus had “the effect of interfering [with the proper exercise of City's police power], [and] must necessarily give way to an appropriate exercise of [City's] police power.” In other words, because the City had no authority to contract away future enforcement of its zoning ordinance against rebuilt or relocated billboards, the Agreement exceeded the scope of the City's powers in violation of § 432.070, and was therefore void.

Lamar had contended that the City was equitably estopped from denying the validity and enforceability of the Agreement, having accepted the benefits of the Agreement, and “because to conclude otherwise would result in a manifest injustice.” Lamar noted that the City accepted the benefit of the Agreement, and that Lamar, in reliance on the Agreement, removed several signs because the “cap” provision of the Agreement necessitated that it do so before applying to “replace” the removed signs in the same or a new location. The court rejected Lamar's argument, noting that “[i]t is a long settled principle in Missouri that ‘[c]ities cannot be made liable, either on the theory of estoppel or implied contract, by reason of the accepting and using [of] the benefits derived from void contracts.’” In summary, the court found there was “no reasoned authority for the proposition that the doctrine of equitable estoppel can be employed to enforce a municipal contract that is void *ab initio* pursuant to section 432.070, even in the face of ‘exceptional circumstances.’” Rather, said the court, it is a “well-recognized rule that the doctrine of estoppel is not applied in cases . . . where the city had no power under any circumstances to make the . . . contract in question,” such as here. Accordingly, the appellate court concluded that the trial court did not err in concluding that as a matter of law, the Agreement could not be enforced against the City, or otherwise remediated, pursuant to the doctrine of equitable estoppel because

the Agreement was void *ab initio* as it exceeded the scope of City's powers pursuant to § 432.070.

See also: *Stewart v. City of Springfield*, 350 Mo. 234, 165 S.W.2d 626 (1942).

See also: *State ex rel. Kansas City v. Public Service Commission*, 524 S.W.2d 855 (Mo. 1975).

See also: *Fleshner v. Kansas City*, 348 Mo. 978, 156 S.W.2d 706 (1941).

---

*Case Note:*

*In its decision, the court acknowledged that the policy rule prohibiting the application of the doctrine of estoppel in cases where the city had no power to make the contract in question "doubtless impose[d] a severe hardship on [Lamar]." "However," said the court, "one may not deal with those representing municipal governments without taking notice of the limitations of their powers and authority."*

---

## **Use—Town finds private school's proposed use of lots as an outdoor classroom and administrative offices qualified as "Secondary School" use permitted in the zoning districts**

Abutting property owner argues neither proposed lot use qualifies as "Secondary School" use

Citation: *Fryeburg Trust v. Town of Fryeburg*, 2016 ME 174, 2016 WL 7010513 (Me. 2016)

MAINE (12/01/16)—This case addressed the issue of whether a private academic academy's proposed use of an agricultural lot and residential lot fell within a zoning ordinance's definition of "School, Public or Private Elementary or Secondary" such that the uses were permitted on those lots under the ordinance.

**The Background/Facts:** Fryeburg Academy (the "Academy") is a private secondary school located in the Town of Fryeburg ("Fryeburg"). In October 2014, the Academy applied to the Town's Planning Board for permits authorizing changes in use of two parcels of leased land. The Academy proposed to use an agricultural lot "to teach—primarily outdoors—environmental science, conservation studies, agricultural studies, physical education, and recreation, and also for related storage." The Academy also proposed to use a residential lot for "offices for its admissions and advancement departments and for related storage."

Pursuant to the Town's zoning ordinance (the "Ordinance"), the use of "School, Public or Private Elementary or Secondary" (hereinafter "Secondary School") was permitted, with prior authorization from the Planning Board, in the zoning districts of the agricultural lot and the residential lot. The Ordinance defined Secondary School as a "place where courses of study which are sufficient to qualify attendance as compliance with State compulsory education requirements for grades Kindergarten through 12 are taught." State of Maine education requirements include programs of instruction in: "career and education development, English language arts, health education and physical education, mathematics, science and technology, social studies, visual and performing arts and world languages."

The Planning Board determined that the Academy's proposed uses on each of the parcels qualified as a Secondary School uses under the Ordinance. The Planning Board approved the Academy's applications for both parcels.

Thereafter, Fryeburg Trust (the "Trust"), which owned property abutting both lots, appealed the Planning Board's decisions. The Trust contended that the Academy's proposed use of each of the parcels did not qualify as a Secondary School use permitted in the lot's zoning district under the Ordinance. The Trust contended that since "[n]o complete courses . . . much less all mandated courses" would be taught in the outdoor classroom, then the outdoor classroom did not qualify as Secondary School use. The Trust also contended that since the administrative offices would be for administration and not teaching, the administrative office use did not qualify as a Secondary School use.

The Town's Board of Appeals (the "BOA") denied the Trust's appeals.

The Trust then filed appeals in superior court.

The Superior Court affirmed the Planning Board's decision to grant the permit for the outdoor classroom. The court concluded that, pursuant to the Ordinance, the proposed use of the agricultural lot was an educational use because classes would be taught there. The court, however, vacated the Planning Board's decision to grant the administrative office use permit. The court concluded that the proposed administrative office use was not an educational use because classes would not be taught there.

The Trust appealed from the court's decision affirming the outdoor classroom use permit. The Academy and Town cross-appealed from the court's decision vacating the administrative office use permit.

**DECISION: Judgment of superior court affirmed in part, vacated in part, and remanded.**

The Supreme Judicial Court of Maine held that both proposed uses—the outdoor classroom and the administrative offices—were within the definition of Secondary School and therefore permitted uses under the Ordinance.

In reaching its conclusion, the court looked to "construe the terms of [the Ordinance] reasonably, considering its purposes and structure and to avoid absurd or illogical results." "Reading the plain language of the Ordinance together with the State educational requirements," the court concluded that the Academy's proposed outdoor classroom use to teach courses, including physical education and science, to students attending a secondary school fit

“squarely within the definition in question.” Responding to the Trust’s argument, the court noted that “[n]othing within the text of the Ordinance required that all of the courses required by the State or the entirety of those courses be taught on each piece of property or in each building where a secondary school operates.” Such a reading “would create an absurd result,” said the court.

As for the administrative offices use, the court found that it was “so integral to the functioning of the school that it [was] indistinguishable from the school,” and therefore permissible as a Secondary School use under the Ordinance. The Planning Board had interpreted the Ordinance to mean that “a ‘school’ is more than just a collection of classrooms and then found that the Academy’s proposed use fell within this more fulsome view of ‘school.’” The Supreme Judicial Court of Maine agreed.

See also: *Dickau v. Vermont Mut. Ins. Co.*, 2014 ME 158, 107 A.3d 621 (Me. 2014).

## Special Exception—Company applies for special exception but fails to submit site plan as required by ordinance

Company contends witness testimony during hearings satisfied all required ordinance criteria

Citation: *EDF Renewable Energy v. Foster Township Zoning Hearing Board*, 2016 WL 6873015 (Pa. Commw. Ct. 2016)

PENNSYLVANIA (11/22/16)—This case addressed the issue of whether a renewable energy company satisfied objective requirements of a special exception in an ordinance such that the special exception should have been granted.

**The Background/Facts:** In July 2014, EDF Renewable Energy (“EDF”) sought to construct approximately 25 wind turbines, as well as roads, collection cables, and a substation on properties located in Foster Township’s C-1 (Conservation), A-1 (Agricultural), and I-1 (General Industrial) zoning districts. A wind turbine use was neither specifically permitted nor denied in those districts. A Township ordinance provided that whenever a use was neither specifically permitted nor denied in a district, the zoning hearing officer had to refer an application for such use to the Township’s Zoning Hearing Board (the “ZHB”) to hear and decide as a special exception. Pursuant to that provision, EDF’s proposal was submitted as an application for a special exception to the ZHB.

Ultimately, the ZHB denied EDF’s application. The ZHB denied the application, in relevant part, on its determination that EDF failed to comply with the objective criteria of the ordinance. Specifically, the ZHB found that EDF failed to file with its application for a special exception a site plan to the scale, and with detailed information, as required by the ordinance. The ZHB also

determined that the proposed wind turbine use was “not similar to or compatible with permitted uses in the district”—a criteria required for special exception approval.

EDF appealed the denial of its special exception application. The trial court denied EDF’s appeal on the grounds that EDF failed to comply with the objective criteria of the ordinance (i.e., the site plan), and failed to carry its burden of persuasion (as required by the ordinance), to demonstrate that the proposed use of wind turbines was similar to or compatible with the comprehensive plan for the Township.

EDF again appealed. On appeal, EDF argued that “the ZHB capriciously disregarded evidence and thus erred in denying the special exception application.” EDF argued that it presented sufficient evidence, in its application and through witness testimony at hearings on the application, to satisfy all applicable ordinance criteria for the grant of a special exception. More specifically, EDF contended that it presented expert testimony regarding many details of the proposal, including the effect of the wind farm on neighboring property values and its compatibility with adjoining development and the character of the zoning districts. EDF emphasized that it submitted a 36? x 24? map with its application and that the map was used by witnesses to identify specific locations and geographical issues. EDF maintained that its evidence was not rebutted, and, therefore, the ZHB abused its discretion in denying the requested special exception.

**DECISION: Judgment of Court of Common Pleas affirmed.**

The Commonwealth Court of Pennsylvania held that EDF failed to satisfy the objective requirements for a special exception under the ordinance.

In so holding, the court first explained that a special exception in a zoning ordinance is “not an exception to a zoning restriction, but, rather, a use that is expressly permitted.” The zoning ordinance itself enumerates the “rules that determine the grant or refusal of the exception,” noted the court.

Here, the court noted that, per the Township’s ordinance, EDF had the burden of proving that the proposed wind turbine use met the objective standards set forth in the zoning ordinance. The court found that EDF failed to meet that burden because it did not file a detailed site plan, as required by the ordinance, and failed to show that the proposed use was similar to and compatible with permitted uses in the district, as required by the ordinance. The court noted that EDF’s failure to submit a site plan as required by the ordinance was, on its own, sufficient grounds to deny its special exception application.

Addressing, and rejecting, EDF’s arguments that the evidence presented at the hearings provided all of the information required by the ordinance for a special exception, the court noted that EDF’s regional development manager had testified that: “the number of wind turbines and the precise location of the turbines and other details could not be determined until the soil was tested”; there was uncertainty as to “whether the wind turbines’ connection to the substation would be underground or above ground”; and there was uncertainty as to the extent that existing roads could be used versus the need for the construction of new roads. Moreover, the court found that neither a map submitted by EDF with its application nor the testimony of EDF’s witnesses

satisfied the ordinance's requirement for: "a site plan that reflects the location of all structures, existing and proposed; all open space areas; means of traffic access and all streets; contours of the site for each five feet of change of elevation; and the location of any residential structure within 200 feet of any property boundary line of the subject site."

Accordingly, the court affirmed the denial of EDF's special exception application.

---

*Case Note:*

*EDF had also argued that the Township's zoning officer's assurance that EDF's application was completed properly was evidence that the application complied with the ordinance, and therefore the application could not be denied by the ZHB for failure to comply with the ordinance (i.e., failure to submit a site plan). The appellate court observed that the ordinance "confers authority on the ZHB, not the zoning officer, to hear and decide requests for special exceptions." Further, the court noted that the zoning officer's statement on which EDF based this argument was made during the hearing, and EDF had failed to assert that it detrimentally relied on the zoning officer's acceptance of the application.*

---

## Use—Applicant proposes use of a funeral home with accessory crematory use

Despite applicant's claims, zoning board finds crematory (and not funeral home) is primary use, and thus prohibited in the zoning district

Citation: *River's Edge Funeral Chapel and Crematory, Inc. v. Zoning Hearing Board of Tullytown Borough*, 2016 WL 6777976 (Pa. Commw. Ct. 2016)

PENNSYLVANIA (11/16/16)—This case addressed the issue of whether a property's principal use, as proposed by the applicant, would in actuality be a funeral home (permitted in the zoning district) or a crematory (prohibited as a principal use in the zoning district).

**The Background/Facts:** River's Edge Funeral Chapel and Crematory, Inc. ("River's Edge") leased property located in a Light Industrial ("LI") Zoning District in Tullytown Borough (the "Borough"). The property contained an improved commercial building at which River's Edge sought to operate a funeral home and crematory. The LI Zoning District permitted a funeral home as a principal use in the district, but prohibited a crematory as a principal use; a crematory was permitted in the LI Zoning District as an accessory use.

In September 2013, seeking to operate a proposed "funeral home and crematory" at the property, River's Edge filed an application for a Use and Oc-

cupancy Certificate with the Borough. The Borough's zoning officer denied River's Edge's application. The zoning officer determined that although River's Edge had indicated that the proposed use was a funeral home with accessory crematory use, "[i]t appear[ed] that the crematory use [would] be the principal use at the property," which was prohibited in the LI Zoning District.

River's Edge appealed to the Borough's Zoning Hearing Board (the "Board"). The Board agreed with the zoning officer's conclusions and denied River's Edge's application. The Board explained that it found that the crematory use would, in fact, be the primary use—which was prohibited by the Borough's zoning ordinance in the LI Zoning District. The Board based those findings on the following determinations: the location and appearance of the building—a warehouse—was "not suitable for a funeral home use and clearly indicate[d] that the [River's Edge's] intention [was] to use the subject premises primarily for cremations"; and the property had been the subject of a prior appeal to the Board in which the applicant was seeking to use the Property solely as a crematory. Concluding that it was "clear that the crematory [was] intended to be the primary or principal use of the [p]roperty, which [was] not permitted in an LI-Light Industrial District," the Board concluded that it had to deny River's Edge's appeal of the denial of its application for a Use and Occupancy Certificate.

River's Edge again appealed. The trial court reversed the Board's decision and ordered

that a Use and Occupancy Certificate be issued as requested in River's Edge's application. The trial court found that the evidence the Board had relied upon when making its determination (i.e., the property's location, appearance, and the prior application to operate a crematory), "did not constitute substantial evidence that a reasonable mind would find adequate when viewed in light of the overall record." The trial court noted that River's Edge's plot plan indicated that the building would include a chapel, a greeting area, and public restrooms in addition to the crematory and other preparation rooms. The trial court also noted that only 12% of the building's total area would be allotted to the crematory operation and that River's Edge had indicated that it would offer various services at the property, including meeting with clients, making funeral arrangements, embalming, casketing, and dressing the deceased. Moreover, the trial court concluded that River's Edge would satisfy each element necessary to be a licensed funeral home in Pennsylvania.

The Borough appealed. On appeal, the Borough asserted that the record evidence showed that the property's principal use would be a crematory, not a funeral home, and therefore was not permitted in the LI Zoning District.

**DECISION: Judgment of Court of Common Pleas affirmed.**

The Commonwealth Court of Pennsylvania concluded that River's Edge's proposed principal use of the property in the LI Zoning District would be a funeral home, which was permitted under the Borough's zoning ordinance, rather than a crematory, which was permitted as an accessory use but not as a principal use.

In so holding, the court looked to the definition of "funeral home." The term was not defined in the Borough's zoning ordinance, so the court looked

to its “plain meaning,” resolving any doubt “in favor of the landowner and the least restrictive use of the land,” as required by Pennsylvania law. The court found that the dictionary defined a “funeral home” as “an establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals.” Similarly, although it did not define a funeral home, Pennsylvania’s Funeral Director Law (63 P.S. § 479.2(6)) defined a “funeral establishment” as “every place or premise approved by the State Board of Funeral Directors wherein a licensed funeral director conducts the professional practice of funeral directing including the preparation, care and funeral services for the human dead.”

Based on those definitions of a funeral home and a funeral establishment, the court found it “apparent” that River’s Edge’s use of the property would constitute a funeral home. River’s Edge’s use of the property would, found the court: provide traditional funerals which would include a service, a viewing, and transporting of the body to a cemetery; and meet the elements necessary to constitute a licensed funeral home in Pennsylvania. Looking at the evidence, the court also concluded that the funeral home (and not the crematory) would be the principal use on the property based on the fact that the total area dedicated to the crematory was only 12% of the total building area. The remaining portion of the building space, found the court, would be dedicated to funeral home related services such as a room for viewing, a morgue, a room for embalming, a chapel, and a garage to accommodate the vehicles that would be transporting bodies.

Regarding the Borough’s argument that the Board’s determination was proper because the property’s location and the building’s appearance made it unsuitable for a funeral home, the appellate court disagreed. The court noted that the property’s location, in the LI Zoning District, was where the Borough determined that a funeral home should be located (since it was permitted in such a zoning district). Similarly, the court found “no authority in the [o]rdsinance or Pennsylvania law indicating that a building’s appearance is a sufficient basis to deny a use-by-right or is even a valid consideration when determining whether a property’s principal use constitutes a funeral home.” Instead, the court again emphasized the minimal size of the crematory in the building as evidence that it would be the accessory, and not the principal use, as well as the fact that the River’s Edge’s proposal met the requirements to be a licensed funeral home in Pennsylvania.

See also: *H.E. Rohrer, Inc. v. Zoning Hearing Bd. of Jackson Tp.*, 808 A.2d 1014 (Pa. Commw. Ct. 2002).

See also: *Galzerno v. Zoning Hearing Bd. of Tullytown Borough*, 92 A.3d 891 (Pa. Commw. Ct. 2014).

---

*Case Note:*

*In its decision, the court addressed the Board’s assertion that a 2011 application for a crematory use at the same property indicated that River’s Edge’s application for a funeral home was a “pretext to operate a crematory.” The court rejected the Board’s conclusion, noting that the 2011 applicant was: filed by a different applicant, for a different purpose, and was substantially different than River’s Edge’s application. More-*

over, the court noted that unlike the 2011 application, here *River's Edge* indicated that it would offer services directly to the public and would offer a variety of funeral services at the property. The court concluded that the practical relevance of the 2011 application was "unclear and [was] not evidence a reasonable mind would find adequate to support the conclusion that the property's principal use would be a crematory."

---

## Zoning News from Around the Nation

### GEORGIA

Atlanta City Council members are considering a proposed ordinance that would "require recording studios to be soundproofed when operating within 500 feet of residential areas."

Source: *UPROXX*; <http://uproxx.com>

### MARYLAND

The Anne Arundel County Council recently approved an amendment to Bill 73-16, which aims to provide more public notice for some proposed changes during the comprehensive zoning process. "The amendment requires property owners who request a zoning change through a council member (rather than through the county's Office of Planning and Zoning) to post a sign on their property giving notice of the change after it has been added to the comprehensive zoning bill." The Council also passed Bill 75-16, "which allows certain kinds of composting on land zoned rural agricultural." Meanwhile, the Council is still considering a bill that "would designate half of Anne Arundel County's land for conservation," but would allow such designated land to "still be eligible for low-density development allowed under the current zoning code."

Source: *Capital Gazette*; [www.capitalgazette.com](http://www.capitalgazette.com)

### PENNSYLVANIA

Pittsburgh's City Council has unanimously approved legislation that would require medical marijuana distributors to operate only in commercial zones and would limit medical marijuana production facilities to areas zoned as industrial.

Source: *Tribune-Review*; <http://triblive.com>

# Zoning Bulletin

**in this issue:**

Preemption/Marijuana—Local county zoning officials refuse to issue zoning documentation for medical marijuana dispensary applicant	2
Church and Religious Uses—City finds homeless housing is a permitted “house of worship” use	7
Proceedings—After objectors appeal zoning decision, city maintains appeal is untimely	9
Zoning News from Around the Nation	11



# Preemption/Marijuana—Local county zoning officials refuse to issue zoning documentation for medical marijuana dispensary applicant

Officials contend zoning actions would conflict with the federal Controlled Substances Act,

Contributors

Corey E. Burnham-Howard

For authorization to photocopy, please contact the **West's Copyright Clearance Center** at 222 Rosewood Drive, Danvers, MA 01923, USA (978) 750-8400; fax (978) 646-8600 or **West's Copyright Services** at 610 Opperman Drive, Eagan, MN 55123, fax (651) 687-7551. Please outline the specific material involved, the number of copies you wish to distribute and the purpose or format of the use.

This publication was created to provide you with accurate and authoritative information concerning the subject matter covered; however, this publication was not necessarily prepared by persons licensed to practice law in a particular jurisdiction. The publisher is not engaged in rendering legal or other professional advice and this publication is not a substitute for the advice of an attorney. If you require legal or other expert advice, you should seek the services of a competent attorney or other professional.

Zoning Bulletin is published and copyrighted by Thomson Reuters, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526. For subscription information: call (800) 229-2084, or write to West, Credit Order Processing, 620 Opperman Drive, PO Box 64833, St. Paul, MN 55164-9753.

POSTMASTER: Send address changes to Zoning Bulletin, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164-0526.



THOMSON REUTERS

610 Opperman Drive  
P.O. Box 64526  
St. Paul, MN 55164-0526  
1-800-229-2084

email: [west.customerservice@thomsonreuters.com](mailto:west.customerservice@thomsonreuters.com)  
ISSN 0514-7905

©2017 Thomson Reuters  
All Rights Reserved  
Quinlan™ is a Thomson Reuters brand

© 2017 Thomson Reuters

## while dispensary applicant argued failure to take actions violated the Arizona Medical Marijuana Act

Citation: *White Mountain Health Center, Inc. v. Maricopa County*, 2016 WL 7368623 (Ariz. Ct. App. Div. I 2016)

ARIZONA (12/20/16)—This case addressed the issue of whether the actions that the Arizona Medical Marijuana Act (“AMMA”) required the State of Arizona (the “State”) and municipalities to take with regard to processing process medical marijuana dispensaries (“MMDs”)—specifically approving zoning for specific areas for MMDs, processing zoning documents, and taking action pursuant to zoning laws to ensure MMDs meet other zoning ordinances, and processing MMD applications to operate—created “significant and unsolvable obstacles” to the federal Controlled Substances Act (“CSA”) (under which marijuana use is illegal) such that the AMMA was preempted by the CSA. The case also addressed the issue of whether the CSA preempted the AMMA under a theory of impossibility preemption in that it was impossible for the municipal employees to comply with both the CSA and AMMA when the AMMA required issuance of necessary zoning documents for MMD operation applications. The case also addressed the issue of whether a county zoning ordinance that limited MMDs to zones in which uses could only be “for industrial use not in conflict with any federal law,” violated the AMMA by effectively prohibiting MMDs in the county.

**The Background/Facts:** In 2010, Arizona voters passed Proposition 203, now codified as the AMMA. Among other things, the AMMA decriminalizes and provides protections against discrimination under state law for the medical use and possession, cultivation, and sale of marijuana under the circumstances described in the AMMA. (See, e.g., A.R.S. §§ 36-2802, -2811, -2813, -2814.) Under the AMMA, the Arizona Department of Health Services (“ADHS”) is authorized to promulgate regulations in order to implement and administer the AMMA. The AMMA also authorizes cities, towns, and counties to “enact reasonable zoning regulations that limit the use of land for [MMDs] to specified areas in the manner provided in [the AMMA].” (A.R.S. § 36-2806.01.)

Both the AMMA and ADHS regulations require an entity seeking to become a MMD to first register with ADHS by filing an application for a “registration certificate.” (A.R.S. § 36-2804; A.A.C. R9-17-304.) The application must include, among other things, “a sworn statement certifying” that the MMD is in compliance with zoning restrictions “[i]f the city, town or county . . . has enacted zoning restrictions.”

(A.R.S. § 36-2804(B)(1)(d).) ADHS regulations also require that an application must include “[d]ocumentation from the local jurisdiction where the [MMD]’s proposed physical address is located [stating] that: a. There are no local zoning restrictions for the [MMD]’s location, or b. The [MMD]’s location is in compliance with any local zoning restrictions.” (A.A.C. R9-17-304(C)(6).)

In response to the AMMA, Maricopa County (the “County”) amended its zoning ordinance (the “MCZO”) to permit MMDs in Industrial 3 (“IND-3”) zones in unincorporated Maricopa County. The MCZO also contained a provision that specified that, as to IND-3 zones, a “building or premise shall be used only for industrial use not in conflict with any federal law, state law or Maricopa County Ordinance” (the “MMD Amendment”).

In May 2012, White Mountain Health Center, Inc. (“White Mountain”) applied to the ADHS for a registration certificate for a MMD. ADHS rejected the application because White Mountain failed to submit the necessary zoning documentation from the County confirming that either no local zoning restrictions existed or that White Mountain was in compliance with applicable restrictions.

White Mountain then filed a lawsuit against the County and ADHS. It alleged that it could not obtain the necessary zoning documentation because the County refused to issue it. The County had refused to issue zoning verification for MMDs, citing the fact that doing so could “potentially subject the County and its employees to prosecution under federal law. . . .” Under the federal CSA, marijuana use remains illegal. (21 U.S.C.A. §§ 801 to 971).

White Mountain asked the court to issue injunctive relief regarding its need for compliance with the zoning verification requirement and/or an order directing the County to issue the zoning documentation. The County, and the State, which had intervened in the case, argued that: (1) White Mountain’s requested relief was preempted by the CSA under a theory of “impossibility preemption” because the County and its employees could not comply with both the AMMA and the CSA; and (2) the AMMA’s authorization of MMDs was preempted by the CSA under a theory of “obstacle preemption.”

The superior court held that neither obstacle preemption nor impossibility preemption applied here. The court ordered the County to issue the required zoning documentation to White Mountain.

White Mountain also argued that the County’s MMD Amendment was a “poison pill provision” that violated the AMMA by effectively banning MMDs in the County. The County defended the MMD Amendment and argued that the AMMA did not preempt local regulation with respect to land use for MMDs.

The superior court agreed with White Mountain, finding the MMD Amendment violated the AMMA by essentially prohibiting MMDs in the County.

The State and County appealed.

**DECISION: Judgment of Superior Court affirmed in part.**

The Court of Appeals of Arizona, Division 1, first held that the AMMA was not conflict preempted by the CSA under a theory of “obstacle preemption” or “impossibility preemption.” In so holding, the court explained that, under the Supremacy Clause of the United States Constitution, when a state law and a federal law are in conflict, the federal law prevails because “state action cannot circumscribe Congress’ plenary commerce power.” The court further explained that federal preemption can be either express or implied. Express preemption occurs when Congress explicitly defines the extent of preemption. Implied preemption occurs by: (1) federal occupation of the field (“field preemption”); or (2) a conflict between the state and federal law that either (a) creates an obstacle to federal law (“obstacle preemption”), or (b) makes it physically impossible to comply with both state and federal law (“impossibility preemption”). The latter two types of conflict preemption were argued here by the County and the State.

With regard to the State and County’s obstacle preemption argument, the court held that AMMA’s requirement that municipalities, such as the County, approve zoning for specific areas for MMDs and requiring the State to process applications to operate MMDs, did not amount to a “significant and unsolvable obstacle to enforcement” of the CSA, such that the AMMA was conflict preempted by the CSA. The court determined that “Arizona voters’ approval of medical marijuana under a regulated state law system in no way conflicts as an obstacle with federal enforcement of the CSA.” Nothing in the AMMA precludes the United States from enforcing the CSA, found the court. While the AMMA differed from the CSA with regard to the “scope of acceptable medical use of marijuana,” the possession and use of marijuana not in compliance with AMMA remained illegal under Arizona law.” Moreover, the court noted that the federal government is free to enforce the CSA in Arizona and cannot require the state to enforce the CSA.

With regard to the State and County’s “impossibility preemption” argument, the court similarly held that the AMMA was not preempted by the CSA on the basis of impossibility. The court explained that, in issuing zoning documents pursuant to the AMMA, the County would “not be authorizing or sanctioning a violation of federal law,” but rather would be recognizing that the County had a duty to issue such

documents by statute. The court said that “impliedly rejects an impossibility argument because the CSA does not expressly prohibit a county official from abiding by the AMMA in issuing zoning documents, and the state law requires such conduct.”

The court also rejected the County’s argument that County officials’ processing of zoning permits for MMD applications amounted to “aiding and abetting” in violation of the CSA. The court noted that the CSA expressly provided that municipal officers who lawfully engage in the enforcement of any law or municipal ordinance relating to controlled substances are immune from civil and criminal liability. Here, found the court, County officials were “engaged in the enforcement” of state statutes by processing applications for the zoning permits and promulgating reasonable regulations to permit MMDs pursuant to state law, and thus were immune from prosecution under the CSA. In sum, the court concluded that the County failed to show how the relief ordered here (i.e., to issue the necessary zoning documentation) made it impossible to comply with the AMMA due to a risk of prosecution under federal law and specifically the CSA. The County’s broad contention that any act which is in any way related to fulfilling duties mandated by the AMMA is somehow criminal under federal law, did not persuade the court that the AMMA was preempted under a theory of impossibility preemption.

Finally, the court also held that the County’s MMA Amendment, which limited MMDs to zones in which uses could only be “for industrial use not in conflict with any federal law,” was inconsistent with the provision of the AMMA allowing local jurisdictions to enact “reasonable zoning regulations that limit the use of land for [MMDs] to specified areas . . . .” Looking at the plain language of that provision of the AMMA (A.R.S. § 36-2806.01), the court found it did not preempt local zoning restrictions on MMDs but authorized “reasonable” zoning regulations limiting the use of land for MMDs to specified areas. As such, the court said that “a local jurisdiction cannot adopt a zoning regulation that is self-defeating by banning MMDs” because a ban on MMDs could not be a “reasonable zoning regulation[ ] . . . limit[ing MMDs] to specified areas . . . .” To interpret the statute otherwise, said the court, “would nullify the basis for the AMMA, to permit use of marijuana for medical purposes consistent with the AMMA’s terms and provide for a regulatory system of dispensaries to operate in compliance with the terms of the AMMA.” Thus the court found that § 36-2806.01 limited local jurisdictions’ zoning powers to ensure those zoning decisions comply with the AMMA.

Because the MMD Amendment’s provision barring any conduct in violation of federal law as applied to MMDs was in conflict with the

limitation on zoning authority under the AMMA, the court concluded that the superior court properly struck that portion of the MMD Amendment as it applied to MMDs.

See also: *Reed-Kaliher v. Hoggatt*, 237 Ariz. 119, 347 P.3d 136 (2015).

See also: *Ter Beek v. City of Wyoming*, 495 Mich. 1, 846 N.W.2d 531 (2014).

See also: *County of San Diego v. San Diego NORML*, 165 Cal. App. 4th 798, 81 Cal. Rptr. 3d 461 (4th Dist. 2008).

---

**Case Note:**

*The Superior Court had issued a \$5,000 sanction against the County, which the appellate court reversed. The appellate court found the sanction unwarranted upon finding that the County had not acted in bad faith.*

---

## Church and Religious Uses— City finds homeless housing is a permitted “house of worship” use

Adjacent property owner challenges that  
determination

Citation: *Sullivan v. Board of Zoning Appeals of City of Albany*, 144 A.D.3d 1480, 2016 WL 6883676 (3d Dep’t 2016)

NEW YORK (11/23/16)—This case addressed the issue of whether the proposed use of a church parsonage to house 14 homeless individuals was consistent with the permitted “house of worship” use under the city’s zoning code.

**The Background/Facts:** Bethany Reformed Church (the “Church”) owned property in the City of Albany (the “City”). The Church’s property was located in an “R-1B single-family medium-density residential” zoning district. In that zoning district, the principal permitted uses were single-family detached dwellings and houses of worship. Houses of worship were defined under the City’s zoning code (the “Code”) as: “[a] structure or part of a structure used for worship or religious ceremonies.” The Code did not define the terms “worship” and “religious.”

The Church sought to partner with—and provide space in its parsonage for—Family Promise of the Capital District, Inc., a not-for-profit corporation, to establish a “home base” for up to 14 homeless individuals. In December 2014, the Church asked the City’s Board of Zoning Appeals (the “Board”) to interpret the Code and determine whether the planned use of its property to house homeless individuals was a permitted use within the applicable zoning district. The Board determined that the Church’s proposed use was “consistent with. . . [the] mission and actions of a house of worship, which logically includes a structure or part of a structure used for worship or religious ceremonies.” The Board further concluded that “[n]o additional zoning exemption(s) or permission(s) [were] necessary” for the church and Family Promise to begin using the parsonage for the proposed use.

Joseph P. Sullivan (“Sullivan”) owned property adjacent to the Church’s property. In May 2015, Sullivan asked a court to annul the Board’s determination. Finding, among other things, that the proposed use of the parsonage could not reasonably be interpreted as a “house of worship” as defined under the Code, the Supreme Court annulled the Board’s determination.

Church appealed.

**The Court’s Decision: Judgment of Supreme Court reversed.**

Agreeing with the Board’s interpretation of the City’s zoning Code, the Supreme Court, Appellate Division, Third Department, New York, held that the Church’s proposed use of the parsonage as a “home base” for homeless individuals was consistent with the permitted “house of worship” use under the Code.

Since “worship” was not defined under the Code, the court looked to its plain and ordinary meaning found in dictionaries. The court found that worship was broadly defined as “[a]ny form of religious devotion, ritual, or service showing reverence”—especially with respect to “a divine being or supernatural power”—and includes “an act of expressing such reverence.” The court acknowledged that the term “house of worship” “often is synonymous with a building or other structure where formal, organized religious services take place.” However, the court also emphasized that New York courts “have been very flexible in their interpretation of religious uses under local zoning ordinances” and have long recognized that “[a] church is more than merely an edifice affording people the opportunity to worship God.” To that end, the court noted that “[s]ervices to the homeless have been judicially recognized as religious conduct” and that “the concept of acts of charity as an essential part of religious worship is a central tenet of all major religions.”

Looking at those legal principals, here, the court was satisfied that the plain or ordinary meaning of “house of worship” permitted and encompassed the Church’s proposed use of housing homeless individuals.

See also: *Community Synagogue v. Bates*, 1 N.Y.2d 445, 154 N.Y.S.2d 15, 136 N.E.2d 488 (1956).

See also: *Western Presbyterian Church v. Board of Zoning Adjustment of District of Columbia*, 862 F. Supp. 538 (D.D.C. 1994).

## Proceedings—After objectors appeal zoning decision, city maintains appeal is untimely

Objectors say city’s failure to issue decision in writing means time for appeal never commenced

Citation: *First Avenue Partners v. City of Pittsburgh Planning Commission*, 2016 WL 7176946 (Pa. Commw. Ct. 2016)

PENNSYLVANIA (12/09/16)—This case addressed the issue of whether a planning commission’s approval without a written decision was sufficient to commence the 30-day appeal period in which an aggrieved individual must take their appeal.

**The Background/Facts:** Forza Fort Pitt, Inc. (“Forza”) owned property (the “Property”) in the City of Pittsburgh (the “City”). In 2009, Forza applied for a Project Development Plan (the “2009 Application”) with the City’s Planning Commission (the “Planning Commission”). Forza’s application sought approval to construct a seven-story, 107-room hotel on the Property. At a public hearing on March 8, 2011, the Planning Commission approved the 2009 Application subject to certain conditions. The Planning Commission did not issue a written decision of its approval of the 2009 Application. Subsequently, in 2013, after the City’s Planning Department (the “Planning Department”) requested certain design changes to Forza’s proposed building, Forza submitted a new Project Development Plan (the “2013 Application”). The Planning Commission approved the 2013 Application without a written decision.

First Avenue Partners, James D. Bolander and Mona A. Bolander, Barbara C. Johnstone, William R. Hartz, Paul Richard Bernthal, Christopher Ragland and April M. Ragland, Mary Ellen Purtell, and

Robert Crecine (collectively, the “Objectors”) appealed the Commission’s decision on the 2013 Application. Finding that the Planning Commission erred by not following proper procedure in reviewing the 2013 Application, the trial court reversed and remanded to the Planning Commission, directing it to conduct an evidentiary hearing and make written findings of fact. Meanwhile, in May 2015, Forza withdrew its 2013 Application and instead requested a zoning voucher for its 2009 Application. On July 6, 2015, the City notified the Objectors that the Planning Department had reviewed and approved Forza’s 2009 Application and had issued Forza a zoning voucher on June 3, 2015.

On July 20, 2015, the Objectors appealed to the trial court. The trial court found that the Objectors failed to appeal the Planning Commission’s March 8, 2011 decision within 30 days and, therefore, quashed the appeal.

The City’s Zoning Code provided that “[a]ny party aggrieved by a decision of the Planning Commission, may, within thirty (30) days, appeal the decision to the Court of Common Pleas of Allegheny County under the Local Agency Law, 2 Pa.C.S. Sections 751-754.” Per Pennsylvania statute governing judicial procedure, the 30-day time period begins to run “after the entry of the order from which the appeal is taken.” (42 Pa.C.S. § 5571(b).) An order is deemed entered on the date of mailing. (42 Pa.C.S. § 5572.7.)

The Objectors again appealed. The Objectors argued that the appeal period begins to run when a written adjudication (i.e., written, formal judgment on the matter) is mailed or is personally served on the parties. Notably, Local Agency Law requires “[a]ll adjudications of a local agency shall be in writing . . .” (2 Pa.C.S. § 555.) Since no written adjudication was made by the City’s Planning Commission or Planning Department, the Objectors argued that the appeal period never commenced and that their appeal was therefore timely filed.

Forza and the City, however, maintained that the 30-day appeal period began to run on March 8, 2011, the date the Planning Commission voted without written decision to approve the 2009 Application.

**DECISION: Judgment of Court of Common Pleas reversed.**

The Commonwealth Court of Pennsylvania held that an appeal period does not commence until a Planning Commission’s final order is issued in writing. More specifically, here, the court held that the Objectors’ appeal was not untimely since the Planning Commission’s approval of the 2009 Application without a written decision was not sufficient to commence the 30-day appeal period in which the Objectors had to take their appeal.

In so holding, the court looked to prior case law on the issue of

when appeals periods begin to run. While the appellate court had, itself, previously held that oral approval of a zoning plan was sufficient to commence the 30-day appeal period, the court found that holding had been effectively overruled by the Supreme Court of Pennsylvania. The Supreme Court had held that “all zoning decisions are not final until a written decision is issued, and until a written decision is issued, there is no order to appeal.”

See also: *Narberth Borough v. Lower Merion Tp.*, 590 Pa. 630, 915 A.2d 626 (2007).

See also: *Pendle Hill v. Zoning Hearing Bd. of Nether Providence Tp.*, 134 A.3d 1187 (Pa. Commw. Ct. 2016).

## Zoning News from Around the Nation

### CONNECTICUT

A superior court judge has dismissed a lawsuit brought by the Connecticut Automotive Retailers Association against Tesla Motors Inc. and the Planning and Zoning Board of Appeals of the Town of Greenwich, CT. The suite alleged that the Town had allowed Tesla to operate a showroom which allegedly violated zoning regulations. Tesla had argued that the zoning approval was for an “educational gallery to spread awareness about [electric vehicles] and its technologies.”

Source: *The County Caller*; [www.thecountrycaller.com](http://www.thecountrycaller.com)

### NEW YORK

The New York City Council is considering “[a] package of 10 zoning-related bills.” Among those bills are ones that would: impose a \$25,000 fine on anyone “who makes a materially false statement or causes a materially false statement to be made in connection with a zoning application” (Int. 1392-2016); require the Board of Standards and Appeals “to submit a written explanation of any decisions that are made contrary to the local community board” (Int. 418-2014); require the Board of Standards and Appeals to “establish rules for the consideration of arguments and evidence submitted by parties, and to refer to such arguments and evidence in final determinations” (Int. 282-2014); and propose that the Board of Standards and Appeals “create an interactive online map of all variants and special permits approved by the agency since Jan. 1, 1996” (Int. 1394-2016).

Source: *New York Press*; [www.nypress.com](http://www.nypress.com)

## NEW YORK

City of Buffalo Mayor Byron Brown signed into law the city's "Green Code," which is "the first major overhaul of city zoning laws since 1953" and was drafted over the course of nearly seven years. Buffalo's new "Green Code" is being described as one that zones more on "form" than on "use." So, for example, "those who seek to build something new will have to more carefully align it with what already exists in a given neighborhood." The Green Code goes into effect in February.

Source: *WGRZ*; [www.wgrz.com](http://www.wgrz.com)

## OHIO

The Strongsville City Council has "unanimously rejected an ordinance that would have required new commercial businesses and buildings to preserve at least 25 percent of their land as green space." Two weeks prior, the council also defeated a companion ordinance that would have restricted new retail stores and buildings larger than 75,000 square feet to lots measuring at least 10 acres, and segregated them to two zoning districts. Reportedly, the green-space legislation would have applied to businesses and buildings in the local-business, general-business, shopping-center, motorist-service, and restaurant-recreational-services districts.

Source: *Cleveland.com*; [www.cleveland.com](http://www.cleveland.com)

# ZONING PRACTICE

FEBRUARY 2017

AMERICAN PLANNING ASSOCIATION



➔ ISSUE NUMBER 2

## PRACTICE CLIMATE ADAPTATION



# Using Smart Growth to Adapt to Climate Change

By Megan M. Susman

Communities around the country, from rural places to major cities, are using smart growth and green building strategies to create more economic opportunities, offer more housing and transportation choices, promote equitable development, and improve quality of life. These same strategies, with some tweaks, can make neighborhoods and cities more resilient to current and projected climate change impacts, including flooding, sea-level rise, extreme heat, drought, and wildfire.

The multiple benefits that smart growth and green building approaches bring can help build public support for actions that also help communities adapt to a changing climate. For example, making streets safer for all users and adding green elements that reduce stormwater runoff accomplish climate change-related goals such as reducing greenhouse gas emissions by making less-polluting transportation options more appealing, lowering ambient air temperatures, and reducing localized flooding. For residents, these actions also create a more pleasant, safer place to walk and bike, and for businesses, a more attractive street brings more customers.

Zoning and building codes and related policies provide a particularly useful vehicle for working climate change considerations into regular municipal processes. When the codes are updated, the local government can incorporate the most up-to-date climate observations and projections. Provisions in these regulations that support smart growth and green building can also provide a foundation for climate change adaptation.

The U.S. Environmental Protection Agency (EPA) recently released *Smart Growth Fixes for Climate Adaptation and Resilience*, a guidebook to help local government officials, staff, and boards identify smart growth strategies that can help them prepare for and adapt to climate change. This article introduces some of the land-use and building policy and code changes that are discussed in the publication, which communities across the country are using to meet their needs and circumstances. Policy options include overall strategies that can help communities adapt to multiple climate change impacts. Others are more specific to a single hazard. All can help

communities achieve multiple environmental, economic, health, or social goals.

## OVERALL STRATEGIES

Determining appropriate locations for development and conservation helps communities prepare for climate-driven changes, and flexible zoning can help communities respond to these changing conditions. Furthermore, renewable energy can both improve resilience and reduce greenhouse gas emissions.

### Federal Resources

A number of federal resources can help communities explore regional and local climate change projections:

- The 2014 national climate assessment report, *Climate Change Impacts in the United States*, includes observed changes and projected impacts on regions and sectors ([nca2014.globalchange.gov](http://nca2014.globalchange.gov)).
- The U.S. Climate Resilience Toolkit links to climate change resources across the federal government ([toolkit.climate.gov](http://toolkit.climate.gov)).
- The National Oceanic and Atmospheric Administration's Climate Explorer tool offers graphs, maps, and data of observed and projected temperature, precipitation, and related climate variables for every county in the contiguous United States ([toolkit.climate.gov/tools/climate-explorer](http://toolkit.climate.gov/tools/climate-explorer)).
- EPA's Scenario-Based Projected Changes Map, an easy-to-use mapping tool, provides local projected changes in annual total precipitation, precipitation intensity, annual average temperature, 100-year storm events, and sea-level rise ([tinyurl.com/hsc72ba](http://tinyurl.com/hsc72ba)).

### Designate Locations for Protection and for Growth

Including regional climate change projections—which local governments can get from a metropolitan planning organization or

from federal tools—in planning documents and land-use maps will help communities understand where housing, transportation, businesses, and services could be vulnerable to flooding, sea-level rise, drought, or wildfire. The local government can use that information to identify land that is currently vulnerable or projected to become more vulnerable to these impacts. That land could be designated for protection or less intensive development. Areas that are less vulnerable—and well-connected to existing development—could be designated for growth and economic development.

For example, the Southeast Florida Climate Compact, a collaboration among Broward, Miami-Dade, Monroe, and Palm Beach counties, developed a *Regional Climate Action Plan* that suggested municipal and county comprehensive plans designate Adaptation Action Areas (the areas most vulnerable to sea-level rise and other impacts and prioritized for investment to reduce their risk), Restoration Areas (undeveloped areas that are vulnerable to climate change impacts and that should be prioritized for acquisition to keep them undeveloped), and Growth Areas (areas that are at a higher elevation and already have infrastructure, where growth should be directed) (SFRCCC 2012).

Local governments could also choose to locate new municipal buildings in less vulnerable areas that are close to the people they serve and easy for people to reach on foot, by bike, by public transit, or by car. Locating buildings with emergency functions—such as hospitals, police and fire stations, and emergency shelters—in places that are less likely to be hit by a flood or wildfire and that people can easily get to even without a car, improves access to critical services. Putting municipal buildings in places where they are less likely to be damaged by natural hazards also protects the public investment.

### Flexible Zoning

Flexible zoning codes, such as dynamic zoning or floating zones, can help communities adapt more nimbly to changing conditions. Dynamic zoning includes triggers in the code that change the code requirements automati-

cally when conditions hit a certain threshold (Elliot 2009). Dynamic zoning provisions let a community approve a code that fits its current conditions but that will change based on some empirical future condition. One law expert notes that, “gradual and adaptive regulations . . . can minimize harms and takings compensation requirements” while giving property owners some certainty about how they can expect to use their property once certain thresholds are passed (Byrne 2012).

A floating zone is a zoning classification that is not tied to a specific area (Blanchard and Nolan 2013). Developers can request to have the zone applied to their parcels, perhaps in exchange for financial or procedural incentives. Although it is not a floating zone, Keene, New Hampshire, has a Sustainable Design and Energy Efficient Development overlay zone (§§102-1430–1438) that promotes compact development and energy efficiency and could be a model for a floating zone in other communities.

#### Local Renewable Energy

Reducing greenhouse gas emissions is an important climate adaptation strategy because it ultimately reduces our impact on the climate and thus the amount of change to which we will have to adapt. Local, clean, renewable energy resources have well-known greenhouse gas reduction benefits, but they can also be valuable in building resilience to disruptions to the power grid caused by natural hazards, or energy prices that might become volatile. Encouraging on-site renewable energy generation and storage gives people cleaner, more reliable electricity and can provide backup power if the grid goes down.

The Department of Energy’s SunShot Solar Outreach Partnership worked with the American Planning Association to develop guidance on incorporating solar-friendly provisions into planning documents and regulations (Morley 2014). Amending codes or adopting ordinances that allow solar, solar thermal, wind, and other renewables on individual properties gives property owners clear direction on what is allowed, giving them peace of mind that their investment is legal and alleviating protests from neighbors. For example, Aurora, Illinois’s Alternative Energy Systems ordinance defines and clearly illustrates solar, wind, and geothermal system generation limits, setbacks, permitted system heights, and noise limits (§4.4-9).

Solar gardens, small community installations that serve local customers who buy or lease shares, productively use lots that might otherwise be difficult to develop because of their shape, environmental contamination, or other factors. By one estimate, about half of households and businesses cannot install rooftop solar systems because they do not own the structure or do not have enough roof space to meet their power needs (Feldman et al. 2015). Shared solar installations give these people and businesses the chance to buy clean power that can keep running if the grid is disrupted. Pairing a solar installation with energy storage improves resilience even more. Local governments can encourage solar gardens by defining them as a specific use in the zoning code (Morley 2014).

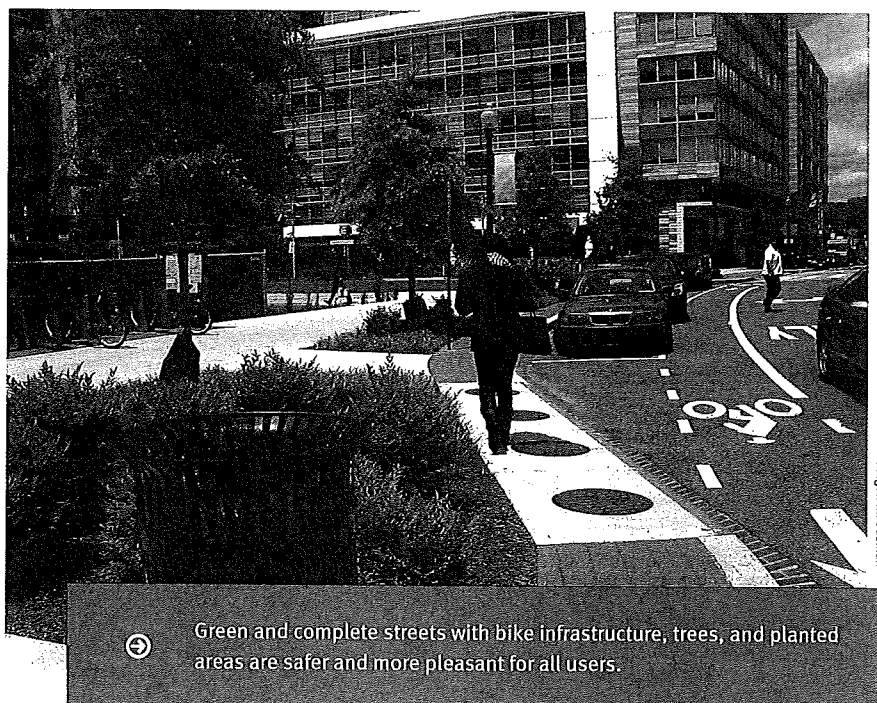
Fort Collins, Colorado, worked with Clean Energy Collective to build the Riverside Community Solar Array, a solar garden on the city-owned site of a demolished former pickle plant. The site lies at the edge of a compact residential neighborhood, but a railroad running through it as well as contamination from its industrial past made it impractical to develop. Using it for the solar garden and incorporating public art let the city turn it into a gateway welcoming people to Fort Collins. Before ground was even broken on the array, it was sold out, and its capacity was doubled to meet demand (Hois 2015).

#### FLOODING AND EXTREME PRECIPITATION

Green infrastructure techniques can reduce localized flooding while also beautifying streets and helping developers meet stormwater retention requirements. In places that require elevation in floodplains, design guidelines can help maintain community character and ensure access to elevated buildings.

#### Green and Complete Streets

Green and complete streets design standards make streets safe and comfortable for pedestrians, drivers, bicyclists, and transit users. Green and complete streets incorporate green infrastructure such as street trees, permeable pavement, curb inlets, and planter boxes to capture, slow, filter, and absorb stormwater runoff. These green features beautify the street and cool the air. Green and complete streets are designed to make walking and biking easier and more appealing, which reduces pollution from vehicles, helps people incorporate physical activity into their daily routines, and gives more transportation options to people who cannot drive or choose not to. Hundreds of communities across the country have adopted complete streets policies, and clear guidance on how to incorporate green infrastructure elements can help ensure that complete streets also reduce stormwater runoff. Boston’s *Complete Streets Design Guidelines*, for example, have explicit guidance on



Green and complete streets with bike infrastructure, trees, and planted areas are safer and more pleasant for all users.

how to incorporate elements such as street trees, stormwater planters, and rain gardens (Boston 2013).

#### Retaining Stormwater On-Site

Local governments can require new development to retain all stormwater on-site through a site plan requirement. Developments could meet the requirement through green infrastructure elements and reducing the overall percentage of impervious surface. A stormwater runoff credit-trading program would allow new development projects to purchase credits for off-site mitigation.

In Washington, D.C., property owners who install green infrastructure can sell Stormwater Retention Credits to large development sites, which can use the credits to meet up to half of their regulatory stormwater reduction requirements. The city also buys some credits, as paying private property owners to install green infrastructure is more cost-effective than if the city government built the green infrastructure itself (Washington, D.C. 2016).

#### Design Guidelines for Elevating Buildings

A well-established strategy for buildings in floodplains is to elevate the structure. In highly developed places, removing all development is not an option, and elevation might be the only way to protect people and property from floods. However, elevation is expensive, and it can create a false sense of security. People with limited mobility might have trouble getting into elevated buildings. Design guidelines or form-based standards that promote accessibility and a lively street can help mitigate some of the problems.

After Superstorm Sandy, New York City updated its zoning code to make new construction and retrofitted buildings more resilient to floods. The city planning department worked with the architecture and design community to develop principles for designing elevated, flood-resilient buildings (NYC Planning 2013). In 2013, the New York City Council adopted a flood resilience amendment to the zoning code that incorporated these design principles (New York 2013).

The principles are:

- **Visual connectivity:** Maintaining architectural elements such as doors, porches, stoops, and windows along the street
- **Facade articulation:** Ensuring that elevated buildings have interesting elements along the street instead of a blank wall

- **Inviting access:** Making sure that people with limited mobility can easily get in and out of the building
- **Neighborhood character:** Integrating elements of the existing neighborhood design when rebuilding or building new construction (NYC Planning 2013)

#### SEA-LEVEL RISE AND STORM SURGE

Taking sea-level rise projections into account can help planners determine where development and infrastructure might be at risk now and in the future. Knowing where the shoreline is likely to change can help local governments tailor development standards. Communities with working waterfronts can use zoning and other strategies to protect these economic and cultural assets.

#### Updating Flood Zone Hazard Maps

Local governments can add projected sea-level rise to flood zone hazard maps, currently based exclusively on historical events, to better plan for future conditions. This action would not affect flood insurance requirements, which would continue to use Federal Emergency Management Agency-created flood zone hazard maps. The extended coastal flood hazard zone would delineate potential inundation areas, critical emergency facilities, evacuation routes, road elevation projects, and culvert replacements. It's recommended to use minimum 50-year planning horizon that assumes a plausible range of sea-level rise projections and takes into account land subsidence and uplift and local conditions.

The Rockingham Planning Commission is working with several communities on the New Hampshire coast to help them assess and prepare for the impacts of sea-level rise. For the town of Seabrook, the commission's vulnerability assessment included a recommendation to create a flood hazard overlay district that includes the areas projected to be at higher risk in the future in addition to the areas mapped by FEMA's Flood Insurance Rate Maps. This district would include performance-based standards to protect against flooding. The assessment also recommends using this overlay map to educate property owners about risks from sea-level rise and storm surge (Rockingham Planning Commission 2015).

#### Context-Sensitive Designations

Context-sensitive shoreline classifications can set appropriate development standards for

different settings. King County, Washington, updated its Shoreline Master Program land-use policies to include eight new classifications that fit the varied shoreline. Regulations for the classifications range from very low-impact development for sensitive lands to flood prevention measures in areas where higher levels of development are appropriate. These classifications are incorporated into the county's comprehensive plan (King County 2016). These context-sensitive levels of development protect the most sensitive areas while still allowing development where it makes sense.

#### Working Waterfronts

Working waterfronts are often vital parts of a coastal community's identity and economy, and sea-level rise can threaten their viability. Recognizing and supporting these working waterfronts protects a sense of place and community history, and clusters similar industries together, which can spur innovation and collaboration. However, communities should be careful of concentrating noisy, polluting industries in low-income neighborhoods. Also, consider resilience provisions that protect active working waterfronts from pollution releases in a storm surge or temporary inundation. Measures might include elevated material storage or redundant flood protection measures to avoid exposing nearby populations or ecosystems to pollution releases.

Portland, Maine, has a historic working waterfront but found it challenged by aging infrastructure and the threat of sea-level rise. The city needed to find funding to keep infrastructure in good repair and prepare it for the rising sea. An overlay zone, adopted in 2010, allows compatible non-marine uses to locate on the working waterfront. The city also encourages incremental improvements where possible to prepare for sea-level rise (National Working Waterfront Network 2015).

#### EXTREME HEAT

Communities can help protect their residents from extreme heat by identifying and improving the hottest parts of neighborhoods, helping particularly vulnerable people stay cool in a heat wave, and encouraging new development to use materials that cool hard surfaces.

#### Mapping and Remedying Hot Spots

Extreme heat is exacerbated in built-up areas by the heat island effect. Buildings, roofs, and pavements absorb the sun's heat and create

hotter ambient air temperatures than surrounding areas. "Hot spots" are areas where temperatures are particularly high because of large expanses of dark, paved surfaces or a lack of vegetation. Once a local government has identified hot spots, it can prioritize pilot projects in these places to reduce ambient temperatures by adding trees and other vegetation and reflective, light-colored, or permeable pavement, which can also help reduce stormwater runoff. The projects can help the community figure out which materials and techniques work best for sites such as parking lots, alleys, and streets part of its climate adaptation actions, Chicago mapped its hot spots, including overlaying a map of heat-related 311 and 911 calls to "assess the correlation between urban heat islands and heat stress-related issues." The city directs cooling and energy efficiency efforts such as cool and green roofs to those places (Chicago 2008).

#### **Helping Vulnerable People and Neighborhoods**

Extreme heat puts people at greater risk for heat exhaustion, heat stroke, and heat-related death, and it can exacerbate chronic illnesses such as respiratory and cardiovascular diseases. Pregnant women; children; and low-income, elderly, homeless, or chronically ill people are the most susceptible to these health risks (Sarofim et al. 2016). Many of the most susceptible are also the least able to adapt on their own, because they lack the money to better weatherize or even cool their homes, they have mobility issues that make it difficult to go somewhere safe during a heat emergency, or they aren't aware of how deadly an extended heat wave can be. Working with trusted messengers in communities with particularly vulnerable populations can help local government better understand what people need and work with them to develop strategies for heat waves and other emergencies.

Mapping hot spots in vulnerable neighborhoods can help a community prioritize locations for cooling centers where people can go to escape the heat. Cooling centers can be civic buildings such as libraries, community centers, or public pools; some private businesses might agree to let people spend the hottest hours of the day in their buildings. Cooling centers should be easy for even people with limited mobility to reach—for example, in or close to apartment complexes with many elderly residents or next to public transit

stops. The local government should clearly mark cooling centers and do ongoing outreach to make sure vulnerable residents know where they are and how to reach them.

Cooling centers might also be emergency shelters in severe storms or other natural disasters, or their convenient location might make them a good rendezvous point in case of a city- or neighborhood-wide evacuation. Having a single location in the neighborhood would be easier for residents to remember, so local governments might want to consider strengthening cooling centers to withstand high winds, seismic damage, and flooding, as well as locating them outside of areas that are at high risk of flooding or wildfires. Cooling centers should have backup power or use passive survivability measures that will keep the building safe if the power goes out.

#### **Cooler Hardscapes**

Hard surfaces don't have to generate a heat island. The community could amend its site plan requirements and design guidelines to better adapt hardscape areas to extreme heat. Requirements could include a certain amount of light-colored or permeable paving in hardscape areas or planting trees to shade sidewalks, streets, and parking lots and increase overall tree canopy. These elements would also capture and filter stormwater and beautify the public realm.

Glenview, Illinois, has design guidelines for trees and other vegetation in parking lots to clearly show what is acceptable. It includes guidance on tree placement, species, and maintenance (Glenview n.d.).

#### **DROUGHT**

Development that is planned with an understanding of current and future water supplies, along with water efficiency and reuse strategies, can help communities continue to provide adequate water for new growth.

#### **Aligning Land-Use Planning and Water Management**

Compact development uses less water per household and reduces the burden on existing water supply infrastructure, making water delivery more efficient. Shorter pipes mean less opportunity for leaks, and water pumped shorter distances does not have to be pumped as forcefully, which also reduces leakage. In addition, smaller lots use less water outdoors because they have less lawn to irrigate (U.S.

EPA 2006). Integrating water resource management with land-use planning helps ensure adequate water for the growth the community has planned and that the growth happens in places that make the best use of the community's water infrastructure.

The Albuquerque Bernalillo County Water Utility Authority works with the city of Albuquerque, New Mexico, and surrounding Bernalillo County to help align water resources with growth plans. The water authority's Water Resources Management Strategy includes a policy to link land-use planning with water management. Specific actions under that policy include working with the city and county to update the comprehensive plan and other plans to ensure that development aligns with infrastructure, basing its capital planning on the city and county's growth plans, and supporting infill and compact development (ABCWUA 2016).

**Building Energy and Water Benchmarking**  
Benchmarking programs provide solid data on energy and water use that help municipalities set a baseline and determine progress toward reducing energy and water use. Communities can pass an ordinance or encourage building owners to use a benchmarking program by emphasizing the cost savings of using energy and water more efficiently and by offering incentives.

Denver's voluntary Watts to Water program encourages commercial buildings to use Portfolio Manager, an Energy Star online reporting system, to measure their energy and water use. The building owners get free technical support and educational programs, public recognition, and access to rebates and other programs to help improve building operations (Watts to Water 2016). After roughly four years, the program had signed up more than 140 participants representing 30 million square feet of commercial real estate and was saving more than one million gallons of water annually (Young and Mackres 2013).

#### **Rainwater Harvesting**

To avoid using potable water for irrigation, some communities mandate rainwater harvesting for all new commercial construction. Keep in mind, however, that some jurisdictions prohibit harvesting to keep local watersheds healthy or due to water rights conflicts.

Tucson, Arizona's Commercial Rainwater Harvesting Ordinance, a model other jurisdic-

tions have used, requires a new commercial development built starting in 2010 to meet at least half its landscape watering needs with captured rainwater. Developers must submit site plans that include a rainwater harvesting plan and a landscape water budget (Tucson 2008). The ordinance is part of a suite of initiatives aimed at conserving water, including educational programs, demonstration projects, and rebates for water-efficient appliances and practices, that have helped reduce Tucson's water consumption to its 1989 level even as its population grew by about 60 percent (Tucson Water 2015).

#### WILDFIRE

In wildfire-prone areas, compact, well-connected development can be safer for residents and firefighters. Clustering development also makes it easier to maintain open space as a control line to protect developed areas from fire.

#### Compact Development

As the devastating November 2016 fire in eastern Tennessee showed, drought greatly raises the wildfire risk by making vegetation drier and giving the fire more fuel. Communities generally develop fire hazard maps based on factors such as fuel loads and where fires have happened in the past. One study, however, found that homes that were in a more compact development pattern and located in already developed areas were less likely to be destroyed by a wildfire, and suggested that "empirically based maps developed using housing density and location better identify hazardous locations than fuel-based maps" (Syphard et al. 2012).

Promoting or requiring compact development in comprehensive plans, area plans, zoning codes, and subdivision regulations can keep more homes away from the wildland-urban interface, where they are more at risk. It also helps meet other community goals, including making it easier for people to get around without a car if they choose, mixing uses to strengthen the town center, and preserving land for agriculture, recreation, or ecological functions. (One cautionary note is that buildings that are closer together make it easier for a fire to spread, so fire-resistant materials and techniques are important in compact neighborhoods.)

Douglas County, Colorado, for example, promotes compact development in designated

urban areas and encourages lower-intensity land uses in areas more susceptible to wildfires. Its comprehensive plan recommends siting facilities that serve many people, such as places of worship, schools, employment centers, and residential development, away from areas at high risk of wildfire (Douglas County 2014).

#### Clustered, Well-Connected Development

Local governments often use zoning codes or subdivision regulations to require new development to be clustered, have good connections to existing development, have multiple entry/exit points, and be well-connected internally. Clustering allows homes to share defensible space such as a greenbelt around the development that can act as a control line to stop fire from spreading (Florida Department of Agriculture and Consumer Services 2010).

Internal and external connections make it easier for residents and visitors to walk and bike around the neighborhood and to get to destinations outside the immediate area. If a wildfire hits, these connections make it easier for residents to evacuate and give firefighters multiple routes into, out of, and around the development, which helps keep them safer by giving them more escape routes.

#### Open Space as a Control Line

Local governments can also acquire open space between wildlands and developed areas to preserve as a control line. The state of Florida suggests a Community Protection Zone at least 100 to 300 feet wide that could be used for amenities such as hiking trails or community gardens (Florida Department of Agriculture and Consumer Services 2010). Making the green space an amenity for residents helps ensure that it will be properly maintained. If the space includes green infrastructure techniques, it could also help manage stormwater runoff and protect water quality.

#### CONCLUSION

Keeping people safe and securing the community's future prosperity are goals everyone can agree on. The climate is changing and will continue to change. The development planned and built today will be on the ground for decades. Incorporating climate change projections into planning activities now can help make sure that the buildings approved today will be safe and pleasant for residents in a changed future climate. Using smart growth

and green building strategies that use limited resources wisely, support economic opportunities, and protect our health, water, air, and land can help make the case even stronger by improving neighborhoods now and strengthening them for the future.

#### ABOUT THE AUTHOR

Megan M. Susman is a senior policy analyst with the U.S. Environmental Protection Agency's Office of Sustainable Communities. For more than 15 years, she has worked on smart growth research, communications, and technical assistance on various topics including climate change mitigation and adaptation. She cochaired the Communities Workgroup of the Interagency Climate Change Adaptation Task Force from 2010–2011 and contributed to the 2014 National Climate Assessment.

Cover: Photo by Eric Salard (Portland, ME, Flickr CC BY-SA 2.0)

#### Vol. 34, No. 2

Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$95 (U.S.) and \$120 (foreign). James M. Drinan, JD, Chief Executive Officer; David Rouse, FAICP, Managing Director of Research and Advisory Services. Zoning Practice (ISSN 1548-0135) is produced at APA. Jim Schwab, FAICP, and David Morley, AICP, Editors; Julie Von Bergen, Senior Editor.

Missing and damaged print issues: Contact Customer Service, American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601 (312-431-9100 or customerservice@planning.org) within 90 days of the publication date. Include the name of the publication, year, volume and issue number or month, and your name, mailing address, and membership number if applicable.

Copyright ©2017 by the American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601-5927. The American Planning Association also has offices at 1030 15th St., NW, Suite 750 West, Washington, DC 20005-1503; planning.org.

All rights reserved. No part of this publication may be reproduced or utilized in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without permission in writing from the American Planning Association.

Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

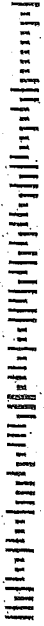
## REFERENCES

- Albuquerque Bernalillo County [New Mexico] Water Utility Authority (ABCWUA). 2016. *Water 2120: Securing Our Water Future*. Available at [tinyurl.com/jt7782f](http://tinyurl.com/jt7782f).
- Blanchard, Jennie Nolon, and John R. Nolon. 2013. *Neighborhood Development Floating Zone*. White Plains, New York: Land Use Law Center at Pace Law School and U.S. Green Building Council. Available at [tinyurl.com/ht99j9r](http://tinyurl.com/ht99j9r).
- Boston (Massachusetts), City of. 2013. *Boston Complete Streets: Design Guidelines*. Available at [bostoncompletestreets.org](http://bostoncompletestreets.org).
- Byrne, J. Peter. 2012. "The Cathedral Engulfed: Sea-Level Rise, Property Rights, and Time." *Louisiana Law Review*, 73: 69–118.
- Chicago (Illinois), City of. 2008. "Adaptation." In *Chicago Climate Action Plan*. Available at [chicagoclimateaction.org/pages/adaptation/49.php](http://chicagoclimateaction.org/pages/adaptation/49.php).
- Douglas (Colorado), County of. 2014. *2035 Comprehensive Master Plan*. Available at [douglas.co.us/land/comprehensive-master-plan](http://douglas.co.us/land/comprehensive-master-plan).
- Elliot, Don. 2009. "Towards Dynamic Zoning." *Planetizen*, February 9. Available at [planetizen.com/node/36937](http://planetizen.com/node/36937).
- U.S. Environmental Protection Agency (U.S. EPA). 2006. *Growing Toward More Efficient Water Use: Linking Development, Infrastructure, and Drinking Water Policies*. Available at [epa.gov/smartgrowth/growing-toward-more-efficient-water-use](http://epa.gov/smartgrowth/growing-toward-more-efficient-water-use).
- Feldman, David, et al. 2015. *Shared Solar: Current Landscape, Market Potential, and the Impact of Federal Securities Regulation*. Golden, Colorado: National Renewable Energy Laboratory. Available at [nrel.gov/docs/fy15osti/63892.pdf](http://nrel.gov/docs/fy15osti/63892.pdf).
- Florida Department of Community Affairs and Florida Division of Emergency Management, State of. 2010. *Post-Disaster Redevelopment Planning: A Guide for Florida Communities*. Available at [tinyurl.com/hrxfct](http://tinyurl.com/hrxfct).
- Hois, Emily. 2015. "Fort Collins Residents Help City Reach Climate Targets While Saving on Electricity." *Clean Energy Collective*, July 24. Available at [tinyurl.com/zh3203k](http://tinyurl.com/zh3203k).
- King (Washington), County of. 2016. "Shoreline Management in King County, Washington." Available at [kingcounty.gov/environment/water-and-land/shorelines.aspx](http://kingcounty.gov/environment/water-and-land/shorelines.aspx).
- Morley, David, ed. 2014. *Planning for Solar Energy*. PAS Report No. 575. Chicago: American Planning Association. Available at [planning.org/pas/reports/archive.htm](http://planning.org/pas/reports/archive.htm).
- National Working Waterfront Network. 2015. "Case Study: Portland, Maine: Balancing Maritime Uses and Waterfront Diversification Through Municipal Zoning." Available at [tinyurl.com/h54sbd9](http://tinyurl.com/h54sbd9).
- New York (New York), City of. 2013. "Flood Resilience Text Amendment." Available at [tinyurl.com/jokdnlv](http://tinyurl.com/jokdnlv).
- New York (New York) Planning, City of (NYC Planning). 2013. "Designing for Flood Risk: Urban Design Principles." Available at [tinyurl.com/zflqck7](http://tinyurl.com/zflqck7).
- Rockingham [New Hampshire] Planning Commission. 2015. *Town of Seabrook, New Hampshire: Vulnerability Assessment Report of Sea-Level Rise and Coastal Storm Surge Flooding*. Available at [tinyurl.com/j8tdqrt](http://tinyurl.com/j8tdqrt).
- Sarofim, M.C., S. Saha, M.D. Hawkins, D.M. Mills, J. Hess, R. Horton, P. Kinney, J. Schwartz, and A. St. Juliana. 2016. "Chapter 2: Temperature-Related Death and Illness." In *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*. Washington, D.C.: U.S. Global Change Research Program. Available at [dx.doi.org/10.7930/joMG7MDX](http://dx.doi.org/10.7930/joMG7MDX).
- Southeast Florida Regional Climate Change Compact (SFRCCC). 2012. *A Region Responds to a Changing Climate*. Available at [tinyurl.com/jkev6eff](http://tinyurl.com/jkev6eff).
- Syphard, A.D., J.E. Keeley, A.B. Massada, T.J. Brennan, and V.C. Radeloff. 2012. "Housing Arrangement and Location Determine the Likelihood of Housing Loss Due to Wildfire." *PLoS ONE*, 7(3): e33954. Available at [tinyurl.com/htg5d6y](http://tinyurl.com/htg5d6y).
- Tucson (Arizona), City of. 2008. Ordinance No. 10597. Available at [tinyurl.com/ztyetxs](http://tinyurl.com/ztyetxs).
- Tucson (Arizona) Water, City of. 2015. "Water Conservation Program: FY 2014-15 Annual Report." Available at [tucsonaz.gov/files/water/docs/FY14-15\\_Report\\_Final\\_Condensed.pdf](http://tucsonaz.gov/files/water/docs/FY14-15_Report_Final_Condensed.pdf).
- Glenview (Illinois), Village of. n.d. *Parking Lot Landscaping Ordinance and Design Guidelines*. Available at [glenview.il.us/government/Documents/Parking\\_Lot\\_Landscaping.pdf](http://glenview.il.us/government/Documents/Parking_Lot_Landscaping.pdf).
- Washington, D.C., Department of Energy and the Environment. 2016. "DOEE Announces \$12,750,000 for Innovative program to Incentivize Cost-Effective Green Infrastructure." Press release, May 10. Available at [doee.dc.gov/node/1160582](http://doee.dc.gov/node/1160582).
- Watts to Water. 2016. "What Do I Get?" Available at [wattstowater.org/what-do-i-get.php](http://wattstowater.org/what-do-i-get.php).
- Young, Rachel, and Eric Mackres. 2013. *Tackling the Nexus: Exemplary Programs That Save Both Energy and Water*. Washington, D.C.: American Council for an Energy Efficient Economy and Alliance for Water Efficiency. Available at [tinyurl.com/zg29bhe](http://tinyurl.com/zg29bhe).

NON-PROFIT ORG  
U.S. POSTAGE  
PAID  
APPLETON, WI  
PERMIT NO. 39

**ZONING PRACTICE**  
AMERICAN PLANNING ASSOCIATION

205 N. Michigan Ave.  
Suite 1200  
Chicago, IL 60601-592



\*\*\*\*\*AUTO\*\*ALL FOR ADC 553  
TIM GLADHILL  
CITY OF RAMSEY  
7550 SUNWOOD DR NW  
RAMSEY MN 55303-5137

503  
36-1



RECEIVED  
FEB - 9 2017

IS YOUR ZONING READY FOR A  
CHANGING CLIMATE?

2