City of Ramsey
Agenda
Regular Planning Commission
Thursday, March 1, 2018
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 1, 2018 Planning Commission Meeting Minutes

5. Public Hearing

1. PUBLIC HEARING: Request for a Conditional Use Permit to Allow Motor Vehicle Sales at 6750 Highway 10 NW (Project No. 18-102); Case of 22 Properties

6. Commission Business

1. Review Concept Plan for Sharp Office/Warehouse Building at 6950 Basalt St NW

2. Consider Sketh Plan for Centra Homes (Project #17-162); Case of Centra Homes

3. Review Resubmitted Concept of Shade Tree Cottages; Case of Shade Tree Communities

7. Comprehensive Plan Update Items

8. Commission/Staff Input

1. Zoning Bulletins

9. Adjournment

Regular Planning Commission **4. 1.**

Meeting Date: 03/01/2018

By: JoAnn Shaw, Community Development

Information

Title:

Approve the February 1, 2018 Planning Commission Meeting Minutes

Purpose/Background:

N/A

Notification:

Observations/Alternatives:

Funding Source:

Recommendation:

Action:

Attachments

Meeting Minutes

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	02/22/2018 09:52 AM
Form Started By: JoAnn Shaw		Started On: 02/21/2018 08:46 AM
Final Approval Date: 02/22/2018		

PLANNING COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA

The Ramsey Planning Commission conducted a regular meeting on Thursday, February 1, 2018, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:	Commissioner Bruce Anderson Commissioner Cheri Gengler Commissioner Patrick Surma Commissioner Gary VanScoy
Members Absent:	Chairperson Randy Bauer Commissioner Cindy Nosan
Also Present:	Community Development Director Timothy Gladhill City Planner Chris Anderson City Planner Chloe McGuire Brigl

1. CALL TO ORDER

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

2. CITIZEN INPUT

None.

3. APPROVAL OF AGENDA

Motion by Commissioner Anderson, seconded by Commissioner Gengler, to approve the agenda as presented.

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

4. APPROVE PLANNING COMMISSION MINUTES

4.01: Approve the Following Planning Commission Minutes:

4.01.1: Planning Commission Meeting Minutes Dated January 4, 2018

Vice Chairperson VanScoy noted a spelling correction within the minutes.

Motion by Commissioner Anderson, seconded by Commissioner Surma, to approve the following minutes as presented: Planning Commission Meeting Minutes dated January 4, 2018.

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

5. PUBLIC HEARINGS/COMMISSION BUSINESS

5.01: Public Hearing: Consider Sketch Plan and Zoning Amendment for a Proposed Lot Combination; Case of ACE Solid Waste, Inc.

Public Hearing

Vice Chairperson VanScoy called the public hearing to order at 7:02 p.m.

Presentation

City Planner Anderson presented the staff report stating the City has received an Application for a Sketch Plan and Zoning Amendment related to two parcels owned by ACE Solid Waste, Inc. The two properties include 6601 McKinley Street (ACE's headquarters) and 14050 Basalt Street (together referred to as the "Subject Properties"). While no site improvements are proposed at this time, ACE Solid Waste is anticipating a potential future expansion of their transfer station building, which would extend across an existing property boundary between the Subject Properties, and additional parking/storage area, prompting the requested actions. Staff provided further comment on the request and recommended approval of the proposed lot combination.

Citizen Input

Dave Wiggins, Division President for ACE Solid Waste, thanked the Commission for their consideration and stated the request would allow for future expansion at this location.

Vice Chairperson VanScoy questioned how the expansion site would be accessed.

Mr. Wiggins reported the site would be accessed from the northwest corner of the current site off of 141st Avenue.

Vice Chairperson VanScoy asked if staff had addressed access issues with the applicant.

City Planner Anderson reported this matter was discussed by the engineering department and there were no concerns.

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

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

Vice Chairperson VanScoy closed the public hearing closed at 7:09 p.m.

Commission Business

Motion by Commissioner Surma, seconded by Commissioner Gengler, to recommend that City Council adopt Ordinance #18-07 rezoning 14050 Basalt Street to E-2 Employment District.

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

5.02: Public Hearing: Consider Preliminary Plat and Variance Request for Rum River Prairie (Project #17-149); Case of Eric Thomsen

Public Hearing

Vice Chairperson VanScoy called the public hearing to order at 7:10 p.m.

Presentation

City Planner Anderson presented the staff report stating the purpose of this case is to review the Preliminary Plat for a proposed twenty-five (25) lot, detached single family residential subdivision located at the intersection of Armstrong Blvd and Tiger Street (PIDs 07-32-25-14-0001 and 07-32-25-13-0001, together, the "Subject Property"). The Subject Property is zoned R-1 Residential (Rural Developing) and the subject lots would be serviced by private well and septic services. Staff discussed the request in detail with the Commission and recommended approval of the Variance and Preliminary Plat.

Citizen Input

Vice Chairperson VanScoy asked if 169th was put in this neighborhood to be a through street to Tiger Street.

City Planner Anderson stated this was an interesting scenario as there was a sliver of land remaining that was still needed in order to complete the through street. He explained there was no dedicated easement or right-of-way over the unplatted sliver of land. He indicated this issue has been discussed with the developer and he was aware of this concern. He reported the adjacent property owner would be contacted to have a discussion with City staff.

Eric Thomsen, 6210 Green Valley Road, thanked the Commission for their consideration. He stated if a cul-de-sac were added, he would need another variance for lot sizes. While he was sympathetic to the through street situation, he stated this was a prior situation created by City.

Vice Chairperson VanScoy commented a cul-de-sac or a through street would improve this development. He questioned which outcome the applicant preferred.

Mr. Thomsen indicated he would like to see the development remain as is but noted he would be willing to work with the City if a cul-de-sac had to be added.

Commissioner Surma explained he supported the roadway remaining as is. He did not want to see the property rights of the adjacent property owners impacted given the fact this road only serviced one person.

Vice Chairperson VanScoy noted that this roadway serviced three homes.

Commissioner Anderson commended the applicant on his creative use of this space.

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

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

Vice Chairperson VanScoy closed the public hearing closed at 7:28 p.m.

Commission Business

Motion by Commissioner Anderson, seconded by Commissioner Surma, to adopt Resolution #18-022 approving a Variance to lot size for Rum River Prairie including the favorable Findings of Fact.

Further discussion

Vice Chairperson VanScoy offered a friendly amendment to the motion stating the roadway situation was not the result or action of the applicant, but rather this was a unique landlocked parcel.

Commissioner Anderson and Commissioner Surma accepted the friendly amendment.

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

Motion by Commissioner Anderson, seconded by Commissioner Surma, to recommend City Council adopt Resolution #18-023 approving the Preliminary Plat approval of Rum River Prairie.

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

5.03: Public Hearing: Consider Preliminary Plat of Affinity at Ramsey (Project No. 17-142); Case of Inland Group

Public Hearing

Vice Chairperson VanScoy called the public hearing to order at 7:32 p.m.

Presentation

Community Development Director Gladhill presented the staff report stating the purpose of this case is to review an application for preliminary plat and site plan approval of Affinity at Ramsey, a one hundred and seventy-five (175) unit apartment development on the property generally located at the southwest corner of Center Street and Ramsey Parkway. The Developer, Inland Group of Spokane, Washington, is focusing this development on ages 55+. The parcel is legally described as Outlot Q, Ramsey Town Center Addition, Anoka County, Minnesota. Staff provided further comment on the proposed project and recommended approval of the Preliminary Plat and Site Plan.

Citizen Input

Keith James, Inland Group, thanked the Commission for their time. He stated this was his fourth time before the Commission and indicated he was available to answer questions.

Commissioner Anderson stated he appreciated the fact the applicant had adopted the recommendations from the City Council. He commented he was very pleased with the proposed building.

Vice Chairperson VanScoy agreed and stated this was a great project to be coming to the City of Ramsey and The COR. He requested further information on the landscaping plan.

Mr. James commented on the landscaping plan and noted all trees and shrubs would meet the City's size requirements.

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

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

Vice Chairperson VanScoy closed the public hearing closed at 7:44 p.m.

Commission Business

Motion by Commissioner Surma, seconded by Commissioner Gengler, to recommend that City Council adopt Resolution #18-032 granting Preliminary Plat approval of Affinity at Ramsey and recommend adoption of Resolution #18-033 granting Site Plan approval of Affinity at Ramsey.

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

5.04: Public Hearing: Ordinance #18-001 Amending Lot Width Requirements for Cul-De-Sac lots in the R-1 Rural Developing District

Public Hearing

Vice Chairperson VanScoy called the public hearing to order at 7:46 p.m.

Presentation

City Planner Anderson presented the staff report stating the purpose of this case is for the Planning Commission to review and consider a proposed amendment to reduce the required lot width standards from 200 feet to 100 feet for lots zoned R-1 Rural Developing and located on a Cul-De-Sac. Staff discussed the proposed Ordinance in detail and noted a language change stating the lot width shall be 100 feet at the front yard setback.

Citizen Input

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

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

Vice Chairperson VanScoy closed the public hearing closed at 7:50 p.m.

Commission Business

Motion by Commissioner Anderson, seconded by Commissioner Gengler, to recommend the City Council adopt Ordinance #18-01 Amending the Lot Width Requirement for Cul-De-Sac lots in the R-1 Rural Developing District with the language as recommended by staff.

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

6. COMMISSION BUSINESS

6.01: Receive Update on Home Occupation at 5751 177th Avenue NW; Case of Tracer Landscaping LLC

Presentation

Community Development Director Gladhill presented the Staff Report stating the purpose of this case is to gather feedback from the Planning Commission as it relates to an existing home occupation located at 5751 177th Ave NW. The Applicant has not at this time submitted an official application for a home occupation permit as it is Staff's request that the Planning Commission consider the home occupation prior to a formal application being made.

Commission Business

Commissioner Anderson asked how staff defined home occupation.

Community Development Director Gladhill stated this was defined as any business or commercial activity that is conducted or petitioned to be conducted from the principle or accessory structure on the property that is zoned for residential use by persons residing on the property.

Travis Longfield, 5751 177th Avenue NW, stated he wanted to use his property as described in the letter he drafted to the City. He explained he did not want to make any of his neighbors angry and noted he has not heard any complaints from his neighbors. He indicated his equipment would be stored in the woods on his property. He reported three trucks left his property in the morning and returned in the evening.

Commissioner Anderson questioned if people at the residence were driving the vehicles.

Mr. Longfield stated this was the case.

Vice Chairperson VanScoy questioned where the gravel pad was located on the property.

Mr. Longfield noted the location of the gravel pad on his property and stated the gravel pad area would be removed.

Further discussion ensued regarding the proposed size of the accessory structure and City requirements regarding detached structures.

Vice Chairperson VanScoy asked if the applicant needed such a large accessory structure.

Mr. Longfield stated he did not want to have to construct a building twice.

Commissioner Anderson questioned when construction would begin on the accessory structure.

Mr. Longfield reported he would put footings in this spring.

Commissioner Anderson inquired what type of driveway Mr. Longfield would have.

Mr. Longfield indicated he would have a crushed concrete driveway.

Commissioner Surma asked if the applicant would be using his property to store large quantities of sand, gravel or black dirt.

Mr. Longfield stated this was not his intent, unless he would be working on landscaping for his own property.

Vice Chairperson VanScoy explained this was not a Public Hearing, but he wanted to open the meeting at this time for public comment.

Stephanie Trapp, 5829 177th Avenue NW, explained she has lived in her house with her family since 2005. She stated she has a long commute to work but considers her home to be her oasis. She indicated she appreciates the rural feel of her neighborhood and stated it was a great place for her to raise her two boys. She commented she has had amicable relations with her neighbors for the past 12 years and commented on how the neighborhood changed after September of 2016 when Travis Longfield moved onto the street. She discussed how the property at 5751 177th Avenue NW has changed since that time. She indicated she appreciated the improved landscaping but not the traffic being generated from the property. She described the numerous deliveries that have been made to the Longfield property over the past two years. She stated she has tried to be patient with her neighbor noting she understood he was working to improve his property. She commented that while the deliveries have ceased, the commercial vehicle traffic moving to and from the property has continued. She stated her main concerns with the home occupation was the noise and traffic being generated by the use as this was impacting the enjoyment of her property. She feared she would be prematurely be reassessed for a roadway given the high amount of heavy traffic going to and from Mr. Longfield's property. She respectfully requested the City take these concerns under advisement.

Dan Lenhard, attorney for Don and Jamie Kveton at 5750 177th Avenue NW, addressed the concerns being raised by his clients. He stated the Kveton's do not want to see this commercial operation continue in their neighborhood. He commented the loading and unloading of commercial vehicles in the morning and evening was disruptive to a residential neighborhood. He indicated the vehicles were impeding access through the cul-de-sac and at times his clients could not access their own driveway or mailbox. He reported Mr. Longfield has conducted open burning which was a concern to his clients. In addition, his clients have concerns regarding the aggressive driving, speed of commercial traffic, along with the wear and tear these commercial vehicles are having on the roadway. He noted Mr. Longfield's employees have thrown beer cans and made vulgar comments to his clients. He stated this type of behavior has to be curtailed.

Scott DeJares, 5910 177th Avenue NW, commented Mr. Longfield has employees coming to and from his property and noted they have not always lived at his house. He expressed concern with the amount of equipment going up and down his street.

Maria Gobernath, 5880 177th Avenue NW, stated she has the youngest child on the block, age four. She noted Travis Longfield has two young children. She expressed concern with letting her son play at the Longfield property given number of large vehicles coming and going from the property. She feared the roadway would prematurely need repairs given the high volume of commercial trucks. She explained she didn't have a problem with Travis or his family, but stated she did have concerns with the business operations.

Rob Shaneus, Attorney for Travis Longfield, addressed the Commission. He described how the neighborhood was structured and the lots were oriented. He reported the neighboring property was a working farm and had much of the same traffic the neighbors were concerned about. However, because this property was zoned agricultural, the traffic was allowed. He stated his client had no intention of parking trucks on the street long-term. He noted this was a short-term situation during construction on the property. He commented on his client's intention to store all company vehicles within an accessory structure which would be built on his property. He stated his client received a letter from the City identifying two options to bring the property into compliance and explained his client had chosen to build an accessory structure.

Mr. Longfield stated it was not his intention to drive recklessly down his street and explained he was unaware of any beer can throwing incident. He indicated he was not trying to make anybody mad. He noted he has allowed to have a fire on his property and explained he had all the necessary permits in place.

Commissioner Gengler asked if all employees would be living onsite during the 2018 landscaping season.

Mr. Longfield stated his plan was to have his employees staying on his property.

Vice Chairperson VanScoy commented traffic was a concern for him. He noted the applicant was allowed eight trips per day without becoming excessive. He understood that only six trips were being generated at this time. He encouraged employees to carpool into and out of the site in order to reduce the traffic to the property.

Community Development Director Gladhill recommended that the applicant pursue a home occupation through the conditional use permit process and that this not be approved by staff administratively given the complexity of the request and location of the employees. He anticipated the request would require conditions.

Vice Chairperson VanScoy and the entire Planning Commission supported this recommendation.

Mr. Shaneus expressed concern that a conditional use permit was being proposed when home occupations are entitled if an applicant complies with a list of conditions. He stated applicants have three options with home occupations, one being staff can approve home occupations administratively with conditions. He reported that only if an applicant does not comply with these conditions, is a conditional use permit required. He explained that his client has made every effort to comply with City Ordinance. He stated if Mr. Longfield installs a garage and

driveway as has been requested by the City, he would be in compliance with City Code and has eliminated all exterior evidence. Therefore, his client would not require a conditional use permit.

Vice Chairperson VanScoy stated this was not his understanding.

Community Development Director Gladhill commented he did not want to get into a long debate regarding this request. He stated there were a number of commercial vehicles being stored on this property. He recommended that City staff and the City attorney meet with the applicant in order to sift through the home occupation request further.

Mr. Shaneus stated he would be happy to work through this further with City staff and the City Attorney.

Community Development Director Gladhill stated until the City receives more information regarding Mr. Longfield's employees staff would continue to recommend a conditional use permit for this home occupation.

Commissioner Anderson encouraged Mr. Longfield to work with staff on this matter.

Vice Chairperson VanScoy encouraged Mr. Longfield to work with his neighbors in order to keep the peace on this street. He thanked everyone from this neighborhood for coming forward and expressing their concerns. It was his hope that all of the issues brought up would be addressed by staff and the applicant in the near future.

Vice Chairperson VanScoy recessed the meeting at 8:53 p.m.

Vice Chairperson VanScoy reconvened the meeting at 8:58 p.m.

6.02: Discussion Item: Auto Sales at 6750 Highway 10

Presentation

Community Development Director Gladhill presented the Staff Report stating the City has been approached by a party interested in conducting motor vehicle sales/service on the property located at 6750 Highway 10 NW (the "Subject Property"). The Subject Property is located in the B-2 Highway Business District and is approximately 1.32 acres. There are several interrelated questions regarding surfacing and the lawful, non-conforming designation that have come up that Staff wanted to review with the Planning Commission before providing direction to the prospective Applicant. A Conditional Use Permit shall be required for this use. The question at hand is to also allow the expansion of a lawful, non-conforming use (storage on an unimproved surface) to allow the storage of motor vehicles staged for service.

Commission Business

Commissioner Surma asked why staff wants to see the gravel area paved.

Community Development Director Gladhill stated the paved surface regulation was a zoning requirement for aesthetic and erosion control purposes.

Vice Chairperson VanScoy asked if the gravel area was fenced in.

Community Development Director Gladhill reported this was the case.

Commissioner Surma supported the gravel area remaining as is.

Steve Fisher, 10766 Dunkirk Lane, explained his client was in the due diligence phase for this property. He reported his client currently leases space and was looking to purchase.

Dave Evenson, 7867 Park Court NE, stated has owned a business in Ramsey for the past 10 years and it was his dream to own his own property. He commented further on the auto detailing and auto sales business he owns and noted one of his main clients was Luther Automotive. He explained he would be able to grow his business through retail sales and higher visibility along Highway 10.

Vice Chairperson VanScoy questioned why the applicant was requesting to keep the gravel area.

Mr. Evenson stated this was a cost issue for him.

Commissioner Gengler asked how tall the fence was.

Mr. Evenson estimated the fence was eight feet in height. He noted the fence could not be seen through.

Vice Chairperson VanScoy questioned how many cars would be moved in and out of the site per day.

Mr. Evenson anticipated he would be moving eight to ten vehicles in and out of the site per day.

Vice Chairperson VanScoy stated his only concern is with moving that number of vehicles in and out of the property constantly on an unimproved surface, the gravel would be damaged.

Commissioner Anderson asked if boats and trailers would be sold on this property.

Mr. Evenson commented this was not the type of work he would do. He explained the Sunwater Sports business would be going away.

Commissioner Anderson indicated he did not want to see any additional used car lots in the City. In addition, he supported the entire gravel area being paved. He stated he wanted Ramsey to look nice and this property had to be brought into compliance with City Code.

Community Development Director Gladhill commented the utilization of the area in the back was a concern without paving the site. If motor vehicle sales could be conducted on the already paved surface, this would not be a concern.

Vice Chairperson VanScoy questioned if a phased approach could be taken regarding the paving.

Mr. Evenson stated his main concern at this time was the expense. He appreciated how staff approached this issue and commented he was still considering if this property would work for his business. Further discussion ensued regarding the boat storage activity that was occurring on this property currently. He explained he would be greatly improving the outdoor storage situation if he were able to purchase the property.

Vice Chairperson VanScoy supported a phased approach for this property.

Community Development Director Gladhill commented staff was willing to work with the applicant on a phased approach.

Vice Chairperson VanScoy asked if the applicant could support a phased approach.

Mr. Evenson stated he was uncertain at this time.

Community Development Director Gladhill suggested cost estimates be provided by City staff and that negotiations be held between staff and the applicant. The Planning Commission encouraged the applicant to work with staff.

Commissioner Surma anticipated that if the gravel area was paved the property value would be greatly enhanced.

6.03: Discussion Item: Oversized Signage in the COR

Presentation

City Planner Brigl presented the Staff Report stating members of the City Council and public wanted to visit the topic of over-sized signage in the COR to potentially develop City standards in-line with the mission of the COR. It was noted this was a discussion topic only.

Commission Business

Commissioner Anderson stated he would need more context in order to provide staff with feedback. He commented he could not support a 75-foot sign in the COR as this would be out of place.

Community Development Director Gladhill reviewed a zoning map for the properties along Highway 10. He requested feedback on the Commission's level of comfort for sign height in this particular area. He reported the common sign height request was 75 feet.

Commissioner Anderson commented he would be comfortable with a 75-foot-tall sign in this particular zone so long as there was not an abundance. He noted he liked the idea of collocating signs.

Commissioner Surma believed that the zoning area along Highway 10 was too wide and should be narrowed.

Vice Chairperson VanScoy agreed.

Community Development Director Gladhill suggested the area be shrunk to include the area inside of Sunwood Drive and Riverdale Drive.

The Commission supported this recommendation.

Vice Chairperson VanScoy stated he could support staff approving a 75-foot-high sign request inside of Sunwood Drive and Riverdale Drive and anything beyond this area should be reviewed by the Planning Commission.

Commissioner Surma stated he would like to see the City consider wayfinding signs for the COR.

Vice Chairperson VanScoy stated he did not want to see a forest of 75-foot signs along Highway 10.

Community Development Director Gladhill reported staff would work to further refine the zone in order to narrow the corridor and would report back to the Commission at a future meeting.

6.04: Select Winning 2017 Photo – 'Life in Ramsey'

Presentation

Community Development Director Gladhill presented the Staff Report stating as a member of a City of Ramsey board/commission, the Commission was invited to participate in the voting process for the 2017 photo contest. The photo contest was implemented to gather photos to supplement the City's Comprehensive Plan and the Parks System Plan, as well as City publications. Staff reviewed the photo contest categories and winning photos with the Commission.

Commission Business

Vice Chairperson VanScoy asked if the Commission could get access to the photos.

Community Development Director Gladhill stated he could provide the Commission with access to the photos.

7. COMPREHENSIVE PLAN UPDATE ITEMS

None.

8. COMMISSION / STAFF INPUT

8.01: Receive Staff Update

The Staff Update was noted.

8.02: Zoning Bulletins

Zoning Bulletins were noted.

9. ADJOURNMENT

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

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

The regular meeting of the Planning Commission adjourned at 9:44 p.m.

Respectfully submitted,

_____
Tim Gladhill
Community Development Director

ATTEST:

_____
JoAnn Shaw
Planning Division Secretary

Drafted by Heidi Guenther
TimeSaver Off Site Secretarial, Inc.

Regular Planning Commission **5. 1.**

Meeting Date: 03/01/2018

Submitted For: Chloe McGuire Brigl, Community Development

By: Chloe McGuire Brigl, Community Development

Information

Title:

PUBLIC HEARING: Request for a Conditional Use Permit to Allow Motor Vehicle Sales at 6750 Highway 10 NW (Project No. 18-102); Case of 22 Properties

Purpose/Background:

22 Properties (the "Applicant") has submitted an application for a Conditional Use Permit at 6750 Highway 10 NW (the "Subject Property") to allow automobile sales and detailing. The Applicant is proposing to store, display, sell, and wash/detail vehicles. The Subject Property is currently used for boat sales by Son Watersports.

Notification:

City Staff attempted to notify all property owners within 350 feet of the Subject Property of the request via U.S. mail and published a notice of public hearing in the Anoka Union Herald, the City's official newspaper.

Observations/Alternatives:

The Applicant has submitted an application for a Conditional Use Permit to allow automobile sales and automobile detailing at 6750 Highway 10 NW (Lot 2 Block 1 of Riverside West), where Son Watersports currently does business. The Applicant is proposing displaying vehicles for sale, washing and detailing vehicles, and storing vehicles outside that are waiting to be washed and detailed. The Subject Property is within the B-2 Highway Business District. This district allows for motor vehicle sales and repair with the issuance of a Conditional Use Permit.

Staff was unable to find record of a previous conditional use permit for the Subject Property.

The Planning Commission was previously introduced to this topic on February 1st, 2018 via request of the Applicant to discuss potential alternatives to paving the unimproved surfaces. Planning Commission was generally supportive of the new business but Staff heard varying opinions on the topic of paving the unimproved surface.

After discussions with the Planning Commission, the Applicant has proposed to pave a section of the unimproved surface immediately, and phase in the paving of the front section of the parking lot. The Applicant is proposing to utilize the unimproved section for storage of un-detailed cars. The Applicant has provided paving estimates, shown in an attachment. The 14,300 square foot front section would cost approximately $52,000. The 6,500 square foot section would cost approximately $25,000.

Staff generally supports the Conditional Use Permit. However, Staff believes it should be contingent upon bringing the Subject Property into compliance with current zoning standards, which require paving of the parking lot. Staff believes the entire surface should be paved, in order to prevent future code compliance issues and in order to improve the image of Highway 10 as directed by the City Council. Additionally, Staff notes that previous applicants have had to bring properties into compliance with current standards in order to expand or amend conditional use permits.

In 1990, a previous site plan review was granted on the condition of providing a bituminous driveway and parking area. This is shown in an attachment. Please note the attachment address is for 6750 Ramsey Blvd, Lot 2 Block 1 Riverside West, the same property as the Subject Property.

Additionally, the fence on the property is within the right-of-way. The encroachment of the fence into the public road right-of-way must be corrected. Furthermore, City Code requires a twenty (20) foot wide green space adjacent to public roads and any paving must comply with this standard. It is also noted that there have been issues with the water main onsite in the past. It is something that should be addressed prior to any paving occurring and Engineering Staff will discuss this matter with the Applicant.

Alternatives

Alternative 1: Recommend approval of Resolution #18-045 granting a Conditional Use Permit to allow motor vehicle sales and detailing on the Subject Property contingent on the Applicant bringing the property into compliance with the terms of the Zoning Code. Staff would support this alternative.

Alternative 2: Recommend approval of Resolution #18-045 granting a Conditional Use Permit to allow motor vehicle sales and detailing on the Subject Property with a portion of the site paved, as shown in the proposed paving map. The full site would need to be paved by 2022. Staff is open to this alternative but prefers Alternative 1.

Alternative 3: Recommend denial of Resolution #18-045. This would prohibit the use of the property for motor vehicle sales. There is sufficient room on the Subject Property to accommodate motor vehicle sales and detailing. Again, as long as the Applicant brings the Subject Property into compliance with the terms of the Zoning Code, Staff would not support this alternative.

The Planning Commission can also request additional information before making a decision, which would require postponing action on the case. Current site plans are simply hand drawn. The Planning Commission could request a more detailed site plan. Staff does not necessarily believe this is necessary, as it will be a requirement of final administrative/permit approval. Staff supports a policy decision on the overall approach before more detailed and costly plans are prepared.

Funding Source:

The Applicant is responsible for all costs associated with this request.

Recommendation:

Staff recommends approval of the Conditional Use Permit contingent upon the Applicant bringing the property into compliance with the terms of the Zoning Code.

Action:

Motion to recommend City Council adopt Resolution #18-045 approving a Conditional Use Permit, contingent upon bringing the Subject Property into compliance with the Zoning Code.

Attachments

Site Location Map
Previous Site Plan Review
Site Plan
Paving Map
Paving Estimates
Resolution #18-045: DRAFT Conditonal Use Permit

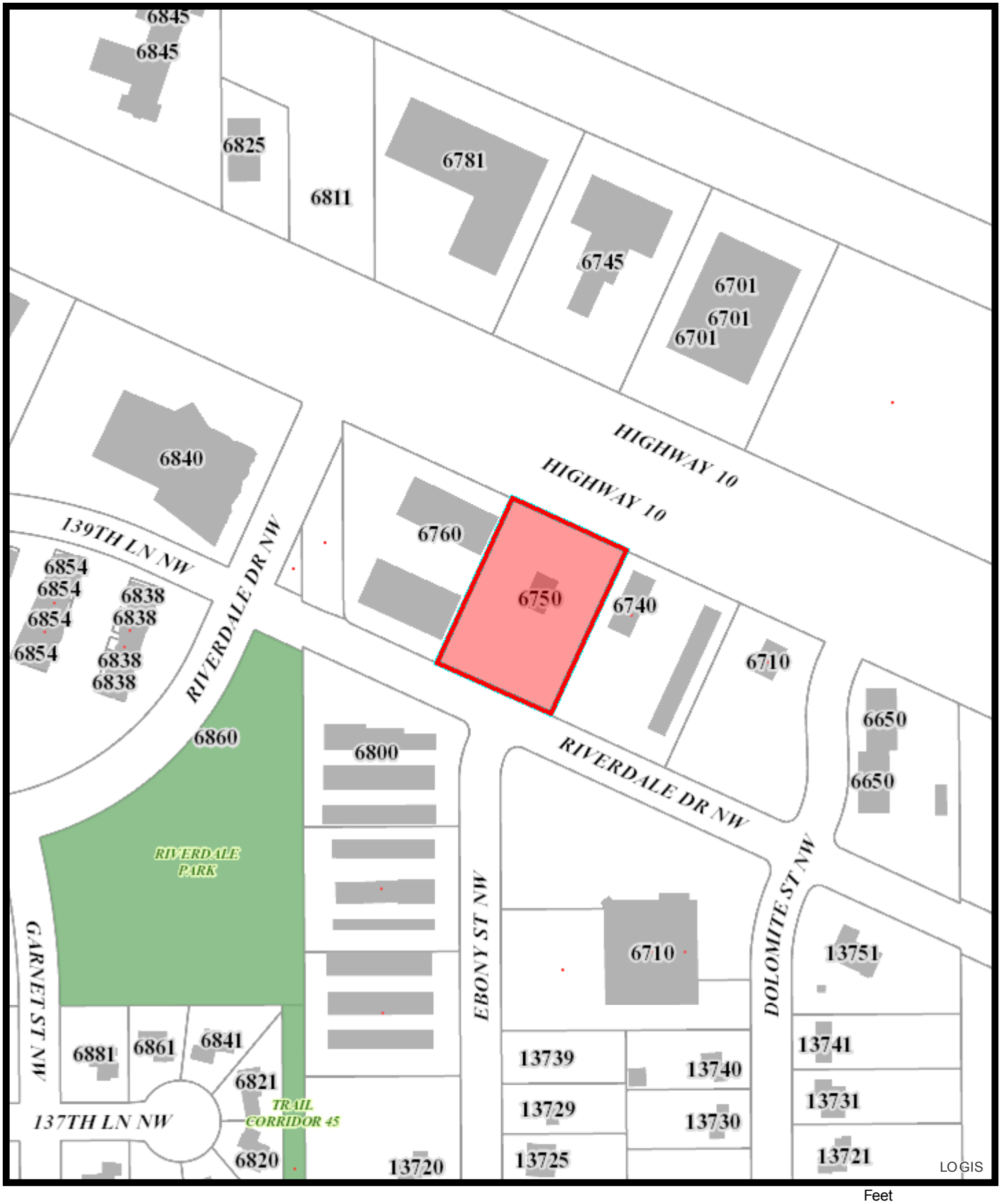
Form Review

Inbox	Reviewed By	Date
Chris Anderson	Chris Anderson	02/21/2018 12:42 PM
Tim Gladhill	Tim Gladhill	02/23/2018 09:50 AM

Form Started By: Chloe McGuire Brigl Started On: 02/14/2018 01:49 PM
Final Approval Date: 02/23/2018

34-32-25-13-0003
6750 HIGHWAY 10 NW

Site Location Map



Feet
0 50 100 200 300 400

Print Date: January 26, 2018

CITY OF RAMSEY

DEVELOPMENT PERMIT
TO
MAD MAC'S AUTO SALES, INC.

On June 26, 1990, Site Plan approval was granted by the City of Ramsey ("City") to MAD MAC'S AUTO SALES, INC., a Minnesota corporation, 6750 Riverdale Drive NW, Ramsey, Minnesota ("Permittee") to construct a 1,440 square foot building ("Structure") on the property, which is legally described as follows:

Lot 2, Block 1, RIVERSIDE WEST ADDITION, Anoka County, Minnesota

PIN: 34-32-25-13-0003

("Subject Property")

This approval is issued pursuant to Section 170.016F of the Ramsey City Code. The conditions of this approval are as follows:

1. The Structure shall be constructed as shown on the plans submitted to and approved by the City's Building Official. Approval is given for a colored rock face concrete block building. All building plans must be prepared and certified by a registered engineer or architect.

2. The Structure shall be constructed in accordance with the requirements of the State Building Code.

3. The Structure shall be sited on the Subject Property as shown on the Site Plan submitted by Permittee, which Plan is attached hereto as Exhibit "A", which Site Plan is dated June 15, 1990, and is drawn by Graphics Design Architects and consists of three (3) sheets.

4. Permittee will construct and install Site Improvements on the Subject Property in accordance with the specifications and location as shown on Exhibit "A". The Improvements are as follows:

   a. Concrete Curb consisting of B612 around parking lot perimeter and driveway;
   b. Bituminous parking lot and driveway;
   c. Class V installation;
   d. Site Grading;
   e. Rip Rap;
   f. Seeding; and
   g. Refuse container and enclosure enclosed and screened from public street.

5. In order to insure the installation of the Improvements in accordance with City specification and in a timely manner, the Permittee shall be required to deposit with the City a cash escrow or letter of credit approved by the City, in the amount of $33,750.00 which amount is 150% of the City's estimated cost of the Improvements. The Improvements required shall be constructed and installed on or before October 31, 1991.

   Upon completion of the installation and construction of the Improvements, as certified by the City Engineer, the escrow shall be returned to Permittee. In the event Permittee fails to construct and install the Improvements as required herein, the City may complete the

Improvements with City day labor and/or by letting contracts for said completion and draw upon the escrow for payment. Permittee hereby grants permission and a license to the City and/or its contractors and assigns to enter upon the Subject Property for the purpose of completing the construction and installation of the Improvements in the event of Permittee's default.

6. All site grading, drainage, landscaping and pavement required by this permit shall be subject to approval by the City Engineer. Plans as required by Section 170.016F of the City Code, shall be submitted to the City Engineer and approved prior to issuance of the Building Permit for the Structure.

7. The Permittee will cause the structure to be connected prior to occupancy to those municipal utilities which are presently available to the Subject Property.

8. The Permittee shall provide fourteen (14) bituminous surfaced parking spaces on the Site for employee parking. In addition, one customer parking space for each 10 automobiles displayed on the Site. The parking lot and driveway shall be constructed with 6 inches of class 5 gravel base and 3 inches of blacktop.

9. Lighting installed on the Structure or in the parking lot shall be designed so as to deflect light away from adjacent streets.

10. Drainage of the Site shall be away from the Structure and directed from the parking lot and into the county ditch along 138th Avenue NW and to Highway 10 respectively, as shown on Exhibit "A". Permittee shall install erosion control at the point where the parking lot drains into the ditch. A MN DOT Permit will be required for discharge to Highway 10.

11. Landscaping shall be installed as required by City Code. The landscaping shall consist of hardwood deciduous boulevard trees with approximate 35 foot to 40 foot spacing along 138th Avenue NW. Minimum diameter of the trees shall be 2 inches. The trees planted near the driveway must be at least 20 feet from any drive or street. All remaining areas shall be seeded, sodded or other ground cover established. Landscaping areas shall be maintained by Permittee. All landscaping shall be subject to the approval of the City Engineer.

12. The display area adjacent to Highway 10 will be set back at least 10 feet from the lot line which is the width of the utility easement.

MAD MAC'S AUTO SALES, INC., by its undersigned representative hereby acknowledges receipt of this permit and that it has reviewed the conditions of this permit and does agree that it will comply its terms.

MAD MAC'S AUTO SALES, INC.

By: George McMullen

Its Mad Mac Auto Sales

CITY OF RAMSEY

By: Gerry R Romano
Mayor

By: Jack R Hanley
City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On the 7th day of Nov. 1990, before me a Notary Public, personally appeared Gary R. Reimann and David Hartley, to me personally known, who, being each by me duly sworn did say that they are respectively the Mayor and City Administrator of the City of Ramsey, the municipal corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said municipal corporation, and the said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council and said Gary R. Reimann and David Hartley acknowledge said instrument to be the free act and deed of said municipal corporation.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

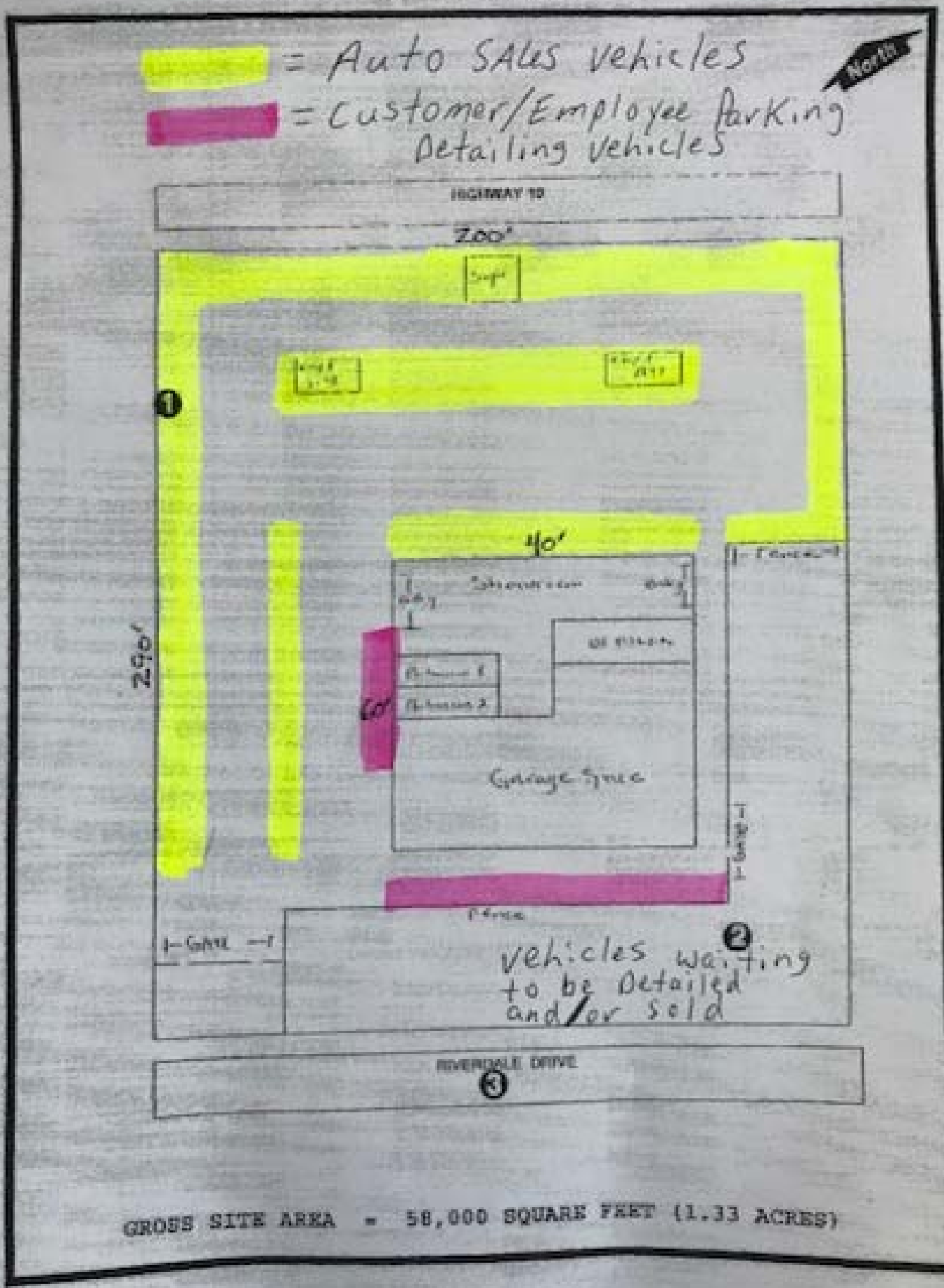
The following was acknowledged before me this 7th day of Nov., 1990, by George McNutt the President of MAD MAC'S AUTO SALES, INC., a corporation under the laws of the State of Minnesota, on behalf of the corporation.

JENEEN J. BOSKEY
NOTARY PUBLIC—MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES 7-18-94

Notary Public

22 Properties, LLC
6750 Hwy 10

SITE PLAN



GROSS SITE AREA = 58,000 SQUARE FEET (1.33 ACRES)

Anoka County, MN



6,500 $ @ $3.50/SF

14,300 SF @ $3.65/SF

PROPERTY ID	34-32-25-13-0003	Owner Address	6750 HWY 10 NW
ADDRESS	6750 HIGHWAY 10 NW	Owner City	RAMSEY
CITY	RAMSEY	Owner State	MN
STATE	MN	Owner Zip Code	55303
ZIP CODE	55303	SaleDate2	0
Owner	SON HOLDING COMPANY LLP		

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search,appraisal, survey, or for zoning verification.

Map Scale
1 inch = 50 feet
2/5/2018

ASPHALT & CONCRETE, INC.
10285 89th Ave. N • Maple Grove, MN 55369
Ph. (763) 424-9191 • Fax (763) 424-9190

Proposal # 2018-0279

Date: Tuesday, February 6, 2018

Submitted To:
Steve Fischer
Arrow Companies
7365 Kirkwood Court N.
Suite #335
Maple Grove, MN 55369
Contact Information:
Phone: (763) 424-6355
Mobile: (612) 619-9991
E-mail: sfischer@arrowcos.com

Site Description: # S123759
Commerical Building
6750 Highway 10
Ramsey, MN 55303

Site Contact:
Site Phone:
Site Email:

Prepared By:
David Johnson
Contact Information:
Mobile: 612-251-7360
Office: 763-424-9191
E-mail: davidj@aciasphalt.com
Project Manager:
Lucas Chapman
Mobile:

Qty	Proposed Service(s) & Description(s)	Depth
6,500 Sq. Ft.	**Construct New Parking Lot** **Service Description** *Salvage existing class-5 base (assuming 3 inches existing)* *Excavate area 6 additional inches and remove material.* *Reinstall salvaged class-5 and add 3 inches of new material, compact and grade.* *Pave 1.5 inch base course (MV3)* *Pave 1.5 inch wear course (MV4)*	$24,750.00
14,300 Sq. Ft.	**Construct New Parking Lot** **Service Description** *Salvage existing class-5 base (assuming 3 inches existing)* *Excavate area 6 additional inches and remove material.* *Reinstall salvaged class-5 and add 3 inches of new material, compact and grade.* *Pave 1.5 inch base course (MV3)* *Pave 1.5 inch wear course (MV4)*	$52,195.00

PAYMENT TERMS 0 Down, Balance Net 60 Project Total: **$76,945.00**

SERVICE TERMS Landscape restoration not included in scope of work unless specifically noted. ACI is not responsible for damage to irrigation systems when not properly marked by client. Customer will be notified when work is to be performed. It is the customer's responsibility to make sure the irrigation systems are shut off as to not cause damage to the work performed.

This proposal may be withdrawn at our option if not accepted within 7 days of Feb 6, 2018

Pavement Consultant David Johnson David Johnson

Accepted Authorized Signature _____

Professional People, Progressive Solutions
www.aciasphalt.com

Proposal # 2018-0279

TERMS, CONDITIONS & GUARANTEE

ACI Asphalt & Concrete, Inc.. hereafter referred to as "ACI"

Asphalt Guarantee

Fully covering labor, and materials against breakup for a period of year(s).

Any request made to "ACI" by the owner, general contractor or their respective authorized supervisory employees to overlook the standard practices and procedures previously stated in these conditions will automatically negate any guarantee of material or workmanship whether such guarantee is written, implied or orally stated. Asphalt is a machine laid surface which has seams that are sometimes noticeable. The surface texture of hand laid areas may not be uniform to machine laid areas, due to hand raking and hand compaction. Guarantee does not cover markings from sharp pointed objects, power steering created tire marks, or drippings from solvents and gas.

Sealcoat Guarantee

"ACI" will guarantee sealers(Asphalt emulsions and Blended sealers) from chipping and peeling for a period of 1 year. This guarantee does not include wearing of sealer and adherence of sealer to oil spots, hydraulic spots and tree sap. Guarantee does not cover damage caused by acts of third parties.

Concrete Guarantee

"ACI" will guarantee concrete against defective materials and workmanship for a period of 1 year. This guarantee does not include concrete cracking or surface deterioration of concrete due to salt use.

Guarantee & Service Exclusions (All exclusions apply to all above guarantees.)

Guarantee does not cover damage caused by acts of third parties. Guarantee does not cover heaving of asphalt or concrete, sub grade failure, settling or expansion cracks due to freeze thaw weather cycle, tree roots or any other acts of nature. "ACI" shall not be liable for water ponding or retention in surrounding areas of patching or new asphalt/concrete installation due to current grades or construction method chosen. "ACI" cannot guarantee drainage or against water ponding on new asphalt without adequate slope. In flat areas, water will not drain unless there is more than 1-1/2" of fall per 10 feet. "ACI shall not be held liable for damage to surrounding areas of driveway or parking lot due to poor sub grade, moisture or other unforeseen circumstance. "ACI" shall not be liable for damage to adjoining concrete flatwork by asphalt installation equipment during standard construction. "ACI" is not responsible for damage to irrigation or electrical systems that have been appropriately located by private or other authorized locating services.

Terms: Terms are as stated on sales proposal. You authorize "ACI" to perform a credit investigation and/or obtain credit report from credit reporting agencies. If payment is not made in accordance with the above terms, the customer agrees to pay any collection, legal fees and interest for any unpaid balances. Interest will accrue at a rate of .66% per month from the date of completion. Terms of guarantee are contingent upon receipt of final payment.

PRICE is based on specifications and estimates as shown on the "Proposal & Agreement". One mobilization charge is included in price, unless stated on the "Proposal & Agreement". Additional mobilization charges will be at the rate set forth in agreed upon change order which is made part and parcel of these conditions and "Proposal & Agreement". Field measurements may be made when the job is completed and any changes of specifications, areas, tonnage, or gallonages will correspondingly change the completed price.

ADDITIONAL CHARGES may incur if the project exceeds the specifications and estimates of the as shown on the "Proposal & Agreement", additional charges would be in accordance with the agreed upon change order which is made part and parcel of these conditions and "Proposal & Agreement". "ACI" reserves the right to refuse additional equipment time, extra materials or extra labor if it would interfere with advanced scheduling with other customers with whom previous commitments had been extended. Unless stated in the proposal, change orders will be required for permit(s), extra equipment time, extra materials, or extra labor necessary to complete the job. Any deviation from this proposal or extra work will be executed only upon owner or owner's agent orders and may become an extra charge over and above agreement. Subgrade is not up to acceptable specifications or requirements or if extra services and/or materials are requested in writing by the owner or general contractor of their respective authorized supervisory employees. Proposal excludes the following unless otherwise stated in the proposal: Permits, Excavation, Subgrade Prep, Staking, Material Testing, Sod Restoration & Landscaping, Manhole/Catch Basin/Gate Valve Adjustments or Repairs, Vegetation Removal, SAC/WAC Charges, Dewatering. Additional mobilizations or retention may be charged to customer if site is not free and clear for "ACI" to perform work as scheduled/agreed upon.

Conditions: The above prices, specifications and conditions are satisfactory and are hereby accepted. I, the property owner, am to carry fire, tornado and any other necessary insurance. You are contracted to do the work as specified and the stated payment terms are acceptable. All material is guaranteed to be as specified. All work is to be completed in accordance to standard construction practices. All agreements are contingent upon delays beyond our control.

Notice Of Lien: A) Any person or company supplying labor or materials for this improvement to your property may file a lien against your property if that person or company is not paid for the contributions. B) Under Minnesota Law, you may have the right to pay persons who supplied labor or materials for this improvement directly and deduct this amount from our contract price, or withhold the amounts due them from us until 120 days after completion of the improvement unless we give you a Lien Waiver signed by persons who supplied any Labor and Material for the improvement and who gave you timely notice.

Customer Initial _____ Date _____

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
ACI Asphalt & Concrete Inc

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:
☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☑ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶
Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)
10285 89th Ave N

Requester's name and address (optional)

6 City, state, and ZIP code
Maple Grove, MN 55369

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number
			–			–				

or

Employer identification number
4	1	–	1	7	6	5	9	1	7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here | **Signature of U.S. person ▶** Laura Bolson | **Date ▶** 3-15-17

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

Councilmember _____ introduced the following resolution and moved for its adoption:

RESOLUTION #18-045

A RESOLUTION APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT TO 22 PROPERTIES, LLC TO ALLOW MOTOR VEHICLE SALES IN THE B-2 HIGHWAY BUSINESS DISTRICT AND DECLARING TERMS OF SAME:

RECITALS

1. 22 Properties, LLC, hereinafter referred to as the "Permittee" has properly applied for a Conditional Use Permit to allow motor vehicle sales on the property generally known as 6750 Highway 10 NW and legally described as follows:

   Lot 2, Block 1 Riverside West, Anoka County, Minnesota

   ("Subject Property")

2. That the Permittee appeared before the Planning Commission for a public hearing pursuant to Section 117-51 (Conditional Use Permits) of the Ramsey City Code on March 1, 2018, and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

3. That the Subject Property is zoned B-2 Highway Business District and is approximately 1.32 acres in size.

4. That motor vehicle, implement, and recreation equipment sales and service is a conditional use in the B-2 Highway Business District.

5. That the Subject Property abuts Riverdale Drive NW to the south, Highway 10 to the north, and parcels to the east and west of the Subject Property are zoned B-2 Highway Business District.

6. That the Permittee has submitted a Site Plan to expand the paved area on the Subject Property to provide additional area to display motor vehicles for sale and motor vehicles onsite for detailing.

7. That Section 117-120 of the City Code requires all parking and pavement (including maneuvering, sales, and display areas), setback from street right-of-way at least twenty (20) feet.

8. That boat sales had been occurring on the Subject Property when City Code was amended to identify vehicle sales as a Conditional Use and was occurring on the Subject Property since that amendment.

9. That the Permittee has requested a Conditional Use Permit to allow for motor vehicle sales and detailing on the Subject Property.

10. That City Code Section 117-356 (Commercial and Industrial Development Off-Street Parking) requires one (1) dedicated customer parking space for every ten (10) vehicles displayed; three (3) dedicated customer parking spaces for each enclosed bay; and one (1) dedicated parking space for each full time employee.

11. That vehicles displayed for sale, and vehicles waiting to, or that have been detailed, shall be restricted to bituminous or concrete surfaces only.

12. That the Planning Commission met on March 1, 2018, conducted a public hearing and recommended City Council approval/denial of the request.

FINDINGS OF FACT

1. That motor vehicle sales and detailing will/will not be unduly dangerous or detrimental to persons residing or working in the vicinity of the use, or to the public welfar.

2. That motor vehicle sales and detailing will/will not substantially adversely impair the use, enjoyment or market value of any of the surrounding properties.

3. That the motor vehicle sales and detailing operation will/will not be maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will/will not change the essential character of the area.

4. That motor vehicle sales and detailing will/will not be hazardous to existing or future neighboring uses.

5. That motor vehicle sales and detailing will/will not impact essential public facilities and services, such as highways, streets, police and fire protection.

6. That motor vehicle sales and detailing will/will not create excessive additional requirements at public cost for public facilities and services and will/will not be detrimental to the economic welfare of the community.

7. That motor vehicle sales and detailing will/will not involve uses, activities and equipment that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

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

That the Ramsey City Council hereby grants approval of a Conditional Use Permit (the "Permit") for the expansion of a lawful nonconforming use and for motor vehicle sales on the Subject Property contingent upon the following conditions:

CONDITIONS

1. That this Permit allows for motor vehicle sales and detailing to occur on the Subject Property.

2. That the Permittee shall correct the existing fence encroachment into the public road right-of-way and ensure that the fencing is 100% on the Subject Property.

3. That the Permittee shall ensure that all parking and pavement onsite comply with Section 117-115 of the City Code requiring all parking and pavement (including maneuvering, sales, and display areas), setback from street right-of-way at least twenty (20) feet.

4. That the expansion of the paved area shall be in accordance with the plans prepared by 22 Properties, LLC, subject to review and approval by the City.

5. That motor vehicle sales and repairs shall only be conducted within the building located on the Subject Property.

6. That the Permittee shall maintain the Subject Property in compliance with City Code Section 117-356 (Commercial and Industrial Development Off-Street Parking) and Chapter 30 (Nuisances) at all times.

7. That there shall be no salvaging of parts from inoperable motor vehicles on site to be used to repair other motor vehicles.

8. That there shall be no outside storage of parts or cannibalized vehicles on the Subject Property.

9. That the Permittee shall obtain all necessary permits to complete any required building modifications.

10. That the Permittee shall obtain all necessary licenses to lawfully operate motor vehicle sales operations on the Subject Property.

11. That the Permittee shall stripe all required customer parking stalls and those stalls shall not be used for any use other than customer parking.

12. That the Permittee shall maintain all required drive aisle widths in accordance with City Code Section 117-356.

13. That this Permit shall be perpetual in duration as long as the terms are herein complied with.

14. That the Permittee shall be responsible for all City costs incurred in administering and enforcing this Permit.

15. That the City Administrator, or his/her designee, shall have the right to inspect the premises for compliance and safety purposes annually or at any time, upon reasonable request.

16. That this Permit shall automatically expire if the use is not initiated by March 13, 2019.

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 the _____ day of _____, 2018.

22 Properties, LLC hereby acknowledges receipt of this Permit and that they have reviewed the conditions of this Permit and have agreed that they will comply with the terms of this Permit.

By:_____ Its:_____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

On this _____ day of _____, ____, before me, a Notary Public, personally appeared _____, the _____ of 22 Properties, LLC, a Limited Liability Corporation (Domestic) under the laws of Minnesota, on behalf of the Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

_____
Notary Public

CITY OF RAMSEY:

By:_____ By:_____
Mayor City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this _____ day of _____, ____, before me a Notary Public personally appeared Sarah Strommen and Jo Ann M. Thieling, to me personally known, who, being each by me duly sworn, did say that they are respectively the Mayor and City Clerk of the City of Ramsey, the Municipal Corporation named in the foregoing instrument, and seal affixed to said instrument is the corporate seal of said Municipal corporation, and the said instrument was signed and sealed on behalf of said Municipal Corporation by authority of its City Council, and said Sarah Strommen and Jo Ann M. Thieling acknowledge said instrument to be the free act and deed of said Municipal Corporation.

_____
Notary Public

This document drafted by:
City of Ramsey
7550 Sunwood Dr NW
Ramsey, MN 55303

This document reviewed by:
Ratwik, Roszak & Maloney
730 Second Ave. S., Suite 300
Minneapolis, MN 55402

Regular Planning Commission **6. 1.**

Meeting Date: 03/01/2018
Submitted For: Chloe McGuire Brigl, Community Development
By: Chloe McGuire Brigl, Community Development

Information

Title:
Review Concept Plan for Sharp Office/Warehouse Building at 6950 Basalt St NW

Purpose/Background:
The attached concepts plans are offered by Sharp and Associates for informal review. Sharp is considering purchasing the parcel in reference from the City of Ramsey. The proposed concept is an industrial building including office and warehouse space for 5 tenants.

The site is vacant and zoned E-1 Employment District. Manufacturing, offices, warehousing and storage, research or testing labs, and truck terminals with buildings are all permitted uses in this district.

Plans are attached for your review.

Notification:
N/A.

Observations/Alternatives:

Funding Source:
This case is being handled as part of Staff's regular duties.

Recommendation:
N/A.

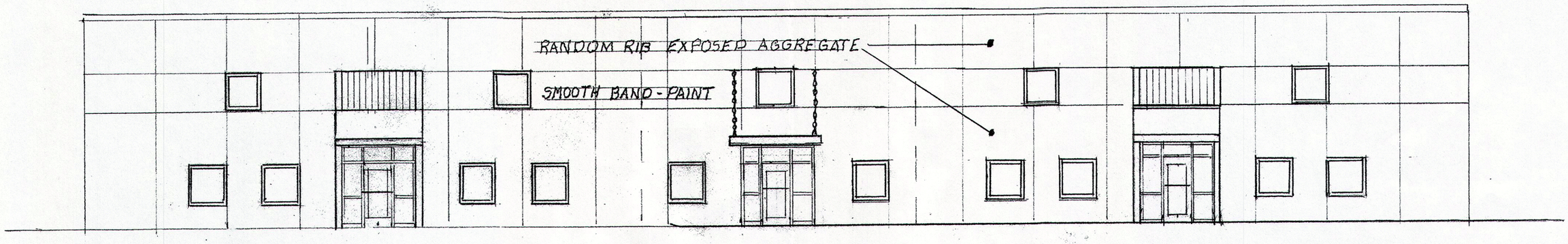
Action:
No formal action is required, Staff is looking for general discussion and feedback on this topic.

Attachments

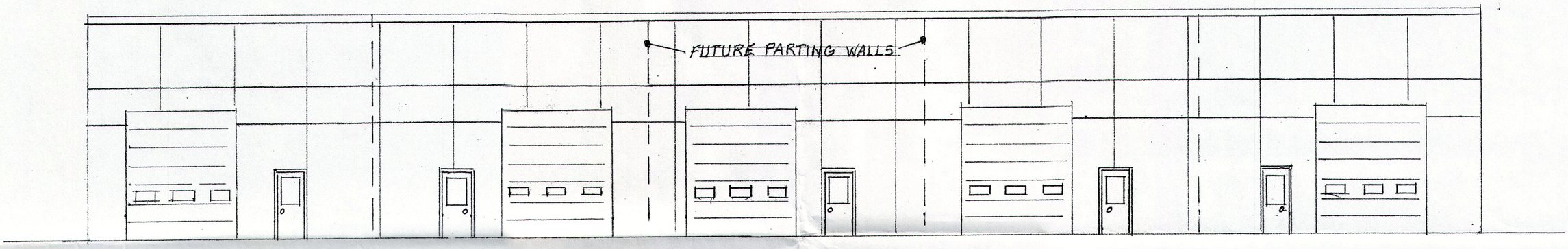
Elevations
Site Plan
Site Location Map

Form Review

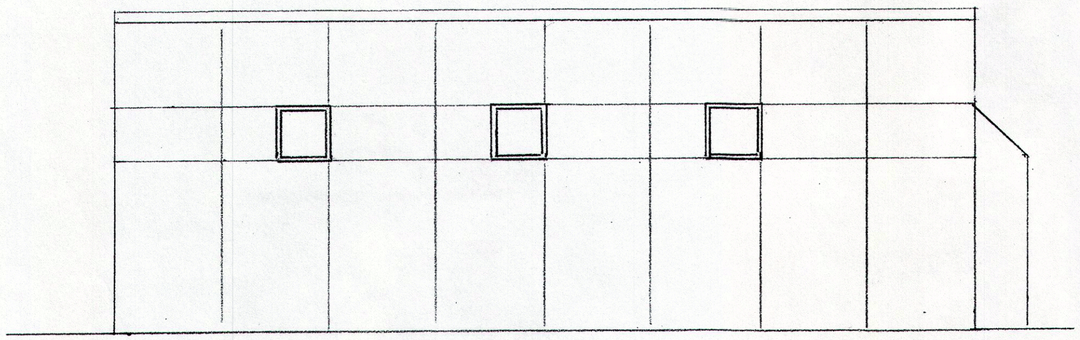
Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	02/21/2018 08:03 PM
Form Started By: Chloe McGuire Brigl		Started On: 02/20/2018 11:41 AM
Final Approval Date: 02/21/2018		



SOUTH ELEVATION



NORTH ELEVATION



WEST ELEVATION
(EAST ELV. SIMILAR)

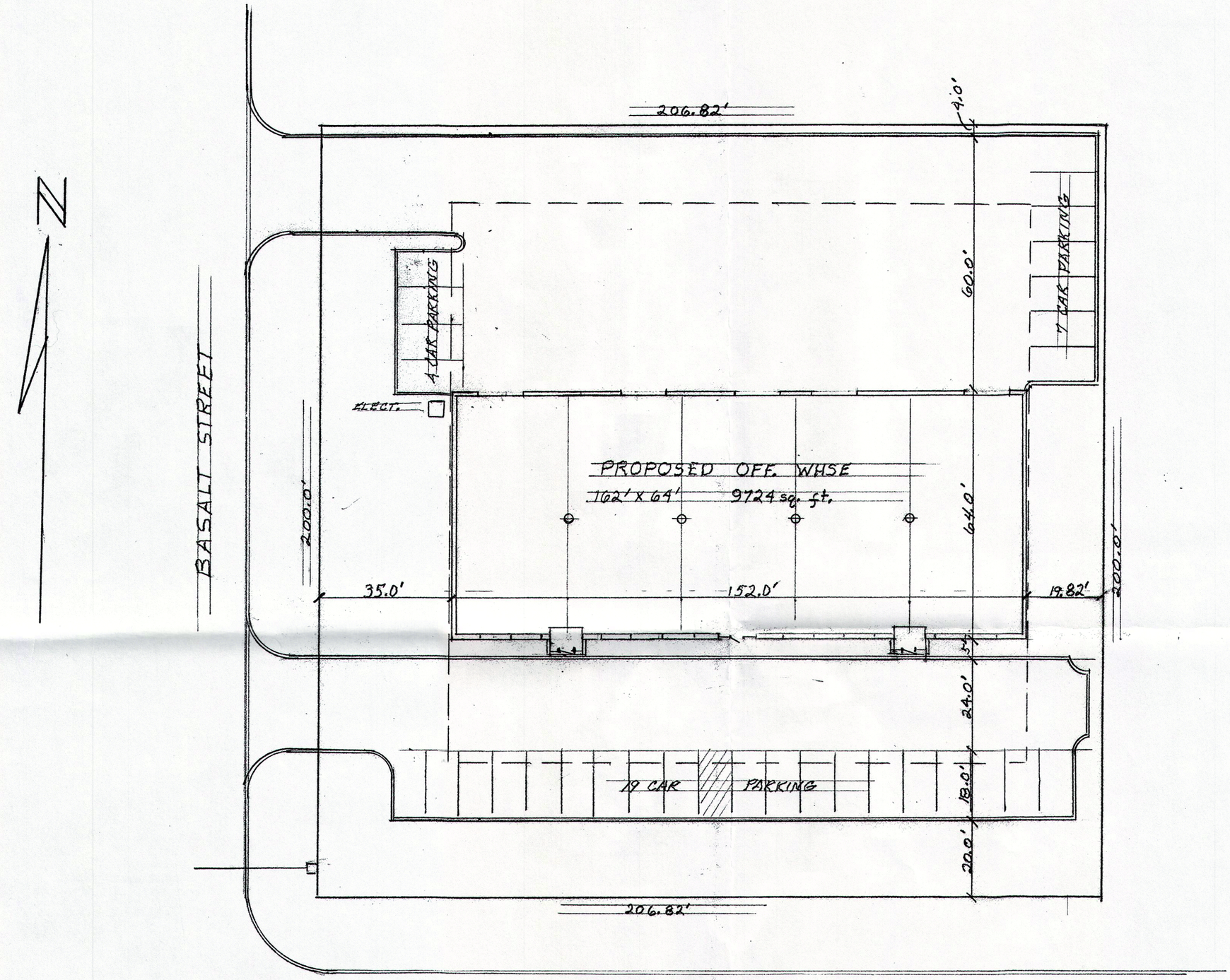
RECEIVED
FEB 05 2018
BY:

141st AVENUE OFFICE WAREHOUSE
RAMSEY MINN

SCALE:	APPROVED BY:	DRAWN BY
DATE:		REVISED

~~Contractor~~ SHARP & ASSOC 763-425-2002

ELEVATIONS — DRAWING NUMBER



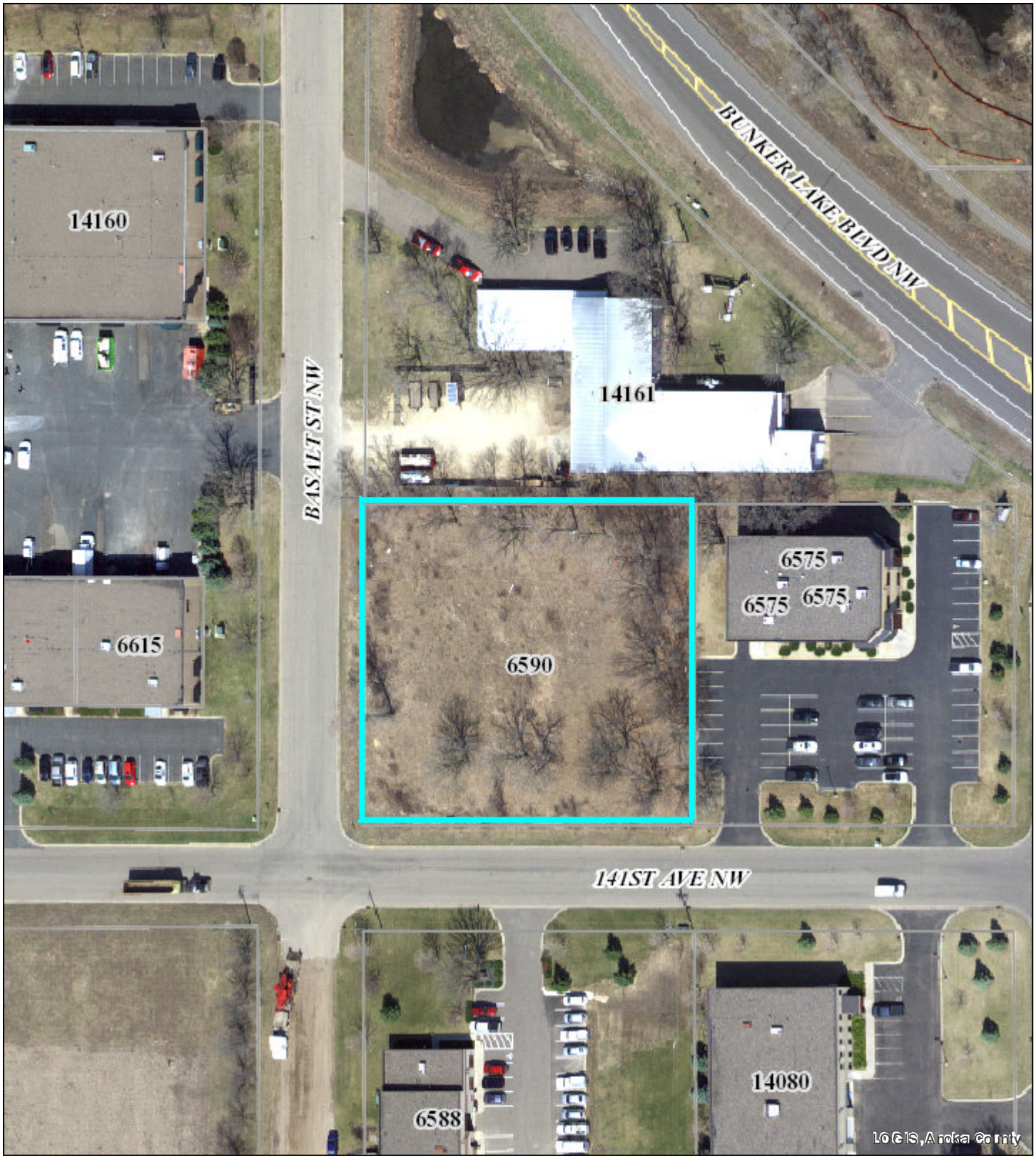
RECEIVED
FEB 05 2018
BY:

141st AVENUE OFFICE WAREHOUSE
RAMSEY, MINN

SCALE: 1"=20'-0"	APPROVED BY:	DRAWN BY
DATE: 2/2/2018		REVISED

Contractor SHARP & ASSOC 763-425-2002

SITE PLAN — DRAWING NUMBER



City of RAMSEY

Sharp and Associates

6590 141st Ave NW

6590 141ST AVE NW

27-32-25-44-0003

Legend

Site

Parcels

N

Print Date: February 7, 2018

0 155 310 Feet

Regular Planning Commission **6. 2.**

Meeting Date: 03/01/2018

Submitted For: Tim Gladhill, Community Development

By: Eric Maass, Community Development

Information

Title:

Consider Sketh Plan for Centra Homes (Project #17-162); Case of Centra Homes

Purpose/Background:

The purpose of this case is to provide the Planning Commission an opportunity to review the official sketch plan submitted by Centra Homes. The proposed residential development consists of forty (40) detached town home units located within The COR. The property consists of approximately 4.3 acres and is located at the southwest corner of Bunker Lake Blvd NW and Ramsey Blvd NW.

Notification:

Staff held a public workshop on 02/01/2018 for adjacent property owners to have an opportunity to voice opinions on three variations of the proposed development. Staff attempted to notify all Property Owners within 700 feet of the proposed development via Standard US Mail of the public workshop.

Observations/Alternatives:

Observations

The Sketch Plan presented to the City generally appears to adhere to the COR Development Guidelines for the 4B subdistrict. The Applicant will need to refine the proposal as directed in the staff review letter. Of particular interest are the proposed internal private roadways. The Sketch Plan shows a connection to the west with Peridot Street NW but does not show a connection being completed to Olivine Street NW. If possible, public safety would like to see a connection to Olivine Street NW be completed to promote connectivity.

City Staff held a public workshop on the proposed development which at the time consisted of three different concepts. Feedback from the general public has been included as an attachment to this case.

Funding Source:

All costs associated with the application are the responsibility of the Applicant. No City funds are proposed to be used in connection with the proposed project. The site is currently owned by the City of Ramsey, and is subject to a Purchase Agreement.

Recommendation:

Staff is supportive of the proposed development contingent upon compliance with the staff review letter.

Action:

No formal action is required at this time. The Planning Commission should provide general feedback on the proposed sketch plan and if generally supportive should direct the Applicant to move forward onto Preliminary Plat.

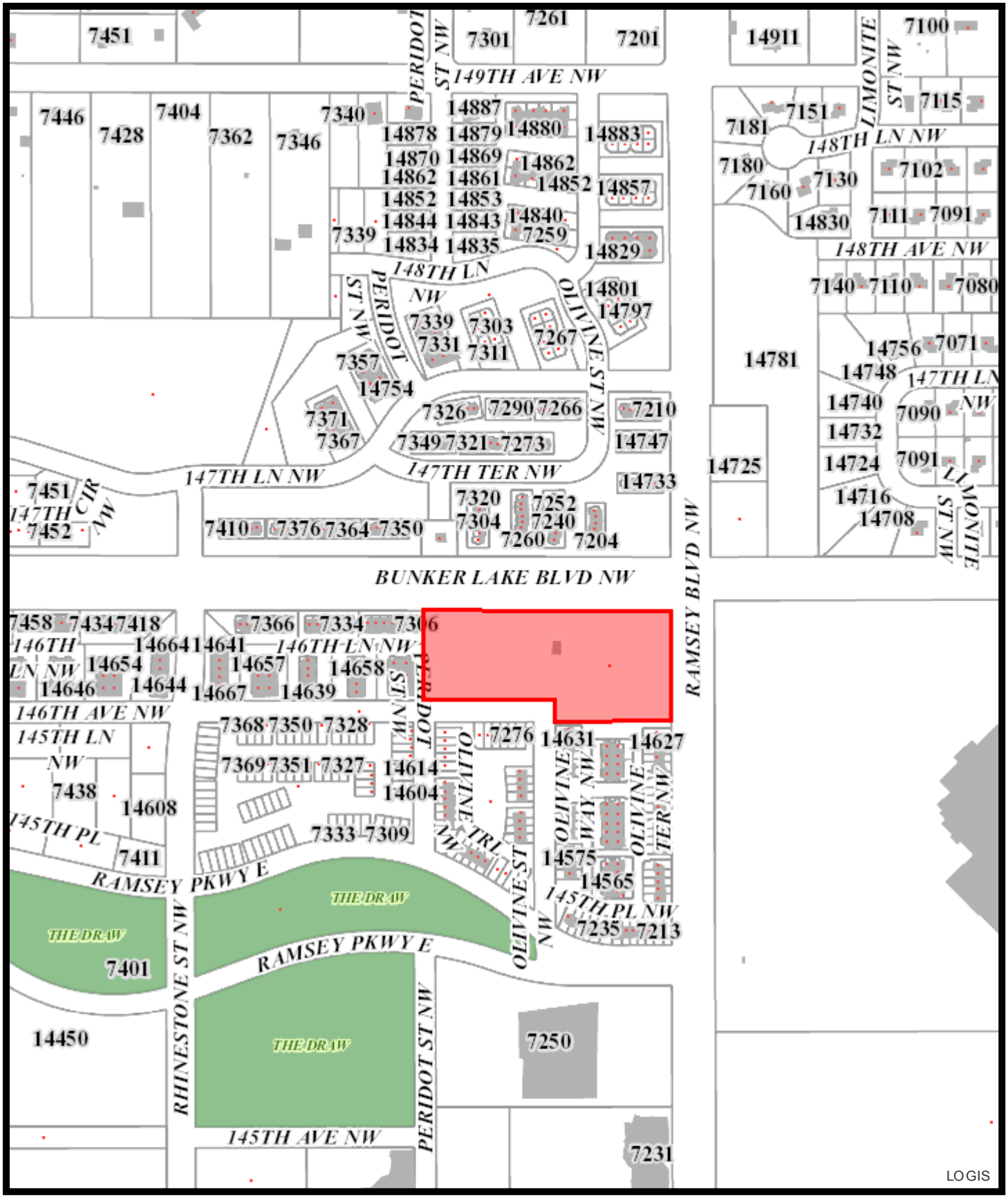
Attachments

Site Location Map
Sketch Plan
Townhome Elevation Renderings
Tech Reports
Workshop Comments

Form Review

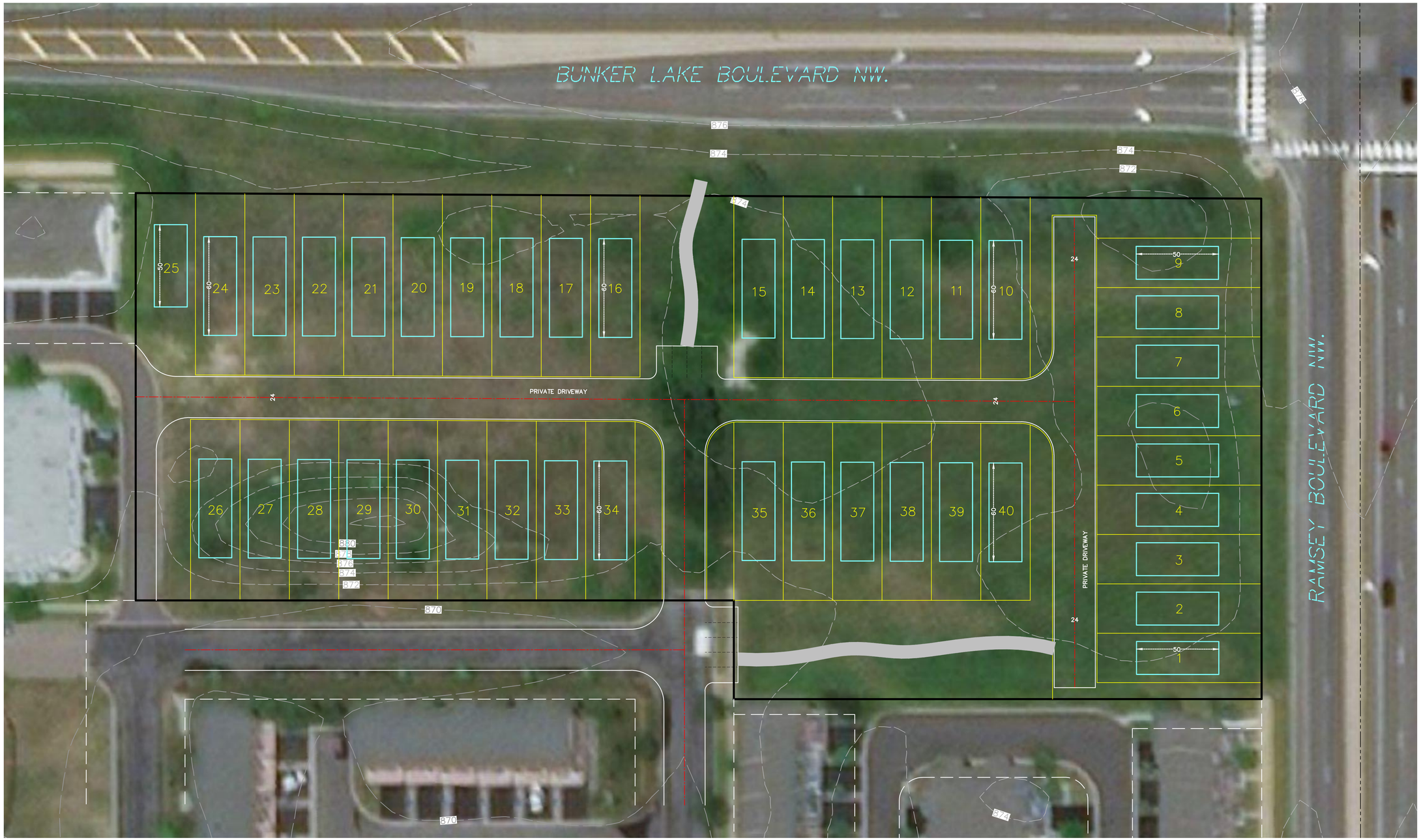
Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	02/23/2018 09:52 AM
Form Started By: Eric Maass		Started On: 02/21/2018 09:45 AM
Final Approval Date: 02/23/2018		

Site Location Map



Feet
0 90 180 360 540 720

Print Date: January 17, 2018



N

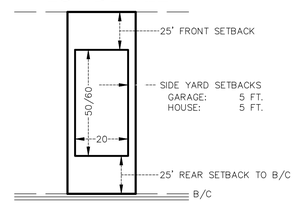
0 25 50 100

(IN FEET)

SITE DATA

TOTAL SITE AREA ±4.30 AC.
TOTAL NUMBER OF UNITS 40

LOT DETAIL



Carlson McCain
ENVIRONMENTAL - ENGINEERING - SURVEYING
3890 Pheasant Ridge Drive NE,
Suite 100, Blaine, MN 55449
Phone: 763-489-7900 Fax: 763-489-7959

CONCEPT PLAN

RAMSEY TOWN CENTER
Ramsey, Minnesota

CAPSTONE HOMES
14015 Sunfish Lake Blvd. - Suite 400
Ramsey, MN, 55303

REVISIONS
1.
2.
3.
4.
5.
6.

DRAWN BY:	C#
ISSUE DATE:	02/12/18
FILE NO:	1342

Save Date: 02/12/18 | F:\Jobs\7321 - 7340\7330 - centre ramsey\cad-CAD\survey\dwgs\7330_layout 1.dwg





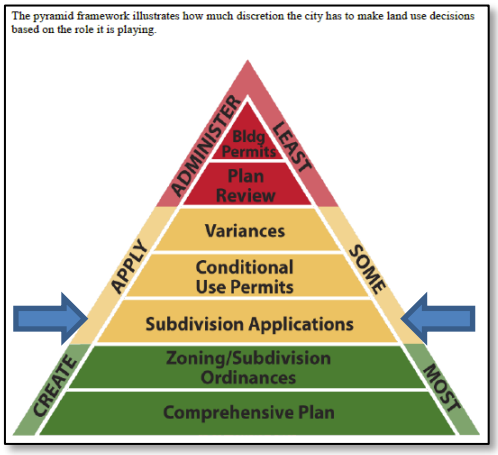
CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE

DATE	02/22/2018	**PROJECT ADDRESS**	NORTH OF 146TH AVE NW, SOUTH OF BUNKER LAKE BLVD NW, WEST OF RAMSEY BLVD NW, AND EAST OF PERIDOT ST NW
PROJECT. TITLE	17-162: CENTRA HOMES		
ESCROW #			
DEPARTMENT:	Community Development: Planning Division (Comprehensive Plan and Zoning Code)		
TECHNICAL REVIEWER:	Name: Eric Maass, Planning Consultant Phone: (763) 576-4306 Email: EMaass@wsbeng.com		

General: The purpose of this file is to review the official Sketch Plan prepared by Capstone Homes, Inc. for the purpose of a forty (40) unit subdivision located North of 146th Ave NW, South of Bunker Lake Blvd NW, West of Ramsey Blvd NW, and East of Peridot St NW. The Developer has proposed a development of two story detached townhomes.

Applications & Assumptions: The Sketch Plan is the first step required of a major subdivision. If recommended to move forward the Applicant will proceed onto Preliminary Plat and Final Plat stages of the major subdivision ordinance.

This case is being reviewed per City Code Section 117-118 entitled The COR district, and Chapter 117, Article III entitled Subdivisions.



Comprehensive Plan: The Property is guided for Town Center Mixed Use in the Comprehensive Plan. The intent of the Town Center Mixed Use area is to establish a community hub that integrates places to work, play and live and embraces transit oriented design in anticipation of the potential future commuter rail station. As this area is located east of Armstrong Boulevard it is governed by Town Center Master Plan which has been replaced by The COR Development Plan. The COR Development Plan provides specific land use and design guidance for land within its boundaries.

Zoning: The Property is currently zoned as COR which contains subdistricts. The property being proposed is within subdistrict 4B, the neighborhood subdistrict. This subdistrict is intended to include a full range of housing types, from small-lot single-family detached to high-density senior and general apartments, as well as a limited number of small-scale retail and office uses at appropriate locations (i.e., at corners). The 4b subdistrict is the medium density area in the COR-4 district allowing up to 15 dwelling units per acre as it is located along higher volume roadways within the COR and along its perimeter. As proposed, the density (including ROW) is 9.3 units per acre. The proposed development contains 40 units over 4.30 +/- acres. The Applicant has not provided the amount of ROW to be included and as a result the residential density figure will increase but is not anticipated to increase above the allowed fifteen (15) units/acre.

Dimensional Standards for The COR 4 Neighborhood Subdistrict: The Applicant has not shown any driveways at this time. All driveways will be required to meet the length requirement of 25 feet. Length of driveways will need to be provided by the Applicant with the Preliminary Plat to verify compliance. The general form and description of the proposed development would appear consistent with the intent of The COR design guidelines; however, the Applicant will need to provide section and rendering descriptions of the housing product they intend for this location with the Final Plat to ensure final compatibility. Provided below are the dimensional requirements relevant to this development proposal.

Standard	Requirement	Proposed
Minimum Lot Width	20’	50’

Minimum Lot Depth	80'	170' – 188'
Minimum Front Yard Setback	20 feet as measured from building front to R-O-W	Building pads not shown
Driveway Length	25 feet for residential units	Not Shown
Building Height	1-4 stories	2 stories
Boulevard Width	6 feet	Not Shown
Sidewalk Width (Arterial, Destination, Connector, Downtown, or Local Street)	10 feet	Not Shown

Access. The sketch plan proposes one access onto 146th Ave NW which is a public roadway and a second access onto Peridot Street NW which is a private street once north of 146th Ave NW.

The Applicant is showing a connection of their proposed private roadway to a private roadway to the east. The Applicant should pursue the same connection to the south. Each of these connections will require review and approval by the home owners associations which maintain those private roadways. The City is committed to promoting connectivity to enhance public safety for all residents and as a result the City's Police and Fire Departments support these connections being made.

Wells. No well locations are shown as the property is proposed to be connected to city utilities

Development Fees. The Developer will be required to pay development fees consistent with the City's approved schedule of Rates and Charges.

Fee	Amount	# of Units	Total
Park Dedication	$3,000/unit	40	TBD
Park Dedication	$2,775/unit (12-19 units/acre) 7.5% density bonus	40	TBD
Trail Development	$1,000/unit	40	$40,000.00
Water Trunk	$1,763/unit	40	$70,520.00
Sanitary Sewer Trunk	$1,183 / unit	40	$47,320.00
Stormwater Management	$487/unit	40	$19,480.00
Street Light O & M	$394/light	TBD	TBD

Additional Improvements/Trail. As currently proposed a trail would be constructed connecting the northern portion of visitor parking to the north end of the development. Along the northern boundary a sidewalk will be required to be constructed that connects to the existing sidewalk to the west and to the existing pedestrian ramp to the east at the intersection of Bunker Lake Blvd NW and Ramsey Blvd NW. A trail is also shown from the proposed visitor parking stalls on the south extending to a proposed private driveway. This proposed trail should extend further east to Ramsey Blvd NW. A sidewalk will be required adjacent to Ramsey Blvd NW that connects to the existing sidewalk to the south and to the existing pedestrian ramp at the intersection of Ramsey Blvd NW and Bunker Lake Blvd NW. The Developer will need to adjust the layout of the lots to accommodate for the extension of the east/west trail to Ramsey Blvd NW.

Natural Resource Inventory (NRI). The NRI indicates that the land included in this proposed development is not located in an area considered to be either an exceptional, high, moderate, or low area of natural quality. In addition the area is not a part of the Anoka County Greenway Corridor or indicated by the National Wetland Inventory (NWI) to contain any wetlands.

Tree Preservation Plan. The site currently has a few evergreen and deciduous trees on it. The City's natural resources planner, Chris Anderson will make a determination as to the need for a tree preservation plan.

Landscaping. The design framework of The COR outlines acceptable tree species and spacing in accordance with street type. Along Destination, Downtown, Parkway and Local streets, where regularly spaced blocks exists, one (1) tree species shall be provided per block. In order to provide variety and protect against disease, adjacent blocks shall not be allowed the same street tree. Initial development along a block shall establish the tree species for that block, subject to City review and approval. Those tree species selected as street trees should be revised to include only those species shown as acceptable tree species located on page 13 of the The COR Design Framework document.

No landscaping is shown with the sketch plan.

Topsoil. Each individual lot shall have four (4) inches of topsoil meeting the City's topsoil specification applied to all disturbed areas not improved with impervious surfacing. It is strongly encouraged to limit land disturbance on each lot to limit the quantity of topsoil required. 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.

Lighting. Currently the sketch plan does not indicate locations of proposed lighting. According to the COR Lighting Plan, two (2) lights will need to be installed on the north side of 146th Ave NW. The Applicant will need work directly with Connexus Energy to produce and submit a lighting plan with the Preliminary Plat that is consistent with the adopted COR Lighting Plan.

Parking. The Applicant has proposed 9 interior parking spaces in addition to the parking within the proposed dwellings. The Applicant will need to post no parking fire zone sign for the interior roadways as a stage 1 improvement which would allow the City to tow any illegally parked cars. A comment received during the public workshop was that nine (9) spaces was not adequate and that additional visitor parking should be provided.

Currently five (5) of the proposed visitor parking spots on the south end of the proposed development are shown within public right of way. Those parking stalls will need to be relocated onto private property.

Septic/Drainfield. The current plan proposes connection to city utility services as such, no septic systems or drainfields are proposed.

Recommendation. City Staff is recommending that the Planning Commission direct the Developer to proceed to the preparation of a Preliminary Plat, with the considerations listed in this staff report.

Next Steps. A key decision will occur at Preliminary Plat, in which the layout and number of lots will be approved, subject to approving final construction plans and Final Plat documents. The City will review items including, but not limited to, Grading Plan, Utility Plan, Landscape Plan, and Street Light Plan. You will be required to enter into a Development Agreement with the City to ensure the timely construction of required improvements. The Development Agreement will also require a financial surety in the amount of 125% of the cost of required improvements. The financial surety shall be in the form of a Letter of Credit or cash escrow only. The Development Agreement will also require an Engineering Inspection Fee of 5% of the cost of required improvements. The escrow must be in the form of a cash escrow. The City will prepare a draft Development Agreement for your review. This will occur as part of approval of the Final Plat.

CITY OF RAMSEY LAND USE APPLICATION
TECHNICAL REVIEW FILE

DATE	02/22/2017	**PROJECT ADDRESS**	NORTH OF 146TH AVE NW, EAST OF PERIDOT ST NW & SOUTH OF BUNKER LAKE BLVD NW
PROJECT. TITLE	17-162: CENTRA HOME SKETCH PLAN		
ESCROW #			
DEPARTMENT:	Police & Fire Department		
TECHNICAL REVIEWER (POLICE):	Name: Tim Frankfurth, Police Captain. Phone: (763) 427-6812 Email: TFrankfurth@cityoframsey.com		
TECHNICAL REVIEWER (FIRE):	Name: Carey Schiferli, Fire Marshal Phone: (763) 427-4452 Email: CSchiferli@cityoframsey.com		

General: The purpose of this file is to review a sketch plan prepared by Capstone Homes. for the purpose of a forty (40) unit subdivision located south of Bunker Lake Blvd NW and west of Ramsey Blvd NW, north of 146th Ave NW and east of Peridot St NW. The Developer has proposed a development of multilevel detached townhomes that would be serviced by public utilities and private roadways.

Roads/Access. The sketch plan proposes one access onto 146th Ave NW which is a public roadway and a second access onto Peridot Street NW which is a private street once north of 146th Ave NW.

The Applicant is showing a connection of their proposed private roadway to a private roadway to the east. The Applicant should pursue the same connection to the south. Each of these connections will require review and approval by the home owners associations which maintain those private roadways. The City is committed to promoting connectivity to enhance public safety for all residents and as a result the City's Police and Fire Departments support these additional connections.

Parking. The Applicant has proposed to provide 9 interior visitor parking spaces in addition to the parking within the proposed dwellings. The Applicant will need to post as "no parking fire lane" for the interior roadways as a stage 1 improvement which would allow the City to tow any illegally parked cars.

Centra Homes

Comments from workshop:

- Could it be townhomes to match neighborhood?
- Cul de sac is really awkward
- Where are fronts of homes?
- Concern for street width
- Concern for parking
- Concern for entrance of homes being essentially unused
  - Community center is essentially private road and driveways – lack of community seeing each other, getting to know each other, etc.
  - Difficult to access front door from the driveway
- Parking – need more visitor parking
- Trail connecting through to the road seems better than it randomly ending
- Townhomes would fit neighborhood better
- Cul-de-sac is really weird
- Lack of parking for visitors

Regular Planning Commission **6. 3.**

Meeting Date: 03/01/2018

Submitted For: Chloe McGuire Brigl, Community Development

By: Chloe McGuire Brigl, Community Development

Information

Title:

Review Resubmitted Concept of Shade Tree Cottages; Case of Shade Tree Communities

Purpose/Background:

Shade Tree Communities has contacted the City and expressed a desire to resubmit a proposed plat known as Shade Tree Cottages. This is a project that went through City review approximately ten (10) years ago and received final plat and site plan approval as well as a zoning amendment to rezone the parcel to Planned Unit Development (PUD). The project is a mix of small-lot single-family and detached townhomes (villas/detached single-family with HOA maintenance). While the final plat and site plan have expired, the zoning of PUD has not. The applicant has submitted a revised concept plan taking into account current zoning regulations.

Notification:

N/A

Observations/Alternatives:

While the final plat and site plan have long since expired, the approval of the Zoning Amendment to Planned Unit Development, allowing certain deviations such as narrower roads, narrower lot widths, and a longer cul-de-sac, are still valid as the City never considered a subsequent Zoning Amendment to revert back to the underlying Zoning District of R-1 Residential (MUSA). Staff has verified with the City Attorney that the project must go through the subdivision process again, due to expiration of the original plan and changes to regulations. Specifically, current standards related to lot depth and wetland setbacks are considerably different than when the proposed development was originally designed.

The applicant has submitted a revised concept plan that they feel better complies with current regulations. For example, the applicant is attempting to account for the current 16.5 foot wetland setback and have adjusted roadway alignments to reflect adjacent property owner's lot boundaries. In reviewing the concept plan, Staff found several deviations from the current R-1 (MUSA) regulations. Specifically, lots 32 and 33 do not appear to meet lot depth requirements. The proposed net density appears to meet code requirements at approximately 2.7 units per acre. The code also requires 16.5 foot wetland setbacks, which appear to be met with the revised plan.

The applicant is working on articulating the public purpose for the PUD, but in discussions with the applicant, the public purpose has centered around permanent dedication of trails and wetlands. The applicant is also open to architectural standards for the new homes, such as requiring front porches, a mix of materials, and specific designs.

Staff hosted a public workshop regarding the project on February 1, 2018. Neighboring landowners attended the meeting and raised questions regarding dewatering of the wetland, utilities, infrastructure upgrades, and mitigating the impacts to surrounding property owners.

The applicant has requested that the City share the cost of paving Potassium Street. Staff is working with the applicant to get more precise estimates regarding the paving project, and will have a discussion regarding the cost-share with City Council when the estimates are available.

Funding Source:

Staff is handling this portion of the review as part of normal Staff duties.

Recommendation:
Staff has no recommendation at this time since a formal application has not been received.

Action:
No action requested at this time.

Attachments

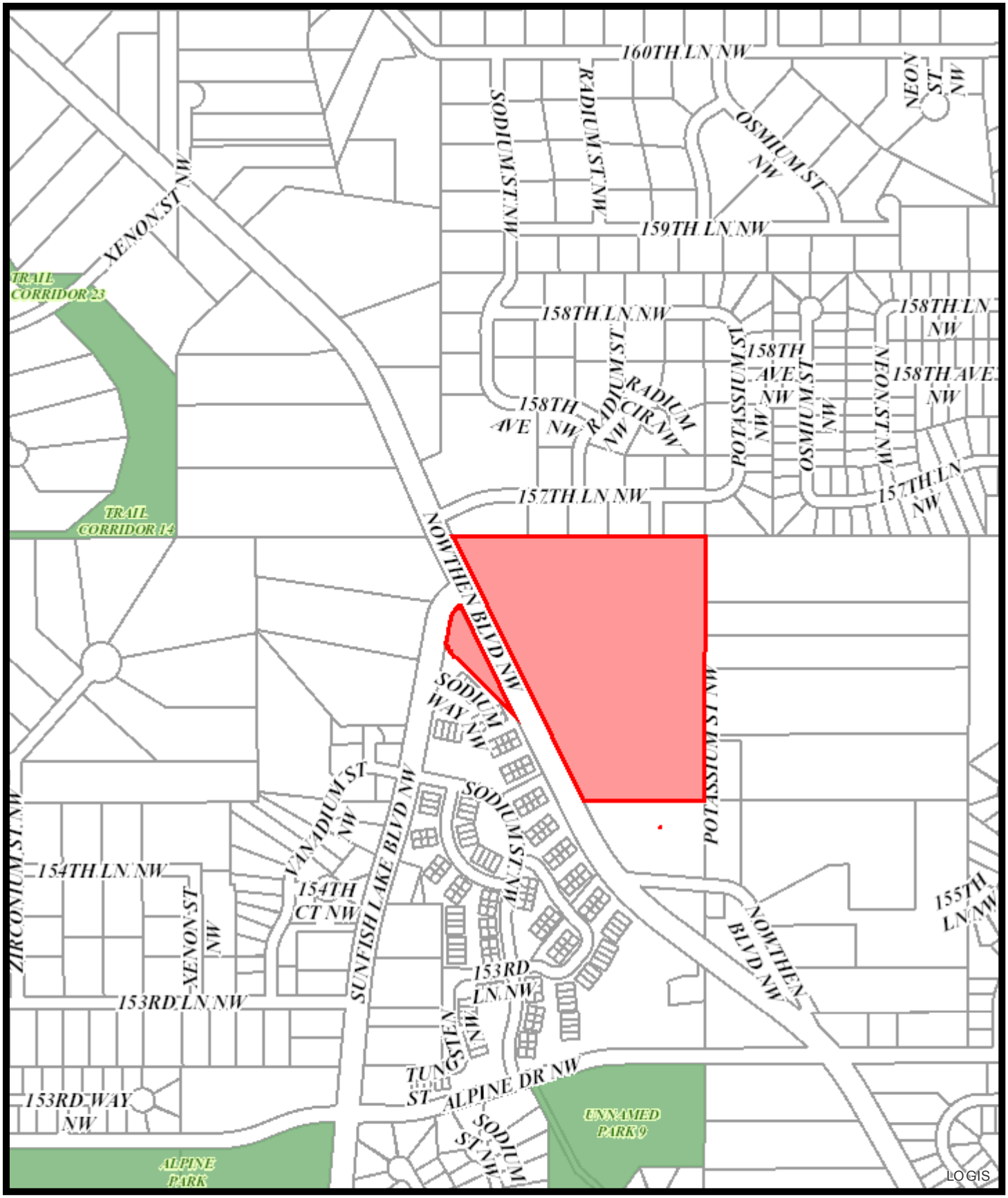
Site Location Map
Revised Concept Plan
Revised Concept Plan
Revised Concept Plan
Attorney's Memo
Workshop Notes
Workshop Comments

Form Review

Inbox	Reviewed By	Date
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Tim Gladhill	Tim Gladhill	02/23/2018 11:45 AM
Form Started By: Chloe McGuire Brigl		Started On: 02/21/2018 04:03 PM
Final Approval Date: 02/23/2018		

Site Location Map

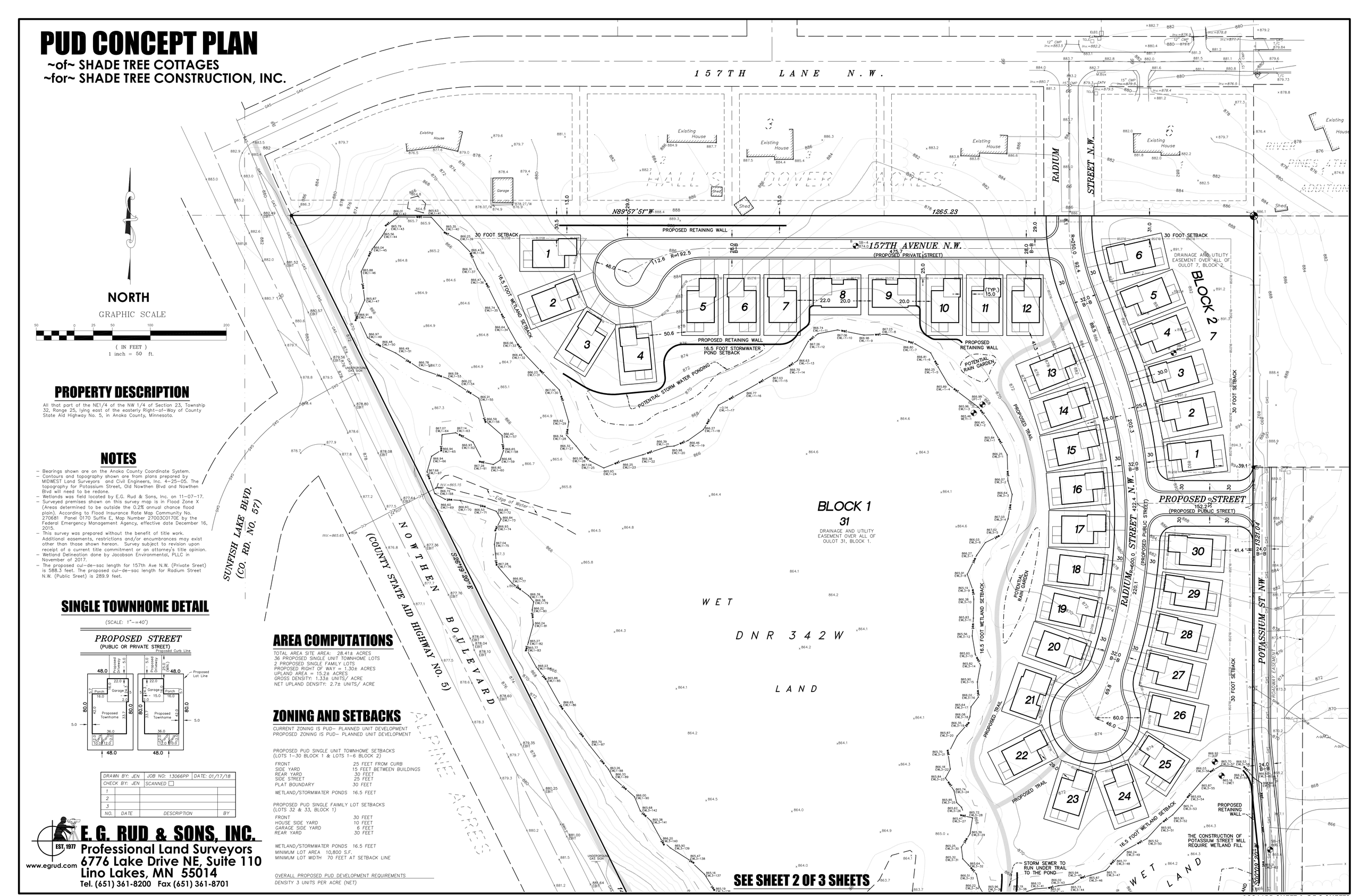
Shade Tree Cottages



Print Date: November 14, 2017

PUD CONCEPT PLAN

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.



NORTH

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.

PROPERTY DESCRIPTION

All that part of the NE1/4 of the NW 1/4 of Section 23, Township 32, Range 25, lying east of the easterly Right-of-Way of County State Aid Highway No. 5, in Anoka County, Minnesota.

NOTES

- Bearings shown are on the Anoka County Coordinate System.
- Contours and topography shown are from plans prepared by MIDWEST Land Surveyors and Civil Engineers, Inc. 4-25-05. The topography for Potassium Street, Old Nowthen Blvd and Nowthen Blvd will need to be redone.
- Wetlands was field located by E.G. Rud & Sons, Inc. on 11-07-17.
- Surveyed premises shown on this survey map is in Flood Zone X (Areas determined to be outside the 0.2% annual chance flood plain). According to Flood Insurance Rate Map Community No. 270681 Panel 0170 Suffix E, Map Number 27003C0170E by the Federal Emergency Management Agency, effective date December 16, 2015.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Wetland Delineation done by Jacobson Environmental, PLLC in November of 2017.
- The proposed cul-de-sac length for 157th Ave N.W. (Private Sreet) is 588.3 feet. The proposed cul-de-sac length for Radium Street N.W. (Public Sreet) is 289.9 feet.

SINGLE TOWNHOME DETAIL

(SCALE: 1"=40')

DRAWN BY: JEN	JOB NO: 13066PP	DATE: 01/17/18	
CHECK BY: JEN	SCANNED ☐		
1			
2			
3			
NO.	DATE	DESCRIPTION	BY

AREA COMPUTATIONS

TOTAL AREA SITE AREA: 28.41± ACRES
36 PROPOSED SINGLE UNIT TOWNHOME LOTS
2 PROPOSED SINGLE FAMILY LOTS
PROPOSED RIGHT OF WAY = 1.30± ACRES
UPLAND AREA = 15.22± ACRES
GROSS DENSITY: 1.33± UNITS/ ACRE
NET UPLAND DENSITY: 2.7± UNITS/ ACRE

ZONING AND SETBACKS

CURRENT ZONING IS PUD- PLANNED UNIT DEVELOPMENT
PROPOSED ZONING IS PUD- PLANNED UNIT DEVELOPMENT

PROPOSED PUD SINGLE UNIT TOWNHOME SETBACKS
(LOTS 1-30 BLOCK 1 & LOTS 1-6 BLOCK 2)

FRONT	25 FEET FROM CURB
SIDE YARD	15 FEET BETWEEN BUILDINGS
REAR YARD	30 FEET
SIDE STREET	25 FEET
PLAT BOUNDARY	30 FEET
WETLAND/STORMWATER PONDS	16.5 FEET

PROPOSED PUD SINGLE FAIMILY LOT SETBACKS
(LOTS 32 & 33, BLOCK 1)

FRONT	30 FEET
HOUSE SIDE YARD	10 FEET
GARAGE SIDE YARD	6 FEET
REAR YARD	30 FEET

WETLAND/STORMWATER PONDS 16.5 FEET
MINIMUM LOT AREA 10,800 S.F.
MINIMUM LOT WIDTH 70 FEET AT SETBACK LINE

OVERALL PROPOSED PUD DEVELOPMENT REQUIREMENTS
DENSITY 3 UNITS PER ACRE (NET)

BLOCK 1

31

DRAINAGE AND UTILITY EASEMENT OVER ALL OF OULOT 31, BLOCK 1.

SEE SHEET 2 OF 3 SHEETS

E. G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

PUD CONCEPT PLAN - AERIAL

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.



PROPERTY DESCRIPTION

All that part of the NE1/4 of the NW 1/4 of Section 23, Township 32, Range 25, lying east of the easterly Right-of-Way of County State Aid Highway No. 5, in Anoka County, Minnesota.

NOTES

– See Sheet 1 of 3 Sheets for notes.

GRAPHIC SCALE

80 0 40 80 160 320

(IN FEET)
1 inch = 80 ft.

NORTH

E. G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

DRAWN BY: JEN	JOB NO: 13066PP	DATE: 01/17/18
CHECK BY: JEN	SCANNED ☐	

NO.	DATE	DESCRIPTION	BY
1			
2			
3			

PUD CONCEPT PLAN

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.

SEE SHEET 1 OF 3 SHEETS

NORTH

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.

VICINITY MAP

PART OF SEC. 23, TWP. 32, RNG. 25



ANOKA COUNTY, MINNESOTA
(NO SCALE)

NOTES

– See Sheet 1 of 3 Sheets for notes.

DRAWN BY: JEN	JOB NO: 13066PP	DATE: 01/17/18	
CHECK BY: JEN	SCANNED ☐		
1			
2			
3			
NO.	DATE	DESCRIPTION	BY

E. G. RUD & SONS, INC.
EST. 1977
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Lino Lakes, MN 55014
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www.egrud.com

M E M O R A N D U M

TO: Chris Anderson

FROM: Joseph Langel, City Attorney

DATE: January 24, 2018

RE: Existing PUD Zoning

You asked for an opinion on the following:

Facts

In 2006, the City rezoned property from R-1 to PUD for the Shadetree Cottages development. The PUD zoning contained specific standards unique to this property, such as lot size, lot width, street width, front and side setback, and cul-de-sac length. The project never moved forward and the final plat and approved site plan have long since lapsed. The developer is now interested in moving the project forward again. The zoning standards for PUD's changed since the original rezoning, including the addition of new requirements that did not exist in 2006 (e.g., wetland setback and lot depth minimum). Also, the road alignment for Potassium Street will change from the original plan due to subsequent issues with new owners of the adjacent property.

Issue

Is the existing PUD zoning still valid?

Analysis

No, not under these circumstances. As a general rule, zoning does not expire or change on its own. Once a property is zoned in a particular manner, it remains in that zoning category unless and until it is changed again by the City Council. Technically, the property at issue is still zoned PUD. PUD zoning, however, is tied to the site plan that was approved by the Council at the time the zoning was approved. *See generally, City Code § 117-123(d) (rezoning to PUD is driven by site plan review and approval).*

Here, the approved site plan was never acted on and it lapsed. The Council has the right to restore the zoning to what it was previously. *City Code § 117-123(i).* Given the lapse, there is

no approved site plan in place and the developer has to start over. The developer is seeking to use the prior site plan again, but development applications must adhere to the current zoning standards, and the old site plan does not reflect newer wetland setbacks. Also, the road alignment is necessarily changing somewhat from the original plan. The old plan is therefore non-compliant and inaccurate, and a revised plan must be submitted.

It may also be noted that the revised plan would be considered a "major change" from the former (but now lapsed) plan because of the change in road location and the fact that the original development schedule expired long ago. *See City Code § 117-123(e) (describing major changes requiring re-submission of a site plan and a rezoning application).* The new wetland setback is also a major change to the plan. While this Code provision refers to major changes between preliminary and final site plans, it also logically supports the notion that a significantly changed new plan must go through the rezoning process.

Shade Tree Cottages (17-130)

Comments from workshop:

- Utility questions?
- Possible to do more density transitioning?
- Could the block of 6 homes be lowered to 3? 4?
- Important to keep the ridge
- New layout is better than previous layout
- Private streets – are they okay with fire?
- Will we have to de-wet the wetland for the utilities?
- Trail connections are really important – sidewalk needs to continue to street
- Road needs to be paved
- Tim – we need to check on how much city would help pay?
- County regulations for distance between streets
    - Can a house have 3 street frontages?
    - Section 117-614 (c) 11 - Street rights-of-way shall not be planned so as to cause hardship to owners of adjoining property.
- Fencing between new units?
- Density transitioning
- Sewer and water in wetland is concerning
- Tight lots
- Concern for wildlife
- Suggested we work to allow lot splits on 5 acre lots across the street if we are going to allow this
- Prefer larger lots and larger homes that would fit the code and homes near it
- Drastic shift to lot 2 with 6 lots
- Intersection visibility is really low already, trees in ROW
- Don't stop trail midblock
- Crosswalk on alpine?
- Way to cross Nowthen?
- Buses need to be able to drive the street
- Mailboxes need to be onsite
- Additional trees should be added to buffer
- Who will maintain retaining walls? HOA?
- Firetrucks able to get on private street?

Comment Card 1:

- Concern about dewatering wetlands when bringing sewer through
- Concern about transition from 1 acre plus lots to detached townhomes – wall or landscaping to separate areas
- Concerned about parking on 157th Ave. Both fire access and existing homes on 157th Ln looking out their homes at a row of cars, trucks, boats, trailers, parked along the road

- Proposed trail along Co Rd 5 would that be entirely on county easement or require some of my property?

Comment Card 2:

- City Code to consider:
    - Section 117-123 PUD District
        - (a) (5) Preservation of desirable land characteristics
        - (b) (4) Traffic patterns adversely affected
        - (b) (6) detrimental influence on market value of surrounding properties

PUD CONCEPT PLAN

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.

TRAFFIC CONTROL / ENFORCEMENT ?

157TH LANE N.W.

Water is not full reconstruction of 157th ?

Existing Woods

NORTH

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.

PROPERTY DESCRIPTION

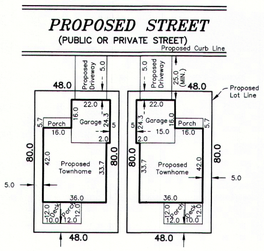
All that part of the NE1/4 of the NW 1/4 of Section 23, Township 32, Range 25, lying east of the easterly Right-of-Way of County State Aid Highway No. 5, in Anoka County, Minnesota.

NOTES

- Bearings shown are on the Anoka County Coordinate System.
- Contours and topography shown are from plans prepared by MIDWEST Land Surveyors and Civil Engineers, Inc. 4-25-05. The topography for Potassium Street, Old Nowthen Blvd and Nowthen Blvd will need to be redone.
- Wetlands was field located by E.G. Rud & Sons, Inc. on 11-07-17.
- Surveyed premises shown on this survey map is in Flood Zone X (Areas determined to be outside the 0.2% annual chance flood plain). According to Flood Insurance Rate Map Community No. 270681 Panel 0170 Suffix E, Map Number 27003C0170E by the Federal Emergency Management Agency, effective date December 16, 2015.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.
- Wetland Delineation done by Jacobson Environmental, PLLC in November of 2017.
- The proposed cul-de-sac length for 157th Ave N.W. (Private Sreet) is 588.3 feet. The proposed cul-de-sac length for Radium Street N.W. (Public Sreet) is 289.9 feet.

SINGLE TOWNHOME DETAIL

(SCALE: 1"=40')



DRAWN BY: JEN	JOB NO: 13066PP	DATE: 01/17/18
CHECK BY: JEN	SCANNED ☐	
1		
2		
3		
NO.	DATE	DESCRIPTION BY

E.G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

AREA COMPUTATIONS

TOTAL AREA SITE AREA: 28.41± ACRES
36 PROPOSED SINGLE UNIT TOWNHOME LOTS
2 PROPOSED SINGLE FAMILY LOTS
PROPOSED RIGHT OF WAY = 1.30± ACRES
UPLAND AREA = 15.2± ACRES
GROSS DENSITY: 1.33± UNITS/ ACRE
NET UPLAND DENSITY: 2.7± UNITS/ ACRE

ZONING AND SETBACKS

CURRENT ZONING IS PUD- PLANNED UNIT DEVELOPMENT
PROPOSED ZONING IS PUD- PLANNED UNIT DEVELOPMENT

PROPOSED PUD SINGLE UNIT TOWNHOME SETBACKS
(LOTS 1-30 BLOCK 1 & LOTS 1-6 BLOCK 2)

FRONT	25 FEET FROM CURB
SIDE YARD	15 FEET BETWEEN BUILDINGS
REAR YARD	30 FEET
SIDE STREET	25 FEET
PLAT BOUNDARY	30 FEET
WETLAND/STORMWATER PONDS	16.5 FEET

PROPOSED PUD SINGLE FAMILY LOT SETBACKS
(LOTS 32 & 33, BLOCK 1)

FRONT	30 FEET
HOUSE SIDE YARD	10 FEET
GARAGE SIDE YARD	6 FEET
REAR YARD	30 FEET

WETLAND/STORMWATER PONDS 16.5 FEET
MINIMUM LOT AREA 10,800 S.F.
MINIMUM LOT WIDTH 70 FEET AT SETBACK LINE

OVERALL PROPOSED PUD DEVELOPMENT REQUIREMENTS
DENSITY 3 UNITS PER ACRE (NET)

SUNFISH LAKE BLVD. (CO. RD. NO. 57)

NOWTHEN BOULEVARD (COUNTY STATE AID HIGHWAY NO. 5)

S26°19'20"E

N89°57'51"W 1265.23

PROPOSED RETAINING WALL

30 FOOT SETBACK

16.5 FOOT WETLAND SETBACK

157TH AVENUE N.W.
475.7
(PROPOSED PRIVATE STREET)

Parking on Private Road ?

FIRE ACCESS

PROPOSED RETAINING WALL

16.5 FOOT STORMWATER POND SETBACK

POTENTIAL STORM WATER PONDING

POTENTIAL RAIN GARDEN

PROPOSED TRAIL

RADIUM STREET N.W.

PROPOSED STREET
152.2'
(PROPOSED PUBLIC STREET)

POTASSIUM ST. N.W.

DRAINAGE AND UTILITY EASEMENT OVER ALL OF OULOT 7, BLOCK 2.

BLOCK 2

BLOCK 1

31
DRAINAGE AND UTILITY EASEMENT OVER ALL OF OULOT 31, BLOCK 1.

WET

DNR 342W

LAND

THE CONSTRUCTION OF POTASSIUM STREET WILL REQUIRE WETLAND FILL

STORM SEWER TO RUN UNDER TRAIL TO THE POND

SEE SHEET 2 OF 3 SHEETS

PUD CONCEPT PLAN - AERIAL

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.



E. G. RUD & SONS, INC.
EST. 1977
Professional Land Surveyors
6776 Lake Drive NE, Suite 110
Lino Lakes, MN 55014
Tel. (651) 361-8200 Fax (651) 361-8701
www.egrud.com

NORTH

GRAPHIC SCALE

80 0 40 80 160 320

(IN FEET)
1 inch = 80 ft.

PROPERTY DESCRIPTION

All that part of the NE1/4 of the NW 1/4 of Section 23, Township 32, Range 25, lying east of the easterly Right-of-Way of County State Aid Highway No. 5, in Anoka County, Minnesota.

NOTES

- See Sheet 1 of 3 Sheets for notes.

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CHECK BY: JEN	SCANNED ☐	

NO.	DATE	DESCRIPTION	BY
1			
2			
3			

PUD CONCEPT PLAN - AERIAL

~of~ SHADE TREE COTTAGES
~for~ SHADE TREE CONSTRUCTION, INC.

HOURS OF TRASH PICK-UP



E. G. RUD & SONS, INC.
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NOTES

- See Sheet 1 of 3 Sheets for notes.

DRAWN BY: JEN	JOB NO: 13066PP	DATE: 01/17/18
CHECK BY: JEN	SCANNED ☐	

NO.	DATE	DESCRIPTION	BY
1			
2			
3			

Regular Planning Commission **8. 1.**

Meeting Date: 03/01/2018

By: JoAnn Shaw, Community Development

Information

Title:

Zoning Bulletins

Purpose/Background:

Enclosed are zoning bulletins for your review.

Notification:

Observations/Alternatives:

Funding Source:

Recommendation:

Action:

Attachments

Zoning Bulletin

Form Review

Inbox	Reviewed By	Date
Tim Gladhill	Tim Gladhill	02/22/2018 09:52 AM
Form Started By: JoAnn Shaw		Started On: 02/21/2018 08:43 AM
Final Approval Date: 02/22/2018		

QUINLAN™ January 25, 2018 | Volume 12 | Issue 2

Zoning Bulletin

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Mat #42078482

Review/Use—Town finds proposed community therapeutic residence is a "health care facility" permitted as a conditional use

Neighbors challenge grant of conditional use permit, contending that proposed facility is a "residential facility," prohibited in the zoning

Contributors

Corey E. Burnham-Howard

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Citation: *In re Confluence Behavioral Health, LLC, 2017 VT 112, 2017 WL 6102805 (Vt. 2017)*

VERMONT (12/08/17)—This case addressed the issue of whether a community therapeutic residence qualified as a "health care facility" under a town's zoning bylaws and thus was a permitted use in the applicable zoning district. The case also addressed the issue of whether the Supreme Court of Vermont, when reviewing the Superior Court, Environmental Division's interpretation of permit conditions and local zoning ordinances, reviews with or without deference to the Environmental Division.

The Background/Facts: Confluence Behavioral Health, LLC ("CBH") proposed to operate a therapeutic community residence ("Project") on property zoned "Rural Residential" in the Town of Thetford (the "Town"). CBH's Project was licensed by the Vermont Department of Disabilities, Aging and Independent Living ("DAIL"). The Project was to be "a short-term wilderness therapy program designed to treat young male adults," through the combination of "clinical therapeutic services with adventure-based wilderness therapy and agrarian living to help clients address mental-health diagnoses, as well as emotional, behavioral, and relational challenges." The Project was to house 48 patients and 37 staff at any one time.

The Town's Development Review Board ("DRB") issued a conditional-use and site-plan approval for CBH's Project. The DRB based its approval on its finding that the Project was a "health care facility," permitted as a conditional use under the Town's Zoning Bylaws (the "Bylaws").

Under the Bylaws, the Rural Residential zoning district was intended to "maintain an area of low average density that is compatible with clusters of high-density, remaining primarily a district of open space, farms, residences, and woodlands, with scattered commercial uses that are either home-based or dependent on natural resources." Under the Bylaws, health care facilities were allowed as conditional uses in the Town's Rural Residential areas.

A group of Project neighbors (the "Neighbors") appealed the DRB's decision to the Superior Court, Environmental Division. The Neighbors argued that the Project was not a "health care facility" for purposes of the Bylaws. Rather, they argued, the Project was a "residential facility," "community residence," or "group living facility," which was prohibited in the Town's Rural Residential district. Alternatively, the Neighbors argued that even if the Project was a "health care facility," its additional use as a residential facility was precluded under the Bylaws.

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The Environmental Division concluded that the Project was a "health care facility."

The Neighbors appealed.

DECISION: Judgment of Superior Court affirmed.

The Supreme Court of Vermont concluded that CBH's Project was a "health care facility" under the Town's Bylaws and, thus, CBH was entitled to a conditional use permit.

In so concluding, the court first addressed the parties' disagreement about the level of deference the Supreme Court of Vermont should give to the Environmental Division's interpretation of municipal zoning ordinances. The Neighbors contended that the interpretation of a zoning ordinance presents a legal issue that the court should review de novo (i.e., starting from the beginning; anew) without deference to the Environmental Division. In contrast, CBH asserted that the deference the court had historically given to the Environmental Division with respect to findings of fact extended to the court's interpretation of zoning ordinances.

The court admitted that, in prior case law, it had made "arguably inconsistent statements on the subject [of deference to the Environmental Division]." Overruling some of its prior holdings in several cases, here, the court determined that it would "[h]enceforth . . . review the Environmental Division's interpretation of permit conditions and local zoning ordinances without deference." The court explained the basis for that determination:

> [W]here the outcome of the matter turns not on findings of fact, but on interpretation of a statutory term, and where we are not reviewing a decision by an agency charged with promulgating and interpreting its own rules, we employ the familiar de novo standard of review for matters of law.

In sum, the court stated that it reviews zoning ordinances and municipal permit conditions according to the principles of statutory construction, approaching the interpretation of such ordinances and permits "as a legal question that we resolve without deference to the trial court." Thus, here, the court concluded that it must review the Environmental Division's determinations regarding CBH's Project de novo.

In concluding that the Project was a "health care facility," the court looked at the language and intent of the Bylaws. Because the Bylaws did not define the term "health care facility," the court looked to: the common definitions of "health care facility"; a Vermont statute defining "health care facility"; and prior caselaw that addressed whether therapeutic community residences were facilities used for "health purposes." The court found that CBH's Project "comport[ed]" with and "align[ed]" with those definitions. The court also noted that under DAIL's licensing authority, CBH's Project would be recognized as a subcategory of "health care facility."

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Notably, the Neighbors had argued that the Project was a "therapeutic *community residence*," and, consequently, could not be a "health care facility." The court responded to that argument noting that "simply because a particular use, or an aspect of a use, is not expressly listed as permitted in the Bylaws does not mean that use is prohibited." "Moreover," the court explained that there was "no reason to conclude that the Project's use as a 'therapeutic community residence' and its use as a 'health care facility' [were] mutually exclusive." A "therapeutic community residence" can be a subcategory of "health care facility," said the court. Here, the Project was to provide professional mental-health counseling and treatment through on-site, inpatient programs—services commonly associated with "health care facilities." Therefore, the court concluded that the purpose and plain language of the Town Bylaws provided support for the contention that CBH's Project was a "health care facility" and allowed as a conditional use.

In a related argument, the Neighbors had further asserted that each of the proposed facility's uses—as a therapeutic community residence, recreation, and health care facility—must be allowed within the project's zoning district in order for the facility to be permitted. The court agreed that each of CBH's potential uses—therapeutic community residence, recreation, and health care facility—must be allowed under the Bylaws, but noted that the Project did not require conditional-use and site-plan approval for every use. "Where one use is a component of another allowed use, additional permitting via conditional-use and site-plan review is not necessary," said the court. Therefore, the court explained, here, the residential use component of the Project did not require separate permitting above and beyond the Project's conditional-use and site-plan approval as a "health care facility."

See also: *Fletcher Farm, Inc. v. Town of Cavendish, 137 Vt. 582, 409 A.2d 569 (1979)* (determining that a licensed therapeutic community residence, which included "group therapy, work, recreation, family-style meals and other related programs," was being used for "health purposes," and was therefore not exempt from real property tax under Vermont law).

Case Note:

The Neighbors had also argued that the Project "impermissibly reestablishe[d] the 'therapeutic retreats, conferences, and events' previously hosted [on the same property by a church]," which, the Neighbors asserted were nonconforming uses. Finding the Project was a conditionally approved "health care facility" in its own right, the court determined that it need not consider that argument.

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Case Note:

With regard to the holding on deference to the Environmental Division, the court's decision here overruled the following cases: overruling In re Willowell Foundation Conditional Use Certificate of Occupancy, 201 Vt. 242, 2016 VT 12, 140 A.3d 179 (2016); In re Wagner & Guay Permit, 2016 VT 96, 153 A.3d 539 (Vt. 2016); In re Group Five Investments CU Permit, 195 Vt. 625, 2014 VT 14, 93 A.3d 111 (2014); and In re Champlain College Maple Street Dormitory, 186 Vt. 313, 2009 VT 55, 980 A.2d 273, 249 Ed. Law Rep. 284 (2009).

Nonconforming Use— ZBA determines that hosting live concerts is consistent with property's prior, legal nonconforming use as a campsite

Group of individuals challenge that determination, contending that the use of the property as a campsite did not equate to hosting commercial concerts

Citation: *Cleere v. Frost Ridge Campground, LLC, 155 A.D.3d 1645, 65 N.Y.S.3d 405 (4th Dep't 2017)*

NEW YORK (11/17/17)—This case addressed the issue of whether the use of property owned by campsite operators to host live concerts was a preexisting nonconforming use.

The Background/Facts: Since the 1950s, Frost Ridge Campground, LLC, individually and doing business as The Ridge N.Y. Recreation & Camping ("Frost Ridge") owned a parcel of land (the "Property") in the Town of Leroy (the "Town"), which functioned as a campsite and provider of recreational activities since the 1950s. In 2010, Frost Ridge began selling tickets for admission to concerts hosted on the Property as part of its summer concert series. In 2015, Frost Ridge sought from the Town an interpretation of certain provisions of the Code of the Town of LeRoy (the "Code") pertaining to the Property. In particular, Frost Ridge asked whether camping and attendant recreational activities, including live and recorded amplified music and limited food ser-

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vice, constituted a preexisting nonconforming use under section 165-13 of the Code—thus allowing its music concerts to continue without Town permit. After a hearing, the Town's Zoning Board of Appeals (the "ZBA") issued a determination that camping and attendant recreational activities on Frost Ridge's Property, including live and recorded amplified music and limited food service, constituted a preexisting nonconforming use under the Code.

Thereafter, David Cleere, Marny Cleere, W. Scott Collins, and Betsy Collins (the "Petitioners") commenced a legal action to annul the ZBA's determination. The Petitioners argued that the ZBA's decision was "arbitrary and capricious, made in violation of the law, and not based on substantial evidence in as much as the use of the Property to host commercial concerts was not a preexisting nonconforming use."

The Supreme Court, Genesee County, agreed with the ZBA's determinations, and dismissed the Petitioners' petition.

The Petitioners appealed.

DECISION: Judgment of Supreme Court, Genesee County, affirmed.

The Supreme Court, Appellate Division, Fourth Department, New York, held that the use of the property to host live concerts was a preexisting nonconforming use.

In so holding, the court explained that a ZBA's determination "must be sustained if it has a rational basis and is supported by substantial evidence." The court also explained that "a use of property that existed before the enactment of a zoning restriction is a legal nonconforming use."

The court explained that "[w]here, as here, a zoning ordinance permits the ZBA to interpret its requirements . . . 'specific application of a term of the ordinance to a particular property is . . . governed by the [ZBA's] interpretation, unless unreasonable or irrational'." The court concluded that the ZBA's interpretation and determination that hosting live concerts was consistent with the prior use of the property as a campsite was not, as the Petitioners had argued, arbitrary and capricious. Rather, the court concluded that the ZBA "rationally interpreted the term 'campsite' as used in the Code as encompassing recreational activities including live music in determining that the use of the Property was a preexisting nonconforming use." The court explained that, here, the Code did not define "campsite," but did require any large campsite to "provide a common open area suitable for recreation and play purposes." Thus, the court concluded that the Code "expressly contemplate[d] that a campsite is a place for recreation." Acknowledging that the kind of recreation contemplated was "open to interpretation," the court found it rational to conclude that live music was one "kind of recreation to be enjoyed at a campsite." Moreover,

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the court found that such an interpretation of the term "campsite," including attendant recreational activities such as live music, was "consistent with the record evidence." Here, the court determined that there was "substantial evidence that the Property was used for recreational activities and as a campsite prior to the adoption of the zoning ordinance." Such evidence included: an affidavit of a former Frost Ridge employee as to recreational activities on the Property in the 1960s, including live music; the testimony of several neighbors that there was a "history of live music on the Property," including "live, amplified bands played every summer weekend during the 1970s and 1980s."

See also: *Toys R Us v. Silva, 89 N.Y.2d 411, 654 N.Y.S.2d 100, 676 N.E.2d 862 (1996).*

Variance—Church challenges District of Columbia's grant of an area variance to synagogue

Church contends three-prong test for area variance is not met by synagogue

Citation: *St. Mary's Episcopal Church v. District of Columbia Zoning Commission, 2017 WL 6044242 (D.C. 2017)*

DISTRICT OF COLUMBIA (12/7/17)—This case addressed the issue of whether sufficient evidence supported a zoning commission's findings that a synagogue was affected by "exceptional condition" and "practical difficulties" such that an area variance was warranted.

The Background/Facts: Hillel at the George Washington University ("Hillel") is a synagogue that has the mission of providing for the needs of Jewish students at George Washington University ("GW") in the District of Columbia. In 2014, Hillel sought to demolish its existing campus religious structure and to construct a new four-story building. Hillel asserted that it needed such a new facility to meet institutional and religious needs. Hillel's proposed new facility would contain: a basement with a sanctuary, dining hall, and two kosher kitchens—separating meat and dairy; a second floor dedicated to staff offices, a student lounge, gathering space, a study area, and a library; and a third and fourth floor to be leased to GW.

Hillel's existing campus structure (to be demolished and replaced) was located on a narrow, rectangular corner lot with a total area of 4,575 square feet. The lot was located in a "high height and medium

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high density residential zone." In order to pursue its proposed facility, Hillel needed, among other things, an area variance and special exception relief from the Zoning Commission of the District of Columbia (the "Zoning Commission"). The Zoning Commission ultimately approved Hillel's application for zoning relief.

Thereafter, St. Mary's Episcopal Church ("St. Mary's") and the West End Civic Association ("WECA") (collectively, the "Opponents") challenged that zoning approval in a petition to the court for review. The Opponents contended that Hillel failed to meet the District of Columbia Court of Appeal's "three-prong test for an area variance."

Under that test, District of Columbia zoning authorities (such as the Zoning Commission here) are authorized to grant an area variance (such as that sought by Hillel here) if they find that: "(1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan."

Here, with respect to the first prong of the test, the Zoning Commission had concluded that Hillel was "affected by an exceptional condition arising from a confluence of factors," including: "(1) the size, shape, and configuration of its lot; and (2) its demonstrated need to improve and expand its facility and maintain its location near the [GW] campus where it [could] best serve its primary constituency—students." The Zoning Commission had further found that Hillel was "an organization with unique institutional and religious needs that are not related to general conditions in the neighborhood" but "uniquely tied to" GW and its 4,500 Jewish students; and the existing facility could not "accommodate existing demand for certain events" and anticipated future growth. With respect to the second prong of the test, the Zoning Commission had concluded that Hillel would face "practical difficulties" if the zoning regulations were strictly enforced. And, with regard the third prong of the test, the Zoning Commission concluded that the Opponents had failed to "convincingly show that [Hillel's new facility] [would] be detrimental to the public good."

The Opponents strongly disagreed with the Zoning Commission's findings and conclusions. They argued that Hillel merely preferred a new facility as "more cost-effective and beneficial." They maintained that the Zoning Commission incorrectly concluded that Hillel met the court's three-prong test for an area variance.

DECISION: Zoning Commission decision affirmed.

The District of Columbia Court of Appeals affirmed the order of the Zoning Commission, concluding that Hillel did meet the three-prong test for an area variance.

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Addressing the first prong of the test—that there must be an exceptional condition affecting the property—the court explained that such an exceptional condition or "hardship" must be due to "unique circumstances peculiar to [Hillel's] property and not to the general conditions in the neighborhood." The court concluded that the Zoning Commission's findings that there were exceptional conditions here was based on "substantial" and "sufficient" evidence, including: the feasibility of renovating the existing building; testimony from GW students "emphasizing the uninviting and fortress-like condition of the existing building"; "increasing numbers of students and others seeking to participate in Hillel's activities and services"; "the exceptional configuration of the lot"; and "Hillel's institutional mission and needs."

Regarding the second prong of the test—that practical difficulties would occur if the zoning regulations were strictly enforced, the court explained that Hillel had to show: "(1) that the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (2) precisely how the needed design features require the specific variance sought." Again, the court found that there was "sufficient" and "substantial" evidence that Hillel would face practical difficulties if zoning regulations (namely, the lot occupancy and rear yard requirements) were strictly enforced. Given Hillel's "institutional need for a single contiguous worship space and dining space of a certain size," the court found that strict enforcement of the zoning regulations "would result in an inefficient and uneconomical building" that "would not yield enough useable space for the worship, dining, and program space required by Hillel."

The court also found that the third prong of the variance test was met; the requested relief of the area variance could be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan." The Opponents' argument had focused on allegations that the construction of the proposed new facility would damage St. Mary's church building. But the court explained that the proper standard in addressing the third prong should not be on "whether harm will result from the construction of the facility, but whether harm will] result from the structure as built with the variance." Focusing on the latter, the court found no reason to disturb the Commission's findings that: "(1) the new facility's impact on light and air was less significant than what Hillel was entitled to as a matter of right[;] and (2) Hillel's revised facility design further reduced the impact on light and air [on St. Mary's]. . ."; and that "provision of an easement memorializing [St. Mary's] right of access across [another GW] property" adequately addressed St. Mary's concern of loss of access across Hillel's rear yard.

See also: *Ait-Ghezala v. District of Columbia Board of Zoning Adjustment, 148 A.3d 1211 (D.C. 2016).*

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See also: *Washington Canoe Club v. District of Columbia Zoning Com'n, 889 A.2d 995 (D.C. 2005).*

Zoning News from Around the Nation

MASSACHUSETTS

Governor Charlie Baker recently announced "$10 million in incentives to encourage cities and towns to promote development within their borders." He also proposed legislation—"An Act to Promote Housing Choices"—that would make it easier for municipalities to change their zoning to promote multifamily developments, reduce their parking requirements, and make other changes to smooth the way for more housing. These initiatives are reportedly modeled on Massachusetts' Green Communities program, which rewards cities and towns for taking climate-friendly steps. Specifically, the Governor's bill would allow municipalities to "adopt certain zoning changes by a simple majority vote rather than the existing requirement of a two-thirds vote." The administration also announced "$1.3 million in grant funding for 37 projects through the Planning Assistance Grant Program, which encourages land conservation, reduced energy consumption and the housing production."

Source: *Lowell Sun; www.lowellsun.com*

PENNSYLVANIA

Pending in the state Legislature is House Bill 1620, which "would allow wireless carriers to forego local zoning review or approval in placing or modifying most facilities in public rights of way." The bill would also prohibit municipalities "requiring wireless carriers to justify installing or modifying wireless facilities, and from charging fees beyond $1,000 for regular facilities or $100 for 'small cell' antennas." Reportedly, several municipalities have passed resolutions opposing the bill, including Doylestown Borough, Plumstead, Upper Southampton, and Warrington. Proponents of the bill maintain that it is "intended as a check against municipalities that might pursue fees from wireless carriers as a moneymaking venture during the zoning process." The bill is currently awaiting review in the House Consumer Affairs Committee.

Source: *The Intelligencer; www.theintell.com*

WISCONSIN

Governor Scott Walker has signed into the law the "Mining for

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America" bill. The bill is aimed at bringing the mining industry back to Wisconsin. Among other things, the bill includes "a six-month provision to allow local governments to be able to adjust their zoning laws" in response to the bill's passage.

Source: *The Lakeland Times; www.lakelandtimes.com*

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