

Meeting Date: 11/24/2020

By: Chloe McGuire Brigl, Community
Development

Information

Title:

Adopt Resolution #20-256 Approving the Conditional Use Permit for Floodplain Fill at 7349 168th Cir NW.; Case of John and JoDell Seaman

Purpose/Background:

The purpose of this case is to consider a request from John and JoDell Seaman (the "Homeowners") for a Conditional Use Permit (CUP) to fill within a floodplain at 7349 168th Cir NW (the "Subject Property"). Staff became aware of the retaining wall through the City's Code Enforcement program in May 2020. The Applicant has stated that the intent of the fill was to address erosion occurring in their back yard. There may have been erosion issues along the trail, but the City does not have any documentation of this item. This is one potential solution to this issue amongst other alternatives (some requiring fill, some not). At the end of the day, the Property Owner has the ability to make this request to the City for consideration. The City can choose to approve or deny at this point. Staff is comfortable with any solution so long as said solution meeting applicable requirements.

In addition to working through alternatives with the Property Owner, Staff has been seeking guidance from the Minnesota DNR office in terms of floodplain regulations and options. This is a very complex case that includes numerous layers of government regulation.

This step is the result of the Settlement Conference related to the Code Enforcement Case. The City is attempting to find a compromise. The intent of tonight is not to debate the boundaries of floodplain or conservation easement.

This case is focused on the Floodplain encroachment. In addition, this area is encumbered by a Conservation and Trail Easement held by the City, secured with a grant from the State of Minnesota, prior to the development of the Brookfield Neighborhood. The City Council will address the easement encroachment issue when they receive the case for review. If approved, partial repayment back to the Legislative-Citizen Commission on Minnesota Resources would be required.

While this individual case may have minor implications to floodplain and Conservation Easement, it does open the door to a number of other requests. Once the City has a better handle on updated floodplain modeling (current model is dated in the 1970s and is now inaccurate), Staff plans on holding a neighborhood meeting to discuss broader options while still maintaining a majority of the floodplain and Conservation Easement.

Notification:

Staff has sent notifications to Property Owners within 350 feet of the Subject Property as indicated by Anoka County Property Records via Standard US Mail. A Public Hearing was included in the Anoka County UnionHerald.

Observations/Alternatives:

Property Information

The Subject Property is a single family home in the Brookfield Neighborhood, in the 8th Addition. This home abuts the Trott Brook Corridor to the North, which is encumbered by a Conservation and Trail Easement and has floodplain (floodway). Homes in the Brookfield 8th Addition (final phase) homes smaller backyard space compared to other parcels in the neighborhood due to the Conservation and Trail Easement as well as Floodplain. The Homeowners put in a retaining wall within the Floodplain and Easement without specific City approval. In 2019, prior to construction, Staff had forwarded applicable restrictions to a contractor working on behalf of the Property

Owner. That being said, there are options to consider that would allow the retaining wall and fill to remain. The retaining wall is about one foot off the public trail in the backyard. The backyard is designated as floodplain by the DNR, which has specific rules about putting in fill and modifying existing grades (slopes).

If the City desires to allow this encroachment, assuming successful attainment of a No Rise Certificate from FEMA, the City will also need to process an amendment to the Conservation and Trail Easement.

Conditional Use Permit

The City is able to grant the homeowner a Conditional Use Permit (CUP) for putting fill (dirt) in the floodplain area (backyard) under certain conditions. The biggest condition is that the fill cannot change the rise across the floodplain, which is called a no-rise certificate. Modeling is completed using the slopes and fill information to determine if the fill created more than a 0.0% change across the site. It is a strict and hard to meet level, but not impossible. Staff is currently working to complete the modeling. After significant investigation and collaboration with the DNR, it has been determined that the existing model for this area needs to be updated. Unfortunately, this has created delays. Staff is working with one of the City's consulting planners/engineers to assist in updating this model that will allow the City to more quickly process these types of requests in the future.

Required Items to Keep Retaining Wall

- Amend Conservation and Trail Easement (Handled separately - items outlined in attached document)
 - Range of settlement likely \$500 - \$1,000. Staff will bring final vacation agreement and totals to a future City Council meeting.
 - As part of this case, Staff is asking for direction from the City Council to begin the process of vacating the conservation and trail easement.
- Conditional Use Permit (CUP) for Fill within a Floodplain (Tonight's case)
 - Can be granted if fill resulted in a 0.0% no-rise certificate (determined via modeling)
 - Staff is currently working on the modeling but is lacking required data

Options are laid out more extensively in an attachment.

Policy Question

- If modeling shows no-rise (0.0 rise or less), is the City Council supportive of a Conditional Use Permit for the fill placed in the floodplain (backyard of Subject Property) for the retaining wall?

Funding Source:

Staff is handling this update as part of regular duties. Additionally, due to the broader policy implications along this corridor/in this neighborhood, Staff has taken on the necessary floodplain modeling that would ordinarily be the responsibility of the Applicant.

Recommendation:

Due to the degree of policy/legislative discretion of this case, Staff needs policy direction before formulating a Staff Recommendation.

Planning Commission made a contingent recommendation of Approval for the Conditional Use Permit, based upon no rise certificate from FEMA.

Action:

Motion to Adopt Resolution #20-256 Approving the Conditional Use Permit for Floodplain Fill at 7349 168th Cir NW and directing staff to start process to vacate part of the conservation and trail easement on the Subject Property and bring back a settlement agreement.

Attachments

Site Location Map

Copy of Previous
Council Case

Conditions Map

Alternatives Analysis

Floodplain Modeling Timeline (Ideal)

Brookfield LOMA

Brookfield LOMR

Floodplain Site Map

Draft Nov 5, 2020 Planning Commission Minutes

Comments Received

Res #20-256

Form Review

Inbox

Tim Gladhill

Tim Gladhill

Kurt Ulrich

Tim Gladhill

Form Started By: Chloe McGuire Brigl

Final Approval Date: 11/19/2020

Reviewed By

Tim Gladhill

Tim Gladhill

Kurt Ulrich

Katie Schmidt

Date

11/19/2020 09:52 AM

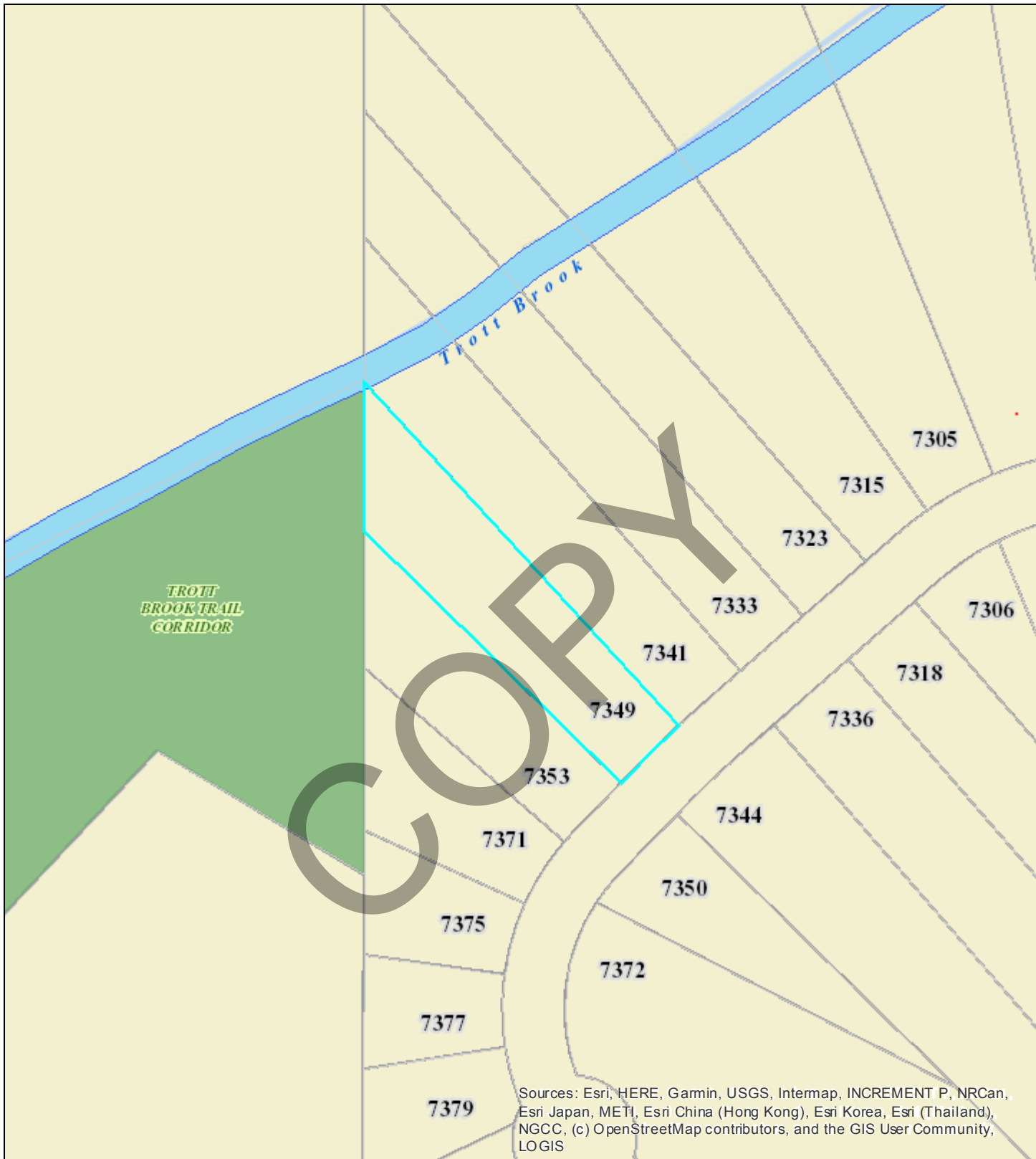
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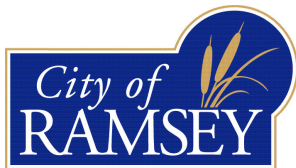
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Started On: 11/13/2020 11:37 AM

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Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community, LOGIS



Site Location Map

7349 168th Cir NW

Legend

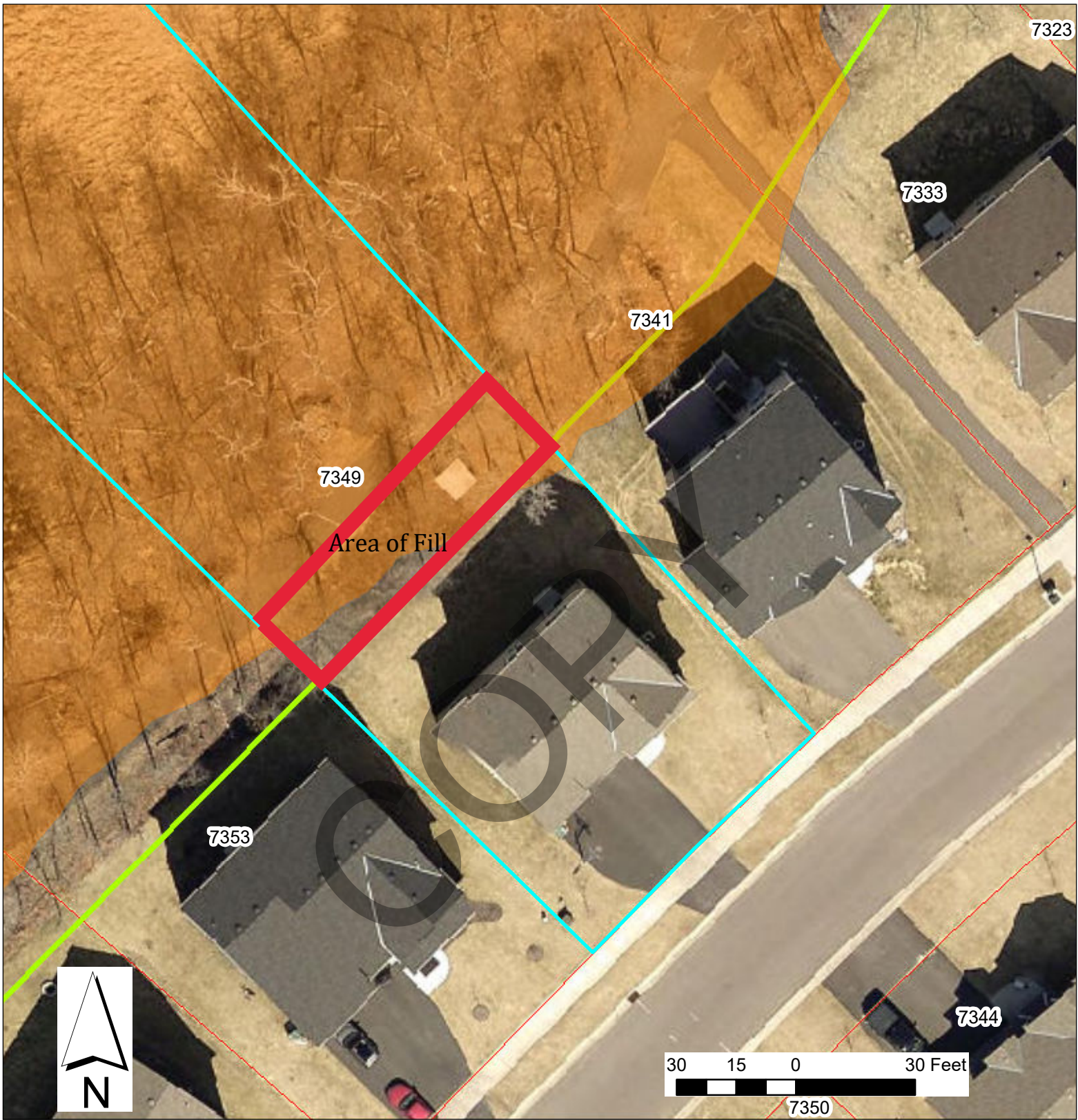
-  Site
-  Parcels



September 15th, 2020



Copy of Previous Council Case



 Conservation Easement

 Parcels

Floodplains

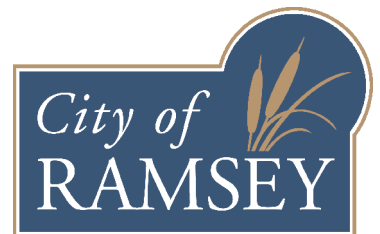
Flood Zone

 Floodplain - Elevation Undetermined

 Floodplain - Elevation Known

Trott Brook Conservation Easement

Copy of Previous
Council Case



Seaman Conservation Easement Options

- Option A – Move Wall and Comply w/Floodplain and Easement
 - No further approvals needed
- Option B – Leave As-Is
 - Floodplain Amendment
 - Application for Map Correction with Fill
 - Floodplain Modelling
 - Conditional Use Permit – Public Hearing
 - Potential for replacement need – volume storage
 - If Owner can obtain a No Rise Certificate, easier path to approval and City can approve without additional agency approval
 - If Owner is not able to obtain a No Rise Certificate, volume would need to be replaced somewhere else (grading) and is a much more extensive review process with FEMA
 - Conservation Easement Vacation/Encroachment
 - Request to Amend Easement to LCCMR (Legislative-Citizen Commission on Minnesota Resources)
 - Staff Time to Process
 - Surveying
 - Legal (amend agreements, etc.)
 - Appraisal (need to pay back account)
 - Replace plantings
- Option C – Meet in the Middle (same as Option B, but lesser impacts)
 - Should have more space between trail and retaining wall (5 feet)

General Talking Points

- Administrative Grading Permit Required
- Should stay out of drainage and utility easements in side yard
- Estimated cost to amend current restrictions = \$5,000 to \$10,000; no guarantee for approval
 - Staff is recommending that the City bear some of the costs (floodplain modeling) due to the broader impacts and/or benefits in administration for future requests

Floodplain Modelling Timeline
7349 168th Cir NW

- August 17: received a version of updated modelling for Trott Brook
- August 17: city staff determined that this modelling was for the stretch of Trott Brook in Sherburne County, not in Ramsey
- August 17: city staff emailed DNR again to inquire about updated modelling specific to Trott Brook in Ramsey
- August 18: received follow up email from DNR asking if the City or LRRWMO had done in more recent modelling
- August 18: city staff sent email to DNR asking if there's no more current modelling, should we be using the 1973 model
- August 18: DNR confirmed that City should use 1973 model
- August 21: city staff sent email to DNR with questions about 1973 model looking for further guidance (e.g. distance of Trott Brook from 1973 model compared to floodplain mapping done in 2015 was different by about 1,000 feet
- August 31: city staff sent follow up email to DNR inquiring if they had had time to review/respond to the questions sent on August 21
- September 15: city staff sent another follow up email asking for responses to questions raised on August 21
- September 16: received response from DNR providing an updated/approved model done when as part of Ermine Blvd in 2009

COPY

L.O.M.A. EXHIBIT

~FOR~ BROOKFIELD LAND, LLC
 ~ OF ~ LOTS 1 THRU 9, BLOCK 1 AND
 LOTS 1 THRU 16, BLOCK 2,
 BROOKFIELD EIGHTH ADDITION

DESCRIPTION OF AREA TO BE REMOVED FROM FLOOD ZONE

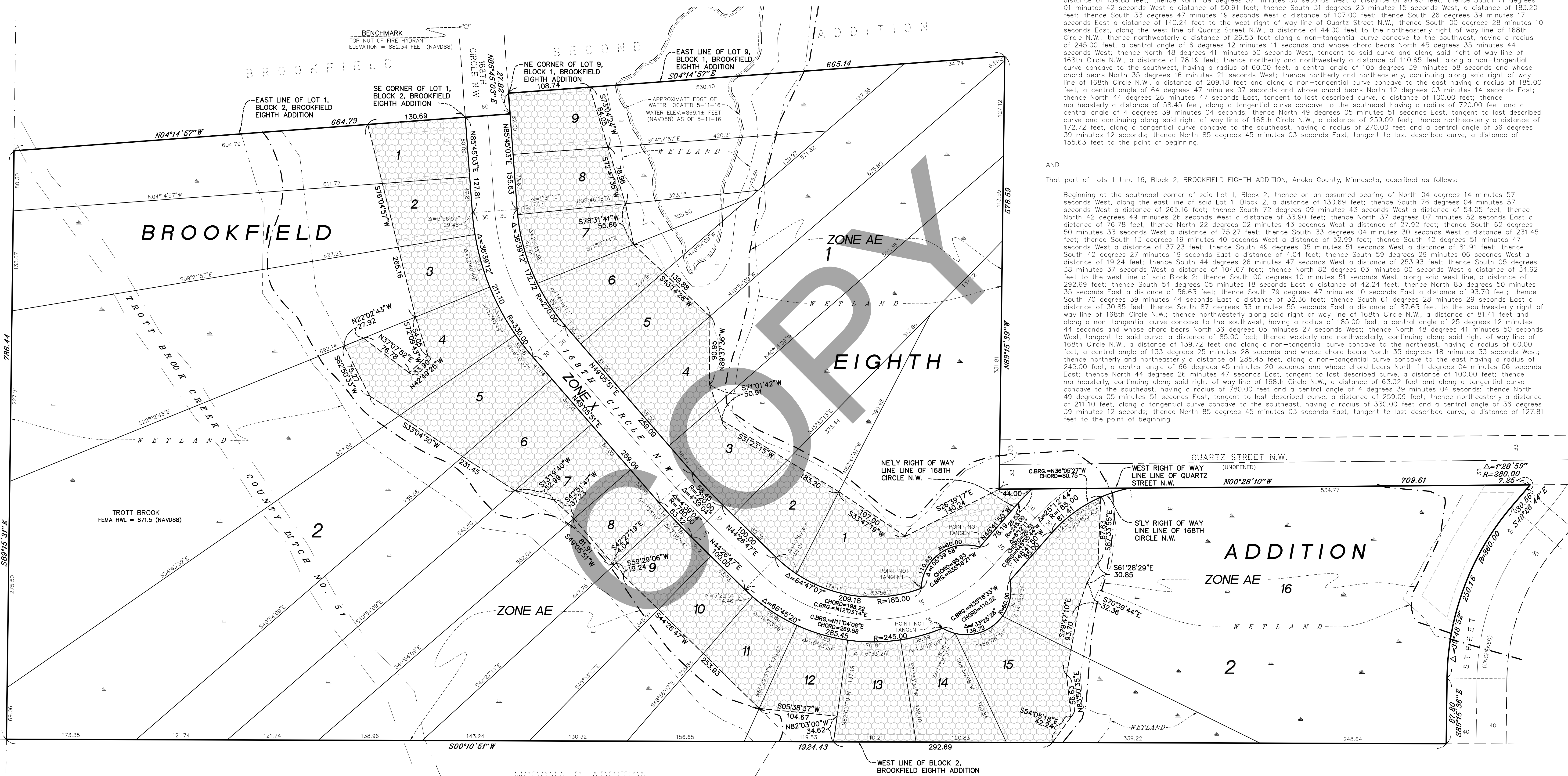
That part of Lots 1 thru 9, Block 1, BROOKFIELD EIGHTH ADDITION, Anoka County, Minnesota, described as follows:

Beginning at the northeast corner of said Lot 9, Block 1; thence on an assumed bearing of South 04 degrees 14 minutes 57 seconds East, along the east line of said Lot 9, Block 1, a distance of 108.74 feet; thence South 73 degrees 04 minutes 24 seconds West a distance of 84.05 feet; thence South 72 degrees 47 minutes 35 seconds West a distance of 78.96 feet; thence South 78 degrees 31 minutes 41 seconds West a distance of 55.66 feet; thence South 43 degrees 14 minutes 28 seconds West a distance of 139.88 feet; thence North 89 degrees 37 minutes 36 seconds West a distance of 90.95 feet; thence South 71 degrees 01 minutes 42 seconds West a distance of 50.91 feet; thence South 31 degrees 23 minutes 15 seconds West, a distance of 183.20 feet; thence South 33 degrees 47 minutes 19 seconds West a distance of 107.00 feet; thence South 26 degrees 39 minutes 17 seconds East a distance of 140.24 feet to the west right of way line of Quartz Street N.W.; thence South 00 degrees 28 minutes 10 seconds East, along the west line of Quartz Street N.W., a distance of 44.00 feet to the northeasterly right of way line of 168th Circle N.W.; thence northwesterly a distance of 26.53 feet along a non-tangential curve concave to the southwest, having a radius of 245.00 feet, a central angle of 6 degrees 12 minutes 11 seconds and whose chord bears North 45 degrees 35 minutes 44 seconds West; thence North 48 degrees 41 minutes 50 seconds West, tangent to said curve and along said right of way line of 168th Circle N.W., a distance of 78.19 feet; thence northerly and northwesterly a distance of 110.65 feet, along a non-tangential curve concave to the southwest, having a radius of 60.00 feet, a central angle of 105 degrees 39 minutes 58 seconds and whose chord bears North 35 degrees 16 minutes 21 seconds West; thence northerly and northeasterly, continuing along said right of way line of 168th Circle N.W., a distance of 209.18 feet and along a non-tangential curve concave to the east having a radius of 185.00 feet, a central angle of 64 degrees 47 minutes 07 seconds and whose chord bears North 12 degrees 03 minutes 14 seconds East; thence North 44 degrees 26 minutes 47 seconds East, tangent to last described curve, a distance of 100.00 feet; thence northeasterly a distance of 58.45 feet, along a tangential curve concave to the southeast having a radius of 720.00 feet and a central angle of 4 degrees 39 minutes 04 seconds; thence North 49 degrees 05 minutes 51 seconds East, tangent to last described curve and continuing along said right of way line of 168th Circle N.W., a distance of 259.09 feet; thence northeasterly a distance of 172.72 feet, along a tangential curve concave to the southeast, having a radius of 270.00 feet and a central angle of 36 degrees 39 minutes 12 seconds; thence North 85 degrees 45 minutes 03 seconds East, tangent to last described curve, a distance of 155.63 feet to the point of beginning.

AND

That part of Lots 1 thru 16, Block 2, BROOKFIELD EIGHTH ADDITION, Anoka County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1, Block 2; thence on an assumed bearing of North 04 degrees 14 minutes 57 seconds West, along the east line of said Lot 1, Block 2, a distance of 130.69 feet; thence South 76 degrees 04 minutes 57 seconds West a distance of 265.16 feet; thence South 72 degrees 09 minutes 43 seconds West a distance of 54.05 feet; thence North 42 degrees 49 minutes 26 seconds West a distance of 33.90 feet; thence North 37 degrees 07 minutes 52 seconds East a distance of 76.78 feet; thence North 22 degrees 02 minutes 43 seconds West a distance of 27.92 feet; thence South 62 degrees 50 minutes 33 seconds West a distance of 75.27 feet; thence South 33 degrees 04 minutes 30 seconds West a distance of 231.45 feet; thence South 13 degrees 19 minutes 40 seconds West a distance of 52.99 feet; thence South 42 degrees 51 minutes 47 seconds West a distance of 37.23 feet; thence South 49 degrees 05 minutes 51 seconds West a distance of 81.91 feet; thence South 42 degrees 27 minutes 19 seconds East a distance of 4.04 feet; thence South 59 degrees 29 minutes 06 seconds West a distance of 19.24 feet; thence South 44 degrees 26 minutes 47 seconds West a distance of 253.93 feet; thence South 05 degrees 38 minutes 37 seconds West a distance of 104.67 feet; thence North 82 degrees 03 minutes 00 seconds West a distance of 34.62 feet to the west line of said Block 2; thence South 10 minutes 51 seconds West, along said west line, a distance of 292.69 feet; thence South 54 degrees 05 minutes 18 seconds East a distance of 42.24 feet; thence North 83 degrees 50 minutes 35 seconds East a distance of 56.63 feet; thence South 79 degrees 47 minutes 10 seconds East a distance of 93.70 feet; thence South 70 degrees 39 minutes 44 seconds East a distance of 32.36 feet; thence South 61 degrees 28 minutes 29 seconds East a distance of 30.85 feet; thence South 67 degrees 55 minutes 55 seconds East a distance of 87.63 feet to the southwesterly right of way line of 168th Circle N.W.; thence northwesterly along said right of way line of 168th Circle N.W., a distance of 81.41 feet and along a non-tangential curve concave to the southwest, having a radius of 185.00 feet, a central angle of 25 degrees 12 minutes 44 seconds and whose chord bears North 36 degrees 05 minutes 27 seconds West; thence North 48 degrees 41 minutes 50 seconds West, tangent to said curve, a distance of 85.00 feet; thence westerly and northwesterly, continuing along said right of way line of 168th Circle N.W., a distance of 139.72 feet and along a non-tangential curve concave to the northeast, having a radius of 60.00 feet, a central angle of 133 degrees 25 minutes 28 seconds and whose chord bears North 35 degrees 18 minutes 33 seconds West; thence northerly and northeasterly a distance of 285.45 feet, along a non-tangential curve concave to the east having a radius of 245.00 feet, a central angle of 66 degrees 45 minutes 20 seconds and whose chord bears North 11 degrees 04 minutes 06 seconds East; thence North 44 degrees 26 minutes 47 seconds East, tangent to last described curve, a distance of 100.00 feet; thence northeasterly, continuing along said right of way line of 168th Circle N.W., a distance of 63.32 feet and along a tangential curve concave to the southeast, having a radius of 780.00 feet and a central angle of 4 degrees 39 minutes 04 seconds; thence North 49 degrees 05 minutes 51 seconds East, tangent to last described curve, a distance of 259.09 feet; thence northeasterly a distance of 211.10 feet, along a tangential curve concave to the southeast, having a radius of 330.00 feet and a central angle of 36 degrees 39 minutes 12 seconds; thence North 85 degrees 45 minutes 03 seconds East, tangent to last described curve, a distance of 127.81 feet to the point of beginning.



LEGEND

- DENOTES PROPOSED AREA (AS DESCRIBED) TO BE REMOVED FROM FLOOD ZONE.
- DENOTES DRAINAGE AND UTILITY EASEMENT DEDICATED PER THE RECORDED PLAT OF BROOKVIEW EIGHTH ADDITION.
- DENOTES CURRENT FLOOD ZONE LINE ACCORDING TO FLOOD INSURANCE RATE MAP COMMUNITY NO. 270681 PANEL 0165 SUFFIX E, MAP NUMBER 27003C0165E BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, EFFECTIVE DATE DECEMBER 16, 2015.

NOTES

- Bearings shown are on the Anoka County Coordinate System.
- Surveyed points shown on this survey map is in Flood Zone X (Areas determined to be outside the 0.2% annual chance flood plain), Flood Zone AE (Base Flood Elevations determined). Floodway areas in Zone AE - The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights. According to Flood Insurance Rate Map Community No. 270681 Panel 0165 Suffix E, Map Number 27003C0165E by the Federal Emergency Management Agency, effective date December 16, 2015.
- Wetland Delineation by Kjolhaug Environmental Services Company.
- Wetland Lines location by E.G. Rud and Sons, Inc August 2016.

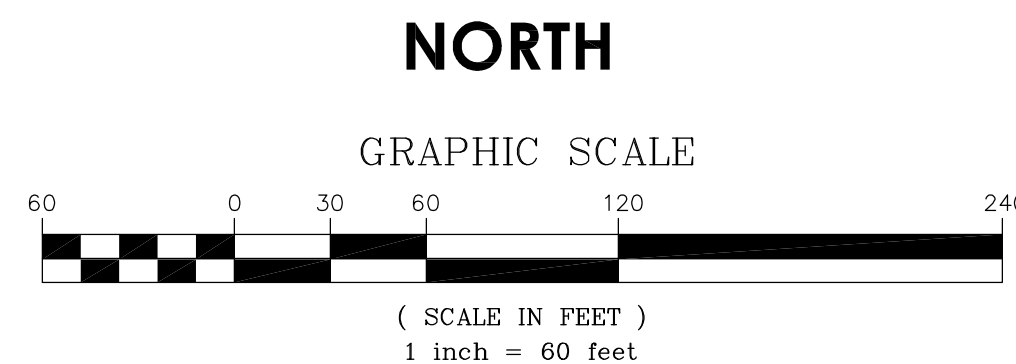
PROPERTY DESCRIPTION

Lots 1 thru 9, Block 1 and Lots 1 thru 16, Block 2, BROOKFIELD EIGHTH ADDITION, Anoka County, Minnesota.

DRAWN BY: JEN	JOB NO: 16343PP	DATE: 03/07/18
CHECK BY: JER	SCANNED <input type="checkbox"/>	
1		
2		
3		
NO. DATE DESCRIPTION BY		

Date: 03-07-18 License No. 41578

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





Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION
COMMUNITY	CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA	A portion of Lots 1 through 9, Block 1; and a portion of Lots 1 through 16, Block 2, Brookfield Eighth Addition, as shown on the Plat recorded as Document No. 2176453.001, in the Office of the County Recorder, Anoka County, Minnesota The portion of property is more particularly described by the following metes and bounds:
	COMMUNITY NO.: 270681	
AFFECTED MAP PANEL	NUMBER: 27003C0165E	
	DATE: 12/16/2015	
FLOODING SOURCE: TROTT BROOK		APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY: 45.275503, -93.452408 SOURCE OF LAT & LONG: LOMA LOGIC DATUM: NAD 83

DETERMINATION

LOT	BLOCK/SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
1-9	1	Brookfield Eighth Addition	--	Portion of Property	X (shaded)	--	--	871.5 feet

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

ADDITIONAL CONSIDERATIONS (Please refer to the appropriate section on Attachment 1 for the additional considerations listed below.)

LEGAL PROPERTY DESCRIPTION DETERMINATION TABLE (CONTINUED) INADVERTENT INCLUSION FLOODWAY 1

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Revision for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the described portion(s) of the property(ies) is/are not located in the NFIP regulatory floodway or the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document revises the effective NFIP map to remove the subject property from the NFIP regulatory floodway and the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 3601 Eisenhower Ave Ste 500, Alexandria, VA 22304-6426.

Luis V. Rodriguez, P.E., Director
Engineering and Modeling Division
Federal Insurance and Mitigation Administration

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Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)

ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LEGAL PROPERTY DESCRIPTION (CONTINUED)


Lots 1-9, Block 1:

Beginning at the northeast corner of said Lot 9, Block 1; thence on an assumed bearing of South 04 degrees 14 minutes 57 seconds East, along the east line of said Lot 9, Block 1, a distance of 108.74 feet; thence South 73 degrees 04 minutes 24 seconds West a distance of 84.05 feet; thence South 72 degrees 47 minutes 35 seconds West a distance of 78.96 feet; thence South 78 degrees 31 minutes 41 seconds West a distance of 55.66 feet; thence South 43 degrees 14 minutes 28 seconds West a distance of 139.88 feet; thence North 89 degrees 37 minutes 36 seconds West a distance of 90.95 feet; thence South 71 degrees 01 minutes 42 seconds West a distance of 50.91 feet; thence South 31 degrees 23 minutes 15 seconds West, a distance of 183.20 feet; thence South 33 degrees 47 minutes 19 seconds West a distance of 107.00 feet; thence South 26 degrees 39 minutes 17 seconds East a distance of 140.24 feet to the west right of way line of Quartz Street N.W.; thence South 00 degrees 28 minutes 10 seconds East, along the west line of Quartz Street N.W., a distance of 44.00 feet to the northeasterly right of way line of 168th Circle N.W.; thence northwesterly a distance of 26.53 feet along a non-tangential curve concave to the southwest, having a radius of 245.00 feet, a central angle of 6 degrees 12 minutes 11 seconds and whose chord bears North 45 degrees 35 minutes 44 seconds West; thence North 48 degrees 41 minutes 50 seconds West, tangent to said curve and along said right of way line of 168th Circle N.W., a distance of 78.19 feet; thence northerly and northwesterly a distance of 110.65 feet, along a non-tangential curve concave to the southwest, having a radius of 60.00 feet, a central angle of 105 degrees 39 minutes 58 seconds and whose chord bears North 35 degrees 16 minutes 21 seconds West; thence northerly and northeasterly, continuing along said right of way line of 168th Circle N.W., a distance of 209.18 feet and along a non-tangential curve concave to the east having a radius of 185.00 feet, a central angle of 64 degrees 47 minutes 07 seconds and whose chord bears North 12 degrees 03 minutes 14 seconds East; thence North 44 degrees 26 minutes 47 seconds East, tangent to last described curve, a distance of 100.00 feet; thence northeasterly a distance of 58.45 feet, along a tangential curve concave to the southeast having a radius of 720.00 feet and a central angle of 4 degrees 39 minutes 04 seconds; thence North 49 degrees 05 minutes 51 seconds East, tangent to last described curve and continuing along said right of way line of 168th Circle N.W., a distance of 259.09 feet; thence northeasterly a distance of 172.72 feet, along a tangential curve concave to the southeast, having a radius of 270.00 feet and a central angle of 36 degrees 39 minutes 12 seconds; thence North 85 degrees 45 minutes 03 seconds East, tangent to last described curve, a distance of 155.63 feet to the point of beginning

Lots 1-16, Block 2:

Beginning at the southeast corner of said Lot 1, Block 2; thence on an assumed bearing of North 04 degrees 14 minutes 57 seconds West, along the east line of said Lot 1, Block 2, a distance of 130.69 feet; thence South 76 degrees 04 minutes 57 seconds West a distance of 265.16 feet; thence South 72 degrees 09 minutes 43 seconds West a distance of 54.05 feet; thence North 42 degrees 49 minutes 26 seconds West a distance of 33.90 feet; thence North 37 degrees 07 minutes 52 seconds East a distance of 76.78 feet; thence North 22

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Luis V. Rodriguez, P.E., Director
Engineering and Modeling Division
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Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)

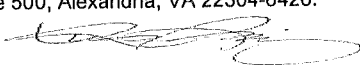
ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

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DETERMINATION TABLE (CONTINUED)

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)

This attachment provides additional information regarding this request. If you have any questions about this attachment, please contact the FEMA Map Information eXchange (FMIX) toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, Engineering Library, 3601 Eisenhower Ave Ste 500, Alexandria, VA 22304-6426.


 Luis V. Rodriguez, P.E., Director
 Engineering and Modeling Division
 Federal Insurance and Mitigation Administration



Federal Emergency Management Agency

Washington, D.C. 20472

LETTER OF MAP REVISION FLOODWAY DETERMINATION DOCUMENT (REMOVAL)


ATTACHMENT 1 (ADDITIONAL CONSIDERATIONS)

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
1-16	2	Brookfield Eighth Addition	--	Portion of Property	X (shaded)	--	--	871.5 feet

INADVERTENT INCLUSION IN THE FLOODWAY 1 (PORTIONS OF THE PROPERTY REMAIN IN THE FLOODWAY) (This Additional Consideration applies to the preceding 2 Properties.)

A portion of this property is located within the National Flood Insurance Program (NFIP) regulatory floodway for the flooding source indicated on the Determination Document, while the subject of this determination is not. The NFIP regulatory floodway is the area that must remain unobstructed in order to prevent unacceptable increases in base flood elevations. Therefore, no construction may take place in an NFIP regulatory floodway that may cause an increase in the base flood elevation, and any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management. The NFIP regulatory floodway is provided to the community as a tool to regulate floodplain development. Therefore, the NFIP regulatory floodway modification described in the Determination Document, while acceptable to the Federal Emergency Management Agency (FEMA), must also be acceptable to the community and adopted by appropriate community action, as specified in Paragraph 60.3(d) of the NFIP regulations. Any proposed revision to the NFIP regulatory floodway must be submitted to FEMA by community officials. The community should contact either the Regional Director (for those communities in Regions I-IV, and VI-X), or the Regional Engineer (for those communities in Region V) for guidance on the data which must be submitted for a revision to the NFIP regulatory floodway. Contact information for each regional office can be obtained by calling the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or from our web site at <http://www.fema.gov/about/regoff.htm>.

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 Luis V. Rodriguez, P.E., Director
 Engineering and Modeling Division
 Federal Insurance and Mitigation Administration

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

The Ramsey Planning Commission conducted a regular meeting on Thursday, November 5, 2020, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Randy Bauer
 Commissioner Bruce Anderson
 Commissioner Cheri Gengler
 Commissioner Eric Peters
 Commissioner Gary VanScoy
 Commissioner Matt Woestehoff

Members Absent: Commissioner Torrey Johnson

Also Present: Senior Planner Chloe McGuire Brigl
 Deputy City Administrator Tim Gladhill
 Planning Technician Brian McCann

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

Chairperson Bauer led the group in the Pledge of Allegiance.

3. CITIZEN INPUT

None.

4. APPROVAL OF AGENDA

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

A roll call vote was performed:

Commissioner Peters	aye
Commissioner Anderson	aye
Commissioner Woestehoff	aye
Commissioner Gengler	aye
Commissioner VanScoy	aye

6.03: Public Hearing: Review Conditional Use Permit Request for Fill within a Floodplain at 6349 168th Circle NW; Case of John and JoDell Seaman

Public Hearing

Senior Planner McGuire Brigl commented that 11 written comments in support were entered into the record and provided to the Commission prior to the meeting.

Chairperson Bauer called the public hearing to order at 7:44 p.m.

Presentation

Senior Planner McGuire Brigl presented the staff report and stated that due to the degree of policy/legislative discretion of this case, staff needs policy direction from the Commission and has forwarded this case in the event that the Commission is ready to make a contingent recommendation. The applicant is willing to extend the application period if more information is necessary. At the end of the day, staff felt it was important to discuss with the Commission due to the time it has taken to get to this point. Staff desired to ensure that the current direction to find a compromise solution is still appropriate before investing more staff resources into this project.

Commissioner Anderson asked if this floodplain is part of the 100-year floodplain and the chances of this area flooding.

Senior Planner McGuire Brigl confirmed that this area is part of the 100-year floodplain. She stated that a 100-year floodplain equates to a one percent chance of flooding during a year.

Commissioner Anderson stated that he would be more concerned on whether this would alert the flow of water. He asked if there have been comments received from the DNR.

Deputy City Administrator Gladhill stated that this is a backyard, and it would not impact a structure. He stated that the chances of flooding are minimal. He stated that there have been

numerous conversations with the DNR Floodplain Manager and the fact that this is before the Commission shows that there is a path to approval, if desired. He stated that the watershed was not consulted because the disturbance is under the one-acre threshold. He noted that the City, DNR and FEMA have been involved in the review of this request.

Commissioner Anderson asked if the necessary approvals were gained from the City for the retaining wall construction.

Senior Planner McGuire Brigl replied that there were no approvals for the retaining wall. She stated that a contractor did reach out last year and staff noted the necessary regulations and that a wall over four feet requires a permit. She stated that originally the wall was measured at four feet tall, but one layer of brick has since been removed to come under that height. She stated that the DNR has helped staff find a path to approval but does not provide recommendations. She explained that the DNR is available as a tool and resource but does not make a recommendation or approval.

Chairperson Bauer asked the options that would be available if this were approved and the calculations come back above zero percent rise.

Senior Planner McGuire Brigl replied that staff is hopeful that the results will show a 0.0 percent rise, but if rise is created the applicant could completed remediation of the rise elsewhere to mitigate that rise.

Chairperson Bauer stated that this intrudes on a portion of the conservation and trail easement and asked what would need to be reimbursed.

Senior Planner McGuire Brigl replied that the City on occasion vacates drainage and utility easements but does not typically vacate conservation easements. She estimated that the cost would be about \$1,000 and staff would recommend that the homeowner pay that amount.

Commissioner VanScoy stated that staff indicated that the applicant did not obtain a building permit for the wall and indicated that a contractor contacted the City in advance. He asked if the applicant was aware that they were building a retaining wall in a conservation easement and floodplain and still proceeded.

Senior Planner McGuire Brigl suggested that the applicant answer that question.

Commissioner Anderson stated that perhaps neighboring property owners would want to construct retaining walls and asked if those property owners would also need to obtain CUPs.

Senior Planner McGuire Brigl confirmed that a CUP would be required along with vacation of the conservation and trail easement. She stated that the easement varies from site to site and some property owners have more usable backyard space outside of the easement.

Councilmember Musgrove referenced the letter sent to the residents and asked if the Commission has a copy of that letter. She felt that the information in the letter could be helpful to clarify some

of the questions. She asked if there are not other violations to the floodplain because of the variations to the floodplain.

Senior Planner McGuire Brigl replied that there are a lot of structures close to the easement and along the trail. She noted that staff completed a high-level analysis, and they encroach, most are one to two feet into the easement, and there were no unpermitted structures. She stated that some things, such as swing sets will need to be moved and the property owners have been alerted to that. She stated that the larger structures did not appear to encroach.

Councilmember Musgrove asked if this is land that the property owner owns and pays taxes on but cannot do anything on because of the easement.

Senior Planner McGuire Brigl confirmed that to be true. She commented that it is very common in more rural areas. She stated that almost all properties have drainage and utility easements around the property lines. She noted that properties along other features such as the river, a bluff, or wetland have similar restrictions.

Councilmember Musgrove commented that the difference she would see in this case is that the City received funds for the easement.

Councilmember Woestehoff asked for more information on a holistic approach for the neighborhood as he felt that this situation could come forward again. He commented that there is a steep drop and there are not enough trees on the hillside to prevent the constant runoff. He asked if the easement could match the floodplain or trail itself.

Senior Planner McGuire Brigl stated that is something staff would like to bring to the City Council as it seems more logical for the conservation boundary to follow two or three feet off the trail. She noted that would require repayment of the funds. She stated that when people purchase a home in this area the easement is on the title documents, but it has been said that builders and realtors are not alerting buyers to that.

Commissioner VanScoy asked whom the City would pay back for a change to the easement.

Deputy City Administrator Gladhill stated that there is a funding pot allocated by the State Legislature which provides funding for this type of activity. He commented that the easement was acquired for about \$75,000 in 2005 but recognized that would be a higher value today. He stated that there is a process outlined for vacating that type of easement that would come along with a valuation.

Commissioner VanScoy asked who was paid \$75,000 for the easement.

Deputy City Administrator Gladhill stated that the City secured the easement rights from the property owner at the time, Oakwood Land Development. He stated that the easement allowed the City to have the trail and obtain the easement which helps to protect the corridor.

Commissioner VanScoy stated that it is his understanding that taxes are based on the value of the home and property and not based on the size of the lot.

Deputy City Administrator Gladhill confirmed that to be generally correct. He stated that encumbrances on property typically have some impact on land values.

Commissioner VanScoy commented that he has a one-acre lot but about 75 percent of the lot is encumbered by wetland and buffer area, but the value of his home is still comparable to the other lots/homes in his development.

Citizen Input

JoDell Seaman, applicant, stated that Capstone told them that they could do what they wanted up to the middle of the brook and they experience continuous washouts on their property. She stated that she has sent multiple emails to City staff about the issue and their communication with Capstone related to that washout and trees falling onto their property and the trail. She stated that the email from staff to the contractor stated that they could go about 25 to 30 feet from their home and would need to work around the easement. She stated that the builder told them that he came to the City and identified the location they could use. She stated that they have cleaned up trees that have fallen, unaware of the easement. She stated that they were also unaware that a permit would be needed as they were under four feet. She stated that in the spots on the wall that reached four feet, they removed the top layer of brick. She stated that there are trees removed, retaining walls and fire pits that are within the easement throughout that area. She stated that they were not attempting to create additional land use in their backyard but are trying to correct the problems they experience from washout and trees falling. She stated that they want to plant additional trees to replace those that have fallen. She stated that she was not made aware of the different aspects of their yard until this process. She commented that the easement on their property comes up to ten feet from their home. She stated that if she were aware that this issue was the responsibility of the City, she would have placed the burden on the City. She commented that they feel that they were setup for failure from the beginning with the grading of the site.

Councilmember Musgrove asked the number of trees that have fallen in the applicant's backyard. She noted that it also appears that there are a number of dead trees in the neighboring lot.

Mr. Seaman replied that three or four trees have fallen in their yard and they removed one additional tree because of unsafe conditions.

Mrs. Seaman stated that the neighboring property owner pleaded with Capstone about the dead trees and she was told by both Capstone and the City that the trees could not be removed. She commented that one of those dead trees actually hit the neighbor's home and caused damage. She stated that following that incident the neighbor was allowed to remove the dead trees in that area at their expense. She stated that she has now found out that trees removed could result in a fine to the property owner but explained that those trees were removed because they were hazards and caused unsafe conditions.

Justin Gross, 7344 168th Circle Drive NW, commented that he supports the retaining wall. He commented that it looks nice. He echoed the comment that there are a lot of dead trees that need to be removed. He noted that snow removal could be pushed to the other side of the trail. He stated that he supports this request.

Cindy Schulwalter, 6967 170th Trail, stated that she purchased a lot and found that it would not support a walkout rambler therefore they relinquished that lot to the builder and purchased a walkout rambler that was already constructed. She stated that she was never told that there were restrictions on the property and had been told that they could do whatever they wanted up to the middle of the brook. She stated that she was told it was her land to do what she wanted. She stated that when the neighborhood was first realized there was an association but was glad to find out that the association is no longer in existence. She stated that although the trail is nice, it also causes nuisance. She stated that she has now found out that the easement area is not their land to do what they want with but if someone is injured on their property, they would be responsible. She stated that there is also an old dump in that area which is hazardous. She stated that if the City wants the property of the easement, it should complete the maintenance as large tree limbs often fall. She stated that trees were damaged by the creation of that trail and continue to die. She stated that it has been frustrating to find out that there are encumbrances on the property, along with the problems they have with erosion. She stated that it was written into their purchase agreement that if there were issues with erosion the builder would need to construct retaining walls in the back and side yards, but the builder did not fulfill that agreement. She stated that they have also found out that after the builder received the certificate of occupancy, additional fill was brought into the site. She stated that when they brought the issue to the attention of City staff, about the grade that exceeds 20 percent, staff came to the property and she was told to “go inside and let the men talk about it”. She stated that she is upset about this issue. She stated that she has one retaining wall even though they need a second retaining wall, which the builder refuses to complete, and she has now been alerted by the City would not be allowed. She asked if the reference to altering the line of the easement would align with the floodplain. She noted that a majority of her backyard is floodplain.

Senior Planner McGuire Brigl explained that the easement would not be extended and would only be reduced if that were to be the direction of the Council. She stated that in spaces where more easement exists further than the trail, it could perhaps be adjusted to within two or three feet of the trail.

Ms. Schulwalter stated that she has backyard on both sides of the trail.

Senior Planner McGuire Brigl stated that if an adjustment is made it would only be made to the backyard side of the trail.

Deputy City Administrator Gladhill stated that the conservation and trail easement is shown on all property titles and the City is considering a compromise to pull back the easement and follow the southern boundary of the trail to allow property owners to maximize the usable backyard space. He stated that the north side of the trail contains considerable floodplain and wetlands therefore there would still be restrictions on use in that area. He stated that if the entire conservation and

trail easement were vacated it would have a potential cost of \$100,000 and there would still be other restrictions from the wetlands and floodplain.

Ms. Schulwalter asked the point of the easement if the land is already protected.

Deputy City Administrator Gladhill replied that it provides an extra layer of protection for the scenic area in terms of vegetative management and of the tree canopy cover.

Ms. Schulwalter commented that if the City wants that easement, it needs to manage that area. She stated that there are dying trees everywhere in the easement with large branches that fall onto the trail daily.

Deputy City Administrator Gladhill stated that staff can talk about a forestry management plan. He stated that if there is a safety hazard, that can be discussed as there are opportunities for vegetative management. He stated that is part of the broader neighborhood discussion that will be held and would like to focus the discussion tonight on the question of floodplain fill.

Ms. Schulwalter stated that they have been told by City workers that they appreciate the residents taking care of the lawn areas as it results in less work for them. She stated that after she moved in, she submitted a complaint via email as tree trimming was completed and the branches were left in her yard.

Josh Schulwalter, 7341 168th Circle NW, commented that he experiences dead tree fall in their yard and have additional dead trees. He stated that they also have washout in their yard because of the grading. He stated that they installed a fence on their property to prevent cyclists from going into their yard from the trail. He stated that Capstone told them that the path could not be obstructed but they were not advised of the floodplain or easement. He stated that the path is better because of the retaining wall and the people are not attempting to impede on the path but make it nicer for the community.

Tim Tyler, 7323 168th Circle, asked if the City does a survey when they plan to build a community.

Chairperson Bauer replied that the developer is responsible for preparing those plans and marking those restrictions.

Mr. Tyler commented that it was then the responsibility of Capstone to alert potential buyers of the restrictions. He asked for clarification on the ownership of the land within the easement.

Deputy City Administrator Gladhill replied that the City holds an easement on top of private property and the easement gives the City certain rights. He stated that Capstone was required to do additional surveying and submit the information to FEMA, which is reflected on the certificate of survey.

Senior Planner McGuire Brigl stated that the City keeps records of surveys but does not complete the surveying itself.

Ben Pearson, 7371 168th Circle, thanked the Commission for taking the time to consider this request. He stated that he used to do professional landscaping and built retaining walls. He stated that the wall built by the applicant is a fine example of a professionally built wall and is a great addition to the neighborhood. He stated that it is his understanding that the only reason this is before the Commission is a result of a complaint. He noted that he is unsure that is the case and instead feels that this is an instance of the City wanting to play “big brother” and tell people what they can do on their own property. He commented that he does not believe the statement that the property value takes into account the encumbrance. He stated that his lot is smaller but is still valued the same as larger lots without the easement, while those properties owners get a lot more use of their lot. He stated that there are three massive oak trees on his property that have oak wilt and will die and impact other trees on the property. He stated that the property owner has a right to remove trees within the easement if there is an issue with safety. He stated that he has already removed two trees on his property in the easement because they were dead, and it was a hazard. He stated that he never would have purchased this property if he knew that this would be the case.

Chairperson Bauer commented that it is the responsibility of the City to enforce code violations. He stated that he does not have the background information about a complaint and noted that typically the City does not proactively look for violations.

Mr. Pearson commented that this is a small retaining wall that will not alter the floodplain.

Kendall Pane, 7336 168th Circle NW, stated that she wrote a letter of support. She echoed the comments of Mr. Pearson that a mountain has been made out of a molehill. She felt that the property owners pay taxes based on their lot size. She stated that even if a portion of the property is wetland, it still adds value to the property even if it is unusable. She stated that the applicant is paying taxes on the property and the wall does not encroach on the path. She supported the idea of the City adjusting the easement to match the path as there is a lot of confusion as to property rights. She stated that the wall has been built and did not see a benefit in making the property owners take the wall down. She asked the City to find a way to move forward that does not require the applicants to remove the wall.

Ms. Schulwalter stated that if the property owners are not going to be able to do anything with their land, she would like the money for that land and the City own it outright rather than have that easement.

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

A roll call vote was performed:

Commissioner Woestehoff	aye
Commissioner Anderson	aye
Commissioner Peters	aye
Commissioner VanScoy	aye
Commissioner Gengler	aye
Chairperson Bauer	aye

Motion Carried.

Chairperson Bauer closed the public hearing closed at 8:58 p.m.

Commission Business

Commissioner VanScoy stated that the retaining wall is close to the trail and asked if there would be an impact to snow removal.

Deputy City Administrator Gladhill stated that the placement is not ideal but manageable. He stated that there would be more concern if this was the situation along the entire corridor as they prefer to see things at least two feet from the trail.

Motion by Commissioner Anderson, seconded by Commissioner Peters, to recommend that City Council adopt Resolution #20-256 approving the Conditional Use Permit for floodplain fill at 7349 168th Circle NW.

A roll call vote was performed:

Commissioner Woestehoff	aye
Commissioner Gengler	aye
Commissioner Anderson	aye
Commissioner Peters	aye
Commissioner VanScoy	aye
Chairperson Bauer	aye

Motion Carried.

Commissioner VanScoy stated that there were a lot of concerns and issues raised tonight by residents and asked how staff intends to address those.

Deputy City Administrator Gladhill stated that additional information has been provided to homeowners in attempt to be more proactive, similar to what they do for river corridor property owners. He stated that they can continue to respond to individual requests as they come forward. He stated that staff is also going to seek direction from the Council in order to make the regulations easier to interpret. He stated that staff will also gain a better understanding of the financial impact to adjusting the easement and will bring that forward for Council consideration as well.

7. COMMISSION BUSINESS

7.01: Review Concept Plan for Rivenwick 4th Addition; Case of Lennar for Rivenwick 4th Concept Plan (Project 20-134)

Presentation

Concerned Resident and Taxpayer
Brookside Development
Ramsey, MN 55303
October 26, 2020

City of Ramsey Planning Commission
7550 Sunwood Drive NW
Ramsey, MN 55303

Ramsey Planning Commission Members:

As a neighbor of John and JoDell Seaman, I am highly disappointed that the city's planning commission has taken such a long time to resolve the issue of their retaining wall. They are property owners and taxpayers, and want to improve the use of their own backyard. Many of us neighbors would be blindsided by the city telling us we have to tear down a retaining wall that we invested money and time in building. I cannot imagine the stress and burden this has caused the Seaman family. I would imagine the city has more pressing matters and better ways to improve life for all residents of this city rather than continuing to make this matter a pain for the Seaman family. In my opinion- which I am sure many of our other neighbors share- as the property owners, they should have the right to do what they feel is appropriate to improve their yard. I could understand if they tore down trees on the other side of the path, or interfered with the walking path behind their house, but they did not. There are many other eyesores on residential property around the city of Ramsey, and their retaining wall is not one of them. I have also seen many residents along the path that have cut down trees, built fences etc. so it seems unfair to target the retaining wall.

In summary, the Seaman family have been wonderful neighbors, are not harming anyone with their retaining wall and deserve to have this issue put to rest so they can move on with improving the quality of their yard space that they own and pay taxes on.

Thank you,

A caring and concerned neighbor.
Kendal Payne
7336 168th Cir NW
Ramsey, MN 55303

Attn: Planning Commission

I received a letter in the mail concerning a neighbor's wall built along the trail behind the Brookfield Development and would like to express my thoughts.

My family lives at 7333 168th Cir. NW, 2 houses away from the Seamans. Our family walks the trail often and is so thankful for the city providing trails and parks in our community.

As far as the wall in question goes, our family believes it made perfect sense this family built a wall. Our yard has a much smaller slope toward the trail and we're currently struggling with a washed out back yard. We've added dirt and grass and still have interesting divots where water drains from toward the street through our yard and across the trail. Feel free to come take a look. We can't even imagine what would happen if we were dealing with a greater slope.

It's also interesting to my husband, Joe, and I that our "yard" doesn't go all the way to the trail. When purchasing this house we understood the protected wetland to begin across the trail. It's likely this just wasn't clear to us, but would have been extremely helpful to know upon the purchase.

Our experience of the Seaman family are that they keep a well kept home and lawn. We were thrilled to see their project underway as this has kept debris from sliding onto the trail. When we walk the trail, there are many yards that provide such debris which is not our favorite when our kids are riding hoverboards, bikes and/or rollerblades and slip and fall.

I'm hopeful your team will consider their attempt at solving a messy problem with some great landscaping as the obvious conclusion from any great, level-headed Ramsey resident.

Thank you for taking time to read this...and thank you for working hard on behalf of our great city.

Michelle Boyd

November 3, 2020

City of Ramsey
Planning Commission
7550 Sunwood Dr NW
Ramsey, MN 55303

Ramsey Planning Commission:

As residents of the Brookfield 8th Addition, we wish to show our support for the Seaman family at 7349 168th Cir NW and the improvements they have tried to make to their property this summer. It appears to us that they have done nothing differently than many other residents along the Trott Brook Trail, those being building sheds, pools, retaining walls, etc.

We have heard easements mentioned pertaining to the 8th Addition properties. As homeowners in this addition we were not aware of any such easements to our property and how they would affect us.

We encourage you to grant this family the ability to complete their improvement project as they have been at a standstill for far too many months. These additions will only increase the appearance along this scenic nature trail.

Thank you for your time and attention.

Craig and Deb Hanson
7350 168th Cir NW
Ramsey, MN 55303

To Whom It May Concern:

We are writing this note in support of the retaining wall at 7349 168th Cir NW. As neighbors we walk the path along Trott Brook often and see many creative and beautiful landscaped yards done by our fellow neighbors. We were impressed with the retaining wall built by the Seamans, not only with how attractive it is but also with how well structurely it was built. The path often has leaves, dirt and debris on it but it seems the area around the retaining wall stays pretty clear of those things. We have no concerns with any of the landscaping along the path including the retaining wall.

Matt & Catti Knapp
7158 167th Terrace NW
Ramsey, MN 55303

763-482-9162
mtoknapp88@yahoo.com
651-592-9772
catknapp11@comcast.net

COPY

City Planning,

My husband, Drew Moldenhauer, and I have been living in the Brookfield Development for about 3 years. We enjoy walking the path often with our dogs and have seen a lot of changes and improvements happen with the pathway and with our neighbors yards over the years. Some of these changes include added gardens, fences and sheds, which all appear to be right alongside the pathway and within the easement. The retaining wall built at the Seaman's is just another of the many changes we have seen, except the retaining wall is beautifully constructed and adds value to a property of a tax-paying family. It looks nice, the weeds are gone and they kept the few viable trees that weren't dead or dropping large limbs onto the path. We support the Seaman's and have no issue with the wall. There is no need to force this family to deconstruct their retaining wall.

Amanda Moldenhauer
7296 168th Circle NW
Ramsey, MN. 55303
Cell: 763.244.9246

7383 168th Circle NW
Ramsey, MN 55303
952-715-2741

COPY

Dear City Planning Board:

We see that the Seaman Retaining wall is on your agenda for 11-5-2020. We would like to put our input in as we walk this path everyday. Over the years we have seen many changes, some by home owners and some by nature. We have seen trees and limbs fall on the path, we see washout in many different places that pour out onto the path and into the north side of the path. We see trees being cut down, sheds, pools, fences etc all close to the path in the Brookfield Development. We walked past the Seaman's daily as they were out building and trying to stop the erosion from spilling onto the path and to try and save what trees they could. They continuously kept the path clean not only during the construction but by building this wall it's helped make the path cleaner and safer. We actually wish more yards would have something like this to make the path cleaner and safe for all who frequent it daily. We are in favor of the wall/structure staying in place and hope that this can be resolved soon.

Thanks for taking into consideration and listening to your community members.

Sincerely,
Donna Nelson
16420 Quartz St NW
Ramsey, MN 55303

COPY

To Whom It May Concern,

I am writing to you in support of the Seaman Family and the retaining wall they recently installed in their backyard along the walking path.

As a resident of 168th Circle, my family frequents that path and routinely struggles to enjoy our family walks as we push strollers over sticks, logs and large amounts of debris. The Seamans' retaining wall has prevented this debris along their lot line and, in my opinion, has made that area of the walking path more enjoyable. The city should be less concerned with the residents who are trying to make this area more enjoyable, and more concerned with maintaining the parts of the path where the residents are not proactively taking care of the path.

The easements that are in question were never communicated to the residents of 168th Circle. As elected officials who "work for the residents of Ramsey" you have a duty to listen to our opinion and our wishes. Our voices should be heard on decisions made with the land we own and pay taxes on.

Sincerely,

Hanna and Max Pryor

7383 168th Circle NW

Ramsey, MN 55303

952-715-2741

Copy of Previous
Council Case

Dear Planning Committee,

We are writing to you today based on the letter we received about the Seaman's wall and Easement. We wanted to let you know that we are in agreement with our neighbors putting in the retaining wall and hope that it can stay in place for many various reasons. One reason, we are happy that they spent the time, effort, and money by putting this wall in as it has decreased the erosion issues we have been experiencing since move in between our two yards. We have both had to bring in dirt and new sod over the past 3 years to fix the issue of the grading that the city approved of and gave the final stamp to the builder. We had contacted the builder and city multiple times to get assistance and never did. We have continued to try and deal with this personally between the two families. Second, Trees have fallen in our yards, on the path and one on our house due to this erosion and rotting. Requests were put into the city to remove the trees, but the city declined removal resulting in the falls and damage to our home. This resulted in both of us spending hours cleaning it up ourselves and paying a company to come out to help with removal. If we had known this was the cities problem, we could have saved ourselves hundreds of dollars. Does the city plan on paying us back since it is in the easement and we could have gotten in trouble for removing? All we have been trying to do is keep it safe for those walking, riding etc. on the path. Third, with the yard erosion so bad due to the way the city checked off the grading and basically set us up as home owners for failure we have had to put thousands extra into multiple areas to get our deck built to code and had to have things built up way more than the builder expected because he couldn't see all the erosion when he first came out. Fourth, We run a home for adults with disabilities and we walk the path daily and have done so since moving in, there is continuous dirt, debris, sticks, holes and more on the path up and down. Which is overly concerning to us and is a safety Hazard. The one thing that has been great ever since our neighbors put up the wall is it looks cleaner and the pathway is well taken care of, so we do not worry about the safety in that area. The dirt continues to slide in our yard and onto the path that we must clean but we have noticed the neighbors has stopped due to the wall. So, we ask the city what are you going to do with this since it is an easement that we know we cannot touch but we continue to struggle with the same problems? Fifth, we also ask and question why up and down the path trees have been taken down, sheds that touch the path, spots on the north side of the path being cleared and have a fire pit, chairs and more. All for look and enjoyment. All while we as neighbors are truly trying to solve a problem. Sixth, being their neighbor, we love how clean their yard and the path looks since trying to fix these issues. Plus, it is not even finished, we know more trees and other like agriculture were going in. Not to mention, it has helped the other trees from Falling. It's odd that as you walk the path around the neighborhood you will see several homes with retaining walls up and the easement being used in all sorts of ways but yet our neighbors are not able to keep their wall? Why has the city allowed all of this and all of a sudden they come to reprimand home owners on our street? Seventh, I find it interesting that We do not recall a conversation being had with Capstone about the easement and the fact we would be unable to do anything we wanted with the land. In fact, we were sold on how our property line went all the way back to the water as if we had all this land we could utilize. Being one of the highest paying taxpayers in the city I find it absurd we are unable to actually use the land. Not to mention we are paying taxes on a school across from our neighborhood that our children are unable to utilize. My solution would be and hope that we as tax payers and the city can resolve this as it has gone on far too long: since we are unable to touch the easement the city either use our tax money instead of taking more \$ from us to build us all retaining walls along 168th circle and correct the issues they approved of and to pay to take care of our trees as the erosion is causing them to fall on our homes and are all dying. Or we would like to see the easement moved to the north side so we can clean and fix up these issues on our own without the city hounding those that they work for. All we are and have been trying to do is keep our yards clean, intact and from harming those that walk this path daily.

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Unfortunately, we are unable to attend this hearing but if you have any other questions please feel free to come with questions, solutions, or concerns.

Sincerely,

Heather and Leo Ramos
7353 168th circle NW
Ramsey, MN 55303
612-594-4951
Sidebysidewithyou@yahoo.com

COPY

We received notice concerning this in the mail and would like to address the planning commission.

My family and I live have lived at 7372 168th Circle NW since the summer of 2019 and are frequent users of the trail system. Professionally, I have been in the construction industry for almost 15 years, and am a managing partner of an earthwork/civil contractor in the area.

In regards the issue of the Seaman's Fill Material on their property and retaining wall. I have no concerns about the fill material and retaining wall that was put it in at 7349 168th Circle NW, and would like Planning Committee to consider granting this Conditional Use Permit (CUP) to the Seaman's. Here is my personal and professional opinion for consideration.

- Erosion Concerns; I understand before the install of the fill and retaining wall, there was some erosion due to the steep slope left behind the house. The grading plan submitted by the developer was approved by the City. In my experience, whether vegetation is established or not, if you get a steep enough slope and enough water running off the roof and around the house, it doesn't matter how much vegetation is in place, if its running fast enough it can cause erosion. This was happening on the Seaman Property, and within the trail easement. The install of fill to lessen the rate that water sheds away from the home and hardscapes is a way you combat that issue. Furthermore was the install of a retaining wall was the correct thing to do to retain this amount of fill dirt, while maintaining aesthetics along the trail easement, as well as lessen the erosion as water runs freely from the yard, over the wall, and hits the bituminous trail, and dissipating runoff towards the Brook.
- In regards to the floodplain; If the data/modeling the current floodplain hasn't been fully updated since the 1970's, it seems a bit unfair to reference that as an issue in consideration of this CUP, a single family home with minimum shared acreage in the floodplain when you consider the floodplain in its entirety . There has been a lot of development to the surrounding area since the 1970s. Per the timeline given, it wasn't initiated for review until August 2020. Just in the immediate general area, there has been the construction of the entire Brookfield Development (including that Seaman's lot) and a bituminous trail, well after 1973. I would think that would have been enough nearby disturbance to update the all of the modeling of the floodplain. The approximately 100 Cubic Yards of topsoil fill on one single lot does seem like a drop in the bucket compared to all the land development permitted and completed. Can the City provide documentation of revising the floodplain for the bituminous trail from FEMA?
- Consistency and Easement Encroachment; Simple as taking a walk down the trail and seeing several properties in this same floodplain that have been altered in one way or the other. The difficulty of tracking all alterations to the easement and floodplain I'm sure is not easy for the planning commission, but should be considered while reviewing this CUP request.
- Developer Comments/ Notice of Floodplain; I understand no comments were made by the seller about the floodplain, which I feel should have been addressed given the location of it. I understand the permitting of this is all taken care of on the front end for the development, but if the floodplain is inside the taxable land purchased by the buyer, and property taxes are to be paid, notice should be given by the seller to the buyer in reference to not being able to fully utilize/alter the purchased property. While an in-depth explanation may not be a requirement of the seller, a copy of the site plan that, may or may not, have some gray text on it calling out a floodplain, is not sufficient for the typical homeowner to fully understand.

I do hope this can resolved with common sense and considered for approval, and movement to the next step. I do appreciate all the hard work by the planning commission, made up of fellow Ramsey Residents. I trust a complete and considerate review will be done.

Regards,
Blake Smith
Ramsey Resident

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To whom it may concern:

I understand there has been concern in regards to a retaining wall built by the Seaman family on 168th Circle in Ramsey. As a member of the community and neighborhood, their addition has had a positive impact on the walking trail. We have experienced less mud run-off onto the trail which obviously makes for a more positive walking experience and I would assume less future maintenance for those who maintain the trail. Aesthetically speaking, their retaining wall fits into the landscape.

As someone who also purchased from Capstone, we were not made aware of the easement rules and regulations by the builder or realtor. We have a large portion of our property we are not able to use as we would like because it was never brought to our attention prior to purchasing the property which negatively impacts our daily living.

Please contact me with any questions, concerns, or comments.

Ashley Swanson
7277 168th Circle NW
Ramsey, MN 55303

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Attn: Planning Commission
To whom it may concern,

I am writing in regards to my neighbors, John & Jodell Seaman and the upcoming hearing concerning the retaining wall they built this past summer near the walking trail that runs through our neighborhood. My husband, Tim, and I are supportive of the Seaman's retaining wall. Many of our yards have had a lot of erosion and runoff from the yards flowing down onto the path. The Seaman's wall not only looks clean and tidy, it actually helps keep dirt, weeds and debris from washing out into the path.

Before we chose to build our home in the Brookfield 8th division, my husband and I walked that trail multiple times. We saw that many people had built retaining walls or brought in landscaping boulders and rocks. We saw people had done up landscaping all the way to the edge of the path. We talked with the realtor from Capstone builders and were told that we would own the land on both sides of the path with a couple feet or so of easement. But there was never once a mention of it being called a floodplain. We pay property taxes to own all of that property and now we are told two years after the purchase that we can't actually do anything on most of the property we pay for. For the city to now try to punish the Seaman's for landscaping their yard when it has never been an issue with other homeowners who have done similar landscaping projects on their properties along the same pathway is very suspicious and frustrating. It is also selective enforcement of a rule. So if you require one family to remove their landscaping, you'd have to do the same for every family who has already invested in landscaping projects along the path.

We ask that you reconsider the easement policies that are being unequally enforced through the neighborhood and allow the Seaman's to keep their retaining wall.

Sincerely,
Karalynn and Tim Tyler
7323 168th Circle NW
Ramsey

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

RESOLUTION #20-256

**RESOLUTION APPROVING CONDITIONAL USE PERMIT FOR FILL IN A FLOODPLAIN
ASSOCIATED WITH A RETAINING WALL AT 7349 168TH CIR NW**

RECITALS

1. John and JoDell Seaman, hereafter referred to as “Property Owners”, properly applied for Conditional Use Permit for fill in a floodplain on the following described property located in the City of Ramsey:

Lot 9, Block 2, Brookfield 8th Addition, Anoka County, Minnesota

(the ‘Subject Property’);
2. That the Property Owners placed fill in the back yard of the Subject Property to create a flatter backyard with a retaining wall.
3. That the Subject Property is partially in the DNR Floodplain, including where the fill was placed.
4. That the Subject Property is encumbered by a Conservation and Trail Easement that does not allow fill to be placed.
5. That the City can process a Conditional Use Permit (CUP) for the fill associated with the retaining wall if the fill is certified to create no rise, which is defined as less than 0.0 foot of rise and reviewed by the DNR.
6. That if the fill is found to have created rise, defined as more than 0.0 feet of rise, then the City is unable to process the Conditional Use Permit.

FINDINGS OF FACT

1. That the **fill will not** be unduly dangerous or detrimental to persons residing or working in the vicinity of the use, or to the public welfare.
2. That the **fill will not** substantially adversely impair the use, enjoyment or market value of any of the surrounding properties.
3. That the **fill will** be maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the area.
4. That the **fill will not** be hazardous to existing or future neighboring uses.
5. That the **fill will not** impact essential public facilities and services, such as highways, streets, police and fire protection.
6. That the **fill will not** create excessive additional requirements at public cost for public facilities and services and **will not** be detrimental to the economic welfare of the community.

7. That the **fill 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 THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, STATE OF MINNESOTA, as follows:

1. That the Ramsey City Council hereby **approves/denies** the Conditional Use Permit for fill within a floodplain contingent upon the following conditions:
 - a. Conformance with Staff Review and approval of plans by the City Engineer.
 - b. Review to final legal form by City Attorney.
 - c. Removing/amending Conservation and Trail Easement on the Subject Property so that retaining wall is in conformance.
 - d. Review of modeling to ensure that fill has created no rise (Certificate of No Rise required, confirming that the fill has no created more than a 0.0 foot rise)
2. That the Ramsey City Council directs Staff to begin the process of vacating the Conservation and Trail Easement on the Subject Property and bring back final settlement offer.

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 ____ day of _____, 2020.

Mayor

ATTEST:

City Clerk