

**AGENDA  
PLANNING COMMISSION MEETING  
CITY OF SHOREVIEW**

**DATE: MAY 26, 2015  
TIME: 7:00 PM  
PLACE: SHOREVIEW CITY HALL  
LOCATION: 4600 NORTH VICTORIA**

**1. CALL TO ORDER**

**ROLL CALL**

*Approval of agenda*

**2. APPROVAL OF MINUTES**

*April 28, 2015*

*Brief Description of Meeting Process – Chair Steve Solomonson*

**3. REPORT ON CITY COUNCIL ACTIONS:**

*Meeting Date: May 4<sup>th</sup>, 2015 and May 18<sup>th</sup>, 2015*

**4. OLD BUSINESS**

**A. PUBLIC HEARING – VARIANCE / MAJOR SUBDIVISION**

*FILE NO: 2568-15-11*

*APPLICANT: Donald F. Zibell*

*LOCATION: 3422 Chandler Road*

**5. NEW BUSINESS**

**A. PUBLIC HEARING - CONDITIONAL USE PERMIT/VARIANCE**

*FILE NO: 2571-15-14*

*APPLICANT: Russell Weaver & Peggy Huston-Weaver*

*LOCATION: 4344 Snail Lake Blvd.*

**B. VARIANCE**

*FILE NO: 2574-15-17*

*APPLICANT: Jennifer & Bruce Anderson*

*LOCATION: 5855 Daniel Court*

**C. VARIANCE**

*FILE NO: 2573-15-16*

*APPLICANT: Louis Cecil Metz*

*LOCATION: 3435 Milton Street North*

**D. MINOR SUBDIVISION/VARIANCE**

*FILE NO: 2575-15-18*

*APPLICANT: Todd Sharkey Land Development*

*LOCATION: 4965 Hanson Road*

**6. MISCELLANEOUS**

- A. City Council Meeting Assignments for June 1<sup>st</sup>, 2015 and June 15<sup>th</sup>, 2015  
Commission Member Doan and Ferrington*
- B. Planning Commission Workshop @ 6:00 pm before the regular meeting.*

**7. ADJOURNMENT**

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES  
April 28, 2015**

**CALL TO ORDER**

Chair Solomonson called the April 28, 2015 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following Commissioners were present: Chair Solomonson; Commissioners, Ferrington, McCool, Peterson, Schumer and Thompson.

Chair Solomonson noted Commissioner Doan's arrival at 7:01 p.m.

**APPROVAL OF AGENDA**

MOTION: by Commissioner Schumer, seconded by Commissioner McCool to approve the April 28, 2015 Planning Commission meeting agenda as presented.

VOTE: Ayes - 7 Nays - 0

**APPROVAL OF MINUTES**

MOTION: by Commissioner Schumer, seconded by Commissioner Peterson to approve the March 24, 2015 Planning Commission meeting minutes, as presented.

VOTE: Ayes - 6 Nays - 0 Abstain - 1 (Thompson)

Commissioner Thompson abstained, as she did not attend the March 24th meeting.

**REPORT ON CITY COUNCIL ACTIONS**

**Presentation by City Planner Kathleen Castle**

The following items were approved by the City Council as recommended by the Planning Commission:

- Rylaur, LLC/Oak Hill Montessori Site and Building Plan Review
- Water Treatment Plant Site and Building Plan Review

**NEW BUSINESS**

**PUBLIC HEARING - VARIANCE/MAJOR SUBDIVISION**

**FILE NO.:** 2568-15-11  
**APPLICANT:** DONALD F. ZIBELL  
**LOCATION:** 3422 CHANDLER ROAD

**Presentation by Senior Planner Rob Warwick**

The applicant has submitted a preliminary plat and variance for the subject property. The proposal would subdivide the upland 3.6 acres into 8 lots for detached single-family development. There would be 2 riparian lots on Lake Wabasso and 6 non-riparian lots. The existing house with attached garage and swimming pool will remain on Lot 5. Access to the lots will be from a new public road cul-de-sac extending east from Chandler Road. Storm water management will be with a bio-filtration basin on Lot 4. The variance requested is to reduce the street frontage for Lot 4, a riparian lot, from the minimum 100 feet to 72 feet.

In 2014, a minor subdivision was approved that adjusted the north property line to the current configuration to allow the development of Lot 4 with a width of 100 feet of shoreline. That subdivision approval requires removal of the existing tennis court and adjacent detached accessory structure.

The property is located in the R1 District. The proposed cul-de-sac access is consistent with City standards. The proposed lots comply with minimum lot standards of the R1 District. Lot 6, 7, and 8 are key lots where the rear lot lines abut the side lot line of the adjoining parcel to the south. While these key lots do not have the added depth required, they do show the required 40-foot front setback. Lots 4 and 5 are riparian to Lake Wabasso and have a minimum width of 100 feet at the Ordinary High Water (OHW), at the building set back from the OHW, and at the front lot line. The property is zoned for Low Density Residential (RL), which allows 0 to 4 units per acre. The proposal is 2.2 units per acre including the area of right-of-way.

The variance requested for Lot 4 is to address the width of 72 feet at the street frontage. The house pad for Lot 4 exceeds the maximum OHW setback of 106 feet. The driveway turn-around that exists on Lot 5 does not meet the required 5-foot side setback.

Stormwater from the western portion of the property flows south to a culvert; stormwater from the eastern portion flows to Lake Wabasso. The filtration basin proposed on Lot 4 will reduce drainage to the lake. The City Engineer has noted a concern with the amount of infrastructure on this lot with the pond and pipes for storm water drainage as well as pipes to convey water to the filtration basin. The building pad is constrained due to the pipe infrastructure.

There are more than 60 landmark trees on the property. A Removal and Preservation Plan is required with the Final Plat. City Code requires a replacement ratio of 6 replacement trees for every landmark tree removed.

The applicant states that the street width variance requested for Lot 4 meets the intent of the Ordinance because the lot width at the OHW and the building setback from the OHW is 100 feet. The proposed 72-foot width is wider than the cul-de-sac frontage required for a non-riparian lot. The lot area is 29,000 square feet, almost twice the area required for a riparian lot.

Staff notes that a minimum street frontage of 30 feet is required for non-riparian lots on a cul-de-sac. This accommodation is not specified for riparian lots. However, staff agrees that the large lot area and consistent width of 100 feet meet the intent of the Code.

Notice of the public hearing was published and mailed to property owners within 350 feet of the subject property. Four comments were received expressing concerns about reduced green area, environmental impacts on nearby lakes and wildlife, increased traffic and construction noise. A permit will be required from the Ramsey/Washington County Watershed District.

Because of the lot depth issues for the key lots and the building pad on Lot 4, staff recommends the Commission hold and continue the Public Hearing by tabling the application to allow the applicant time to revise plans that would bring the application into compliance or apply for variances. A variance application for the depth of the key lots is needed.

Commissioner Ferrington asked if this plan has to be approved before application can be made for the watershed district permit and whether the reduced drainage to the south flows under the existing driveway. Mr. Warwick stated that the plat must be approved before a grading permit can be issued. A permit from the watershed district would also be needed at the time of issuance of the grading permit. The proposed drainage will be almost 50% of what it is at this time due to the smaller area that will drain south. Water that flows south goes through a culvert under the existing driveway on the subject property and the lot to the south. The wetland is further south.

Commissioner McCool asked the reason there is not flexibility for the width of riparian lots on cul-de-sacs that is allowed for non-riparian lots. Mr. Warwick responded that state law only requires that width be measured at the point of the middle of the building. The City is allowed to be more restrictive and requires three measurements. There is only one other cul-de-sac in the City with riparian lots.

Commissioner Peterson noted the large area that will flow to the new filtration system. He asked if the watershed district will review and test the calculations and assumptions proposed. Mr. Warwick answered that both the City and watershed district have engineers evaluate drainage to make sure there is compliance with adopted standards.

City Attorney Joe Kelly stated that he has reviewed the affidavits and determined that proper public notice has been given for the public hearing.

Chair Solomonson opened the public hearing.

**Mr. Donald Zibell**, Applicant, stated that he is confident that any challenges with the site can be overcome.

Commissioner Peterson asked for further explanation on how the drainage system will handle the increased quantity of runoff from the street. **Mr. Chuck Plowe**, Project Engineer, stated that the applicant is in the process of applying for a permit from the watershed district. The watershed district has revised their rules to be more strict. The size of the drainage system is designed for a 100-year event. The rate that the water leaves the site at this time must be controlled to that same rate after development. Most of the water will be channeled to the filtration basin, which is designed with infrastructure to insure the water leaves the site at the same or less rate as today.

Commissioner Schumer asked for the applicant's response to staff's recommendation to table this application to address issues with key lots. **Mr. Zibell** stated that he is agreeable to tabling the application.

Commissioner Ferrington asked if consideration would be given to not developing Lot 4 and reconfiguring the other lots to provide a common access to Lake Wabasso. The Project Engineer stated that he does not believe it would be economically feasible, as the applicant has spent considerable money to acquire the additional land.

**Ms. Elizabeth Vantasel**, 3400 Chandler Road, asked if the water filtration system is a holding pond. Mr. Warwick explained that the filtration system is filled with plants that take up water. The roots provide opportunity for the water to infiltrate into the ground. A list of plants are in the plan submitted. Maintenance will be part of the City infrastructure. **Ms. Vantasel** asked for further consideration to be given to the wetland to the south and the possible impact of it becoming dry with the reduction of drainage.

**Mr. Jerry Kleffman**, 3400 Chandler Road, expressed concern about loss of trees with increased water into the natural drainage flow. He suggested only two key lots instead of three to reduce the number of variances for lot depth. Mr. Warwick stated that the building pads locations are adequate for modern houses. He showed the new drainage map that shows the area that will drain south to be a much smaller area than currently, which will reduce the runoff to the south.

**Ms. Megan Balda**, 3410 Chandler Road, expressed significant concern about the aesthetic changes to the neighborhood and density. She asked what traffic studies have been done and safety precautions for the heavy pedestrian traffic on Chandler. Mr. Warwick stated that Chandler Road is a minor collector street averaging approximately 500 trips per day. Collector roads in the City have from 500 to 5000 trips per day, and Chandler is one of the lowest volume collector roads in the City. Typically, one house generates approximately 11 trips per day. With seven new lots, this would be a total of approximately 80 added trips per day. On a collector street, this remains a small amount of traffic.

**Ms. Charles Nelson**, 3450 Chandler Road, asked for clarification of the house setbacks and whether a setback variance is requested from the north. Mr. Warwick explained that the variance is only for lot width at the street for Lot 4. The setbacks required from the north property line will meet Code requirements.

Chair Solomonson asked the process to continue the public hearing. City Attorney Joe Kelly recommended re-noticing and reopening the public hearing in order to continue it. The public hearing can be held over to another meeting by closing it temporarily or leaving it open. It is important that the reasons to continue the public hearing and extend the 60-day review time period be specifically stated in the meeting minutes.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to temporarily close the public hearing.

VOTE: Ayes - 7 Nays - 0

Commissioner Ferrington listed issues that she sees need to be addressed and asked what items would need a variance and which ones would need adjustment: 1) variance for the 72-foot width for Lot 4 at the frontage road; 2) house setback of greater than 106 feet from the lake; 3) the driveway of the current home is closer than 5 feet to the property line; and 4) the required depth for key lots. Mr. Warwick stated that the proposed motion is to allow the applicant time to bring the application into compliance or apply for variances. At a minimum he would expect a variance request for key lot depth.

Commissioner Doan stated that the landmark trees are a precious resource, and he would like to see as many as possible preserved.

Commissioner McCool added that he would like to see a plan of how many landmark trees are proposed to be removed with the next review of this matter.

MOTION: by Commissioner Schumer, seconded by Commissioner Ferrington to table the Variance and Preliminary Plat applications submitted by Donald Zibell to subdivide and develop the property at 3422 Chandler Road into 8 lots for single-family detached homes to provide the applicant opportunity to revise the plans to reflect the proposed Key Lots and to address the OHW setback for proposed Lot 4 and to extend the review period from 60 to 120 days.

Discussion:

Commissioner McCool offered an amendment to the motion to include re-noticing the public hearing. Commissioners Schumer and Ferrington accepted the amendment.

VOTE: Ayes - 7 Nays - 0

**COMPREHENSIVE SIGN PLAN**

**FILE NO.: 2566-15-09**  
**APPLICANT: M T HOLDINGS**  
**LOCATION: 1027 TOMLYN AVENUE**

**Presentation by City Planner Kathleen Castle**

This application is to install four wall signs to identify business tenants. The property consists of 2 acres and is developed with a 24,792 square foot office/warehouse building occupied by four tenants. Currently, one wall sign identifies the tenants which would be removed for the four individual cabinet-style signs with interior illumination for each business. The property is zoned Business Park (BPK). A maximum of one wall sign is permitted unless the structure faces two arterial roadways. This structure is located on a local street. The maximum area permitted for a wall sign is 10%, and the maximum length allowed is 20% of the wall length. The total area for the four signs is 140 square feet, which is significantly less than the 435.6 square feet permitted. The total sign length would be 40 feet, which is slightly more than the 39.6 feet permitted. The Comprehensive Sign Plan can deviate from Code requirements if the signage meets required criteria, is attractive and compatible with the surroundings. Size, color and material must be consistent and unified in appearance.

Notice of this application was sent to property owners within 350 feet of the subject property. No comments were received. Staff believes the request is reasonable. The proposed signage has a consistent design, is aesthetically pleasing and compatible with community standards. This is not a special privilege for the applicant, as many multi-tenant buildings have individual signs for the tenants. Staff is recommending that the Planning Commission forward the application to the City Council with a recommendation for approval with the conditions outlined in the staff report.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Thompson to recommend the City Council approve the Comprehensive Sign Plan submitted by MT Holdings for the property at 1025 Tomlyn Avenue. Said approval is subject to the following:

### **Comprehensive Sign Plan**

1. The signs on the property shall comply with the plans submitted for the Comprehensive Sign Plan application. Any significant change will require review by the Planning Commission and approval by the City Council.
2. The existing wall sign shall be removed.
3. Signage shall be maintained in accordance with the City's Sign Code.
4. The applicant shall obtain a sign permit prior to the installation of the new signs on the property.

This approval is based on the following findings of fact:

1. The plan proposes wall signs that consistent in size and materials throughout the site.
2. Approving the deviation to is necessary to relieve a practical difficulty existing on the property. Practical difficulty is present since this is a multi-tenant building and it is reasonable for each tenant to have an identification sign above their business entrance.
3. The proposed deviations from the standards of Section 208 result in a more unified sign package and greater aesthetic appeal between signs on the site.
4. Approving the deviation will not confer a special privilege on the applicant that would normally be denied under the Ordinance. Other multi-tenant structures in the City have multiple wall signs to identify tenants within the buildings.





Chair Solomonson noted that the Planning Commission will serve as the Board of Adjustments and Appeals for this item.

**Presentation by Assistant City Manager/Community Development Director Tom Simonson**

This application was determined to be incomplete because certain filing requirements were not met by the applicant. The Minor Subdivision application is a proposal to subdivide 4965 Hanson Road into two parcels. The reason the application is incomplete is because a variance application must be submitted with the Minor Subdivision in order for the proposal to be considered. Code requires that new lots must have public road frontage unless a variance is granted. Access to the new parcel would be from a private driveway easement. The applicant maintains that the private driveway easement is a public road and does not require a variance.

The Minor Subdivision application was determined to be incomplete for four reasons:

1. Three items of administrative and/or procedural matters could be easily rectified.
  - a. The application needs to be signed by one of the property owners;
  - b. The applicant, Sharkey Land Development, must submit evidence of a legal or equitable interest in the property; and
  - c. The Certificate of Survey is unacceptable because it was not a copy to scale and was altered with hand written notes that obscure some information.
2. The variance application was not submitted as required. The City's filing requirements provided with the application state, "a completed application(s) for all other approvals necessary for the proposed development (e.g., rezoning, variance, comprehensive guide plan amendment)," must be submitted with the application.

The key issue of this appeal is the matter of the private driveway or public road. A map was shown indicating the subject driveway that is for access to the subject property off Hanson Road. Staff believes this access to be a private driveway. The City Attorney has provided a letter indicating the legal opinion that the subject driveway that would serve the proposed lot is a private easement. This determination is consistent with the City's position over a number of years, including current and past research by the City Attorney. The proposed parcel would then front on the private driveway easement, which requires a variance.

Public notice of this appeal hearing was sent to property owners within 350 feet of the subject property. Copies of written comments have been provided to Commissioners. It is staff's recommendation that the Planning Commission deny the appeal and rule that the Minor Subdivision application was incomplete.

City Attorney Joe Kelly stated that he has reviewed the documents submitted by the applicant, which included plats, deeds and an opinion from former City Attorney Jerry Filla that go back to 1978. The documents submitted support the previous position that the driveway is a private easement dating back to 1978. The deed provided to the Sharkeys from the Hansons states, "also a roadway or driveway easement over a strip of land 30 feet in width lying adjacent to and on the northerly side of afore said tract of land. And 30 feet being measured at right angles to the

northerly lines of said tract and said strip running from said east line of Government Lot 1 to a line running parallel to and distant 290 feet west of said east line.” The first paragraph is the tract of land that is being conveyed. The second paragraph is a roadway or driveway easement, a private easement between the grantor and the grantee. The seller is providing the easement solely to the individual buyer. The survey from 2005 also shows a 30-foot easement, not a publicly dedicated right-of-way. All the cases cited by the applicant deal with publicly dedicated rights-of-way or platted streets. A review of this plat shows no platted or publicly dedicated right-of-way. The original grantors and those benefitting from the easement have not actually dedicated this strip of land to the public. This is backed up by the fact that the United States Postal Service does not deliver mail on this road. The hash marks on the plat only indicate that there is an easement in existence. It is not showing a publicly dedicated right-of-way or publicly dedicated roadway that is platted. There are public utility easements, but that does not indicate a public right-of-way for purposes of subdivision standards.

The applicant has indicated concern about an opinion letter from 2005. The letter shows that the applicant previously applied for a variance and subdivision. It also shows the City’s consistent opinion regarding the easement since 1978. The concern is about the paragraph that states, “It is possible that surrounding property owners may commence litigation against the Sharkeys if they approve the minor subdivision and waiver.” The reason for that statement is that the easement has been improved by making it a concrete surface. The potential liability is between the private parties. Mr. Simonson added that the 2005 letter also shows that the Sharkeys do have rights to the private easement.

Mr. Simonson explained that the Planning Commission is serving as the Board of Adjustments and Appeals and is to determine whether or not the City’s determination is correct, that the application is not complete. He recommended focus on the completeness or incompleteness of the application without getting into issues of a minor subdivision or any potential development, issues.

City Attorney Kelly stated that if the Board of Adjustments and Appeals were to determine that the easement is a public right-of-way, contrary to the City’s opinion, that would mean a taking of property from the underlying land owner, which would potentially require compensating the underlying owner.

**Mr. Todd Sharkey**, Applicant, stated that there is a lot of history that has caused problems in the neighborhood. He wants to offer an opportunity to clear up hard feelings and heal the neighborhood by telling the truth. The map line showing the easement on the City’s map is shown as a municipal street on the Ramsey County GIS system. The original parcel was purchased by Mr. Bucher from the Government. The parcel was then sold to Mr. Henry Hanson (for whom the road is named--Hanson Road).

Mr. Sharkey referenced a letter dated 1978, from then City Attorney Jerry Filla, to Dr. Charles Bregel, that states, “I have reviewed the abstract title for the above-referenced property which was last certified on the 6th day of June 1975, at 8:00 a.m., by the St. Paul Title and Guaranty Company. The abstract consists of entries 1 through 84 inclusive and a photocopy of that abstract is enclosed. At one point in time most of the property located west of the center line

from Hanson Road and north of Robinhood Place was owned by Henry Bucher. Upon his death a portion of this property was decreed to his daughter, Caroline Hanson and upon her death the property was given to her children--Henry Hanson, Louise Hanson and Ed Hanson. When the Hanson children acquired their mother's interest in the property, they granted a 15-foot easement to Stuart Cohn. The easement extended westerly across Hanson Road across some property south of your property (that would be Sharkey property)." The easement was to provide access to the Cohn property. This easement was eventually reconveyed to Stuart Cohn and now no longer exists.

City Attorney Filla further states that the easement referred to in his letter is only for three parcels and no parcels further to the west. The title states that a driveway permit for 690 feet was issued, which extends to where there is an existing garage today. The easement was only granted to a certain number of properties. The Sharkeys, who acquired the property from Bedburys with the right to use the 30-foot easement. Entitlement to use the easement does not necessarily carry with it the obligation to maintain the easement. Although the easement cannot be obstructed, it states that, "If the present owner of the Bedbury properties (now the Sharkeys), wish to construct more than one residential dwelling on the property, approval of a minor subdivision would have to be obtained from the City of Shoreview." The City Attorney is saying that a variance is not necessary. In 1978, Exhibit D, page 11, his father's 1978 application for a minor subdivision shows a checkmark for a variance but no variance is written in. The Sharkey property, is, therefore, grandfathered in.

In 1993, Mr. Gerald Anderson applied for a minor subdivision and variance for frontage on a non-public street. However, he did not apply for a variance for special access permission, which is mandatory. In 1993, the properties were granted special permission of access by the City. This is an act of eminent domain for which no one has been compensated. The City overburdened the easement with four additional property owners who do not have rights to cross that property. There are four properties with legal access gaining a public benefit. Those four properties need to compensate other affected neighbors. City Attorney Filla stated that no part of the easement crosses the Sharkey property. However, the survey presented as Exhibit W1, the roadway easement entirely crosses the Sharkey property. One property owner took responsibility for reconstructing the road but without taking out a permit. A permit was granted after the fact by the City, which denied due process to the neighbors. To have to apply for a variance is being held to a higher standard.

**Mr. Sharkey** stated that the neighbor at 1000 Oakridge Avenue is 89 feet back from the north property line with no variance. That house is an illegal structure. Attorney Chad D. Lemmons who is with the law firm of Kelly and Lemmons states in a letter regarding 1000 Oakridge Avenue, "Shoreview's failure to require and process a variance for the Jarrot home is not a violation of Chapter 13, which is the Minnesota Data Practices Act, instead it is a violation of the City's own ordinances." He asked again why he is being held to a higher standard. The City granted a minor subdivision in 1978 and requested a 30-foot easement from his father. The problem is that the 30 feet comes within four feet of the house. The house would have been illegal, devalued.

Mr. Sharkey stated that there are easements under the roadway. What is contained under the roadway is water. There is a fire hydrant at the far west end. There are power lines on the south and north sides of his property. The power lines are spaced 150 feet apart. City Code for lots is 75 feet wide by 125 feet deep. The power lines show that there are three lots on the Sharkey property. He is only asking for two. The second lot would exceed City Code by 50%. There are gas lines, electric lines, CABLE lines with no easements for utilities. In 2005, the City wanted a 10-foot utility easement, but it was not granted. The City, by charging utility fees is making money off property they do not own. All indicators are that the easement is a public road. The land was taken for public benefit to the other four properties.

He does not want to bring litigation. He has done his homework and trying to defend his property rights and bring a solution. He does not want to maintain the easement any longer for others. Those who use the easement need to purchase the property and maintain it. He is trying to do what is right but he would like to be treated fairly.

He was very upset with Mr. Hill's letter that was sent to damage him. He went to the police who told him he could press charges, but he did not.

**Mr. Dennis Jarnot**, 1000 Oakridge Avenue, stated that he has lived at this address for 20 years. When he moved in the street was part asphalt and part gravel. Ten years ago neighbors put thousands of dollars into improving the road and then again spent substantial money to maintain it. Now they have to get a permit. He is not sure there is a municipality that requires residents to maintain a public street and maintain street lights. Residents had to increase the width of the roadway to support the Fire Department. All the things Mr. Sharkey has said do not show that the City has taken over the road to make it a public street.

**Mr. Sharkey** stated that in 1993 that resulted in the house at 1000 Oakridge, the road was posted for no parking. There are no driveways posted for no parking. It is supposed to be posted and he would request that it be posted no parking. This is another indicator that the road is public. Mr. Jarnot is acting as an agent. As part of the 1993 subdivision Mr. Jarnot's deed shows he is partly responsible for the road. He has been doing all of it. Since they took it as public domain makes it public.

### **Commission Discussion**

Commissioner Schumer referred to the April 1, 2015 letter sent to Mr. Sharkey and asked if the City has proof he received that letter. Mr. Simonson answered, yes. Commissioner Schumer asked if anything was done to fulfill the first three requirements of the application. Mr. Simonson stated that it may be that the application is now signed. Todd Sharkey was added to the property April 10, 2015. The City is not requiring a survey. These actions took place after the City determined that the application was incomplete. The City is asking for a to-scale survey.

Those first three items can easily be remedied. They are not fully remedied as of the date of the appeal.

Chair Solomonson added that the finding is that the application was incomplete as of April 1, 2015. The City has indicated since that some items may have been remedied. The other action would be for the applicant to resubmit the completed application.

Chair Solomonson stated that the fourth item is the issue. From the standpoint of the City Code it is a private driveway, not a public road. He asked for clarification as to whether anything was grandfathered in. City Attorney Kelly stated that anything grandfathered would now be considered nonconforming. The consideration for the Commission is current Code with the current application.

Commissioner McCool stated that the application from 1978 did not have a plat. That means minor subdivision was never completed. The applicant has not challenged the completion of the three minor issues of completion that staff says can be remedied. That means it stops there. The applicant can fix the three issues and then there is the issue of a public road. There is no indication in the record that the easement is a public street. There is no map or plat. The easement is in the Sharkey deed, how it is maintained and used. The County map does not make the easement a City street. An order from the court would be needed stating that the easement is a public taking. That has not been done. Two City Attorneys have done the research to conclude the easement is not a public road. He does not see the Commission not accepting that opinion. A variance has not been requested, and the application is incomplete for that reason.

Commissioner Ferrington agreed with Commissioner McCool.

Commissioner Peterson stated that he read all the material and agrees with Commissioner McCool. At the intersection of Oakridge and the driveway, there is a sign that states "Private Driveway." With the history and documentation, he supports the conclusion that the easement is not a public road.

Mr. Sharkey referred to the Municipal Guide Plan and the easement is clearly under City jurisdiction, which he showed to each Commissioner.

Mr. Warwick stated that prior Comprehensive Plans are outdated. The current Comprehensive Plan does not show this easement as a public road.

Commissioner Thompson stated that she does not believe the road issue can be decided at this meeting. It asks for a legal conclusion the Commission is not equipped to make. She believes the application is incomplete.

**MOTION:** by Commissioner Doan, seconded by Commissioner Schumer that the Planning Commission, serving as the Board of Appeals and Adjustments, hereby denies the appeal of an administrative decision by the applicant Todd Sharkey, Sharkey Land Development, regarding a Minor Subdivision application submitted for property at 4965 Hanson Road. The denial of this appeal supports the City staff determination that the Minor Subdivision application was incomplete for the reasons cited and information that was not submitted by the applicant, as outlined below:



ATTEST:

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Kathleen Castle  
City Planner



**TO:** Planning Commission  
**FROM:** Rob Warwick, Senior Planner  
**DATE:** May 21, 2015  
**SUBJECT:** Preliminary Plat (Major Subdivision) and Variances, 3422 Chandler Road, Donald Zibell, File No. 2568-15-11

## **INTRODUCTION AND BACKGROUND**

At the April 28<sup>th</sup> meeting, the Planning Commission opened the public hearing and reviewed the Preliminary Plat (Major Subdivision) and variance applications submitted by Donald Zibell. Mr. Zibell proposes to subdivide and develop the property at 3422 Chandler Road into 8 lots for single-family detached homes. The variance requested a reduction of the street frontage for Lot 4, a lake, from 100-feet to 72-feet. The Commission tabled the applications and continued the Public Hearing to provide the applicant opportunity to revise the plans, submit applications for additional variances and allow the City time to again notice the revised applications.

The applicant has made revisions to the plan, addressing concerns about the infrastructure located on Lot 4, showing removal of a portion of the driveway turn-around on Lot 5, and submitting variance requests to reduce the required lot depth for the three Key Lots (lots 6, 7, and 8), and to reduce the front setback for a future dwelling on Lot 4.

A public road is proposed to serve the new lots. There is an existing single family home that will be retained on Lot 5, a lake lot. Stormwater runoff is proposed to be managed with a bio-filtration basin located on Lot 4.

## **SITE CHARACTERISTICS**

The property has an upland area of 3.6 acres and is located on the west side of Lake Wabasso. The property is currently developed with a single-family home with an attached garage, driveway, swimming pool, and accessory structures. Access to the property is from Chandler Road. Vegetation on the site consists of open areas with grasses and open woods. The property is riparian to Lake Wabasso, with over 300-feet of shoreline.

Surrounding property is developed with detached single family dwellings. The area was principally developed in the 1970s and 80s.

## **PROJECT BACKGROUND AND DESCRIPTION**

In 2014, the City approved a minor subdivision that adjusted the north property line of this property to the current configuration. The lot line adjustment allowed for the development of Lot 4 with a lot width of 100-feet measured at the shoreline. This

subdivision approval required removal of the tennis court and a detached accessory structure during 2015.

The applicant proposes to develop the property with 8 single-family residential lots. Six of the proposed lots are non-riparian lots and two are riparian lots. The existing house and improvements will be retained on Lot 5, a riparian lot. Lot 4 is also a riparian lot. A public street that terminates in a cul-de-sac will be constructed to provide access. Stormwater will be managed through a bio-filtration basin. The tennis court and several detached accessory structures will be removed later this year. The applicant proposes to retain the existing detached garage on proposed Lot 7, and removal of the garage will be addressed in the Development Agreement.

### **STAFF REVIEW**

#### **PRELIMINARY PLAT**

The preliminary plat was reviewed in accordance with the City's standards for subdivisions (Section 204), and the R1(Section 205.080) and Shoreland (Section 209.080) zoning districts. The following outlines some of the features of the proposed subdivision.

***Street Network/Traffic.*** Currently, access to the property is from Chandler Road. The proposed public street is located in the same area as the existing driveway and will have a length of about 325-feet. The street design is consistent with City design standards (Section 204.030 and 040). Chandler Road and North Owasso Boulevard (just to the south) are collector streets which convey traffic to the arterial road system.

***Lot Layout.*** The proposed parcels comply with the minimum lot standards of the R1 zoning district. The non-riparian lots are required to have a minimum width of 75-feet, a minimum depth of 125-feet, and a minimum area of 10,000 square feet (Section 205.082 D.1.f).

Three of the proposed parcels (Lots 6, 7, and 8) are Key Lots. A Key Lot is any lot, the rear of which abuts the side lot line of an adjoining lot, or any lot, the side lot line of which abuts the rear lot line. These types of parcels are discouraged, however, when they are developed, additional setback restrictions are imposed to minimize the development impacts on the adjacent property (Section 204.030 C.9). These lots exceed the minimum width required by Code, and so provide suitably sized building pad areas. The three lots do not have the additional depth required (Section 205.080 D.1.f). The building pads shown for these parcels comply with the 40-foot structure setback requirement for Key Lots. , and Staff expects that the pads can be further enlarged since they are shown with a 30-foot front setback, rather than the 25-foot minimum front setback in the R-1 District. Note too that the pads are shown with 10-foot side setbacks along each side line. Commonly in new developments an attached garage is developed with a 5-foot side

setback as allowed by Code. The applicant has requested a variance to reduce the depth for these lots to the proposed 126- to 127-foot depth shown.

Lots 4 and 5 are riparian to Lake Wabasso, a General Development lake, and subject to lot standards specified for the Shoreland District (Section 209.080 D.1). Lake lots are required to have a minimum width of 100-feet measured in three locations: at the Ordinary High Water (OHW) of the lake, at the building setback from the OHW, and at the front lot line. The minimum area for a lake lot is 15,000 square feet.

The building pads are shown with dimensions of about 35- by 45-feet (approx. 1,600 sq. ft.) for the house with an added 20- by 22-foot garage area. Staff expects that larger garages will be constructed but there appears ample area on the lots for the future improvements.

Lot 4 has 72 feet of street frontage, less than the 100-feet required, and a variance has been requested to reduce the frontage. The lot width, measured from side line to side line, exceeds 100-feet over its length. The proposed lake lots conform to all other dimensional standards. Concern about the house pad shown on Lot 4 has been reduced with the plan revision, which includes shifting the utility location nearer to the common side lot line, and so increasing the area available for future improvements on Lot 4. The pad complies with the required setback from the street, and as shown still exceeds the 106 foot maximum OHW setback, which is based on the OHW setback of the houses on the adjacent riparian lots. The applicant has requested a variance to increase the OHW setback for the future dwelling.

Staff also notes that the existing drive turn around on Lot 5 will be altered to meet the 5-foot setback required from a side lot line (Section 206.020 A.2.a).

**Stormwater Management.** The existing drainage pattern generally flows to the lake and off site to the south. The proposed stormwater management plan has been designed to comply with Shoreview and Ramsey Washington Metro Watershed standards for stormwater quality, quantity, best management, and erosion control practices. The plan is designed with a bio-filtration basin on Lot 4 capturing the majority of runoff from the site to comply with the water quality standards prior to discharge to Lake Wabasso. The filtration basin will be inundated after storm events, but is intended to dry between storms. Run-off from the backyard areas of the lots south of the cul-de-sac will follow the historic drainage way to the south.

The proposed storm water plan does comply with the City's standards. See the comments from the City Engineer.

**Density.** The Comprehensive Plan designates this property as Low-Density Residential (RL), where a development density of zero to four units per acre is allowed. The

proposed 2.22 units per acre density complies with the Comprehensive Plan and is consistent with the density established in this area.

***Tree Preservation and Landscaping.*** The property contains both open and wooded areas. There are about 70 landmark trees on the site, and the preliminary grading plan identifies that 34 of these will be removed and 39 landmarks retained. No tree removal is proposed in the Shore Impact Zone.

Tree removal, tree protection, and replacement plans are required with the final grading plan. Replacement trees are required at a rate of 6 replacement trees for each landmark tree removed (Section 209.050 B.2.C.i.bb), and about 200 replacement trees will be necessary.

## **VARIANCE**

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the Development Code and in harmony with the policies of the Comprehensive Plan. Practical difficulty is defined (Section 203.070 C.2) as:

- 1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
- 2. Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
- 3. Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

Affirmative findings for all of the review criteria are required in order to approve a variance.

### ***Request to Reduce Street Frontage for Lot 4***

The applicant states that the variance meets the intent of the Ordinance since it has a width of 100-feet at the OHW and building setback from the OHW, as well as an area of 29,800 square feet. He also notes that the proposed 72-foot frontage is much wider than the cul-de-sac frontage required for a non-riparian lot.

Staff point out that City Code regulations for riparian lots do not include a provision allowing a reduced frontage for riparian lots located on a cul-de-sac in a manner similar to the regulation for non-riparian lots, where a minimum front lot line of 30-feet is required and so accommodates development on cul-de-sac streets. Staff agrees with the

applicant that the large lot area and the consistent width of 100-feet meet the spirit and intent of the Code.

***Request to Reduce Lot Depth for Key Lots, Lot 6, 7, and 8***

The applicant states that the proposed lots comply with all of the City requirements, including the increased rear setback of 40-feet that applies to Key Lots.

Staff believes the existing 304.75 foot width of the property is the major contributing factor. With the required 50-foot right-of-way for a public road, there remains 254.75 feet for lots, and so the 127-foot lot depth shown. Staff believes that the existing width of the property provides practical difficulty, and that it reasonable to subdivide a 3.3 acre parcel into lots suitable for detached residential dwellings.

The plans show the building pads for these lots all in excess of 40-feet, which complies with the letter, and the intent of the Code. The increased setback was adopted to maintain separation between structures when new development alters the existing lot pattern. Staff also notes that the lot pattern proposed continues the pattern that exists between the subject property and the lots along the south side of Lake Wabasso Court. The creation of the Key Lots appears inherent in the pattern and configuration of property that has development potential along the west side of Lake Wabasso. Since the pattern is present now, staff believes shifting the Key Lot boundary about 300 feet south will not alter the character of the neighborhood.

Staff expects that the pads on these lots seem suitable for a modern dwelling and attached garage. The pads shown can be further enlarged since they are shown with a 30-foot front setback, rather than the 25-foot minimum front setback in the R-1 District, and the pads are shown with 10-foot side setbacks along each side line. Commonly in new developments an attached garage is developed with a 5-foot side setback as allowed by Code.

**PUBLIC/AGENCY COMMENT**

Notice of the Public Hearing was published in the City's legal newspaper for both the April and May meetings. Notice was mailed to property owners within 350 feet of the property boundary for both meetings. Five comments were submitted in response to the notice preceding the April meeting, and are attached. One comment has been submitted in response to the May notice, and is attached. The comments express concerns that include reduced green area in the neighborhood, environmental impact on nearby lakes and wildlife, increased traffic on Chandler Road, and construction noise.

Rick Current, Lake Johanna Fire Marshall, reviewed the plans and did not identify any concerns.

Staff at the Department of Natural Resources identified that the DNR does not have a comment on the requested lot frontage variance, and that impervious surface coverage should be limited due to the proximity to the lake. A DNR permit for the installation of the filtration area appears to be required. The comment is attached.

Staff of the Ramsey Washington Metro Watershed District (RWMWD) identified that the project is subject to the permitting requirements of the District, and that erosion control will be important due to proximity to Lake Wabasso. The applicant has applied for a District permit.

### **RECOMMENDATION**

Staff has reviewed the proposal in accordance with the preliminary plat requirements. The preliminary plat generally complies with the City's R1, Detached Residential zoning district and subdivision standards. Staff recommends the Commission re-open the Public Hearing and take testimony from the public. Staff is able to make affirmative findings for the requested variances to reduce the frontage for Lot 4, and the depth of the three Key Lots (Lots, 6, 7, and 8), and so recommend the Commission adopt Resolution 15-40, approving the variances for the street front of 72 feet for Lot 4 and to reduce the depth of the three Key Lots to 127-feet and recommend approval of the preliminary plat to the City Council, subject to the following conditions.

#### **Variances**

1. This approval is subject to approval of the Preliminary Plat application by the City Council.
2. A minimum setback of 40-feet from the South (rear) lot line is required for the principal and accessory structures developed on Lots 6, 7, and 8.
3. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
4. The approval is subject to a 5-day appeal period.

#### **Preliminary Plat**

1. The approval permits the development of a detached residential subdivision providing 8 lots for single family residential development.
2. Final grading, drainage and erosion control plans are subject to the review and approval by the Public Works Director prior to approval of any permits or the Final Plat. Concerns identified by the City Engineer shall be addressed with the Final Plat submittal.
3. Final utility plans are subject to review and approval by the Public Works Director.

4. The final street design is subject to review and approval of the Public Works Director.
5. Comments identified in the memo dated May 20, 2015 from the City Engineer shall be addressed with the Final Plat submittal.
6. A Development Agreement, Erosion Control Agreement shall be executed and related securities submitted prior to any work commencing on the site. A Grading Permit is required prior to commencing work on the site.
7. A Public Recreation Use Dedication fee shall be submitted as required by ordinance prior to release of the Final Plat.
8. The landscape/tree-replanting plan shall be provided in accordance with the City's Tree Protection Ordinance. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree driplines prior to grading and excavating. Said plan shall be submitted for review and approval by the City Planner prior to submittal of the final plat application.
9. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear lot lines. Other drainage and utility easements shall be provided over the proposed bio-filtration area, future public infrastructure and as required by the Public Works Director.
10. The developer shall secure a permit from the Ramsey Washington Metro Watershed District prior to commencing any grading on the property.

Attachments:

1. Submitted plans and applicant's statements
2. Location map
3. Aerial photo
4. Comments
  - a. Tom Wesolowski, City Engineer
  - b. Rick Current, Fire Marshal – LJFD
  - c. Paige Ahlborg, RWM Watershed District
  - d. Jen Sorenson, MN DNR, Metro Hydrologist
  - e. Resident comments
5. Resolution 15-40
6. Motion

## 2. Requested Variance

In connection with the proposed subdivision of his property at 3422 Chandler Road, applicant is unable to meet all of the Code requirements for one of the eight lots. The lake lot (on Lake Wabasso) will have 100 feet of width on the lake and at the building set-back line, but not at the street or Cul-de-sac frontage. However, it will have 72 feet on the Cul-de-sac which should be more than adequate, especially since it has wider frontage than the Code requirements for a non-lake lot. Also, the lake lot is extra large with approximately 29,500 square feet.



2. REQUESTED VARIANCE: KEY LOTS DO NOT REQUIRE ADDITIONAL DEPTH

3. A VARIANCE IS NEEDED BECAUSE KEY LOTS 6, 7 AND 8 OF THE PROPOSED ZIBELL SUB-DIVISION DO NOT HAVE THE ADDITIONAL DEPTH REQUIRED BY CODE. THE AFFECTED LOTS MEET ALL OF THE OTHER REQUIREMENTS FOR SUB-DIVIDED LOTS INCLUDING THE 40-FOOT STRUCTURE SETBACK PROVISION FROM THE REAR PROPERTY LINE. LOT 8 IS ALREADY OVER-SIZED WITH A WIDTH OF 95 FEET BECAUSE IT IS A CORNER LOT. ALL THREE OF THE LOTS HAVE A DEPTH OF 127 FEET.

PERHAPS WE SHOULD CONSIDER PROVIDING FOR A 25 FOOT SETBACK FROM THE FRONT LOT LINE, THIS SHOULD RESULT IN AN ADDITIONAL 5 FEET FROM THE BACK PROPERTY LINE MAKING THE SETBACK 45 FEET. WE MIGHT ALSO CONSIDER PROVIDING FOR SCREENING ALONG THE BACK PROPERTY LINE.

THE VARIANCE REQUEST COMPLIES WITH THE PURPOSE AND INTENT OF THE CITY CODE AND THERE ARE PRACTICAL DIFFICULTIES IN COMPLYING WITH THE SHOREVIEW DEVELOPMENT REGULATIONS.

2. REQUESTED VARIANCE: STRUCTURE ON LOT 4 OF PROPOSED ZIBELL SUBDIVISION CAN BE OUT OF ALIGNMENT WITH NEIGHBORING HOMES

3. STATEMENT OF REQUIRED JUSTIFICATION THAT DEMONSTRATES NEED,

A VARIANCE IS NEEDED FOR LOT 4 OF THE PROPOSED ZIBELL ADDITION BECAUSE IT IS UNABLE TO MEET CODE REQUIREMENTS FOR LOCATING A HOME ON THE LOT. THE CODE REQUIRES THAT NEW HOMES ON A LAKE (WABASSO) BE IN ALIGNMENT WITH EXISTING HOMES. THE PROPOSED BUILDING ON LOT 4 WOULD BE ABOUT 40 FEET FARTHER WEST OF THE LAKE THAN THE CODE PROVIDES BECAUSE OF DRAINAGE EASEMENTS.

THE EXISTING HOMES ARE OVER 400 FEET APART SO IT WOULD BE HARDLY NOTICEABLE THAT THE LOT 4 STRUCTURE IS NOT THE SAME DISTANCE FROM THE LAKE. BESIDES, REMOVAL OF THE TENNIS COURT CREATES A MUCH LARGER DRAINAGE AREA WHICH PROBABLY MAKES THE NECESSARY DRAINAGE EASEMENT AREA ON LOT 4 MUCH SMALLER. THIS AND MORE MODERN PONDING TECHNIQUES COULD MOVE THE HOUSE ON LOT 4 CLOSER TO ALIGNMENT. ALSO, THE OWNER OF THE PROPERTY NORTH OF LOT 4 HAS OFFERED TO EXPAND THE DRAINAGE AREA ON HER PROPERTY.

LOT 4 IS EXTRA LARGE (29,800 SQUARE FEET) SO THERE IS PLENTY OF ROOM TO MOVE THE HOME AROUND IF PART OF THE EASEMENT AREA CAN BE VACATED.

#### 5. Summary of Proposed Major Subdivision

Applicant is proposing to develop his 4 acre tract into 8 single family lots, including 2 corner lots, 4 interior lots, 1 lake lot and 1 outlot containing his homestead.

All of the lots meet minimum size requirements and have access to a Cul-de-sac. One variance would be needed--the lake lot has less than 100 feet of street frontage on the Cul de sac

A stable that straddles two interior lots would be torn down and a tennis court would be removed within one year: A three car garage on one lot would be retained until the lot is sold: There are several large old trees that will be retained to the extent possible Fill will be needed on both sides of the road

Applicant will be his own general contractor A surveyor and professional engineer have been engaged

# PRELIMINARY PLAT

~of~ ZIBELL ADDITION  
 ~for~ DONALD ZIBELL  
 3422 CHANDLER ROAD  
 SHOREVIEW, MN 55126

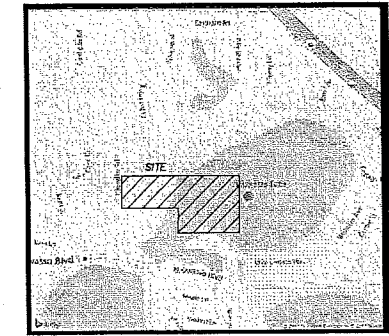
## EASEMENT DETAIL

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

BEING 5 FEET IN WIDTH AND ADJOINING SIDE LOT LINES AND 10 FEET IN WIDTH AND ADJOINING STREET LINES AND REAR LOT LINES, UNLESS OTHERWISE SHOWN ON THIS PLAT.

## VICINITY MAP

PART OF SEC. 36, TWP. 30, RNG. 33



RAMSEY COUNTY, MINNESOTA  
 (NO SCALE)

NORTH  
 GRAPHIC SCALE



## LEGEND

- DENOTES IRON MONUMENT SET, MARKED RLS# 41578 FROM EARLIER SURVEY
- DENOTES IRON MONUMENT FOUND AS LABELED
- ⊕ DENOTES RAMSEY COUNTY MONUMENT
- ⊞ DENOTES CATCH BASIN
- ⊙ DENOTES STORM SEWER MANHOLE
- ⊚ DENOTES SANITARY SEWER MANHOLE
- ⊛ DENOTES HYDRANT
- ⊜ DENOTES POWER POLE
- ⊝ DENOTES TELEPHONE PEDESTAL
- ⊞ DENOTES FENCE
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING STORM SEWER
- DENOTES EXISTING WATER MAIN
- DENOTES OVERHEAD WIRE
- DENOTES UNDERGROUND ELECTRIC LINE
- DENOTES UNDERGROUND GAS LINE
- DENOTES UNDERGROUND TELEPHONE LINE
- DENOTES CONCRETE SURFACE
- DENOTES BITUMINOUS SURFACE

## NOTES

- Fee ownership is vested in Donald F. Zibell and Luella L. Zibell.
- Parcel ID Numbers: 36-30-23-24-0002 and 36-30-23-24-0021.
- Address of the surveyed premises: 3422 Chandler Road, Shoreview, MN 55126.
- Field survey was completed by E.G. Rud and Sons, Inc. on 07/24/14.
- Bearings shown are on Ramsey County Coordinate System.
- Curb shots are taken at the top and back of curb.
- This survey was prepared based upon Registered Property Abstract File Nos. 510000 and 510001, by Land Title, Inc. dated July 21st, 2014.
- Ingress and Egress easement per Document No. 614419 falls outside of the surveyed premises.
- Topography is a compilation of field work done by E.G. Rud and Sons, Inc. and survey done by Comstock and Davis, Inc. dated 8-18-2005.
- Contours are shown at 1 foot interval, but were shot at 2 foot interval accuracy.
- FEMA Flood Elevation is according to Flood Insurance Rate Map Community Panel No. 270384 0036 G by the Federal Emergency Management Agency, effective date, June 04, 2010.
- Proposed impervious surface is 41,100 S.F. Per Flows Engineering, Inc. on 3-20-15.
- Variance required for the lot frontage on Lot 4.

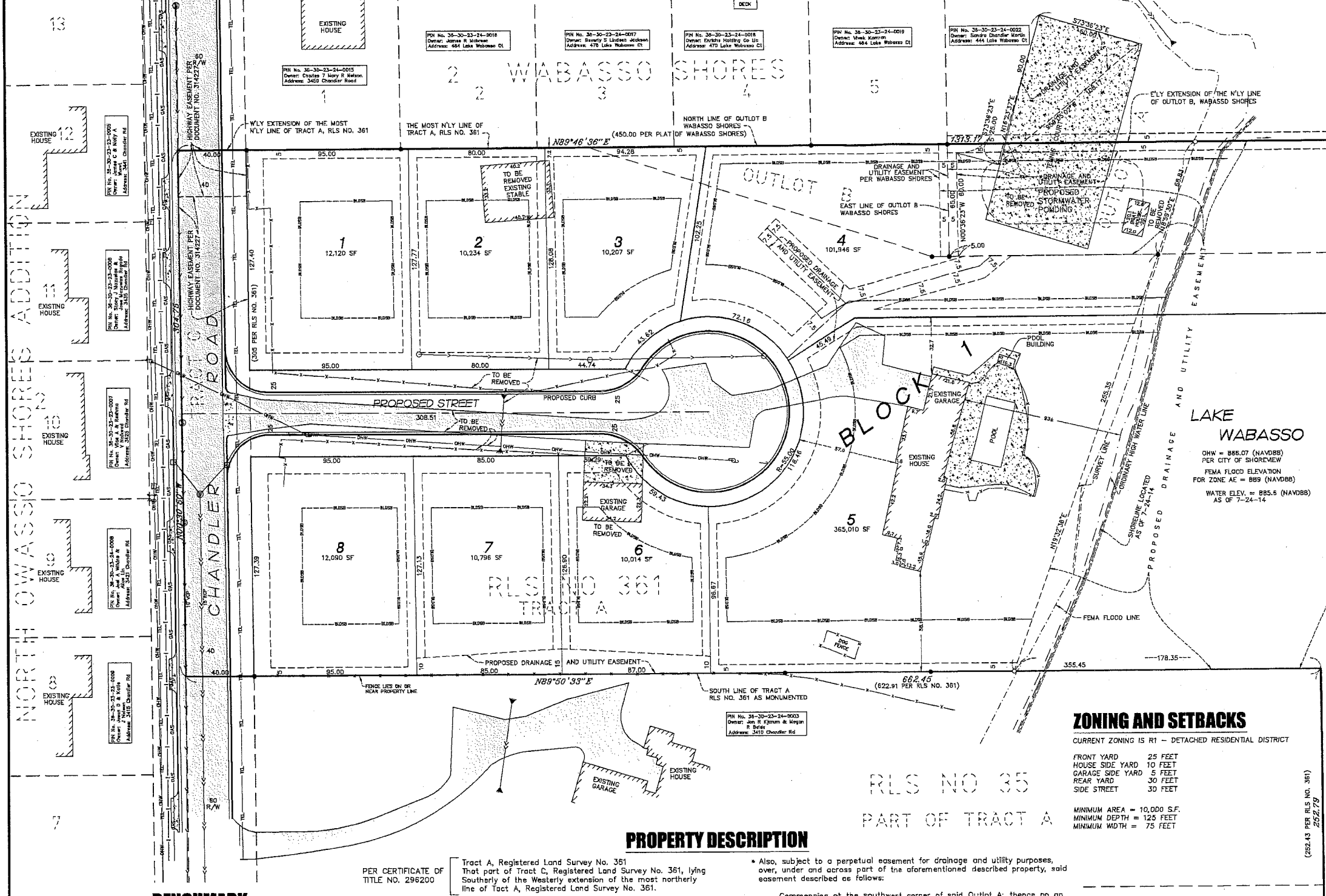
## AREAS AND DENSITY

Total Area including Right of Way = 12.97 acres  
 Total upland area excluding Right of Way and the ordinary highwater line = 3.61 acres  
 Proposed Lots = 8  
 Net Density = 2.22 ± Units/Acre

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*James E. Napier*  
 JAMES E. NAPIER  
 Date: 3/23/15 License No. 25343

DRAWN BY: JEN	JOB NO: 14422PP	DATE: 03/23/15
CHECK BY: JER	IS CANNED	
1		
2		
3		
NO. DATE	DESCRIPTION	BY



SEE SHEET 4 OF 4 SHEETS

## ZONING AND SETBACKS

CURRENT ZONING IS R1 - DETACHED RESIDENTIAL DISTRICT

- FRONT YARD 25 FEET
- HOUSE SIDE YARD 10 FEET
- GARAGE SIDE YARD 5 FEET
- REAR YARD 30 FEET
- SIDE STREET 30 FEET

- MINIMUM AREA = 10,000 S.F.
- MINIMUM DEPTH = 125 FEET
- MINIMUM WIDTH = 75 FEET

## PROPERTY DESCRIPTION

PER CERTIFICATE OF TITLE NO. 296200  
 Tract A, Registered Land Survey No. 361  
 That part of Tract C, Registered Land Survey No. 361, lying Southerly of the Westerly extension of the most northerly line of Tract A, Registered Land Survey No. 361.

PER CERTIFICATE OF TITLE NO. 331974  
 and  
 Outlot B, WABASSO SHORES.

- That part of Outlot A, WABASSO SHORES, which lies southerly of the easterly extension of the northerly line of Outlot B, WABASSO SHORES.
- All in Ramsey County, Minnesota.
- Subject to a perpetual easement for drainage and utility purposes, over, under and across the North 5 feet of the aforementioned described property.

• Also, subject to a perpetual easement for drainage and utility purposes, over, under and across part of the aforementioned described property, said easement described as follows:

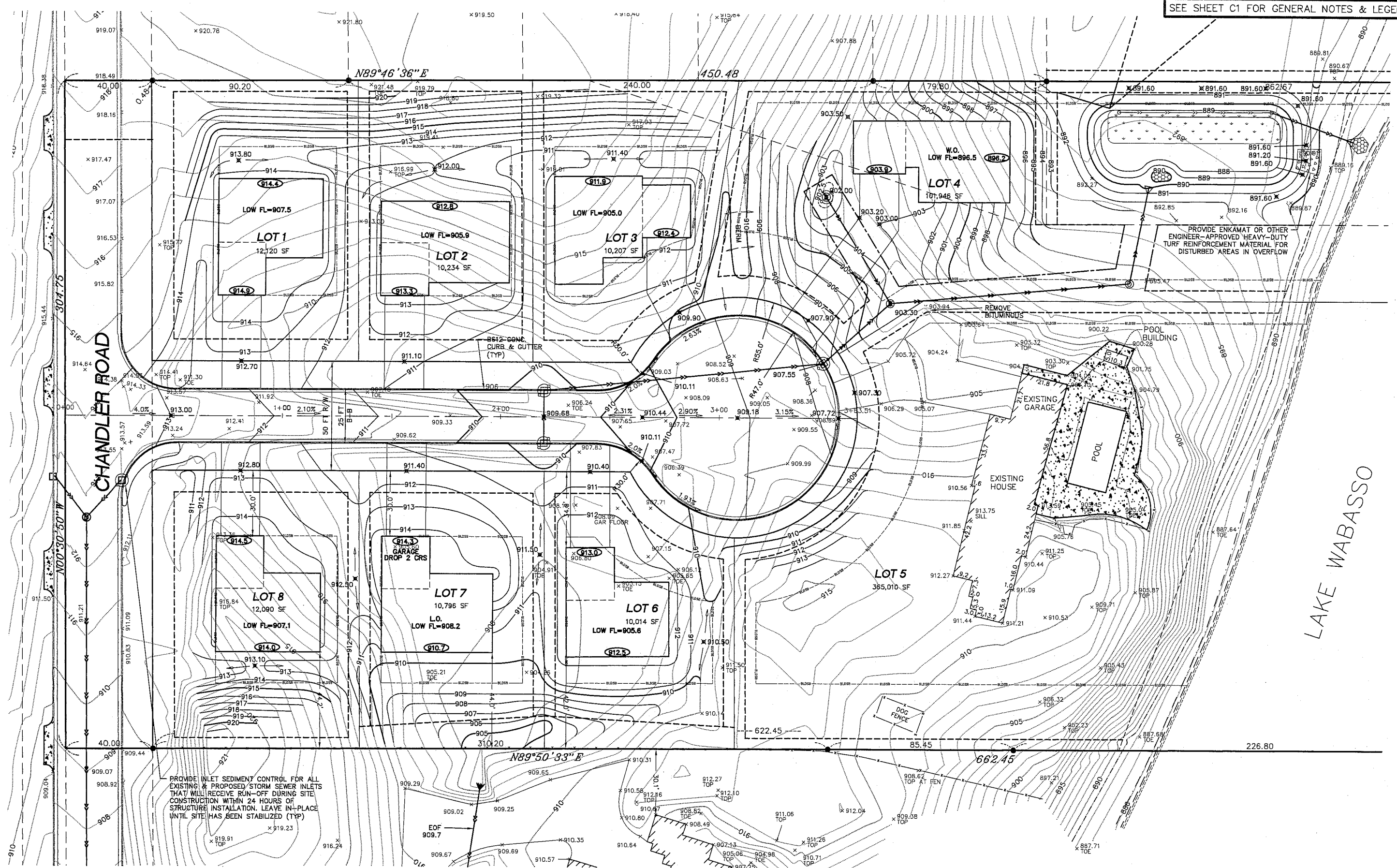
Commencing at the southwest corner of said Outlot A; thence an assumed bearing of North 89 degrees 46 minutes 36 seconds East, along the south line of said Outlot A, a distance of 5.00 feet; thence North 00 degrees 36 minutes 23 seconds West, parallel with the most westerly line of said Outlot A, a distance of 60.00 feet; thence South 73 degrees 36 minutes 23 seconds East a distance of 25.00 feet to the point of beginning of the easement to be described; thence North 18 degrees 23 minutes 37 seconds East a distance of 90.00 feet; thence South 73 degrees 36 minutes 23 seconds East a distance of 60.00 feet; thence South 50 degrees 05 minutes 02 seconds West a distance of 108.17 feet to the point of beginning.

• Parcel description and easements taken from the Minor Subdivision prepared by E.G. Rud & Sons, Inc., dated 12-18-14. No documentation has been provided to determine if the descriptions have been recorded.

## BENCHMARK

RAMSEY COUNTY BENCHMARK NO. 9105  
 ELEV. = 941.17 (NAVD88)

**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



PROVIDE INLET SEDIMENT CONTROL FOR ALL EXISTING & PROPOSED STORM SEWER INLETS THAT WILL RECEIVE RUN-OFF DURING SITE CONSTRUCTION WITHIN 24 HOURS OF STRUCTURE INSTALLATION. LEAVE IN-PLACE UNTIL SITE HAS BEEN STABILIZED (TYP)

**CURB & BITUMINOUS NOTES**

REMOVAL AND DISPOSAL OF EXISTING STREET MATERIALS AS REQUIRED FOR CONSTRUCTION IS CONSIDERED INCIDENTAL.  
 SAW-CUT EXISTING BITUMINOUS AND CONCRETE CURB TO PROVIDE BUTT-JOINT.  
 RESTORE DISTURBED STREET TO EXISTING OR BETTER SECTION.  
 BACKFILLING OF CURB IS INCIDENTAL TO CURB INSTALLATION.  
 FOUR INCHES OF CLASS 5 UNDER CURB IS INCIDENTAL TO CURB INSTALLATION.  
 CURB ENDS SHALL TERMINATE IN A THREE-FOOT BEAVER TAIL.

**BMP NOTES**

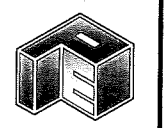
CONTRACTOR SHALL PROVIDE APPROPRIATE CONSTRUCTION SEQUENCING, PROVIDE MEASURES TO PREVENT COMPACTION DURING CONSTRUCTION, KEEP THE SYSTEM OFFLINE UNTIL CONSTRUCTION IS COMPLETE, AND PROVIDE NECESSARY EROSION CONTROL MEASURES UNTIL ADJACENT AREAS HAVE BEEN STABILIZED.  
 CONTRACTOR SHALL NOTIFY DISTRICT STAFF AT LEAST 48 HOURS PRIOR TO THE CONSTRUCTION OF THE VOLUME REDUCTION BMPs IN ORDER TO PROVIDE FOR DISTRICT CONSTRUCTION OBSERVATION. FAILURE TO NOTIFY THE DISTRICT PRIOR TO BMP INSTALLATION MAY RESULT IN THE REMOVAL OF WORK COMPLETED. CONTACT NICOLE SODERHOLM AT 651-792-7976.  
 CONTRACTOR SHALL CONTACT NICOLE SODERHOLM, DISTRICT INSPECTOR, AT 651-792-7976 PRIOR TO BEGINNING CONSTRUCTION.

DATE	REVISION DESCRIPTION
04.14.2015	REVISED BASIN

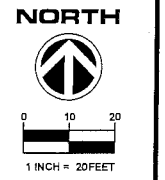
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.  
**Charles W. Plowe**  
 CHARLES W. PLOWE  
 DATE: 04.14.2015 LIC. NO. 18227

**ZIBELL SUBDIVISION**  
 SHOREVIEW, MINNESOTA  
 GRADING, DRAINAGE & EROSION CONTROL PLAN

PREPARED FOR:  
**DON ZIBELL**



SITE PLANNING & ENGINEERING  
**PLOWE ENGINEERING, INC.**  
 6776 LAKE DRIVE  
 SUITE 110  
 LINO LAKES, MN 55014  
 PHONE: (651) 361-8210  
 FAX: (651) 361-6701



**C2**

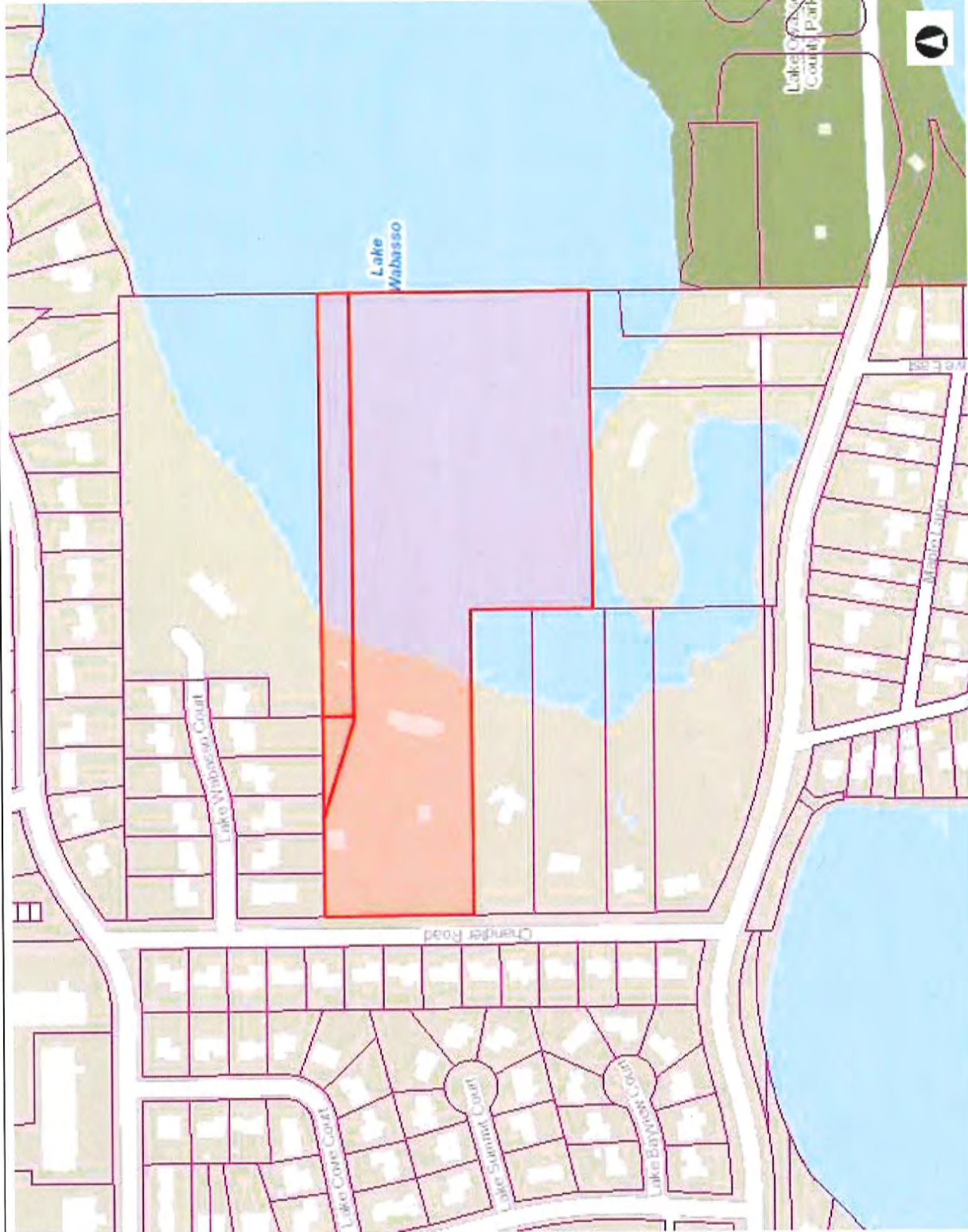


Know what's below.  
 Call before you dig.

**GRADING, DRAINAGE & EROSION CONTROL PLAN**  
**ZIBELL SUBDIVISION**



# 3422 Chandler Road



600.0  
 NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- Airports

## Notes

Enter Map Description



# 3422 Chandler Road



NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
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## Legend



- City Halls
- Schools
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- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- Lakes - Neighboring Counties
- Airports

## Notes

Enter Map Description

DATE	REVISION DESCRIPTION

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.  
**Charles W. Plowe**  
 CHARLES W. PLOWE LIC. NO. 76227  
 DATE: 05.19.2015

**ZIBELL SUBDIVISION**  
**SHOREVIEW, MINNESOTA**  
 TREE PLAN

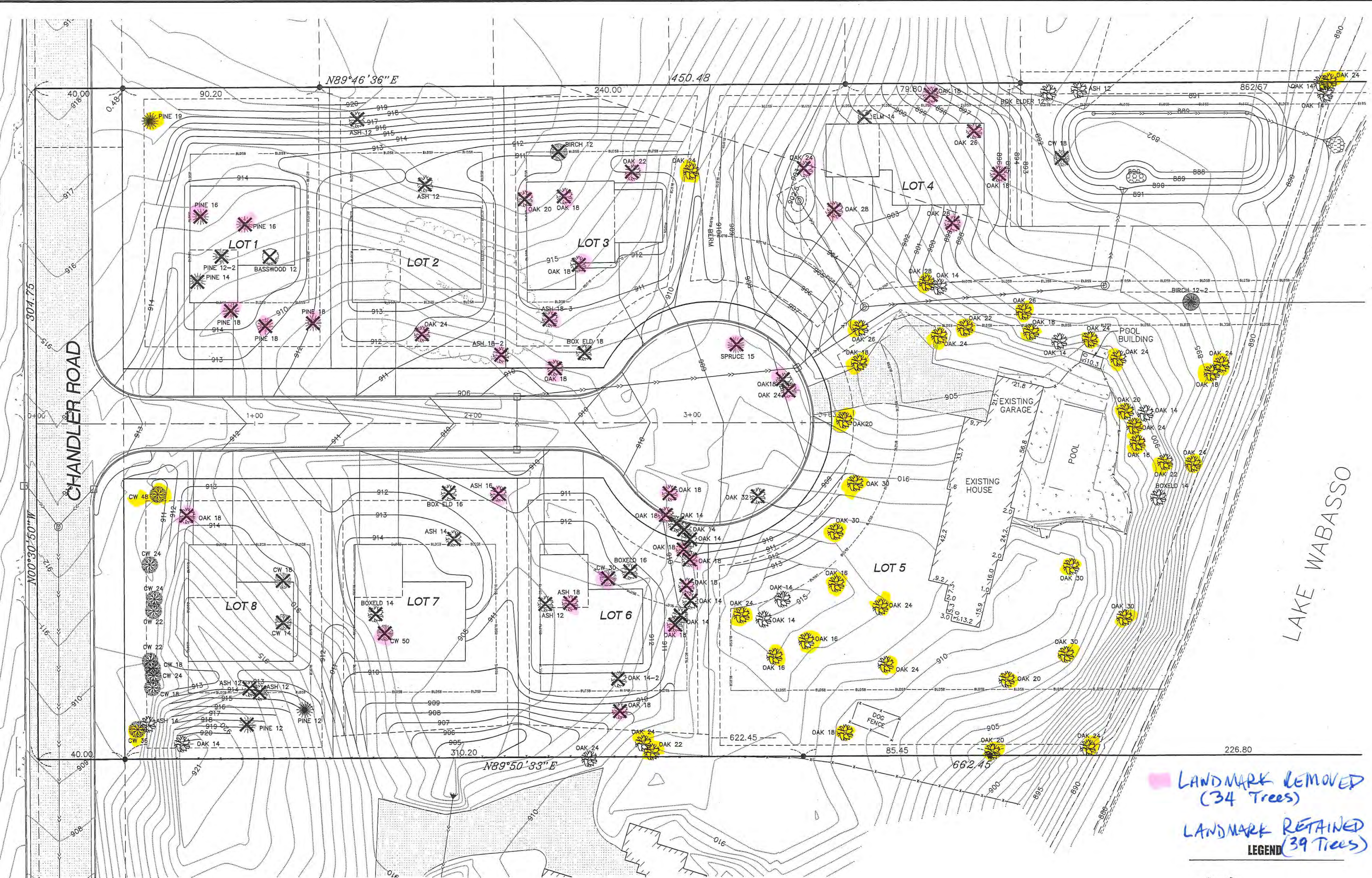
PREPARED FOR:  
**DON ZIBELL**



**PLOWE ENGINEERING, INC.**  
 6776 LAKE DRIVE  
 SUITE 110  
 LINDO LAKES, MN 55014  
 PHONE: (651) 361-8210  
 FAX: (651) 361-8701

**NORTH**

0 10 20  
 1 INCH = 20 FEET



**LANDMARK REMOVED (34 Trees)**

**LANDMARK RETAINED (39 Trees)**

**LEGEND**

- EXISTING TREES
- EXISTING TREES (TO BE REMOVED)





Date: May 20, 2015  
To: Rob Warwick, Senior Planner  
From: Tom Wesolowski, City Engineer  
Subject: Donald Zibell – Revised Grading & Drainage Plan  
3422 Chandler Road

The City of Shoreview Engineering staff has reviewed the revised grading and drainage plan dated April 20, 2015 for the proposed subdivision and has the following comments:

1. The change to the proposed grading and drainage plan consists of a new alignment for a portion of the stormwater piping that discharges to the proposed treatment pond. The change is minor and does not affect the overall surface water management proposed for the site.
2. Public Works staff is requesting a 10-foot drainage and utility easement be provided from the street to the inlet located on the west side of Lot 4, to allow City vehicles to access the inlet from the street and not across the driveway of Lot 4.
3. Concerning the resident comment about how the reduction in surface water runoff to the south culvert will affect a wet area located south of the culvert. It appears the wet area the resident is referring to is connected to Lake Wabasso and is most likely influenced more by the water level of the lake than the discharge from the culvert. The surface water that would normally drain to the south culvert will be diverted to the proposed treatment pond, which overflows to the lake. A Ramsey-Washington Watershed District permit is required for the development and as part of the review process they will determine if the change in the flow pattern will affect the area.



Robert Warwick <rwarwick@shoreviewmn.gov>

---

**2568-15-11**

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**Rick Current** <rcurrent@lffd.org>  
Reply-To: rcurrent@lffd.org  
To: Robert Warwick <rwarwick@shoreviewmn.gov>

Fri, Apr 17, 2015 at 8:34 AM

Rob,

No comments on this project. Everything looks good.

Thanks,

Rick Current

Fire Marshal

Lake Johanna Fire Department

651-481-7024



Robert Warwick &lt;rwarwick@shoreviewmn.gov&gt;

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**3422 Chandler Road, Preliminary plat and variance, City of Shoreview**

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Paige Ahlborg <paige.ahlborg@rwmwd.org>  
To: Robert Warwick <rwarwick@shoreviewmn.gov>  
Cc: "Sorensen, Jenifer (DNR)" <jenifer.sorensen@state.mn.us>

Mon, Apr 6, 2015 at 3:33 PM

Hi Rob,

I have not yet seen a preliminary submittal for this project. They will be required to obtain a District grading permit and comply with requirements for Erosion and Sediment Control Stormwater Management, Flood Control, and Wetland Management (this shouldn't be a big issue, they'll just need to ensure they aren't impacting Lake Wabasso in anyway.) Plowe Engineering is familiar with our permit process and that we have new rules in place which are available on our website.

Paige Ahlborg  
Watershed Project Manager  
Ramsey-Washington Metro Watershed District  
2665 Noel Drive  
Little Canada, MN 55117  
Office: (651)792-7964

**Follow the District on Twitter & Like Us on Facebook.**

**From:** Robert Warwick [mailto:rwarwick@shoreviewmn.gov]  
**Sent:** Friday, April 03, 2015 2:34 PM  
**To:** Paige Ahlborg  
**Cc:** Sorensen, Jenifer (DNR)  
**Subject:** Re: 3422 Chandler Road, Preliminary plat and variance, City of Shoreview

[Quoted text hidden]



Robert Warwick <rwarwick@shoreviewmn.gov>

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## 3422 Chandler Road, Preliminary plat and variance, City of Shoreview

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Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>  
To: Robert Warwick <rwarwick@shoreviewmn.gov>

Mon, May 4, 2015 at 9:45 AM

Rob –

Thanks for visiting with me on 4/24/15 about the variance to create a new riparian lot on Lake Wabasso. The variance is needed because the lot does not have 100' street footage on a cul-de-sac. DNR has no comment regarding this variance. I will ask our land use specialist for the state shoreland program if DNR has any opinion on cul-de-sacs in general within shoreland areas and if he has any information on how other communities have addressed lakeshore development using cul-de-sacs. Any information I receive I'll pass on to you.

It does appear from the plans provided that the outfall of the drainage pond on Lot 4 is below the OHW of Lake Wabasso (OHW 886.07, NAVD88) and would require a DNR public waters permit for installation. Please forward this information to the site engineer.

It is important that the City of Roseville keep percent impervious surface to 25 percent or below for riparian lots, since the City's ordinance allows for up to 40 percent for non-riparian lots within the shoreland district.

If you have further questions, please feel free to contact me.

Jen

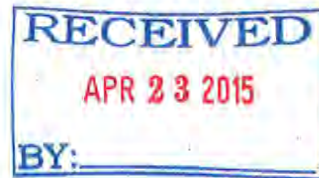
Jenifer Sorensen, PE, PhD

East Metro Area Hydrologist

MN DNR – Division of Ecological and Water Resources

1200 Warner Rd; St Paul, MN 55106

(651) 259-5754



Comments:

Safety

- The addition of seven new residential lots will increase automobile traffic on Chandler Road which is already a short street with a lot of traffic from nearby apartments on Harriet Avenue. With many small children and families on the block and no sidewalks, pedestrian safety is a concern – especially given the high volume of foot traffic on Chandler Road to Lake Owasso.
- The subdivision's new street directly faces a driveway which may pose a potential traffic or pedestrian hazard.

Loss of Natural and Wildlife Habitat

- Clearing Mr. Zibell's grass and wooded land lot of approximately 10 acres will destroy the natural habitat of wildlife including red fox, great horned owls, and other birds.
- As new residents adjacent to Mr. Zibell's property and most directly affected by the proposed subdivision, we are especially concerned about the loss of privacy that will ensue if all of the trees on his property are cleared. We would like to know what Mr. Zibell's plans are for a new privacy fence and landscaping along the property line.

Noise Pollution

- Should plans for this subdivision proceed, the noise from construction activities and heavy machinery will be unduly disruptive for residents who have invested their resources and chosen to live in this Shoreview neighborhood because of its quiet and peaceful setting. If construction commences, we respectfully request that the hours of construction activities be amended from the City's current code requirements to the following:
  - April 1 – October 31:
    - 7:00am – 6:00pm on any weekday
    - No work on holidays
    - No work on weekends
  - November 1 – March 31:
    - 7:00am – 7:00pm on any weekday
    - 8:00am – 5:00pm on weekends
    - No work on holidays

Name: Megen Balda and Jon Kjarum  
Address: 3410 Chandler Road,  
Shoreview, MN 55126

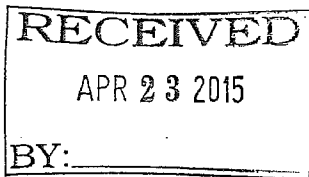
t:/2015pcf/2568-15-11/3422 chandler/neighborhood survey

Comments:

Has anybody considered  
the need life and what will  
happen to them, Part of  
attraction for living here.

The natural habitat of  
trees, bushes, etc, will be  
disturbed.

too much increased traffic  
Have too much now!



Name: \_\_\_\_\_  
Address: 3393 Chandler Rd

## QUESTIONS/COMMENTS FOR SHOREVIEW PLANNING COMMISSION

### RE: CHANDLER ROAD DEVELOPMENT

1. Explain the requested variance. Doesn't "riparian" relate to adjoining body of water? Where is the 72 foot distance referred to in the letter? There would be a concern if the lot is too close to the water.
2. What is the expected increase in traffic once the new development is complete? Currently, some vehicles are speeding on Chandler Road. Can something like speed bumps be implemented?
3. What are minimal lot sizes by code?
4. What is the process for construction (order of what will be done)? How much disruption to Chandler Road will there be during the process?
5. What is the expected timeframe to get the land ready for building homes?
6. What types of homes are expected to be built (style, size, and price)?
7. Will there be an increase in taxes due to the additional utilities and new road?
8. Trees will be removed. Will there be replacements made at appropriate locations? What type of buffer areas will there be?
9. Has there been an environmental impact study done?

Aron & Ellen Rolnitzky  
3405 Chandler Road  
651-483-0873



4/22/15

We are very concerned about the proposed development submitted by Donald Zibell at 3422 Chandler Road in Shoreview for a number of reasons.

Firstly, the 8 houses proposed nearly doubles the number of houses on our street. One of the main reasons we moved to this specific street from St. Paul three years ago was the amazing, quiet neighborhood and well established trees and homes. Knowing that half of that neighborhood and green space would be razed for new development would've certainly impacted our decision to move and raise our family here.

Secondly, the impact that this development will have on the environment concerns us. A lot of wildlife is sustained in this neighborhood and we're concerned- again- that the number of homes proposed for development will negatively impact both Wabasso and Owasso lakes (regardless of the lack of direct lake access, surely both of these lakes will feel the pressure of additional homes in the neighborhood) as well as the other wildlife sustained by the wooded area.

Another concern is the increase of traffic on Chandler road. This is already a busy road, specifically in the summer, since it's a thoroughfare to the lake and provides access to Rice Street. The proposed new development would increase that traffic considerably. Will a much-needed sidewalk be installed on the street? What are the plans in place to help mitigate that traffic increase and insure safety on the street? Many children live on this street, including our 2 young children (both under age 6), and this is a huge concern.

My husband and I have discussed this development at length and have yet to find a reason to support it. This will surely negatively impact the quality of life on our street on multiple levels. Please take into consideration the quality of this established neighborhood as you're discussing this proposed development.

Thank you for your time.

Best Regards-  
Stacey and Jose Mazuelas





RE: Comments Requested on the May 15, 2015 notice of a second public hearing concerning Preliminary Plat, Zibell Addition, File No. 2568-15-11 to be held May 26, 2015.

I have serious concerns regarding this property subdivision as proposed.

The April 10, 2015 notice for the first public hearing gave some indication that a variance may be needed for one lot (Lot 4) of 8 proposed lots. I commend the Planning Commission for tabling the application when it became clear in public discussion that there were some "surprise" concerns/questions coming to light that most likely would need clarification.

For instance: In **Summary of Proposed Major Subdivision** item 5 – "All of the lots meet minimum size requirements..." and "One variance would be needed – the lake lot..." and "There are several large old trees that will be retained to the extent possible."

Item 2. Requested Variance – "...applicant is unable to meet all of the Code requirements for one of the eight lots".

The May 15, 2015 notice does shed some light on the fact that of the proposed, 8 single family lots requested, the **only way** all lots would meet minimum size requirements would be with four variances rather than with only one as previously alluded.

It is my opinion that the requested variances for Lots 6, 7, and 8 are intentionally understated to avert attention from their Key Lot status. The requested reduction of a minimum 140 foot lot depth to 126 feet makes it appear as if the only burden is a smaller lot without indicating that "Key lots shall be discouraged" and that Key Lots "shall include at least 15 feet more depth or width than the required minimum lot depth or width" than non-Key Lots. [Rev. Date, 8/4/08, Ord.832]

My interpretation of [Rev. Date, 8/4/08, Ord.832] regarding Key Lots is that even a single, Key Lot is to be discouraged and avoided. Such discouragement and avoidance, in this case, should be multiplied by a factor of 3 since all three Lots 6, 7, and 8 are to be on the side lot line of 3410 Chandler Road. Although, [Rev. Date, 8/4/08, Ord.832] does give some room for giving a variance "where such lots must be used to fit a subdivision plan..." it is my contention that it is the current, proposed subdivision plan which requires change rather than attempting to stretch variance regulations.

I was encouraged to hear at the April 28<sup>th</sup> hearing that the Planning Commission members were concerned about tree preservation. As I recall, if this property subdivision gets approved as proposed some 60+ trees will be felled. However, based on shown dimensions of the Preliminary Plat, it is doubtful that enough real

estate will remain to accommodate the required 6 replacement trees for each Landmark Tree felled.

According to [Section 203.070 C.2], "affirmative findings for all of the review criteria" regarding "Reasonable Manner", "Unique Circumstances" and "Character of Neighborhood" must be met in order for variance approval. The requested variances, **without question**, would "alter the essential Character of the Neighborhood" and should, therefore, not be approved. This is not to say a compromise cannot be forged.

The attached, marked in red plat is my suggested compromise.

Instead of having the 8 proposed lots, my suggestion is to develop Lots 1, 2, 3, and 4 as planned, move the South side of the proposed street approximately 50 feet South which would leave most existing hill and trees intact to help preserve much of the essential neighborhood character that was so instrumental in attracting all of our current, established residents. The original, preserved 100 foot wide buffer of hill and trees would remain part of retained Lot 5 to help minimize the normal "development shock" that generally accompanies such new building proposals.

Moving the proposed road south, as suggested, would allow a possible, value per lot increase by lengthening Lots 1, 2, 3, and 4 approximately 25 to 30 feet. It would not be surprising to see this extra space also used to start new trees and vegetation.

I am in favor of and understand the desire to profit from one's endeavors, but I can't help but believe it was the unique combination of trees, water, and habitat that attracted all of us, including Mr. Zibell and his family, when making the decision to settle here.

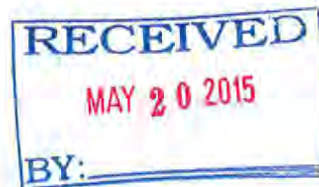
In New England, fences make good neighbors. In Shoreview, trees, water, and habitat make good neighbors. Please compromise.

May 20, 2015

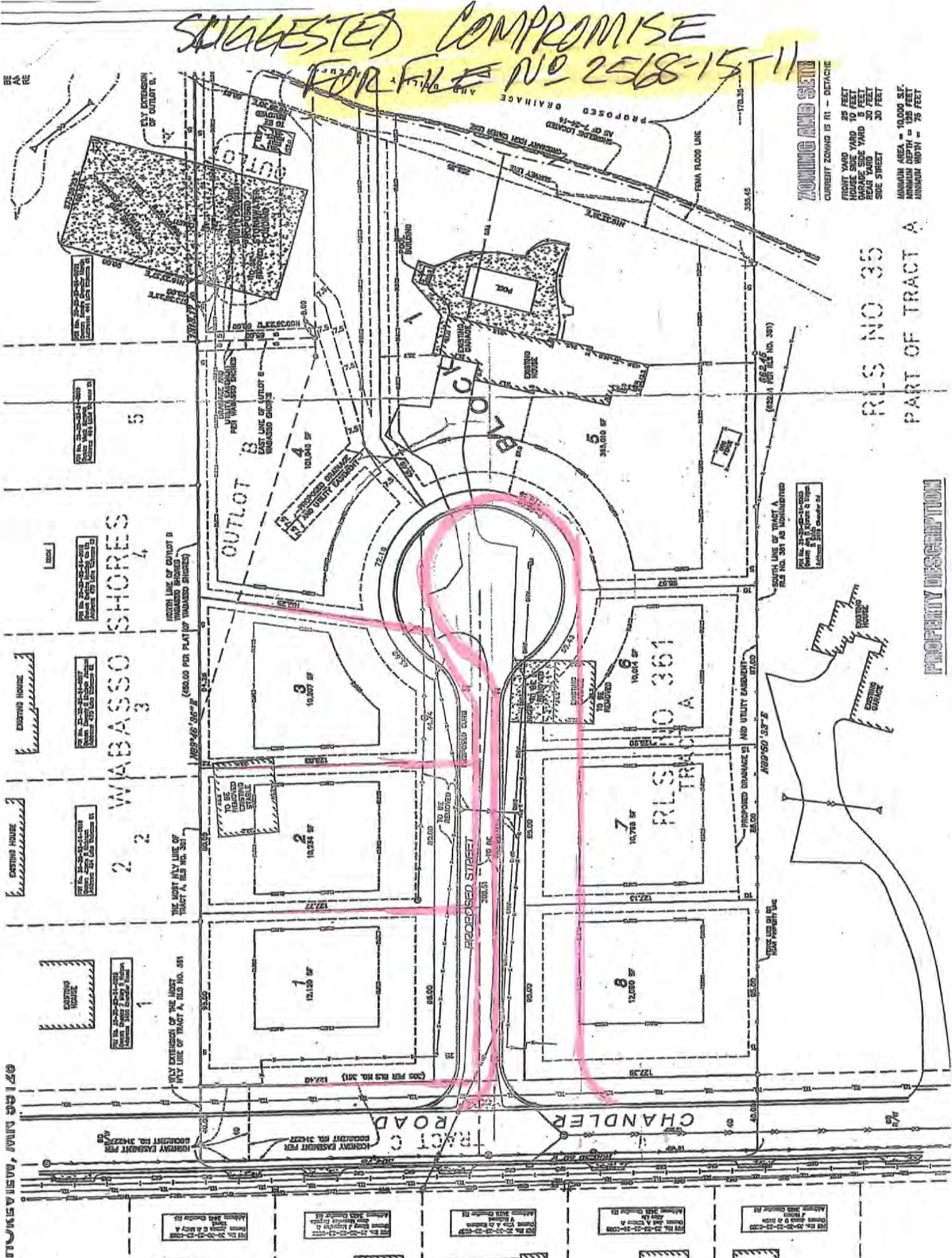
Jerry Kleffman

3400 Chandler Road

Shoreview, MN 55126



UNIVERSITY, JUN 23 1960



**SUGGESTED COMPROMISE FOR FILE NO 2518-15-11**

**ZONING AND SET**  
 CURRENT ZONING IS R1 - DETACHE  
 FRONT YARD YARD 25 FEET  
 REAR YARD YARD 5 FEET  
 CHARGE SIDE YARD 5 FEET  
 REAR YARD 30 FEET  
 SIDE STREET 30 FEET  
 MINIMUM AREA = 10,000 S.F.  
 MINIMUM DEPTH = 125 FEET  
 MINIMUM WIDTH = 75 FEET

**RLS NO 35**  
**PART OF TRACT A**

**PROPERTY DESCRIPTION**

**WABASSO SHORES**  
 2 2 3 4 5

ONLY EXTENSION OF THE WEST  
 PROPERTY LINE OF TRACT A, RLS NO. 351

THE NORTH PROPERTY LINE OF  
 TRACT A, RLS NO. 307

WESTERN LINE OF OUTLOT B  
 WABASSO SHORES

WEST LINE OF OUTLOT B  
 WABASSO SHORES

EAST EXTENSION  
 OF OUTLOT B.

SOUTH LINE OF TRACT A  
 RLS NO. 351 AS INDICATED

PROPOSED DRAINAGE  
 AND UTILITY EMBANKMENT

PROPOSED DRAINAGE  
 AND UTILITY EMBANKMENT

CONVEYANCE PER  
 DOCUMENT NO. 31422

CONVEYANCE PER  
 DOCUMENT NO. 31422

CHANDLER ROAD

TRACT A

TRACT B

TRACT C

TRACT D

TRACT E

TRACT F

TRACT G

TRACT H

TRACT I

CONVEYANCE PER  
 DOCUMENT NO. 31422

CONVEYANCE PER  
 DOCUMENT NO. 31422

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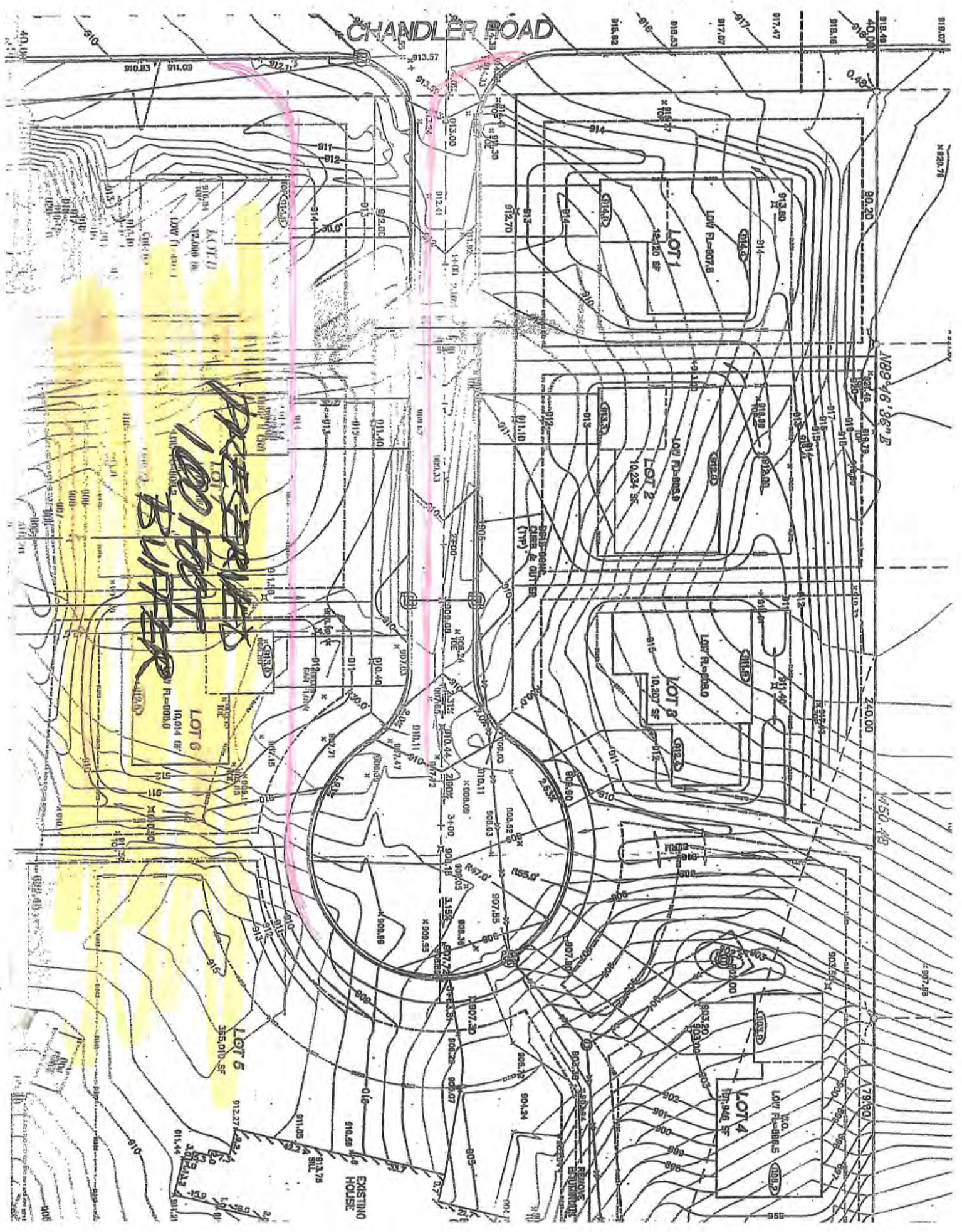
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 DOCUMENT NO. 31422

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CONVEYANCE PER  
 DOCUMENT NO. 31422

# CHANDLER ROAD



**EXTRACT OF MEETING MINUTES FOR THE SHOREVIEW, MINNESOTA  
PLANNING COMMISSION HELD MAY 26, 2015**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission for the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 p.m.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 15-40 TO REDUCE THE MINIMUM WIDTH AT THE FRONT  
LOT LINE FOR A NEW RIPARIAN PARCEL, AND TO REDUCE THE REQUIRED  
LOT DEPTH FOR THREE NEW KEY LOTS**

WHEREAS, Donald Zibell has submitted a variance application for the following described property:

Tract A, Registered Land Survey No. 361.

and

That part of Tract C, Registered Land Survey No. 361, lying Southerly of the Westerly extension of the most northerly line of Tract A, Registered Land Survey 361.

and

Outlot B, WABASSO SHORES.

And

That part of Outlot A, WABASSO SHORES, which lies southerly of the easterly extension of the northerly line of Outlot B, WABASSO SHORES.

All in RAMSEY COUNTY, MINNESOTA, subject to easements of record  
(*This property is commonly known as 3422 Chandler Road*)

WHEREAS, the Development Regulations establish a minimum depth of 140 feet for new Key Lots, as defined in the City of Shoreview Municipal Code; and

WHEREAS, the applicant has requested a variance to this requirement to reduce the depth of Lots 6, 7, and 8 from 140 feet to 127 feet; and

WHEREAS, the Development Regulations establish a minimum width for riparian lots of 100-feet measured at the Ordinary High Water (OHW), at the building setback from the OHW, and at the front lot line; and

WHEREAS, the applicant has requested a variance to reduce the front lot line from 100 feet to 72.16 feet; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request to reduce the lot depth to 127-feet for Lots 6, 7, and 8 be approved on the basis of the following findings of fact:

1. *Reasonable Manner.* *The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.* The existing lot area is about 3.3 acres. Subdividing to create eight residential lots represents a reasonable use of the property in the R-1 Detached Residential District.  
Creating a new riparian lot with a front lot line located on a cul-de-sac is also reasonable for this property with more than 300-feet of shoreline.
2. *Unique Circumstances.* *The plight of the property owner is due to circumstances unique to the property not created by the property owner.* The unique circumstance is the existing 304-foot lot width makes subdivision impractical unless a variance is approved because of the lot depth requirements. Staff believes the proposed subdivision allows the applicant to develop the property with a higher intensity use that recognizes and retains the development pattern immediately to the north, and complying with the rear setback requirement for Key Lots. The Shoreview Development Regulations do not distinguish riparian lots with a front lot line abutting a cul-de-sac, however non-riparian lots are allowed a lesser front lot line on a cul-de-sac.
3. *Character of Neighborhood.* *The variance, if granted, will not alter the essential character of the neighborhood.* Since the same lot line relationship has existed for along the north side of the subject property for almost 30 years, the essential character of the neighborhood should not be altered.

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE SHOREVIEW PLANNING COMMISSION that the variances requested for 3422 Chandler Road be approved subject to the following conditions:

1. This approval is subject to approval of the Preliminary Plat application by the City Council.
2. A minimum setback of 40-feet from the South, rear, lot line is required for the principal and accessory structures developed on Lots 6, 7, and 8.
3. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
4. The approval is subject to a 5-day appeal period.

The motion was duly seconded by Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 26<sup>th</sup> day of May 2015.

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Rob Warwick  
Senior Planner

SEAL

**ACCEPTANCE OF CONDITIONS:**

\_\_\_\_\_  
Donald Zibell, 3422 Chandler Road

STATE OF MINNESOTA)  
 )  
COUNTY OF RAMSEY )  
 )  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 26<sup>th</sup> day of May, 2015 with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to adopting Resolution 15-40.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 26th day of May, 2015.

---

Terry C. Schwerm  
City Manager

SEAL



## PROPOSED MOTION

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To adopt Resolution 15-40 approving the variances to reduce the front lot line for Lot 4, and the reduce the lot depth for Lots 6, 7, and 8, and to recommend the City Council approve preliminary plat submitted by Donald Zibell to subdivide and develop the property at 3422 Chandler Road into lots for single-family detached homes. Said recommendation for approval is subject to the following conditions.

### **Variances**

1. This approval is subject to approval of the Preliminary Plat application by the City Council.
2. A minimum setback of 40-feet from the South (rear) lot line is required for the principal and accessory structures developed on Lots 6, 7, and 8.
3. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
4. The approval is subject to a 5-day appeal period.

### **Preliminary Plat**

1. The approval permits the development of a detached residential subdivision providing 8 lots for single family residential development.
2. Final grading, drainage and erosion control plans are subject to the review and approval by the Public Works Director prior to approval of any permits or the Final Plat. Concerns identified by the City Engineer shall be addressed with the Final Plat submittal.
3. Final utility plans are subject to review and approval by the Public Works Director.
4. The final street design is subject to review and approval of the Public Works Director.
5. Comments identified in the memo dated May 20, 2015 from the City Engineer shall be addressed with the Final Plat submittal.
6. A Development Agreement, Erosion Control Agreement shall be executed and related securities submitted prior to any work commencing on the site. A Grading Permit is required prior to commencing work on the site.
7. A Public Recreation Use Dedication fee shall be submitted as required by ordinance prior to release of the Final Plat.

8. The landscape/tree-replanting plan shall be provided in accordance with the City's Tree Protection Ordinance. Trees on the property, which are to remain, shall be protected with construction fencing placed at the tree driplines prior to grading and excavating. Said plan shall be submitted for review and approval by the City Planner prior to submittal of the final plat application.
9. The Final Plat shall include drainage and utility easements along all property lines. Drainage and utility easements along the roadways shall be 10 feet wide and 5 feet wide along the side and rear lot lines. Other drainage and utility easements shall be provided over the proposed bio-filtration area, future public infrastructure and as required by the Public Works Director.
10. The developer shall secure a permit from the Ramsey Washington Metro Watershed District prior to commencing any grading on the property.

This approval is based on the following findings:

1. The proposed development plan supports the policies stated in the Comprehensive Plan related to land use and housing.
2. The proposed development plan carries out the recommendations as set forth in the Housing Action Plan
3. The proposed development plan will not adversely impact the planned land use of the surrounding property.
4. The width of Lot 4 complies with the 100-foot required for a riparian lot measured between the side lot lines, throughout its depth.
5. The future structures on Lots 6, 7, and 8 will comply with the 40-foot structure setback required for Key Lots, and so provide the separation intended by City Code.
6. With approval of the variances to reduce the frontage for Lot 4, and the lot depths for Lots 6, 7, and 8, the preliminary plat complies with the subdivision and minimum lot standards of the Development Code.

**VOTE:**

**AYES:**

**NAYS:**

Regular Planning Commission Meeting  
May 26, 2015

**TO:** Planning Commission  
**FROM:** Niki Hill, Economic Development and Planning Associate  
**DATE:** May 22<sup>nd</sup>, 2015  
**SUBJECT:** File No. 2571-15-14 4344 – Weaver – 4344 Snail Lake Blvd., Variance and Conditional Use Permit

### **INTRODUCTION**

Russell Weaver proposes to construct a 192 square foot detached accessory structure on his property at 4344 Snail Lake Blvd. The proposal requires a Conditional Use Permit since the property is less than 1 acre and the proposed shed exceeds 150 square feet in area. The intent of the CUP process is to review the proposal in terms of the Development Code standards and consistency with the Comprehensive Plan. The applicant proposes to build the shed in the side-yard adjacent to the existing detached garage. The Conditional Use Permit requires a rear yard location. As such, a variance has been requested. The application was complete May 8, 2015.

### **PROJECT DESCRIPTION**

The property is located on the east side of Snail Lake Boulevard in the R1, Detached Residential District as are the surrounding properties to the North, South, and West. Snail Lake Regional Park lies to the East of the property. According to tax records, the lot has an area of 23,461 square feet. The property has a width of 105 feet with a depth of 236 feet. The property is developed with a single family home that has a foundation area of 1,245 square feet with a 924 square foot detached garage.

The applicant plans to construct a 192 square foot, 12' x 16' shed in the south sideyard of their house. The proposed shed will be placed 10 feet from the south side property line and 12 feet behind the current setback of the existing detached garage. The proposed location is in the sideyard and for a Conditional Use Permit a rear yard location is required. As such a variance is being requested. On lots less than 1 acre, a Conditional Use Permit is required to construct an accessory structure over 150 square feet. The applicant will submit a building permit application for this, which will be reviewed administratively upon conclusion of the Conditional Use Permit review process. Please see the attached plans.

### **DEVELOPMENT CODE**

#### ***Accessory Structures – Section 205.082(C)(2)***

The accessory structure regulations were revised in 2006, adopting standards to ensure the compatibility of these structures with surrounding residential uses. In the R-1 District, two

detached accessory structures are permitted. On parcels with an area less than 1 acre, accessory structure floor areas that are larger than 150 square feet but less than 288 square feet require a Conditional Use Permit. The Conditional Use Permit process enables the City to review the proposed use for compliance to the Development Code standards and ensure compatibility with nearby land uses through a public hearing. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive.

Accessory structures must be setback a minimum of 5 feet from a side lot line and 10 feet from a rear lot line, except when a Conditional Use Permit is required the minimum setback increases to 10 feet from all property lines. The maximum height permitted for detached accessory structures is 18 feet as measured from the roof peak to the lowest finished grade; however in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewalls cannot exceed 10 feet and interior storage areas above the main floor cannot exceed an interior height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

***Conditional Use Permit – Detached Accessory Structure – Section 205.082(D) (5)***

Attachment A summarizes the standards which must be met for the Conditional Use Permit to be granted. These standards address location, structure setbacks, screening, and exterior design. In addition, a Conditional Use Permit can only be granted upon the finding that the proposed use is in harmony with and conforms to the Comprehensive Plan policies and Development Code standards.

The proposal was reviewed in accordance with the Conditional Use Permit standards identified in the Development Code. The proposed structure complies with the City's standards regarding setback, height, and exterior design.

The following table reviews the proposal in terms of the adopted standards.

	Existing	Proposed	Development Code Standard
<b>Area</b>			
<b>Shed (Proposed)</b>	N/A	192 sf	150 sf to 288 sf for a detached structure
<b>Detached Garage</b>	924 sf	924 sf (74.2% of dfa)	750 or 75% (933.75 sf) of the dwelling unit foundation, whichever is less.*
<b>All Accessory Structures</b>	924 sf	1116 sf (89%% of dfa)	1,200 sf or 90% of the dwelling unit foundation area (1120 sf) – whichever is more restrictive
<b>Setback</b>			
- Side lot line	N/A	10 feet	10 ft
- Rear lot line	N/A	Over 180 Feet	10 ft
- Front lot line	N/A	30 feet	Must be located in rear yard**
<b>Height</b>			
- Roof Peak	N/A	14.5 ft	18 ft
- Sidewall	N/A	8 ft	10 ft
<b>Exterior Design</b>		Similar design as existing house and garage.	Compatible with the residence and be similar in appearance
<b>Screening</b>	Site is unimproved with buckthorn and other undesirable vegetation growth.	New flower garden will be installed in the 10 feet between the structure and the property line.	Structure shall be screened from view of public streets and adjoining properties with landscaping, berming or fencing.

\* The structure was built prior to the 2006 changes in Accessory Structure regulations and is a legal non-conforming structure.

\*\* The side-yard location is different than the required rear-yard location and a Variance has also been requested.

***Variance Criteria – Section 203.070***

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

For a variance to be granted, all three of the criteria need to be met.

### **APPLICANT'S STATEMENT AND JUSTIFICATION OF PRACTICAL DIFFICULTY**

The applicant states that the detached accessory building fits the purpose and intent of the City's Comprehensive Plan because it includes a new building that compliments the existing house and garage. The unique design will match the architecturally designed house and garage. It does not detract from the existing property in any way or form.

The applicant identifies that the variance is being requested due to the topography of the existing property. The property slopes quite steeply downward to the east of the proposed building and it would be impractical, if not impossible to utilize the new building.

Access to the proposed building will be near impossible if it were in the rear of the property and prohibit the type of use. The proposed building will be used to store outdoor equipment, such as snow blower, lawn mower, deck furniture, etc., all of which is used in the front of the property.

Please see attached statement.

### **STAFF REVIEW**

#### *Conditional Use Permit*

In Staff's opinion, the proposed shed is in harmony with general purpose of the Development Code and Comprehensive Plan policies. The overall size of this structure when combined with all other accessory structures is less than 90% of the dwelling unit foundation area, therefore, the dwelling unit will remain the primary feature and use of the property. The use of the structure is incidental to the primary residential use of the property and will enhance the use of the property by providing additional indoor storage. This use is consistent with the residential use of the property and neighborhood.

#### *Variance*

Staff reviewed the proposal in accordance with the variance criteria, which are discussed below.

#### ***Reasonable Manner***

In Staff's opinion, the variance request to locate the shed in the proposed location in the side yard setback represents a reasonable use of the property. City Code permits detached structures as an accessory use. By establishing these provisions, the City deems that a detached structure represents a reasonable use of the property provided Code standards are met.

City Code is in place to maintain the high quality of life within the community by promoting investment and re-investment in the community. The 30 foot setback is reasonable because it is behind the setback of the current detached garage as well as behind the existing 25 foot setback of the property to the north.

### ***Unique Circumstances***

Staff agrees that the variance request stems from the uniqueness of the parcel. The topography slopes steeply from the west to the east, losing 14 from the front of the garage to the rear of the house, and continues to lose an additional 6 feet as you continue east 30 feet behind the house until it levels off. Locating the shed to the required setback would result in the applicant not having a functional use of their structure as they would have a difficult, if not impossible time going up and down the hill with property maintenance equipment. By allowing the side yard setback, the applicant will be able to put the shed on flatter ground and have the ability to gain access to equipment without undue hardship.

### ***Character of the Neighborhood***

Staff believes that proposed shed will not alter the essential character of the existing neighborhood. The shed location will be set back further than the front setback of the existing garage. The neighborhood is a mix of Riparian and Non-Riparian properties that vary in size, setback, and overall look. Further, the proposed structure will be built to match the unique architectural style of the existing home and garage so it will be visually appealing. The structure is an allowable size with a Conditional Use Permit.

### **PUBLIC COMMENT**

Property owners within 350' of the property were notified of the application. Comments that have been received are attached.

### **RECOMMENDATION**

Staff has reviewed the submitted variance application in accordance with the Development Code and Variance criteria. Staff finds that the proposed change to the location South of the existing garage is reasonable due to the site characteristics. The topography of the parcel dictates that the a shed be located on the west portion of the property in order to use it for lawn and yard maintenance agreement. Lastly, the character of the neighborhood will not be altered as a result of this variance request.

### **Variance**

Staff recommends the Planning Commission adopt Resolution 15-36 approving the variance request, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.

2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
6. The approval is contingent upon approval of the Conditional Use Permit.

### **Conditional Use Permit**

The applicant's proposal is consistent with the Conditional Use Permit criteria and standards for detached accessory structures. The residential use of the proposed shed is in harmony with the general purposes and intent of the Development Code and Comprehensive Plan. The structure/land use conforms to the Comprehensive Plan and is compatible with the residential neighborhood. The existing home will remain the primary feature and use of the property.

Staff is recommending the Planning Commission recommend the City Council approve the Conditional Use Permit, subject to the following:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design of the shed shall be consistent with the plans submitted and complement the home on the property.
3. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards.
4. The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
5. The structure shall not be used in any way for commercial purposes.
6. Said structure may be located in the sideyard, setback 30 feet from the front lot line per Resolution 15-36, approving the Variance.

#### **Attachments:**

1. Attachment A – Conditional Use Permit, Standards for Detached Accessory Structures
2. Location Map
3. Topography Map
4. Applicant's Statements and Submitted Plans
5. Public Comments
6. Resolution 15-36
7. Motion



# ATTACHMENT A

- (1) The accessory structure shall be located in the rear yard of the property except as otherwise permitted by this ordinance.
- (2) The accessory structure shall be setback a minimum of 10 feet from the side property line and 10 feet from the rear property line; however, the City may require greater setbacks to mitigate impacts on adjoining properties.
- (3) For parcels 1 acre or larger in size, the lot shall have a minimum area of 1 acre above the ordinary high water line of a lake, ponding area or wetland on the property.
- (4) The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
- (5) The structure shall comply with the standards of Section 205.082(D) (5) of this ordinance.

## ***Conditional Use Permit Criteria***

Certain land uses are designated as a conditional use because they may not be suitable in a particular zoning district unless conditions are attached. In those circumstances, conditions may be imposed to protect the health, safety and welfare and to insure harmony with the Comprehensive Plan.

In addition to the standards identified above, the City Council must find that the use complies with the following criteria.

- (1) The use is in harmony with the general purposes and intent of the Development Ordinance.
- (2) The use is in harmony with the policies of the Comprehensive Guide Plan.
- (3) Certain conditions as detailed in the Development Ordinance exist.
- (4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.



# 4344 Snail Lake Blvd



NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- County Borders
- Airports

## Notes

Location Map



**Legend**



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- 2012 Contours
- Parcel Points
- Parcel Boundaries
- County Borders

**Notes**

Enter Map Description

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
**THIS MAP IS NOT TO BE USED FOR NAVIGATION**





Nicole Hill <nhill@shoreviewmn.gov>

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## Property Description

---

Russell <rwe37@msn.com>  
To: nhill@shoreviewmn.gov

Wed, Apr 22, 2015 at 4:35 PM

Niki,

April 22, 2015

The proposed structure will be used for storage. More specifically, outdoor equipment such as snow blower, lawn mower, weed whip, chainsaw, fertilizer, seed, hoses sprinkler and assorted hand tools will stored in the new structure.

Note: Under the CRITERIA FOR REVIEW, para. 3c (1), the structure should be located at the rear of the property. This is almost impossible because the land to the rear of the garage is sloped downward and almost inaccessible for outdoor equipment use.

The structure will be exactly the same design and color as the existing garage and house. It will compliment the existing structures.

Russell M. Weaver  
4344 Snail Lake Blvd.

Variance Application Notes  
4344 Snail Lake Boulevard


2. The variance requested is to locate a proposed storage building near the front of my property rather than in the rear of the property as defined in CRITERIA FOR REVIEW, para. 3c(1).

3[a] Consistency: I believe the proposed variance fits the purpose and intent of the City's Comprehensive Plan because it includes a new building that complements the existing house and garage. The unique design is a mirror copy of the architecturally designed house and garage. It does not diminish or detract from the existing property in any conceivable way or form. In fact, it improves the property.

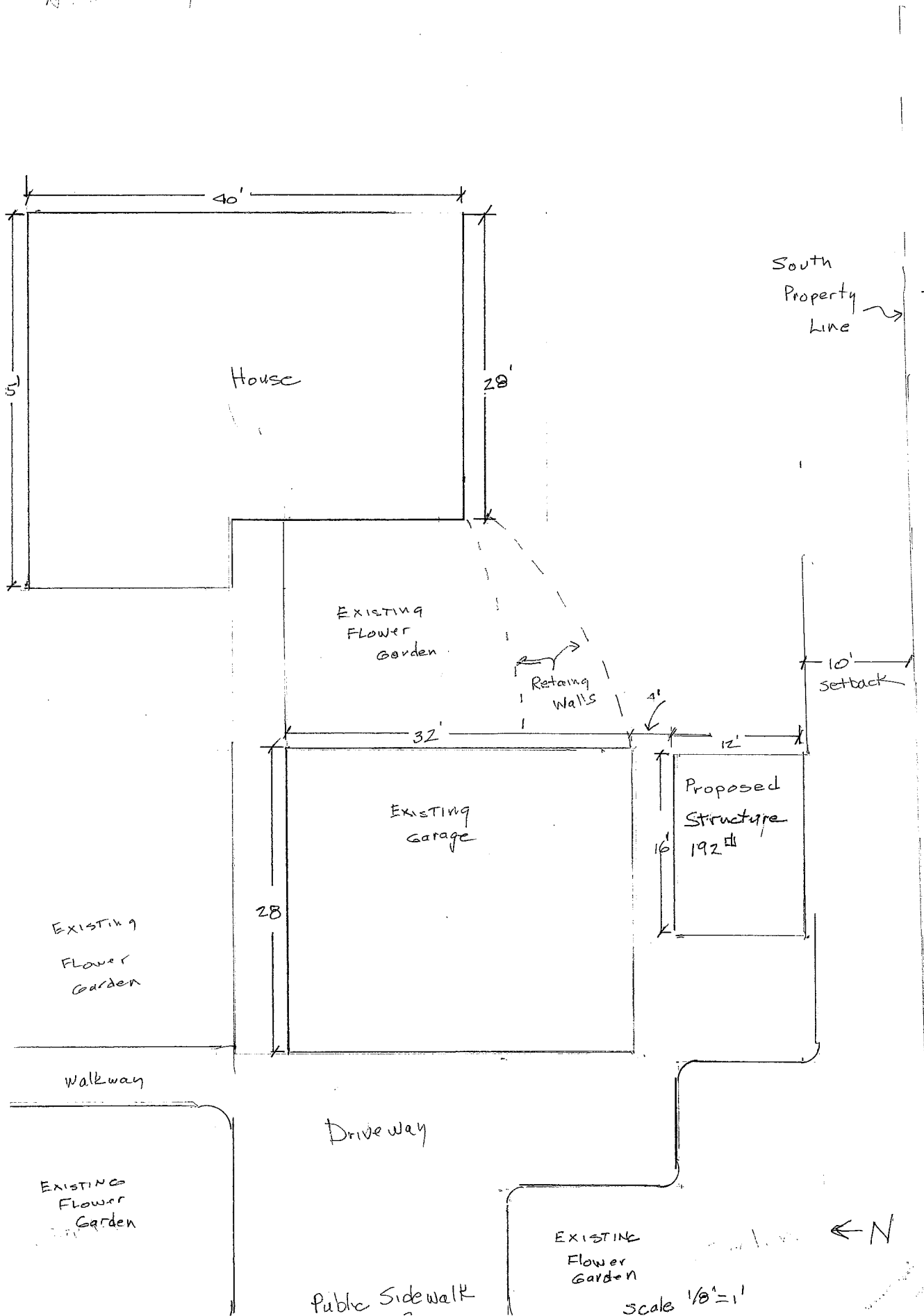
3[b] Practical Difficulties: The property slopes quite steeply downward to the east of the proposed building and it would be impractical, if not impossible, especially in the winter, to utilize the new building. Also, it would be, for all intents and purposes, impossible to access the building if it was located to the rear of the property (which is 230 feet deep). The building will be used to store outdoor equipment such as snow blower, lawn mower, deck furniture, etc., all of which is used in the front of the property.

3[c] Neighborhood Character: As stated above, the design will enhance the appearance of the property and, in fact, compliment the overall appearance of the neighborhood and, by extension, the City.

Adjacent Property Owners: I have discussed the proposal with my immediate neighbors to the south (Dennis and MaryAnn Kaufhold) and they are in complete agreement. Presently, the proposed site is unimproved with buckhorn and other undesirable vegetation growing there. The proposed site will change the appearance for the better with the new building and new flower garden as compared to its present condition.

  
Russell M. Weaver

Note:  
South Property Line Shown  
North and East Property Lines NOT Shown



NOTE Siding is 4" Hardi Plank (Monterey Tarpe to match house and garage)

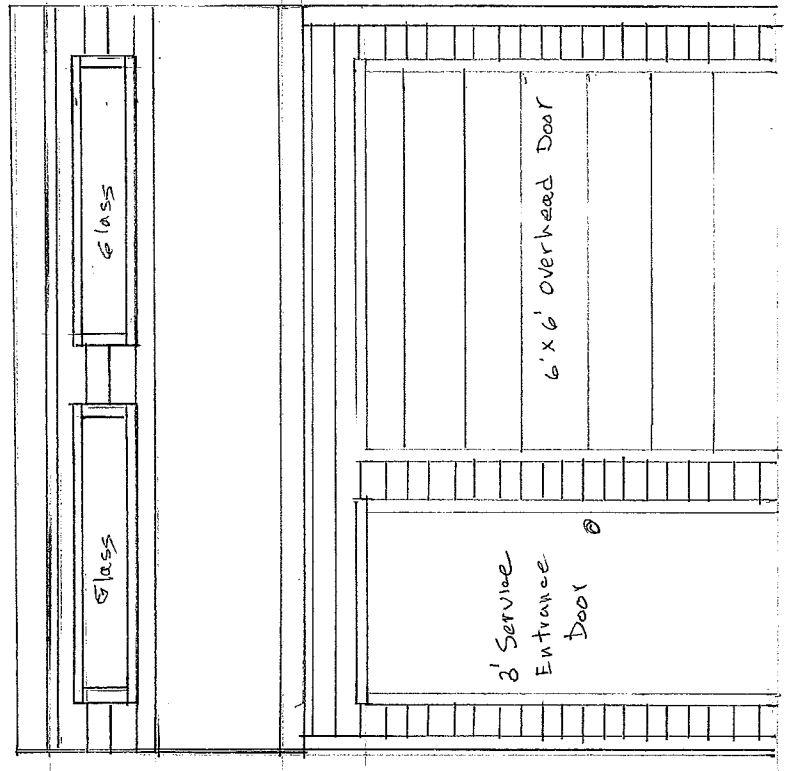
Roofing is Asphalt Shingles (Black)

Trim is Mira tech (Monterey tarpe)

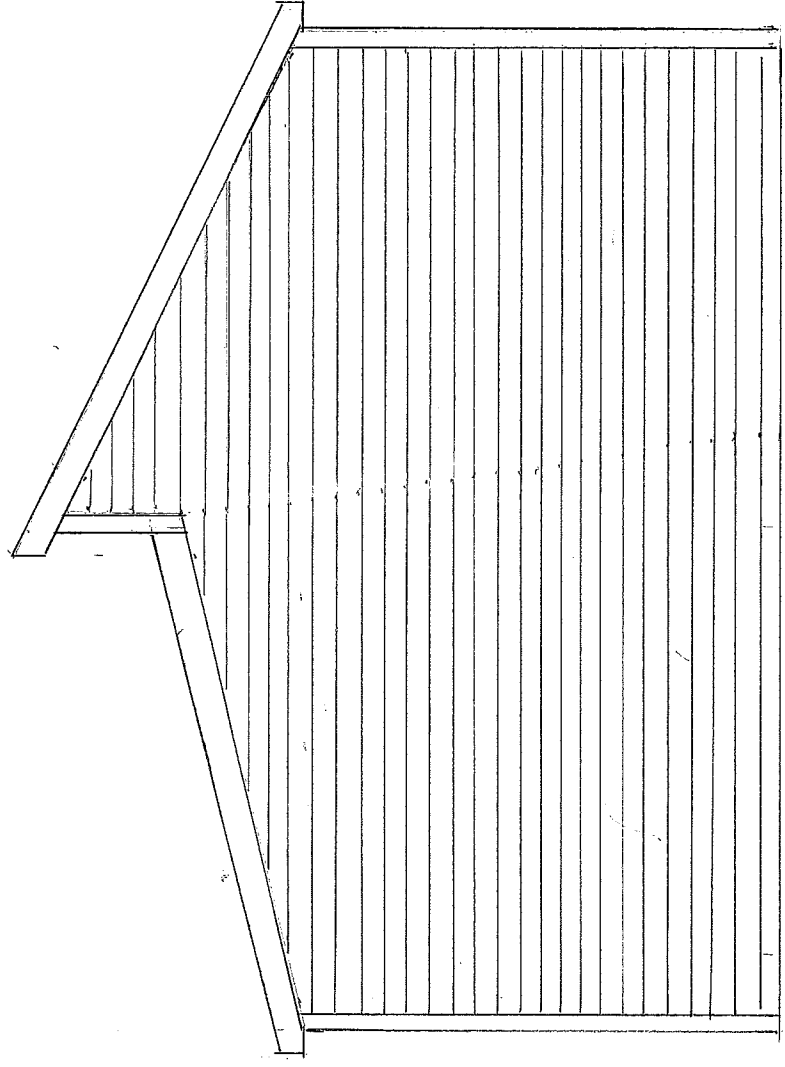
Floor is plywood mounted on 4'x4' posts 5' deep

Floor joists are 2x6" - 24" on center

Bldg design mirrors the design of house and garage



East Elevation



North Elevation

Scale 1/2" = 1'

**City Council:**  
Sandy Martin, Mayor  
Emy Johnson  
Terry Quigley  
Cory Springhorn  
Ady Wickstrom



City of Shoreview  
4600 Victoria Street North  
Shoreview MN 55126  
651-490-4600 phone  
651-490-4699 fax  
[www.shoreviewmn.gov](http://www.shoreviewmn.gov)

May 8<sup>th</sup>, 2015

**REQUEST FOR COMMENT**


Dear Shoreview Property Owner:

Please be advised that on **Tuesday, May 26<sup>th</sup> at 7:00 p.m.**, the Shoreview Planning Commission will hold a public hearing for a Conditional Use Permit application submitted by **Russell Weaver** to construct a 192 square foot detached accessory structure (shed) in the side yard of their property at **4344 Snail Lake Blvd.**

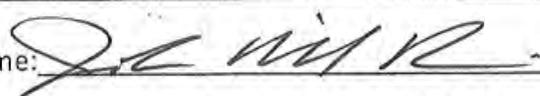
On parcels less than 1 acre or larger in size, detached accessory structures with a total floor area greater than 150 square feet but less than 288 square feet are permitted with a Conditional Use Permit. The Conditional Use Permit process enables the City to review the proposed use through a public hearing for compliance to the Development Code standards and ensure compatibility with nearby land uses. The applicant proposes to build the shed in the side yard south of the garage, which differs from the required rear yard setback. As such a variance has been requested. Please see the attached plans.

You are encouraged to fill out the bottom portion of this form and return it if you have any comments or concerns. You may also send your comments to me via email. Comments received by **May 20<sup>th</sup>** will be distributed to the Planning Commission with their agenda packet. Comments received after that date but before the meeting will be distributed to the Commission that night. You are also welcome to attend the meeting which will be held in the **City Council Chambers, Shoreview City Hall, 4600 North Victoria Street.** The agenda and staff report to the Planning Commission will be available on the City website by May 22<sup>nd</sup>. Please use this weblink to review details of the project and City standards after that date:  
[www.shoreviewmn.gov/pc/documents](http://www.shoreviewmn.gov/pc/documents).

If you would like more information or have any questions, please call me at 651-490-4658 between 8:00 a.m. and 4:30 p.m., Monday through Friday. You may leave a voice mail message at any time. Comments or questions can also be submitted via e-mail to me at [nhill@shoreviewmn.gov](mailto:nhill@shoreviewmn.gov).

Sincerely,  
  
Niki Hill  
Planning and Economic Development Associate

Comments:  
PROJECT LOOKS GOOD, WILL ENHANCE  
THE NEIGHBORHOOD. RUSS IS A CRAFTSMAN  
AND DOES HIGH QUALITY WORK,

Name:   
Address: 4337 SNAIL LAKE BLVD.





Nicole Hill <nhill@shoreviewmn.gov>

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## Russell Weaver Permit

---

Rachel Lagus <rachellagus@aol.com>

Sun, May 17, 2015 at 11:53 AM

To: "nhill@shoreviewmn.gov" <nhill@shoreviewmn.gov>

I live across the open space behind the Weavers and also walk often on Snail Lake Road and do not have any concerns about their request to build a detached building on their property.

Rachel Lagus  
4335 Virginia Ave  
651-483-3818

Sent from my iPad

**EXTRACT OF MINUTES OF MEETING OF THE  
CITY COUNCIL OF SHOREVIEW, MINNESOTA  
HELD MAY 26, 2015**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the City Council of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ - introduced the following resolution and moved its adoption.

**RESOLUTION NO. 15-36  
VARIANCE**

**WHEREAS**, Russell Weaver, has applied for a variance on his property, legally described as:

The West 230 feet of Lot 10, Block 1, Blaine Oaks, Ramsey County, Minnesota

(This property is commonly known as 4344 Snail Lake Blvd., Shoreview, Minnesota.)

**WHEREAS**, the Development Regulations establish structure setbacks from the property lines; and

**WHEREAS**, Conditional Use Permits for accessory specify that the rear setback shall be a minimum of 10 feet from rear property line. 205.082(C)(2)(c)(2); and

**WHEREAS**, the applicants have requested a variance to this requirement to allow the permitted structure to be located in the sideyard, setback 30 feet from the front lot line; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on February 24, 2015 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

City Code permits detached structures as an accessory use. By establishing these provisions, the City deems that a detached structure represents a reasonable use of the property provided Code standards are met.

City Code is in place to maintain the high quality of life within the community by promoting investment and re-investment in the community. The 30 foot setback is reasonable because it is behind the setback of the current detached garage as well as behind the existing 25 foot setback of the property to the north.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

There are unique circumstances to the property present. The topography slopes steeply from the west to the east, losing 14 from the front of the garage to the rear of the house, and continues to lose an additional 6 feet as you continue east 30 feet behind the house until it levels off. Locating the shed to the required setback would result in the applicant not having a functional use of their structure as they would have a difficult, if not impossible time going up and down the hill with property maintenance equipment. By allowing the side yard setback, the applicant will be able to put the shed on flatter ground and have the ability to gain access to equipment without undue hardship.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The proposed shed will not alter the essential character of the existing neighborhood. The shed location will be set back further than the front setback of the existing garage. The neighborhood is a mix of Riparian and Non-Riparian properties that vary in size, setback, and overall look. Further, the proposed structure will be built to match the unique architectural style of the existing home and garage so it will be visually appealing. The structure is an allowable size with a Conditional Use Permit.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 4344 Snail Lake Blvd, be approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.

2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins
6. The approval is contingent upon approval of the Conditional Use Permit.

The motion was duly seconded by Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 26<sup>th</sup> day of May, 2015

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

\_\_\_\_\_  
Russell Weaver



## MOTION TO APPROVE VARIANCE

**MOVED BY COMMISSION MEMBER** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER** \_\_\_\_\_

To approve the variance request submitted by Russell Weaver for their property at 4344 Snail Lake Blvd, allowing the permitted structure to be located in the sideyard, setback 30 feet from the front lot line; and adopt Resolution No. 15-36, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.
6. The approval is contingent upon approval of the Conditional Use Permit.

This motion is based on the fact that Practical Difficulty is present as identified in the findings in Resolution 15-36.

**VOTE:**

**AYES:**

**NAYS:**

**MOTION TO RECOMMEND APPROVAL OF CONDITIONAL USE PERMIT**

**MOVED BY COMMISSION MEMBER** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER** \_\_\_\_\_

To recommend the City Council approve the Conditional Use Permit for a 192 square foot detached accessory structure at 4344 Snail Lake Blvd, subject to the following:

1. The project must be completed in accordance with the plans submitted with the applications. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The exterior design of the shed shall be consistent with the plans submitted and complement the home on the property.
3. The applicant shall obtain a building permit for the structure. The structure shall comply with the Building Code standards.
4. The accessory structure shall be screened from view of adjacent properties and public streets through the use of landscaping, berming, fencing or a combination thereof.
5. The structure shall not be used in any way for commercial purposes.
6. Said structure may be located in the sideyard, setback 30 feet from the front lot line per Resolution 15-36, approving the Variance.

**VOTE:**

**AYES:**

**NAYS:**

**TO:** Planning Commission  
**FROM:** Kathleen Castle, City Planner  
**DATE:** May 19, 2015

**SUBJECT:** File No. 2474-15-17; Variance – Bruce and Jenny Anderson, 5855 Daniel Court

### **INTRODUCTION**

The City received a variance application from Bruce and Jennifer Anderson, 5855 Daniel Court, to reduce the 25-foot minimum structure setback permitted from the front property line to 22.5 feet for a proposed front entry porch addition. The proposed porch has a depth of 8.5-feet and a length of 26-feet and is part of improvements planned to enhance the exterior of the home.

The application was complete May 1, 2015.

### **BACKGROUND AND PROJECT DESCRIPTION**

The property is located on the west side of Daniel Court. The property has an area of approximately 14,200 square feet, a width of 88 feet and an average depth of approximately 140 feet. Improvements on the property include a two-story single-family residential dwelling with an attached garage, driveway, deck, shed and walkways. The existing home is angled on the property and oriented towards Daniel Court.

At its closest point, the existing house is setback 30.5' from the Daniel Court right-of-way. The proposed addition will extend out 8.5' reducing the setback to 22.5'. This covered porch will extend across the main portion of the home and have a length of 26'. It is intended to provide a covered entry for the home as well as a seating area. The applicant also states that the porch will enhance the appearance of the home and is part of planned improvements to the exterior of the home. Please see the attached plans.

### **DEVELOPMENT ORDINANCE REQUIREMENTS**

The property is located in the R-1, Detached Residential District. The minimum structure setback for a dwelling from a public street right-of-way is 25'. A minimum 10 foot setback for living area is required from an interior side lot line and 30' is required from a rear property line. A 5-foot minimum side yard is required for decks, accessory structures, and driveways.

In any yard, a landing is permitted as an encroachment into the required structure setback. A landing is defined as a platform attached to the principal structure, adjacent to the entry and leads to a walkway. Landings can be covered but cannot be larger than 5 feet in depth or 7 feet in width.



### **Variance Criteria**

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood.

### **APPLICANT'S STATEMENT OF JUSTIFICATION**

The applicant states that the covered porch addition will replace an existing 4-foot overhang and provide a covered entryway and will improve the appearance of the home. Since the home is on a cul-de-sac, it is not parallel to the road right-of-way which is a unique circumstance. The applicant's statement is attached.

### **STAFF REVIEW**

Staff has reviewed the application in terms of the Comprehensive Plan and Development Code, as discussed below.

The proposed improvement is consistent with the City's land use and housing policies related to housing maintenance and re-investment in single-family residential neighborhoods. In Staff's opinion, practical difficulty is present due to the configuration of the home on the property and the curvature of the Daniel Court right-of-way.

The 8.5-foot depth of the porch proposed is suitable and will provide adequate space for seating and walking. Furthermore, only a portion of the porch will encroach into the required 25-foot setback due to the angle of the home and curve of the front property line. Staff believes practical difficulty is present, based on the following findings:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations. The applicant is proposing to use the property in a reasonable manner since it will improve the livability of the permitted single-family residential use. The proposed covered porch will enhance the appearance of the home by providing a visual relief to the front building wall. In addition, this porch will provide shelter and seating area for the applicants and their guests when using the front entryway. Staff believes the proposal represents a reasonable use of the property.

2. *Unique Circumstances.* *The plight of the property owner is due to circumstances unique to the property not created by the property owner.* Unique circumstances relate to the placement/orientation of the home on the property and curvature of the front property line. The setback of the home from the front property line varies because the property is located on the cul-de-sac and is not parallel with the front property line. The setback of the house ranges from 30.5 feet to about 40' at the northeast corner of the garage. The porch will have a setback that also ranges from 22.5' to 26' and it is the southeastern corner of the porch that encroaches upon the required 25-foot front yard setback. This is a unique circumstance.
3. *Character of Neighborhood.* *The variance, if granted, will not alter the essential character of the neighborhood.* The variance will not alter the essential character of the neighborhood. The visual impacts are reduced by the overall design of the porch (1-story, open, width). Also, the house is located on the cul-de-sac and not situated in the middle of a block which should lessen the visual impact of the setback encroachment on neighboring properties.

### **PUBLIC COMMENT**

Property owners within 150 feet were notified of the applications and this hearing. As of the date of this memo, two comments in support have been received.

### **STAFF RECOMMENDATION**

The requested variance to reduce the 25-foot front yard setback to 22.5 feet complies with the policies of the Comprehensive Plan, meets the spirit and intent of the Development Regulations, and is consistent with the variance criteria. Staff is recommending the Planning Commission adopt Resolution 15-38, approving the variance request, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. The covered porch shall not exceed one-story in height and shall not be enclosed.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

#### Attachments

- 1) Resolution No. 15-38
- 2) Location Map
- 3) Aerial Pictometry
- 4) Submitted Statements and Plans
- 5) Request for Comment
- 6) Motion

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD MAY 26, 2015**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member introduced the following resolution and moved its adoption.

**RESOLUTION NO. 15-38 FOR A VARIANCE TO REDUCE THE STRUCTURE  
SETBACK FROM A STREET RIGHT-OF-WAY**

WHEREAS, Bruce and Jenny Anderson., submitted a variance application for the following described property:

The South 12 feet of Lot 13, Block 5; and Lot 14, Block 5, except the South 4 feet thereof,  
Evergreen Shores, Ramsey County, Minnesota  
*(Commonly known as 5855 Daniel Court )*

WHEREAS, the Development Regulations state the minimum structure setback for a single-family residential home from a street right-of-way is 25 feet; and

WHEREAS, the applicant has requested a variance to reduce the structure setback to 22.5 feet from the Daniel Court right-of-way for a covered front porch addition; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests.

WHEREAS, on May 26, 2015 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner.* *The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.* The applicant is proposing to use the property in a reasonable manner since it will improve the livability of the permitted single-family residential use. The proposed covered porch will enhance the appearance of the home by providing a visual relief to the front building wall. In addition, this porch will provide shelter and seating area for the applicants and their guests when using the front entryway. Staff believes the proposal represents a reasonable use of the property.
2. *Unique Circumstances.* *The plight of the property owner is due to circumstances unique to the property not created by the property owner.* Unique circumstances relate to the placement/orientation of the home on the property and curvature of the front property line. The setback of the home from the front property line varies because the property is located on the cul-de-sac and is not parallel with the front property line. The setback of the house ranges from 30.5 feet to about 40' at the northeast corner of the garage. The porch will have a setback that also ranges from 22.5' to 26' and it is the southeastern corner of the porch that encroaches upon the required 25-foot front yard setback. This is a unique circumstance.
3. *Character of Neighborhood.* *The variance, if granted, will not alter the essential character of the neighborhood.* The variance will not alter the essential character of the neighborhood. The visual impacts are reduced by the overall design of the porch (1-story, open, width). Also, the house is located on the cul-de-sac and not situated in the middle of a block which should lessen the visual impact of the setback encroachment on neighboring properties.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 5855 Daniel Court, be approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. The covered porch shall not exceed one-story in height and shall not be enclosed.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

The motion was duly seconded by Member and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 26th day of May, 2015

---

Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

---

Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

---

Bruce Anderson

---

Jennifer Anderson

STATE OF MINNESOTA )  
 )  
COUNTY OF RAMSEY )  
 )  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 26<sup>th</sup> day of May, 2015 with the original thereof on file in my office and the same is a full, true and complete transcript there from insofar as the same relates to adopting Resolution 15-38.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 26<sup>th</sup> day of May, 2015.

\_\_\_\_\_  
Terry C. Schwerm  
City Manager

SEAL

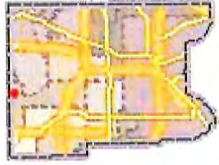


# Anderson - 5855 Daniel Court



This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
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- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- County Borders
- Airports

## Notes

Variance



**Print Date:** 05/07/2015  
**Image Date:** 03/25/2012  
**Level:** Neighborhood





Kathleen Castle &lt;kcastle@shoreviewmn.gov&gt;

---

**5855 Daniel Court**

---

Anderson, Jenny <Jenny.Anderson@deluxe.com>  
To: "Kathleen Castle (kcastle@shoreviewmn.gov)" <kcastle@shoreviewmn.gov>

Mon, May 4, 2015 at 12:49 PM

Bruce and Jenny Anderson, property owners of 5855 Daniel Court, respectfully request the Shoreview Planning Commission to approve the following variance request:

We are planning to update the exterior of our home, which includes a front overhang extension to 10' (the current overhang is 4'). The setback from the street should be 25' but with the proposed 10' extension, the setback will be 23'. We respectfully ask your approval for a 2' variance.

Please note that the overhang will be 26' in width, which represents a portion of the front of our home. The unique circumstance involved is that we are in the circular portion of a cul-de-sac, therefore, our house is not parallel with the street.

Thank you.

Jenny Anderson  
Director of Foundations & Community Affairs  
Deluxe Corporation  
3680 Victoria Street North  
Shoreview, MN 55126-2966  
(651) 483-7842

***Deluxe is a growth engine for small businesses and financial institutions.***

***NOTE: The information contained in this electronic message may be confidential information and is intended for the sole use of the intended recipient. Any use, distribution, transmission or forwarding of information contained in this e-mail by persons who are not intended recipients may be a violation of law and is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.***

12 Village North Professional Bldg. #7420 Unity Avenue North # Brooklyn Park, MN 55443 # (612) 561-2505

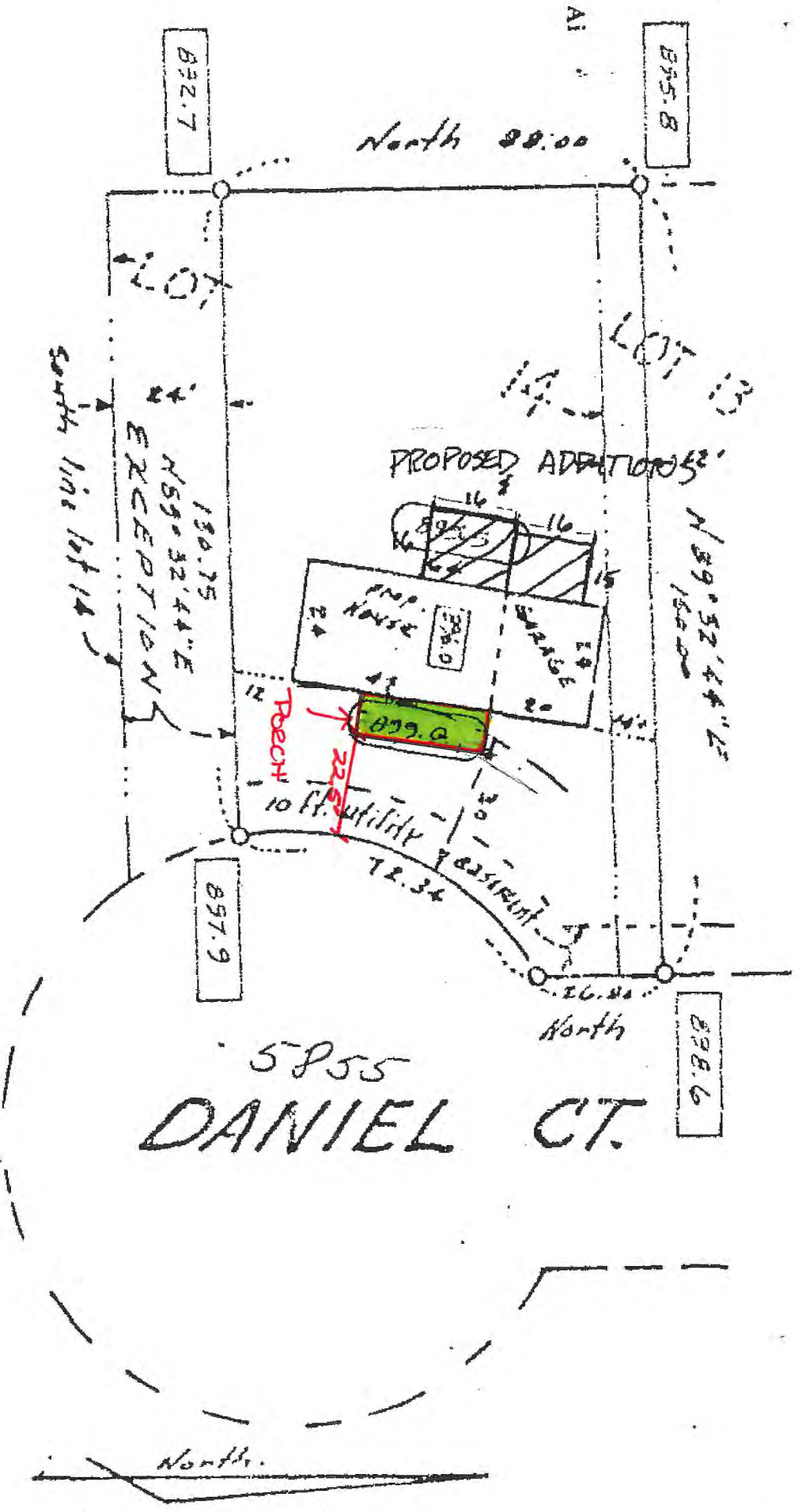
# Certificate of Survey

Property of Good Value Homes, Inc.

*Michael J. Williams*

described as follows: The South 12 feet of Lot 13, Block 5; and Lot 14, Block 5, Except the South 24 feet thereof, EVERGREEN SHORES, Ramsey County, Minnesota.

TRACT B



= proposed FHA elev.

= existing elev.

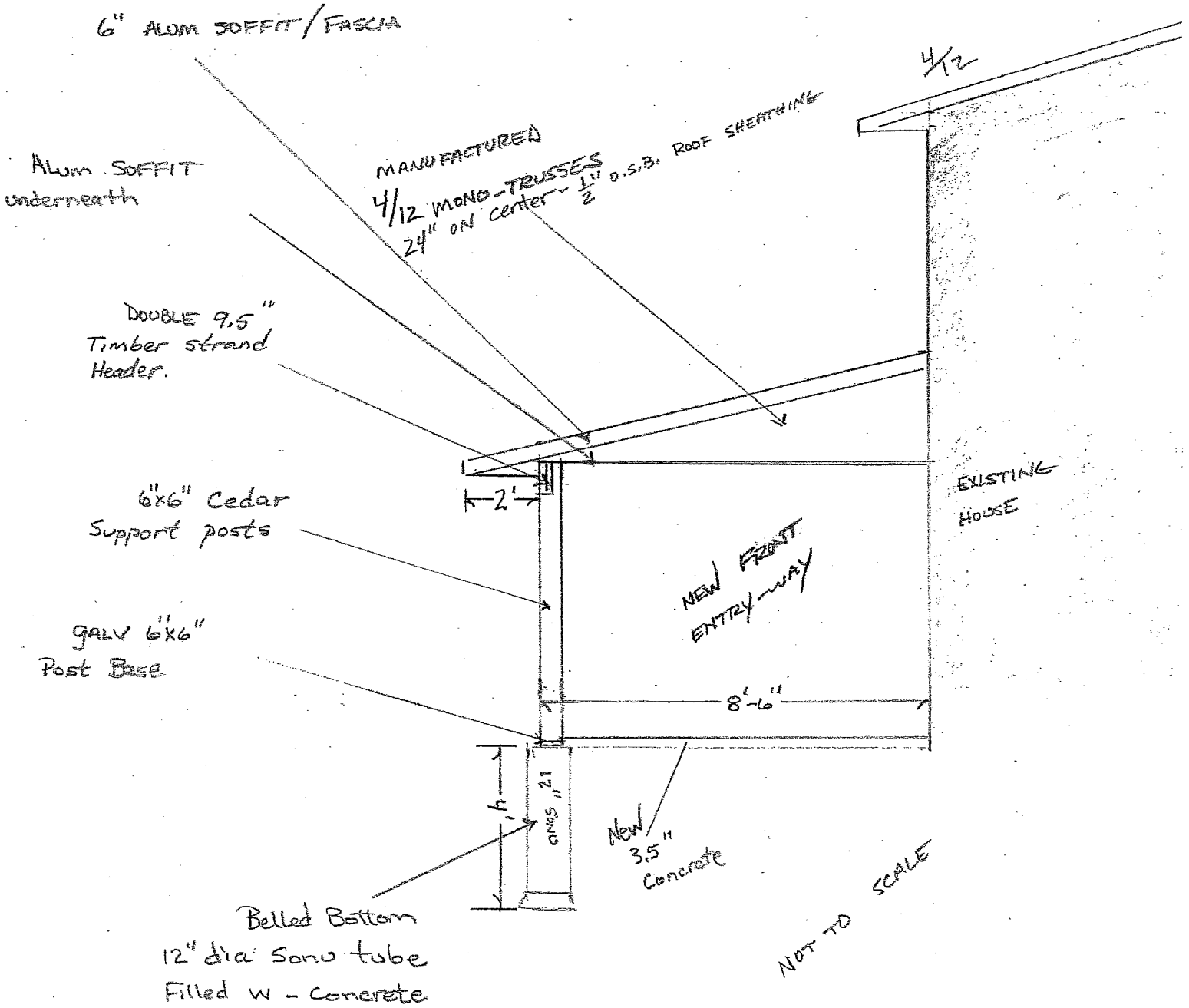
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*Richard A. Davis*

Date 12.8.82 Reg No. 9064

Scale 1 inch equals 40 feet  
o Indicates Iron Monument  
Book \_\_\_\_\_ Page \_\_\_\_\_  
Job No. 1087

RIGHT SIDE NORTH



LEFT SIDE SOUTH

4/12

1/4" = 1'

EXISTING HOUSE

4/12 MANO TRUSSES 24" ON CENTER  
1/2" D.S.B. ROOF SHEATHING

6" ALUM SOFFIT/FASCIA

ALUM SOFFIT UNDERNEATH

9.5" DOUBLE TIMBERSTRAND HEADER

CEDAR 6X6" SUPPORT POST

GALV 6X6" POST BASE

2'

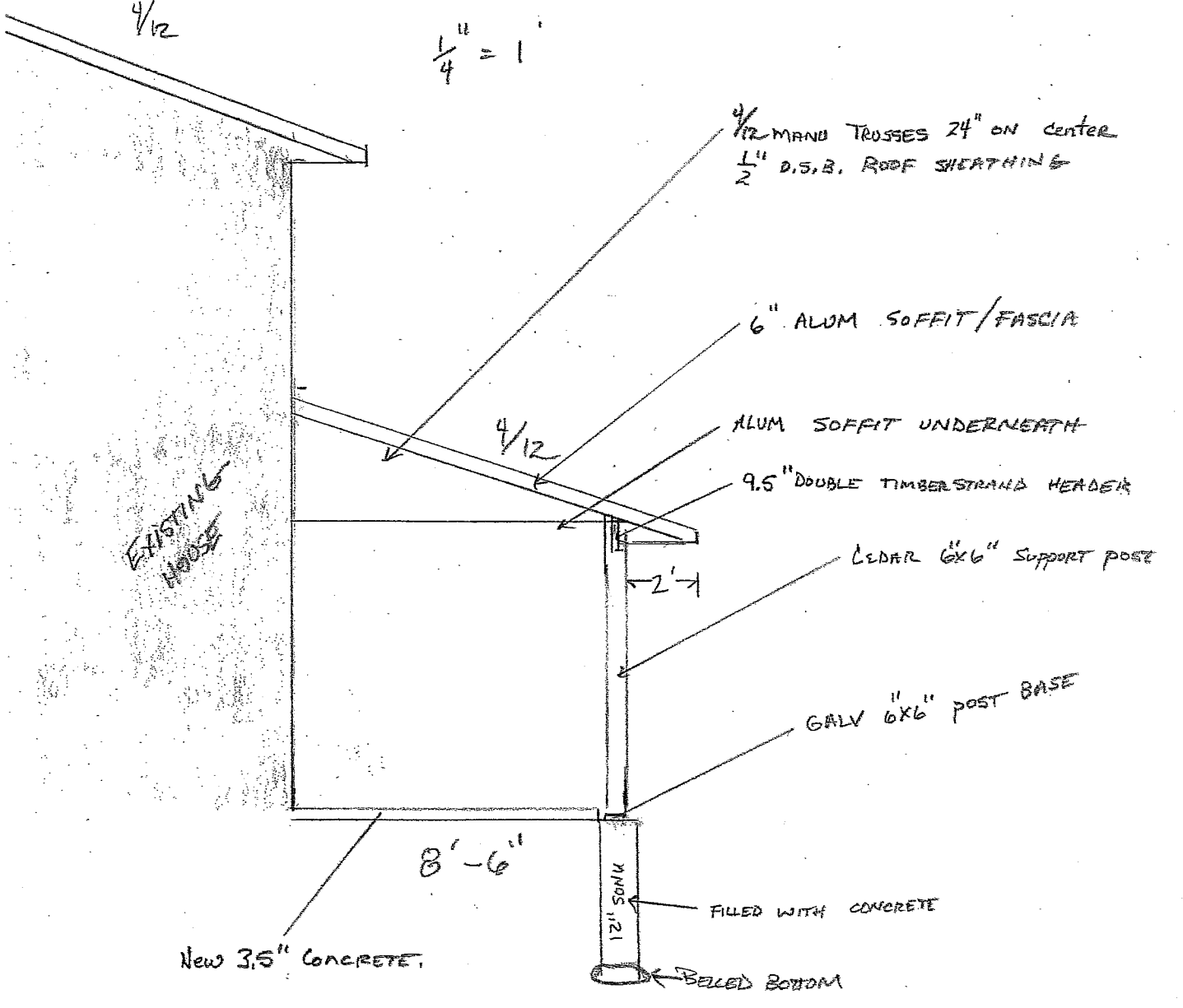
8'-6"

New 3.5" CONCRETE.

FILED WITH CONCRETE

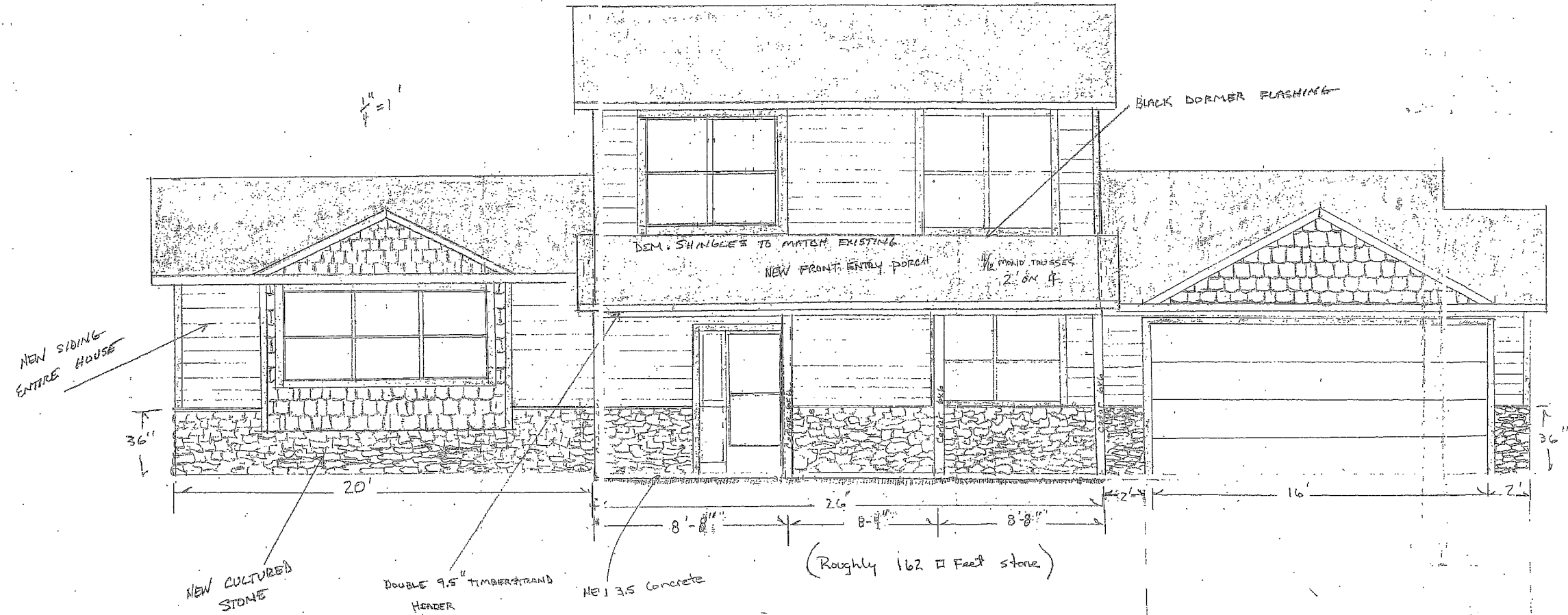
3 NOS 1/2"

BELLED BOTTOM



Bruce + Jenny Anderson  
5855 DANZEL COURT  
SHOREVIEW MN 55126

FRONT STREET SIDE ELEVATION  
EAST



Comments:

May 15, 2015

Dear Mrs. Castle,

We are writing to let you know that we have no concerns about Bruce and Jennifer Anderson, 5855 Daniel Court, reducing the 25-foot minimum structure setback permitted from the front property line to 22.5 feet for a proposed front entry porch addition.

Sincerely,

Jay & Micki Petersen

Name: JAY & MICKI PETERSEN  
Address: 6010 BUCHER AVE.

File No. 2574-15-17 Anderson, 5855 Daniel Court

Comments:

ABSOLUTELY ALLOW OUR NEIGHBORS TO PUT UP  
THIS PORCH IF THEY SO WISH!!! WHATEVER MAKES  
THEM HAPPY AND MAY ADD TO THE VALUE OF THEIR  
PROPERTY IS ALWAYS ACCEPTABLE IN AN ORDERED SOCIETY.

Name: SCOTT M. CARTER

Address: 5855 HODGSON ROAD

**MOTION  
TO APPROVE A VARIANCE  
5855 DANIEL COURT**

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To adopt Resolution 15-38 approving the requested variance submitted by Bruce and Jenny Anderson, 5855 Daniel Court, to reduce the required 25-foot structure setback from a front property line to 22.5' for a front porch addition. Said approval is subject to the following:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. The covered porch shall not exceed one-story in height and shall not be enclosed.
3. This approval will expire after one year if a building permit has not been issued and construction commenced.
4. This approval is subject to a 5-day appeal period.

This approval is based on the following findings of fact:

1. The proposed improvement is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. Practical difficulty is present as stated in Resolution 15-38

**VOTE:**

**AYES:**

**NAYS:**



**TO:** Planning Commission  
**FROM:** Niki Hill, Economic Development and Planning Associate  
**DATE:** May 22<sup>nd</sup>, 2015  
**SUBJECT:** File No. 2573-15-16– Variance – Metz – 3435 Milton St.

### **INTRODUCTION AND PROJECT DESCRIPTION**

The applicant, Louis Cecil Metz, plans to remove an existing 67 square foot - 10'7" x 6'5" shed, and construct a 60 square foot, 10' x 6' shed in the rear-yard of their property at 3435 Milton St. The proposed shed will be placed 2 foot from the East side property line in the same location as the existing shed. This is less than the required 10 foot setback and as such a variance is being requested. The application was Complete as of May 6<sup>th</sup>, 2015.

The property is located on the West side of Milton St in the R1, Detached Residential District as are the surrounding properties. According to tax records, the lot has an area of 13,503 square feet. The property has a width of 125 feet with a depth of 105 feet. The property is developed with a single family home that has a foundation area of 1,291 square feet with a 528 square foot attached garage.

### **DEVELOPMENT CODE**

#### ***Accessory Structures – Section 205.082(C)(2)***

The accessory structure regulations were revised in 2006, adopting standards to ensure the compatibility of these structures with surrounding residential uses. In the R1 District, two detached accessory structures are permitted. On parcels with an area less than 1 acre, accessory structure floor areas that are larger than 150 square feet but less than 288 square feet require a Conditional Use Permit. The Conditional Use Permit process enables the City to review the proposed use for compliance to the Development Code standards and ensure compatibility with nearby land uses through a public hearing. The combined area of all accessory structures cannot exceed 90% of the dwelling unit foundation area or 1,200 square feet, whichever is more restrictive.

Accessory structures must be setback a minimum of 5 feet from a side lot line and 10 feet from a rear lot line, except when a Conditional Use Permit is required the minimum setback increases to 10 feet from all property lines. The maximum height permitted for detached accessory structures is 18 feet as measured from the roof peak to the lowest finished grade; however in no case shall the height of the structure exceed the height of the dwelling unit. In addition, sidewalls cannot exceed 10 feet and interior storage areas above the main floor cannot exceed an interior height of 6 feet.

The exterior design of the structure must be compatible with the dwelling and be similar in appearance from an aesthetic, building material and architectural standpoint. The proposed design, scale, height and other aspects related to the accessory structure are evaluated to determine the impact on the surrounding area. Building permits may be issued upon the finding that the appearance of the structure is compatible with the structures and properties in the surrounding area and does not detract from the area. The intent of these regulations and the City's Comprehensive Plan's policies is to ensure that the residential character of the property and neighborhood is maintained and that dwelling unit remains the primary feature and use of the property.

### ***Variance Criteria – Section 203.070***

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

1. *Reasonable Manner.* The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.
2. *Unique Circumstances.* The plight of the property owner is due to circumstances unique to the property not created by the property owner.
3. *Character of Neighborhood.* The variance, if granted, will not alter the essential character of the neighborhood.

For a variance to be granted, all three of the criteria need to be met.

### **APPLICANT'S STATEMENT AND JUSTIFICATION OF PRACTICAL DIFFICULTY**

The applicant states that the shallowness of the lot (105' front to back) and the placement of the house on the lot, a 10-foot setback would place the shed too close to the deck and would severely reduce the usefulness of the back yard. Other areas of the back yard are occupied by trees, planting beds, and/or have sloping terrain.

The applicant identifies that the replacement is very nearly the same size as the existing shed in that location for 35 years, and it would cause minimal alternation of the character of the neighborhood.

Please see attached statement.

### **STAFF REVIEW**

#### ***Reasonable Manner***

In Staff's opinion, the variance request to locate the shed in the proposed location closer to the rear lot line represents a reasonable use of the property. City Code permits detached structures

as an accessory use. By establishing these provisions, the City deems that a detached structure represents a reasonable use of the property provided Code standards are met.

City Code is in place to maintain the high quality of life within the community by promoting investment and re-investment in the community. Replacing the dilapidated structure utilizing the existing setback is reasonable because it encourages re-investment in the property and it does not require the applicant to modify their existing rear yard configuration and site conditions.

### *Unique Circumstances*

Staff agrees that the variance request stems from the uniqueness of the parcel. The parcel has a depth that is less than the required 125 foot depth and as a result it has a smaller depth for the rear-yard. Staff acknowledges that the existing non-conforming shed has been in place for over 35 years. With the shed being in place for that time period, the structure location along with the topography of the parcel have dictated the location of landscaping and existing vegetation within the rear yard. If the shed were moved to the required setback there would be potential impacts to the existing vegetation/landscaping and/or the existing topography with grading for site preparation. By allowing the existing 2 foot rear-yard setback to remain, there will be little to no impact.

### *Character of the Neighborhood*

Staff believes that proposed shed location will not alter the essential character of the existing neighborhood. The shed location has been in that location for 35 years and as such a removal and replacement of the existing structure will be an improvement to the neighborhood. The structure is of comparable size as the current structure. Additionally there is a fence between the structure and the rear yard which assists with screening.

### **PUBLIC COMMENT**

Property owners within 150' of the property were notified of the application. Comments that have been received are attached.

### **RECOMMENDATION**

Staff has reviewed the submitted variance application in accordance with the Development Code and Variance criteria. Staff finds that the proposed location is reasonable due to the site characteristics. The shallow depth of the parcel, existing vegetation/landscaping, and existing topography dictate a small area where the shed could be placed and make this a unique circumstance. The existing shed was in place for over 35 years and the Character of the Neighborhood will be improved with the current dilapidated structure being removed and the new shed in place.

Staff recommends the Planning Commission adopt Resolution 15-37 approving the variance request, subject to the following conditions:

File No. 2573-15-16  
Louis Cecil Metz  
3435 Milton St. N.

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

Attachments:

1. Location Map
2. Pictometry Aerial Map
3. Topography Map
4. Applicant's Statements and Submitted Plans
5. Public Comments
6. Resolution 15-37
7. Motion

# 3435 Milton St. N



NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
 © Ramsey County Enterprise GIS Division

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- County Borders
- Airports

## Notes

Location Map

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 THIS MAP IS NOT TO BE USED FOR NAVIGATION



## 3435 Milton

Print Date: 05/17/2015

Image Date: 03/25/2012

Level: Neighborhood



# 3435 Milton St. - Topography



100.0 0 50.00 100.0 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
© Ramsey County Enterprise GIS Division

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## Legend



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- Recreational Centers
- 2012 Contours
- Parcel Points
- Parcel Boundaries
- County Borders
- Airports

## Notes

Enter Map Description

Cecil Metz  
3435 Milton St. N.  
Shoreview, MN, 55126-8043  
651-484-2881  
[cecilmetz@msn.com](mailto:cecilmetz@msn.com)

**Intended project:**

Replace the existing back-yard garden shed (approximately 35 years old, 6'5" X 10'7" footprint) with a new shed of similar size in the same location. The existing shed is shown on the accompanying drawing.

The selected replacement is a Tuff Shed with a 6'0" X 10'0" footprint and height of 6'5" to the soffit (4/12-pitch gable roof), slightly smaller than the existing shed in all dimensions.

**Requested variance:**

Relaxation of the rear setback requirement from 10 feet to 2 feet. (Since the selected replacement shed is slightly smaller than the existing shed, a 3 foot setback would also work.)

**Justification:**

**Unique Circumstances:**

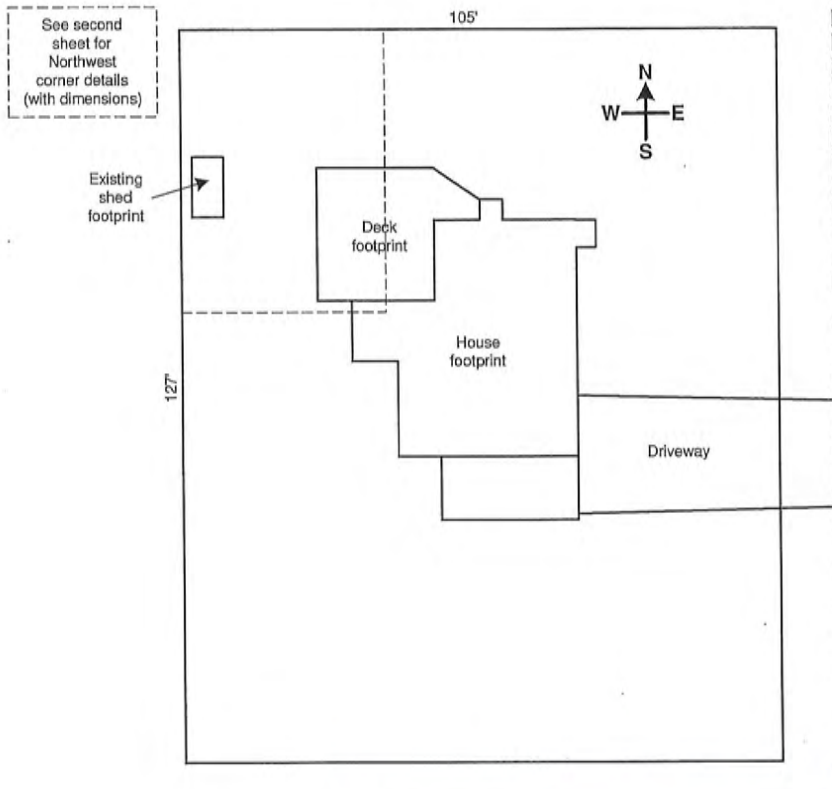
Due to the shallowness of the lot (105' front to back) and the placement of the house on the lot, a 10-foot setback would place the shed too close to the deck and would severely reduce the usefulness of the back yard.

Other areas of the back yard are occupied by trees, planting beds and/or have sloping terrain.

**Character of Neighborhood:**

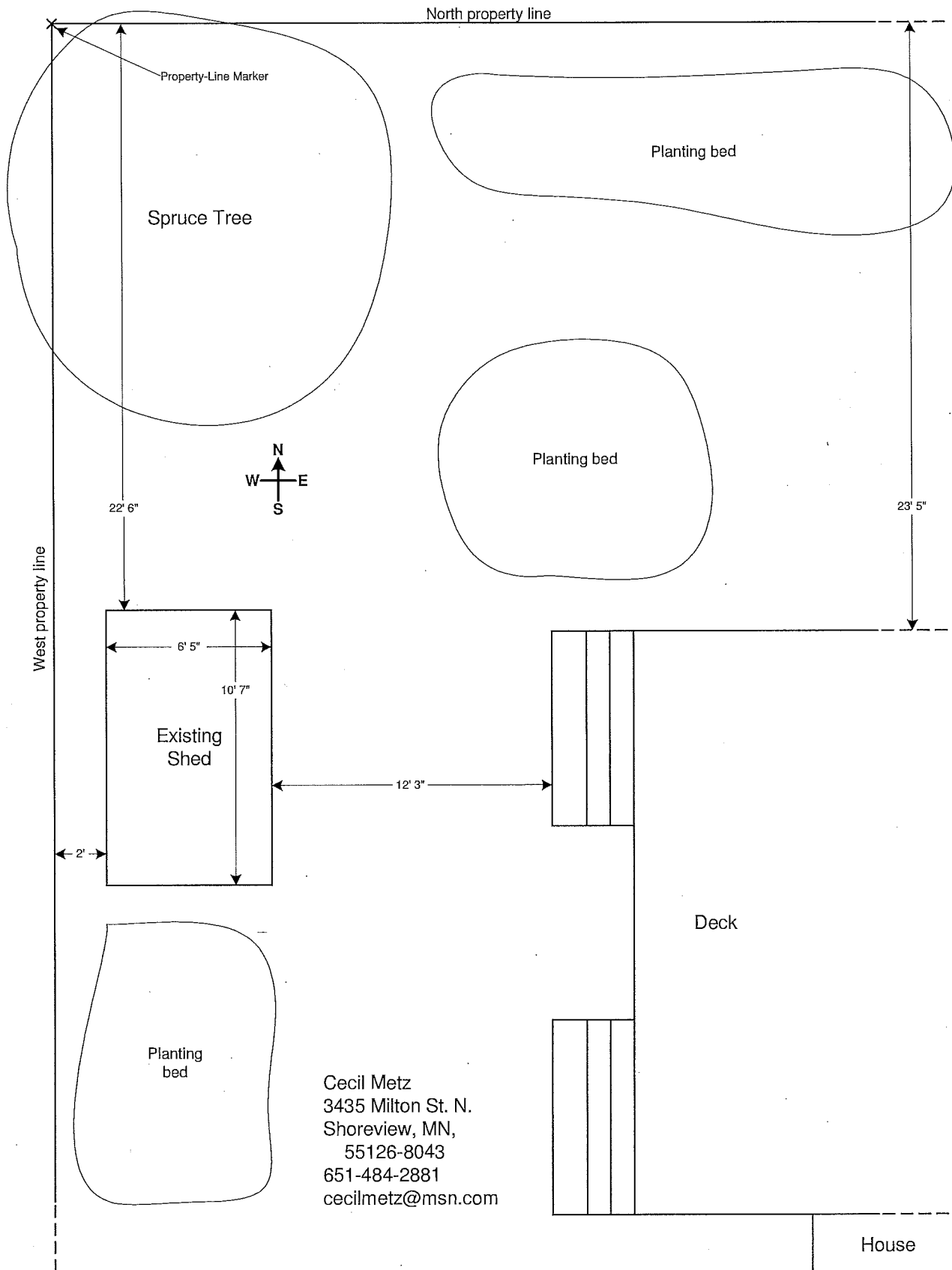
Since the replacement is very nearly the same size as the existing shed in that location for 35 years, it would cause minimal alteration of the character of the neighborhood.





Cecil Metz  
 3435 Milton St. N.  
 Shoreview, MN,  
 55126-8043  
 651-484-2881  
 cecilmetz@msn.com

Google Earth picture



Northwest corner detail



Nicole Hill <nhill@shoreviewmn.gov>

---

**3435 milton st shed**

1 message

---

**Sandy** <skhoward@comcast.net>

Mon, May 18, 2015 at 9:55 AM

To: nhill@shoreviewmn.gov

I approve of this variance request.

Thank you,  
Sandy Howard  
3446 milton st



Nicole Hill &lt;nhill@shoreviewmn.gov&gt;

---

**Louis Cecil Metz Variance**

1 message

**Stottlemeyer, Jean** <JStottlemeye@csbsju.edu>

Wed, May 20, 2015 at 7:59 AM

To: "nhill@shoreviewmn.gov" &lt;nhill@shoreviewmn.gov&gt;

Niki:

We received your letter regarding the variance requested by the Metz's. We are adjacent property owners to the Metz's but we will not be able to attend the meeting. However, we want to relay that ***without hesitation, we are in full support of granting the variance for the proposed shed.***

Respectfully,

Jean &amp; Jeff Stottlemeyer

3423 Milton St. N.

Shoreview, MN 55126

651-490-0983

jstottlemeye@csbsju.edu

**EXTRACT OF MINUTES OF MEETING OF THE  
CITY COUNCIL OF SHOREVIEW, MINNESOTA  
HELD MAY 26, 2015**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the City Council of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 15-37  
VARIANCE**

**WHEREAS**, Louis Cecil Metz, has applied for a variance on his property, legally described as:

Lot: 4 Block: 9, HILLS OF HOME PLAT 3

*(This property is commonly known as 3432 Milton St N., Shoreview, Minnesota.)*

**WHEREAS**, the Development Regulations establish structure setbacks from the property lines; and

**WHEREAS**, City Code regulations for accessory specify that the rear setback shall be a minimum of 10 feet from rear property line. 205.082(D)(5)(b)(ii)(b.); and

**WHEREAS**, the applicants have requested a variance to this requirement to decrease the permitted structure setback from 10 feet to 2 feet; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on May 26, 2015 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The variance request to locate the shed in the proposed location closer to the rear lot line represents a reasonable use of the property. City Code permits detached structures as an accessory use. By establishing these provisions, the City deems that a detached structure represents a reasonable use of the property provided Code standards are met.

City Code is in place to maintain the high quality of life within the community by promoting investment and re-investment in the community. Replacing the dilapidated structure utilizing the existing setback is reasonable because it encourages re-investment in the property and it does not require the applicant to modify their existing rear yard configuration and site conditions.

2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

There are unique circumstances to the property present. The parcel has a depth that is less than the required 125 foot depth and as a result it has a smaller depth for the rear-yard. The Planning Commission acknowledges that the existing non-conforming shed has been in place for over 35 years. With the shed being in place for that time period, the structure location along with the topography of the parcel have dictated the location of landscaping and existing vegetation within the rear yard. If the shed were moved to the required setback there would be potential impacts to the existing vegetation/landscaping and/or the existing topography with grading for site preparation. By allowing the existing 2 foot rear-yard setback to remain, there will be little to no impact.

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

The proposed shed will not alter the essential character of the existing neighborhood. The shed location has been in that location for 35 years and as such a removal and replacement of the existing structure will be an improvement to the neighborhood. The structure is of comparable size as the current structure. Additionally there is a fence between the structure and the rear yard which assists with screening.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 3435 Milton St N.be approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

The motion was duly seconded by Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 26<sup>th</sup> day of May, 2015

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Kathleen Castle, City Planner

ACCEPTANCE OF CONDITIONS:

\_\_\_\_\_  
Louis Cecil Metz

STATE OF MINNESOTA )  
 )  
COUNTY OF RAMSEY )  
 )  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 26<sup>th</sup> day of May, 2015 with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to adopting Resolution 15-37.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 26th day of May, 2015.

---

Terry C. Schwerm  
City Manager

SEAL



## MOTION TO APPROVE VARIANCE

**MOVED BY COMMISSION MEMBER** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER** \_\_\_\_\_

To approve the variance request submitted by Louis Cecil Metz for their property at 3435 Milton St. N., reducing the minimum 10 foot structure setback from a rear property line to 2 feet and adopt Resolution No. 15-37, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. The structure shall be used for the personal storage of household and lawn equipment.
4. The structure shall not be used in any way for commercial purposes.
5. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

This motion is based on the fact that Practical Difficulty is present as identified in the findings in Resolution 15-37.

### **VOTE:**

**AYES:**

**NAYS:**

# Memorandum

**TO:** Planning Commission Members

**FROM:** Tom Simonson, Assistant City Manager/Community Development Director

**DATE:** May 21, 2015

**SUBJECT:** File No. 2575-15-18 - Minor Subdivision and Variance Applications  
Todd Sharkey Land Development, 4965 Hanson Road

---

## **INTRODUCTION**

The City has received a Minor Subdivision Application and a Variance Application from Todd Sharkey Land Development proposing to divide the property at 4965 Hanson Road into two parcels for single-family residential use. The applications were determined to be complete on May 8, 2015. Please refer to information attached with this report, including the following supporting materials provided by the applicant:

- Minor Subdivision Statement
- Variance Statement
- Previous Administrative Appeal Documentation

## **PROJECT DESCRIPTION**

The property is located on the southwest corner of Hanson Road and a private roadway which is an extension of Oakridge Avenue. The property has a lot area of about 33,900 square feet and a width of 90 feet along Hanson Road. The property is improved with a single-family home with a detached garage and storage shed. Access is gained off of Hanson Road. Please refer to the aerial location map included with this report.

A certificate of survey has been submitted, which proposes the subject property be divided into two parcels (Parcel A and Parcel B). The property is currently developed with a single-family home and a detached accessory structure. These improvements are located entirely on proposed Parcel B and would be removed so the property can be redeveloped with a new single-family home.

The applicant has also submitted a Variance Application because proposed Parcel A does not have frontage on a public road, as required by the Municipal Code. Access to the new parcel would be gained from a private roadway easement. The review of the minor subdivision will also consider the establishment of a front setback minimum to create a reasonable building pad area for any future home on this parcel.

## **DEVELOPMENT ORDINANCE REQUIREMENTS**

**Minor Subdivisions – Section 204.** Minor subdivisions require review by the Planning Commission and approval by the City Council. Minor subdivisions must be reviewed in accordance with subdivision and zoning district standards in the Development Regulations.

The City's subdivision standards (Section 204.030) require all lots to have a minimum 30 feet of frontage on a public road. Municipal sanitary sewer and water must be provided to the resulting lots. These standards also require public drainage and utility easements along property lines where necessary. Public drainage and utility easements are also required over infrastructure, watercourses and floodways.

Key lots (any lot where the side lot line abuts the rear lot line or a rear lot line abuts the side lot line of one or more adjoining parcels) are discouraged and must be at least 15-feet more in depth or width than the minimum requirement ( Section 204.030 (C) (9) ). When a side lot line abuts a rear lot line, the setback for principal and accessory structures increases to a minimum of 20-feet from the side lot line and when a rear lot line abuts the side lot line the minimum structure setback increases to 40-feet from the rear property line ( Section 205.080 (D)(1)(f) ). The City can require a greater width or depth to increase the proposed structure setback from the adjoining properties.

The property is zoned R1, Detached Residential (Section 205.082). In this District, the lot standards require a minimum lot area of 10,000 square feet, a depth of 125 feet and a width of 75 feet. The dwelling must also maintain a minimum setback of 10 feet from a side property line, except for the side lines that abut the rear lot line of the adjacent property when a 20-foot setback is required. A 30 foot rear setback is required. Accessory structures, including attached garage, must maintain a minimum setback of 5-feet from a side lot line. When adjoining dwellings exceed a 40-foot setback from a front property line, then the setback for a new home must be equal to the adjacent dwelling, plus or minus 10-feet ( Section 205.080 (D) (1) (g)(i) ).

**Variance – Section 203.070.** When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variance is in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

- 1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
- 2. Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
- 3. Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

For a variance to be granted, all three of the criteria need to be met.

**STAFF REVIEW**

**MINOR SUBDIVISION APPLICATION**

The applicant is proposing to divide the existing parcel into two parcels for single-family residential use. Parcel A, the western portion of the property, is vacant and has frontage on the private drive extension off of Oakridge Avenue, thereby requiring a variance from the City’s standard requiring frontage on a public street. Parcel B contains the existing home, garage and other improvements. The applicant indicates that these improvements would be removed and the property redeveloped with a single-family residential use.

**Lot Dimension Standards**

The parcel is currently considered a key lot since the rear property line abuts the side property line of the adjoining property at 1000 Oakridge Avenue. When subdivided, both new parcels are then considered key lots since the rear lot line of Parcel A abuts the side lot line of 4957 Hanson Road and the rear lot line of Parcel B abuts the side lot line of Parcel A. The parcels and future structures are subject to additional requirements since they are key lots.

As shown below, the *proposed parcels exceed the dimensional lot requirements* of the Development Regulations.

	<b>Code Requirements</b>	<b>Parcel A (West)</b>	<b>Parcel B (East)</b>
<b>Area</b>	10,000 square feet	16,928 square feet	16,972 square feet
<b>Width</b>	75 feet		
→ <b>Corner Lot</b>	90 feet		
→ <b>Key Lot</b>	90 feet	115.98*	116.97 feet (average)
<b>Depth</b>	125 feet		
→ <b>Key Lot</b>	140 feet	143.44 feet	138.95 feet*

\* Commission could require an increased depth of Parcel B to comply with the minimum 140 foot depth required (currently shown as 138.95 feet) which would also slightly lessen the width of Parcel A but still meet all lot dimension standards

**Buildable Area – Structure Setbacks**

The buildable area for a new house on Parcel A is impacted by the adjoining house to the west at 1000 Oakridge Avenue, which is setback 89.29 feet from the front property line adjoining the private roadway easement. Since this house exceeds the maximum 40 foot front yard structure setback, the setback range for Parcel A is determined by taking the setback of the home at 1000 Oakridge Avenue then adding or subtracting 10 feet. When applied, the buildable area is limited to

24.15 feet by 87.98 feet creating some concern regarding the feasibility of constructing a home on the property.

While the record is not fully clear on why the adjoining home has a much larger than standard setback, in reviewing the past actions that created the subdivided parcel to build the house on 1000 Oakridge Avenue, it appears the excessive setback of 89.29 feet was done so at the direction of the City staff at the time to allow for a proper front setback if a public road and cul-de-sac was ever created in the future. The placement of the house at 1000 Oakridge Avenue was sited at the greater setback as part of the approved building permit issued by the City. Therefore, staff does not believe it is reasonable to apply such a restrictive front setback on the proposed Parcel A given that this applicant did not create the existing condition.

Staff does believe it is reasonable to permit a home on Parcel A, and to allow for a less restrictive front yard minimum setback of 35 feet, considering the standard would be a 25 foot setback from the private roadway easement and the circumstances allowing for the front setback of the adjacent home to the west. In addition, the houses along this private driveway have varying structure setbacks and there are detached garages adjacent to the private driveway so there is no defined development pattern.

Staff is recommending as part of an approval of the minor subdivision request, a minimum 35 foot structure setback be established for a future home on Parcel A. The proposed resolution drafted in support of the proposal also includes recognition of a variance to allow for the recommended 35 foot front setback for Parcel A. Staff believes that by establishing the front setback with this action would not require the applicant to return to request a variance in the future, and also sets forth the specific buildable area for the applicant/property owners, potential builders/developers, and surrounding residents.

Since this parcel is a key lot, a 20 foot minimum side yard (east) setback and a 40 foot minimum rear yard setback are also required. A standard 10 foot (house) or 5 foot (garage) setback is the minimum allowed on the west side of Parcel A. Based on the setback requirements and establishing a minimum front yard setback of 35 feet, there would be a sizable buildable area of 68.44 feet (depth) by 87.98 feet (width).

When the required structure setbacks are applied to Parcel B, there is adequate buildable area for a new home if the existing house is removed. Since this parcel is also a key lot, the minimum structure setback from the rear property line is 40 feet.

#### **Municipal Utilities**

Utilities will need to be provided to this new parcel. The construction of a new home on Parcel A will require connection to the city sanitary sewer main located in Hanson Road. The sanitary sewer connection will need to cross Parcel B to access the main in Hanson Road south of the existing home. A 10 foot private easement would be required over the proposed line. Municipal water is available from the existing private roadway easement or could also be extended from Hanson Road

across Parcel B to Parcel A within the same required 10 foot easement. Attached with this report is a memorandum from the City Engineer commenting on the proposal.

#### **Grading and Drainage/Vegetation and Woodlands**

At this stage in the process, a grading and drainage plan is not required because detailed plans are needed regarding the proposed building location and housing type. If approved, staff recommends a condition be attached requiring a grading and drainage plan be submitted for review and approval prior to issuance of a building permit. An as-built survey is also required in accordance with the City's Code.

Further, impacts on the existing trees cannot be fully assessed until development plans are received for each of the parcels. Tree replacement will be required in accordance with the City's ordinance (Section 209.050). Landmark trees that are removed are required to be replaced at a 1:1 ratio for each parcel (Section 209.050 (B) (3) ).

#### **Road Access**

Access to Parcel A is proposed off of the private driveway, which is located within a 30-foot wide private roadway easement that borders the applicant's property. The City Attorney has reviewed the abstract and title of this property and determined that the property owner has the legal right to access to this private roadway easement. This legal opinion that the applicant has rights to utilize the private roadway has been a consistent position of the City dating back to the late 1970s when the matter was first reviewed. Due to the past history associated with previous subdivisions and the driveway, the staff is not recommending the City not require the applicant to be a part of any maintenance agreement with the adjoining property owners as a condition of approval, as this is considered a private matter.

The private roadway easement is improved with a 12 foot wide concrete driveway surface and currently provides access to 7 homes. The Lake Johanna Fire Department reviewed the driveway in 2006 after it was re-constructed and determined that it does provide reasonable access for fire vehicles. Attached are comments from the Assistant Fire Chief indicating no concerns so long as the private access maintains proper clear space and there continues to be no parking allowed on the driveway.

While the roadway is private and not under the control of the City, staff does not consider the addition of one new home creating any significant traffic or safety issues including having no impacts to the public streets of Hanson Road and/or Oakridge Avenue.

#### **VARIANCE APPLICATION**

The applicant is requesting a variance to waive the City's standard requiring newly created parcels to have frontage on a public street. Please refer to the applicant's statement, which is included with this report.

Staff believes the proposed subdivision is consistent with the City's land use and housing policies related to infill and redevelopment by providing opportunities for new development. Furthermore, it is the opinion of City staff that practical difficulty is present to allow for a variance from the City regulations, based on the following:

1. **Reasonable Manner.** The property owner is proposing to use the property in a reasonable manner. The property is guided for low density residential use and zoned for single-family residential uses. The property far exceeds the minimum lot area for a standard residential property and the subdivision will result in two parcels that comply with the width and area requirements for properties in the R-1, Detached Residential District. Each parcel also has suitable access via a public road (Parcel B) or an improved private roadway (Parcel A). The private roadway provides access to other single-family residential homes and provides suitable access for emergency vehicles. An addition of one new residence on this private roadway that already serves seven other residential properties is reasonable and will not cause any impacts to traffic or public safety.
2. **Unique Circumstances.** The property is unique due to its frontage on a public road and a private road. As previously stated, the City Attorney has determined that the subject property has legal access to this private roadway. Further subdivision of property in this area is doubtful due to limits created by the existing development pattern, therefore, access to the new Parcel A via the private roadway is reasonable since a public road is not likely. Furthermore, the location of the house at 1000 Oakridge Avenue was permitted by the City to be setback 89.29 feet, much greater than the minimum setback that results in significantly restricting the buildable area for this minor subdivision. Since this setback issue was not caused by the applicant, a 35 foot front setback is reasonable.
3. **Character of Neighborhood.** The proposed subdivision will not alter the character of the neighborhood. The character of this neighborhood is varied due to its proximity to the lake and the development pattern. The riparian lots on Turtle Lake have homes oriented towards the lake and some have detached garages adjacent to the private roadway. In addition, some of these lots are oddly configured and utilize shared driveways for access. The orientation of the home on Parcel A will be similar to the existing home immediately west and the location will provide a transition to those established homes on Hanson Road. A home on Parcel A would be significantly screened from view by the property to the west given the existing landscape buffer on the shared property line. A home on Parcel A would not pose any significant negative visual impact from the adjacent property to the south at 4957 Hanson Road given the orientation of the house, large rear yard area, existing garage structure, and compatibility with use as a single-family residence.

**PUBLIC COMMENT**

Notices of this request were sent to property owners within 350 feet of the 4965 Hanson Road property. Written comments received to date are included for your review. Any additional comments received will be distributed to the Planning Commission at the meeting.

**STAFF RECOMMENDATION**

The application was reviewed and found to be in accordance with the standards of the Development Regulations and the variance criteria. Staff believes approval of this proposal is supported for several reasons:

- It has been established that the applicant/property owners have legal rights to access the private roadway easement which currently serves other residential properties including a new lot the City approved in 1993.
- The restrictive front setback and limited buildable area that would be required for Parcel A is a hardship not created by the applicant since the City allowed a much greater front setback through the issuance of a building permit for 1000 Oakridge Avenue.
- The proposed Parcel A meets or exceeds all lot dimension standards required by City development regulations for a single-family residential parcel.

Therefore, it is the recommendation of City staff that the Planning Commission adopt Resolution No. 15-39 approving the variance for the new parcel to access utilizing an existing private roadway easement and establishing a front setback for a future house on Parcel A, and to also recommend approval of the minor subdivision to the City Council, subject to the following proposed conditions:

**Variance**

1. This approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5 day appeal period.

**Minor Subdivision**

1. Approval of the Minor Subdivision is contingent upon the approval of a variance permitting private road access for Parcel A.
2. The Minor Subdivision shall be in accordance with the plan submitted, however, the depth for Parcel B shall be increased to 140 feet and revised prior to recording.
3. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.



4. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.
5. A 10 foot wide private easement shall be provided along the south boundary of Parcel B to provide municipal sanitary sewer service to Parcel A.
6. Municipal water and sanitary sewer service shall be provided to Parcel A.
7. For Parcel A, minimum structure setbacks from the property lines shall be as follows: Front – 35 feet, Side (East) – 20 feet, Rear – 40 feet, Side (West) – 10 feet for the dwelling unit/5 feet for accessory structures.
8. For Parcel B, minimum structure setbacks from the property lines when redeveloped shall be as follows: Front – 40 feet, Side (south) – 15 feet, Rear – 40 feet, Side (north – adjacent to private roadway) – 25 feet.
9. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
10. A Tree Protection and Replacement Plan shall be submitted for Parcels A and B with an application for a Building Permit for a new home on each parcel. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
11. A Grading and Drainage Plan shall be submitted for Parcels A and B with an application for a Building Permit for a new home on each parcel. The items identified in the attached memo from the City Engineer shall be addressed prior to the issuance of a building permit for new homes on each parcel
12. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

Attachments –

1. Resolution No. 15-39
2. Proposed Motion
3. Memo from City Engineer
4. Memo from Lake Johanna Fire Department
5. Location Maps
6. Applicant's Statements and Supporting Documentation
7. Certificate of Survey
8. Written Comments from Public

## PROPOSED MOTION

**MOVED BY COMMISSION MEMBER:** \_\_\_\_\_

**SECONDED BY COMMISSION MEMBER:** \_\_\_\_\_

To adopt Resolution No. 15-39 approving the variance to waive the public street frontage requirement for Parcel A and establishing a minimum front setback for a future house on Parcel A, and to recommend approval of the minor subdivision to the City Council, based on following conclusions:

- a. It has been established that the applicant/property owners have legal rights to access the private roadway easement which currently serves other residential properties including a new lot the City approved in 1993.
- b. The restrictive front setback and limited buildable area that would be required for Parcel A is a hardship not created by the applicant since the City allowed a much greater front setback through the issuance of a building permit for 1000 Oakridge Avenue.
- c. The proposed Parcel A meets or exceeds all lot dimension standards required by City development regulations for a single-family residential parcel.

and subject to the following conditions:

### **Variance**

1. This approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

### **Minor Subdivision**

1. Approval of the Minor Subdivision is contingent upon the approval of a variance permitting private road access for Parcel A.
2. The Minor Subdivision shall be in accordance with the plan submitted, however, the depth for Parcel B shall be increased to 140 feet and revised prior to recording.
3. The applicant shall pay a Public Recreation Use Dedication fee as required by Section 204.020 of the Development Regulations before the City will endorse deeds for recording. The fee will be 4% of the fair market value of the property, with credit given for the existing residence.
4. Public drainage and utility easements shall be dedicated to the City as required by the Public Works Director. The applicant shall be responsible for providing legal descriptions for all required easements. Easements shall be conveyed before the City will endorse deeds for recording.

5. A 10 foot wide private easement shall be provided along the south boundary of Parcel B to provide municipal sanitary sewer service to Parcel A.
6. Municipal water and sanitary sewer service shall be provided to Parcel A.
7. For Parcel A, minimum structure setbacks from the property lines shall be as follows: Front – 35 feet, Side (East) – 20 feet, Rear – 40 feet, Side (West) – 10 feet for the dwelling unit/5 feet for accessory structures.
8. For Parcel B, minimum structure setbacks from the property lines when redeveloped shall be as follows: Front – 40 feet, Side (south) – 15 feet, Rear – 40 feet, Side (north – adjacent to private roadway) – 25 feet.
9. The applicants shall enter into a Development Agreement with the City. This agreement shall be executed prior to the City's release of the deeds for recording.
10. A Tree Protection and Replacement Plan shall be submitted for Parcels A and B with an application for a Building Permit for a new home on each parcel. Tree removal requires replacement trees per City Code. City requirements for the tree removal and protection plan shall be detailed in the Development Agreement.
11. A Grading and Drainage Plan shall be submitted for Parcels A and B with an application for a Building Permit for a new home on each parcel.
12. The items identified in the attached memo from the City Engineer shall be addressed prior to the issuance of a Building Permit for new homes on each parcel.
13. This approval shall expire after one year if the subdivision has not been recorded with Ramsey County.

This approval is based on the following findings:

**Variance**

1. The proposed subdivision is consistent with the policies of the Comprehensive Plan, including the Land Use and Housing Chapters.
2. Access to Parcel A is provided by a private roadway and provides reasonable access for emergency vehicles.
3. Practical difficulty is present, as stated in Resolution No. 15-39.

**Minor Subdivision**

1. The subdivision is consistent with the policies of the Comprehensive Plan and with the spirit and intent of the Development Code.
2. The proposed lots conform to the other adopted City standards for the R-1 Detached Residential District.

**VOTE:**

**AYES:** \_\_\_\_\_

**NAYS:** \_\_\_\_\_

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD MAY 26, 2015**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Member \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 15-39  
A VARIANCE WAIVING THE PUBLIC STREET FRONTAGE REQUIREMENT FOR A NEW PARCEL**

WHEREAS, Todd Sharkey, Todd Sharkey Land Development, submitted a variance application for the following described property:

The west 118.00 feet of the east 290 feet of the north 143.44 feet of the south 600 feet of Government Lot 1, Section 14, Township 30 North, Range 23 West, Ramsey County Minnesota.

Also a roadway or driveway easement over a strip of land 30 feet in width, lying adjacent to and on the northerly side of afore described tract of land, said 30 feet being measured at right angles to the northerly lines of said tract, and said strip running from said east line of Government Lot 1 to a line running parallel to and distant 290 feet west of said east line.

Subject to an easement for drainage and utility purposes over, under and across the north 10 feet, the east 5 feet, the south 10 feet and the west 5 feet thereof.

***(This property is west of 4965 Hanson Road and identified as Parcel A on the Certificate of Survey dated and revised 07/21/05)***

WHEREAS, pursuant to the Development Code Section 204.030 (C)(2), the Development Regulations require all newly created parcels to have frontage on a public road; and

WHEREAS, the applicants have requested a variance to this requirement in order to subdivide their property and create a parcel that has access from a private roadway; and

WHEREAS, the Shoreview Planning Commission is authorized by state law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on May 26, 2015, the Shoreview Planning Commission made the following findings of fact:

1. **Reasonable Manner.** The property owner is proposing to use the property in a reasonable manner. The property is guided for low density residential use and zoned for single-family residential uses. The property far exceeds the minimum lot area for a standard residential property and the subdivision will result in two parcels that comply with the width and area requirements for properties in the R-1, Detached Residential District. Each parcel also has suitable access via a public road (Parcel B) or an improved private roadway (Parcel A). The private roadway provides access to other single-family residential homes and provides suitable access for emergency vehicles. An addition of one new residence on this private roadway that already serves seven other residential properties is reasonable and will not cause any impacts to traffic or public safety.
2. **Unique Circumstances.** The property is unique due to its frontage on a public road and a private road. As previously stated, the City Attorney has determined that the subject property has legal access to this private roadway. Further subdivision of property in this area is doubtful due to limits created by the existing development pattern, therefore, access to the new Parcel A via the private roadway is reasonable since a public road is not likely. Furthermore, the location of the house at 1000 Oakridge Avenue was permitted by the City to be setback 89.29 feet, much greater than the minimum setback that results in significantly restricting the buildable area for this minor subdivision. Since this setback issue was not caused by the applicant, a 35 foot front setback is reasonable.
3. **Character of Neighborhood.** The proposed subdivision will not alter the character of the neighborhood. The character of this neighborhood is varied due to its proximity to the lake and the development pattern. The riparian lots on Turtle Lake have homes oriented towards the lake and some have detached garages adjacent to the private roadway. In addition, some of these lots are oddly configured and utilize shared driveways for access. The orientation of the home on Parcel A will be similar to the existing home immediately west and the location will provide a transition to those established homes on Hanson Road. A home on Parcel A would be significantly screened from view by the property to the west given the existing landscape buffer on the shared property line. A home on Parcel A would not pose any significant negative visual impact from the adjacent property to the south at 4957 Hanson Road given the orientation of the house, large rear yard area, existing garage structure, and compatibility with use as a single-family residence.

And WHEREAS, on May 26, 2015, the Shoreview Planning Commission determined that the variance to waive the public street frontage requirement for Parcel A as part of the minor subdivision request, and establishing a minimum front setback for a future house on Parcel A, is supported for the following reasons:

- a. It has been established that the applicant/property owners have legal rights to access the private roadway easement which currently serves other residential properties including a new lot the City approved in 1993.
- b. The restrictive front setback and limited buildable area that would be required for Parcel A is a hardship not created by the applicant since the City allowed a much greater front setback through the issuance of a building permit for 1000 Oakridge Avenue.
- c. The proposed Parcel A meets or exceeds all lot dimension standards required by City development regulations for a single-family residential parcel.

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, as identified as Parcel A on the Certificate of Survey dated and revised 07/21/05 is approved, subject to the following conditions:

1. This approval is subject to approval of the Minor Subdivision application by the City Council.
2. This approval will expire after one year if the subdivision has not been recorded with Ramsey County.
3. The approval is subject to a 5-day appeal period.

The motion was duly seconded by Member \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Adopted this 26th day of May, 2015

\_\_\_\_\_  
Steve Solomonson, Chair  
Shoreview Planning Commission

ATTEST:

\_\_\_\_\_  
Tom Simonson,  
Assistant City Manager/Community Development Director

ACCEPTANCE OF CONDITIONS:

\_\_\_\_\_  
Todd Sharkey

STATE OF MINNESOTA )  
 )  
COUNTY OF RAMSEY )  
 )  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 26<sup>th</sup> day of May, 2015 with the original thereof on file in my office and the same is a full, true and complete transcript there from insofar as the same relates to adopting Resolution15-39.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 26<sup>th</sup> day of May, 2015.

---

Terry C. Schwerm  
City Manager

SEAL

# Neighborhood Location Map







# 4965 Hanson Road



This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
 THIS MAP IS NOT TO BE USED FOR NAVIGATION

## Legend



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries
- Lakes - Neighboring Counties
- Airports

## Notes

Enter Map Description

To: Tom Simonson  
Community Development Director

Tom Wesolowski  
City Engineer

From: Tom Hammitt  
Senior Engineering Technician

Date May 20, 2015

Subject: Proposed lot split of 4965 Hanson Road  
Assessment Review

I have reviewed the City records regarding assessments for water and sanitary sewer as they relate to the property at 4965 Hanson Road. Listed below are my findings.

#### Sanitary Sewer

The above property was assessed for sanitary sewer constructed as part of Project 67-1A. The property was assessed for the frontage along Hanson Road. There are no sanitary sewer pipes along the private drive of Oakridge. The proposed new Parcel A would have to connect to the sewer in Hanson Road through a proposed 10 foot easement located on the south side of Parcel B. As in past situations like this, a fee would be collected at the time of subdivision in lieu of an assessment as this portion of the property was never assessed for sewer main. The calculation would use the frontage of Parcel A, 117.98 feet, times the original front footage charged in 1967 of \$6.33 per front foot. The total fee is \$746.81.

The area assessment of the property was assessed for the total acreage so no further fees are due for the sanitary sewer area assessment.

The sanitary sewer is in the middle of Hanson Road. An escrow would be required to ensure all work in the public right of way is performed to City specifications. That amount would be determined at the time a plan is submitted for this construction.

#### Water

The above property was assessed for water constructed as part of Project 74-2C. The property was assessed for the frontage along Hanson Road. There is also water on the north side of the private drive of Oakwood. It appears that the water main is in a 10 foot water main easement. There were no water services installed for any property south of the drive. To access the water main from proposed Parcel A would require crossing a portion of private property. It would make sense to connect to the water main in Hanson using the same easement that the sanitary sewer would use.

As in past situations, a fee would be collected at the time of subdivision in lieu of an assessment as this portion of the property was never assessed for water main. The calculation would use the frontage of Parcel A, 117.98 feet, times the original front footage charged in 1974 of \$15.74 per front foot. The total fee is \$1,857.00. This amount includes the source and supply rate in 1977.

The escrow amount referenced in the sanitary sewer paragraph would incorporate the construction of the water installation within the right of way.

#### Other Water and Sanitary Costs

Standard fees for any new construction would apply such as SAC fees, connection charges for water and sanitary sewer, water meter charge and permits/inspection fees.

If you have questions or need more information please let me know.



## LAKE JOHANNA FIRE DEPARTMENT

5545 LEXINGTON AVENUE NORTH • SHOREVIEW, MN 55126  
OFFICE (651) 481-7024 • FAX (651) 486-8826

May 21, 2015

Site Plan Review  
4965 Hanson Rd.  
Shoreview, MN 55126

- Access road needs to maintain a 13 feet clear space for fire department access.
- No parking is allowed on access road.

Sincerely,

A handwritten signature in black ink that reads "Eric Nordeen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Eric Nordeen  
Asst. Fire Chief  
Lake Johanna Fire Department

## **TODD SHARKEY LAND DEVELOPMENT**

1003 5<sup>TH</sup> Street North

Stillwater, Minnesota. 55082

Email: [Todd\\_Sharkey@Hotmail.com](mailto:Todd_Sharkey@Hotmail.com)

### **Statement identifying variance requested:**

The Applicant has been instructed by the Shoreview City Manager and/or his Agent that a variance is necessary to satisfy the Applicant's proposed application for Minor Subdivision of the property at 4965 Hanson Road, because the proposed lot does not face/front a public street. However, none of the other homes in the area front a public street. The City of Shoreview Planning Commission and Council have granted a similar request in the City within the last six months. The Applicant does not agree with this requirement, but has preserved the issue.

The Variance the Applicant has been instructed to submit, complies with the purpose and intent provisions of City Code Section 210.010 and with the policies of the City's Comprehensive plan.

### **Statement of Justification for variance:**

The Applicant intends to utilize the property that is the highest reasonable use that is most beneficial to the City of Shoreview. The Applicant proposes to use the property in a reasonable manner not permitted by City Development Regulations. However, City of Shoreview, Resolution, 93-19 clearly states that a home can face off a non-public street if rights are granted in Deed, (Warranty Deed). The issue of "rights in deed" has already been decided through a title commitment. The roadway known as an extension of Oakridge Avenue, West of Hanson Road entirely crosses the North-East corner of the subject property, (see Survey).

The Applicant states there are "Unique Circumstances" and that the plight of the property owners is due to the circumstances unique to the property not created by the property owner. The Applicant states that no other property located on Hanson Road has in their property title, the right to utilize the roadway known as an extension of Oakridge Avenue, West of Hanson Road. The Subject property abuts a roadway easement and Hanson Road, no other properties in the area are similarly situated. The creation of the roadway easement is/was not created by the property owners. The rights in Warranty Deed were not created by the property owner. The City of Shoreview has not purchased the roadway known as an extension of Oakridge Avenue, this situation is/was not been created by the property owners. The owners of the properties North and abutting the subject property cannot usurp the authority of the Shoreview Planning Commission and City Council. This situation is/was not created by the property owners. The subject property owners have a reasonable investment backed expectation, because when the Property was purchased, the City had no rule/law that a home had to face a public street, again, this situation is/was not created by the property owners.

The Applicant states that the Character of the Neighborhood will not be diminished; rather, the Character of Neighborhood will be enhanced with new homes that meet current day needs. If the City of Shoreview

utilizes the illegal setback of the home at 1000 Oakridge Avenue in their calculation for setback and not the setback of the current home on the subject property, it will be City Staff that detracts from the Character of Neighborhood if the City uses the illegal location of the home at 1000 Oakridge Avenue, (1000 Oakridge Avenue has no variance on record for front-yard setback. At the time the home was constructed, City Code clearly states that front-yard setback must be 30' min. and 40' max. without a variance. The essential character of the neighborhood would not be altered, please see the homes on Hanson road and Robinhood. The properties North and abutting the Subject property are Riparian Lake lots, and have their own Character of Neighborhood. The properties immediately to the South of the Subject property are the result of poor planning in the 1950's, however, the homes on Robinhood and other streets in the area better represent Character of Neighborhood. The Turtle Lake neighborhood consists of Riparian lots, substandard Riparian and non-riparian lots that both meet code and lots that are considered sub-standard. The Character of neighborhood is eclectic and has already been established, therefore, the proposed subdivision will not detract from the essential character of the Neighborhood.

This statement is subject to amendments.

Date: \_\_\_\_\_

\_\_\_\_\_  
Applicant: Todd Sharkey, Todd Sharkey Land Development

**TODD SHARKEY LAND DEVELOPMENT**

1003 5<sup>TH</sup> Street North

Stillwater, Minnesota. 55082

Email: Todd\_Sharkey@Hotmail.com

**Minor Subdivision, Statement of Intended Use:**

The Applicant intends to utilize that land for which it is/was originally intended and to make the highest reasonable use of the land that is most beneficial to the City of Shoreview. The proposed project will increase the City's Tax Base. The City of Shoreview will also profit through application fees, inspection fees and other fees collected by the City through the development process. The proposed project will create jobs locally and therefore is another benefit to the public. The proposed project will also enhance the neighborhood through higher property values.

The Applicant is proposing to subdivide the property at 4965 Hanson Road into two parcels. The Applicant will attempt to donate the existing home at the location stated above to Homes for Humanity. If this is not possible, the Applicant will attempt to recycle the existing home. If the two options listed above are unable to be accomplished, the Applicant will request a demolition permit from the City of Shoreview, again, the City will profit from granting a demolition permit. The Applicant is proposing to develop two single-family homes on the property.

The Application conforms to the City of Shoreview's Municipal Guide Plan, (Redevelopment and Infill). The proposed project meets and exceeds all City of Shoreview's Development Code.

The proposed setbacks will conform to Shoreview Setback Code. The existing home to be removed and the proposed new home will be placed 30' minimum and 40' maximum for front-yard setback, the rear will be 30' and the side-yard setback will be 10', which all conform to City Code.

The front-yard Setback for the proposed lot will be based on City code, 30' minimum and 40' maximum. The rear-yard setback will be 30' according to City Code. The Side yard setbacks will be 10' as mandated by City Code. The dimensions as stated will constitute the buildable areas for both projects. The existing home is located on a corner lot. Corner lots set presidents for front-yard setback and future adjoining and abutting development.

Sanitary sewer and water mains would be provided from Hanson Road to both parcels.

Fire protection is/has already been established for the area. There is no health risks associated with the project, and the public's welfare will not be jeopardized in any fashion.

If neighbors in the area are opposed to the project, the neighbors could purchase the property.

Date: \_\_\_\_\_

\_\_\_\_\_  
Applicant: Todd Sharkey, Todd Sharkey Land Development.

# CERTIFICATE OF SURVEY FOR: JOHN SHARKEY

**Parcel A**

The west 118.00 feet of the east 290.00 feet of the north 143.44 feet of the south 600.00 feet of Government Lot 1, Section 14, Township 30 North, Range 23 West, Ramsey County, Minnesota.

Also a roadway or driveway easement over a strip of land 30 feet in width, lying adjacent to and on the northerly side of afore described tract of land, said 30 feet being measured at right angles to the northerly lines of said tract, and said strip running from said east line of Government Lot 1 to a line running parallel to and distant 290 feet west of said east line.

Subject to an easement for drainage and utility purposes over, under and across the north 10 feet, the east 5 feet, the south 10 feet and the west 5 feet thereof.

**Parcel B**

That part of the east 172.00 feet of the north 143.44 feet of the south 600.00 feet of Government Lot 1, Section 14, Township 30 North, Range 23 West, Ramsey County, Minnesota lying southwesterly of the following described line:

Beginning at the intersection of said east line of Government Lot 1 with the northwesterly projection of the north line of Margaret Street (now Oak Ridge Avenue) in said Section 14; thence running northwesterly, on said projection, to a point distant 600.00 feet north from the south line of said government Lot 1 and there terminating.

Also a roadway or driveway easement over a strip of land 30 feet in width, lying adjacent to and on the northerly side of afore described tract of land, said 30 feet being measured at right angles to the northerly lines of said tract, and said strip running from said east line of Government Lot 1 to a line running parallel to and distant 290 feet west of said east line.

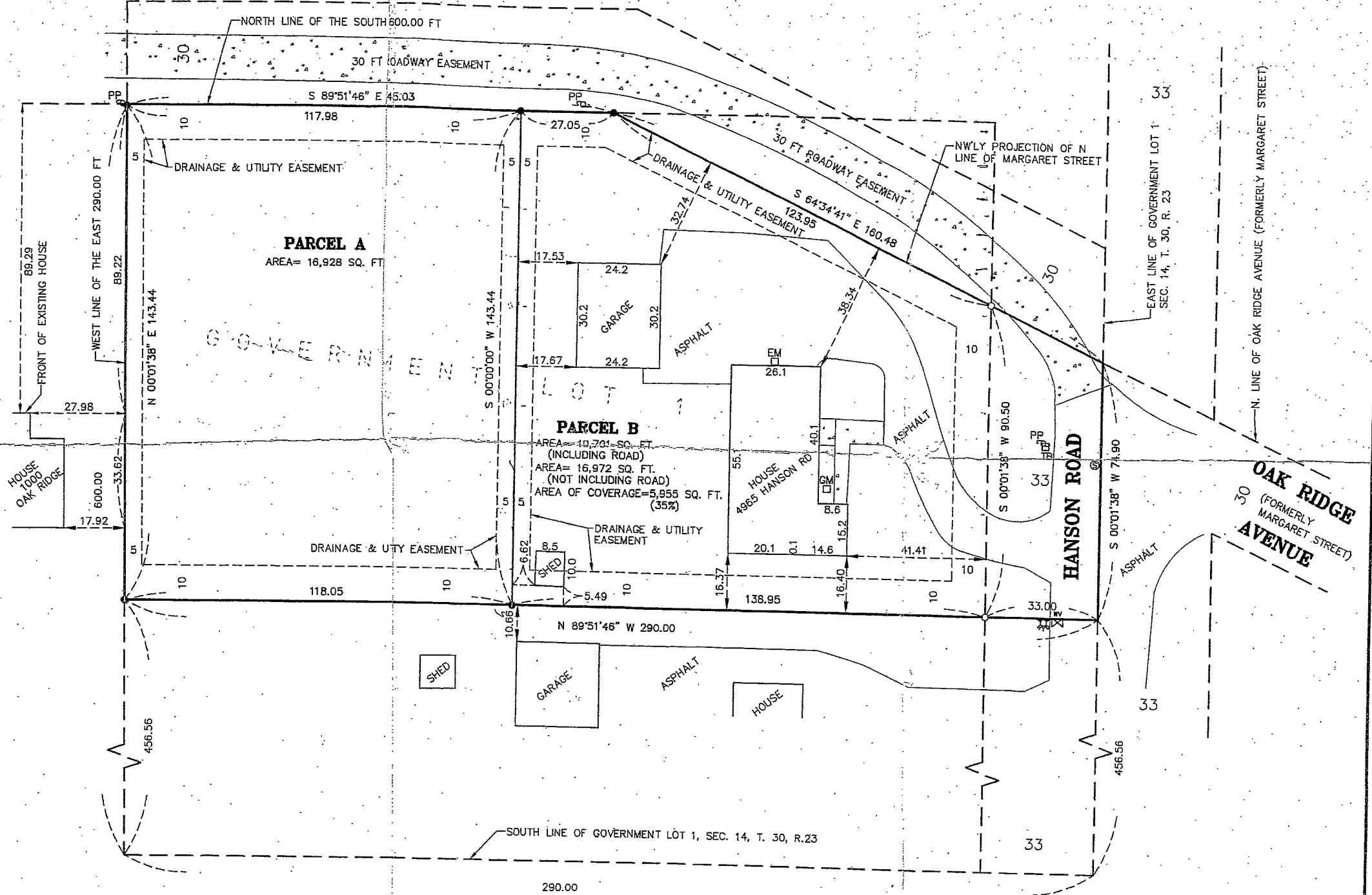
Subject to Hanson Road and subject to an easement for drainage and utility purposes over, under and across the north 10 feet, the northwesterly 10 feet, the west 10 feet of the east 43 feet, the south 10 feet and the west 5 feet thereof.

The following is the "Proposed driveway easement" as shown on a Certificate of Survey for Stuart Cohen dated June 8, 1968, surveyed by Harold A. Wilke, PLS No. 2215, replacing vacated easement across the Sharkey land and placing it north of and adjacent to the Sharkey property, described as follows: (Rights to easement unknown)

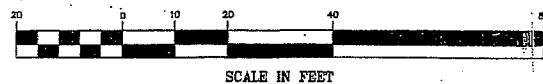
A strip of land 30 feet in width, measured at right angles, running from the east line of said Government Lot 1 to a line running parallel with and distant 290 feet west from said east line. The southerly line of said 30-foot strip is described as follows:

Beginning at the intersection of said east line of Government Lot 1 with the northwesterly projection of the north line of Margaret Street (now Oak Ridge Avenue) in said Section 14; thence running northwesterly, on said projection, to a point distant 600.00 feet north from the south line of said Government Lot 1; thence west, parallel with said south line, to a point distant 290.00 feet west from said east line thereof.

FOR THE PURPOSES OF THIS SURVEY THE WEST LINE OF THE EAST 290.00 FEET OF GOVERNMENT LOT 1 IS AT AN ASSUMED BEARING OF NORTH 00 DEGREES 01 MINUTES 38 SECONDS EAST.



SCALE: 1 INCH = 20 FEET



THE LOCATION OF UTILITIES SHOWN ARE APPROXIMATE ONLY. OTHER UTILITIES MAY EXIST WHICH HAVE NOT BEEN SHOWN. CONTACT GOPHER STATE ONE CALL AT (651) 454-0002 FOR EXACT LOCATIONS BEFORE BEGINNING CONSTRUCTION.

LEGEND			
●	DENOTES IRON MONUMENT FOUND	○	DENOTES POWER POLE
○	DENOTES IRON MONUMENT SET	⊕	DENOTES LIGHT POLE
⊕	DENOTES MANHOLE	□	DENOTES TELEPHONE BOX
EM	DENOTES ELECTRIC METER	PK	DENOTES NAIL SET
⊕	DENOTES HYDRANT	CB	DENOTES CATCH BASIN
W	DENOTES WATERVALVE	GM	DENOTES GAS METER
EH	DENOTES ELECTRIC HAND HOLE	WB	DENOTES WATER BOX
		X 953.24	DENOTES SPOT ELBOW
—S—	DENOTES SANITARY WER		
—ST—	DENOTES STORM S		
—W—	DENOTES WATER M		
—E—	DENOTES ELECTRIC		
—G—	DENOTES GAS		

REVISIONS	
DATE	DESCRIPTION
7/21/05	ADDED AREAS AND DIMENSIONS

WWW.CARLEY-TORGERSEN.COM  
(651) 484-3301

70 W COUNTY ROAD "C" SUITE 703  
LITTLE CANADA, MN. 55117  
FAX: (651) 765-9729

CARLEY  
LAND SURVEYORS  
TORGERSEN, INC.

QUALITY SERVICE SINCE 1948

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

David E. Torgersen, P.L.S.  
Minn. Reg. No. 17551 Date: June 24, 2005

Job No. 05-049 S. R. File No. 20 260



## **Sharkey Land Development**

Todd Sharkey,  
Applicant of Record  
1003 5<sup>th</sup> Street North  
Stillwater, MN. 55082

John & Linda Sharkey  
4965 Hanson Road  
Shoreview, MN. 55126

Property Identification:  
14.30.23.22.0004

## **APPLICANT'S APPEAL TO AN ADMINISTRATIVE DECISION TO THE CITY OF SHOREVIEW'S BOARD OF APPEALS ANADJUSTMENTS**

Terry Schwerm  
City Manager, Responsible Authority  
City of Shoreview  
4600 Victoria Street North  
Shoreview, Minnesota. 55126

City of Shoreview  
Department of Community Development  
Planning Commission &  
Board of Appeals and Adjustments

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### **INTRODUCTION**

That on March 23, 2015, the above-named applicant of record, served upon the City of Shoreview, City Manager, Terry Schwerm, a complete application for Minor Subdivision for the above-named parcel of property, that conforms to the City of Shoreview's Comprehensive Guide Plan and exceeds Minor Subdivision Standards, according to the City of Shoreview's Development Code and/or City Code.

That on April 1<sup>st</sup>, 2015, Shoreview City Manager and/or his agent wrote a letter to the above-named Applicant of Record stating the application is “incomplete” for the following reasons:

- 1) Application form is incomplete. Pursuant to Ramsey County Property Tax Records, the property is also owned by John Sharkey. As such, John Sharkey’s signature is required on the application form.
- 2) Evidence of your, (Todd Sharkey, Applicant of Record) legal or equitable interest in the property is required.
- 3) The Certificate of Survey submitted is missing because it is not acceptable for the following reasons:
  - a) A reduced copy of the survey was submitted and is not to scale. A legible Survey drawn to scale must be submitted.
  - b) The Survey has been altered and includes hand written statements that obscure information on the Survey. An unaltered copy of the Survey is required. You may include the information that is currently hand written on the Survey in a written statement.
- 4) As documented on the Survey, parcel A, does not have frontage on a public road as required by Municipal Code Section 204.030 (C2), therefore a variance is required. The Filing Requirements document provided with the application states that among the items that must be submitted includes: “a complete application(s) for all other approvals necessary for the proposed development, (e.g. rezoning, variance, comprehensive guide plan amendment)”. Therefore, the required variance application is missing. Enclosed you will find a Variance application

form that must be completed”, (As quoted), (Applicant of Record’s Check returned). *Note: Application fees are neither non-refundable nor returnable.*

---

**APPLICANT OF RECORD’S APPEAL**

The above-named Applicant of Record, Todd Sharkey, appeals the Shoreview City Manager and/or his agent’s Administrative Decision, finding that the above-named applicant’s application for Minor Subdivision is incomplete, and cannot be scheduled for an upcoming Shoreview Planning Commission for the following reasons:

- 1) As stated above by the City Manager and/or his agent in Item number 1:  
“Application form is incomplete. Pursuant to Ramsey County Property Tax Records, the property is also owned by John Sharkey. As such, John Sharkey’s signature is required on the application form”

**Applicant’s response to item number 1:** The property owners, John & Linda Sharkey applied for a similar Minor Subdivision in 1978 that was granted. The Application submitted by John Sharkey in 1978 was only signed by John Sharkey and not by Linda Sharkey. Therefore, the City Manager and/or his agent’s argument that the current application for Minor Subdivision is incomplete, because one of the property owner did not sign the application is with out merit, because in 1978, the application was not deemed “incomplete” with just one signature. Also, in the above-named Applicant of Record’s 2005, Linda Sharkey’s signature was also not on the application form. Again, this was not an issue; therefore, it is not reasonable for the

Shoreview City Manager and/or his agent to determine that the application for Minor Subdivision is “incomplete” because only one property owner signed the application.

2) As stated above by the City Manager and/or his agent in Item number 2: Evidence of your, (Todd Sharkey, Applicant of Record) legal or equitable interest in the property is required.

**Applicant’s response to item number 2:** In 2005, the above-named Applicant of Record, Todd Sharkey, submitted all documents requested by City Planner, Kathleen Nordine/Castle for Minor Subdivision of the above-named parcel of property. It was City Planner Kathleen Nordine/Castle’s failure to acquire “proof of equitable interest” from the above-named Applicant of Record. However, City Planner Nordine/Castle, sent a letter to the above-named Applicant of Record, stating that the above-named Applicant of Record’s Application was in fact “complete”. Therefore, the City Manager and/or his agent’s determination that the above-named Applicant of Record’s application for Minor Subdivision is “incomplete” are without merit. If the City Manager and/or his agent further pursue this issue, it will be prima facie evidence that the City of Shoreview considered and ruled on an “incomplete application” for Minor Subdivision to an administrative agency, thereby, rendering the 2005 decision by the City of Shoreview, invalid and void.

3) As stated above by the City Manager and/or his agent in Item number 3: The Certificate of Survey submitted is missing because it is not acceptable for the following reasons:

- a) A reduced copy of the survey was submitted and is not to scale. A legible Survey drawn to scale must be submitted.
- b) The Survey has been altered and includes hand written statements that obscure information on the Survey. An unaltered copy of the Survey is required. You may include the information that is currently hand written on the Survey in a written statement.

**Applicant's response to item number 3(a):** The argument that the Survey that was submitted to the City Manager and/or his agent is without merit. The Survey that was submitted is a true and correct Survey that was submitted to the City in 2005 and was accepted by City Planner Kathleen Nordine/Castle. Although a Survey could be "reduced" it still maintains "scale". Again, the City of Shoreview maintains in their files Surveys of the above-named parcel from the years 1960, 1978 and 2005. All of the Surveys listed have been accepted by the City of Shoreview.

**Applicant's response to item number 3(b):** The Survey that was submitted to the City Manager and/or his agent did in fact have a hand written note. The note said: "Extension of Oakridge". The notation clarifies the fact that the roadway north of the above-named parcel is in fact a public extension of Oakridge Avenue as platted in Oakridge Avenue. The mentioned roadway used to be called Margaret Street but was

changed to an “extension of Oakridge Avenue” as stated in the Legal Description for the above-named parcel. In 2012, during a City Council meeting, a property owner requested to change the name of his street, City Attorney Filla stated, “The City can only change the names of the streets the City owns”- City Council Meeting Minutes, November 19<sup>th</sup>,2012.

4) As documented on the Survey, parcel A, does not have frontage on a public road as required by Municipal Code Section 204.030 (C2), therefore a variance is required. The Filing Requirements document provided with the application states that among the items that must be submitted includes: “a complete application(s) for all other approvals necessary for the proposed development, (e.g. rezoning, variance, comprehensive guide plan amendment)”. Therefore, the required variance application is missing. Enclosed you will find a Variance application form that must be completed.

**Applicant’s response to item number 4:** The roadway and/or street crossing the above-named parcel and abutting to the north are in fact a public road. In a legal sense a strip of ground appropriated for public travel between different places. It is sometimes used synonymously with highway, (Tousley v. Heffelfinger, 182 Minn. 447, 234 N.W. 673 (1931); Northwestern Tel. Exch Co. v. Minneapolis, 81 Minn. 83 N.W. 527 (1901). To layout a road means to designate its width as well as other dimensions, (In re Establishment of Hwy 213 Minn. 314, 6 N.W. 2d 626 (1942). Where the partially improved end of a street was used by two adjacent landowners

and their tenants and invitees, the end of the street was already open to public use and the trial court properly granted writ of mandamus to compel the city to acknowledge that the partially improved end of the street was open as a public roadway, (In Layfayette Dev. Corp., 567 N.W. 2d 743 (Minn Ct. App. 1997). Where it was undisputed that a road served ten homes in the area, these homes received garbage disposal service provided, (City of Shoreview provides garbage collection and also collects fees for such service) by village/city, and guests of the occupants must have used the road since it was the only means of access, the trial court did not err in determining that the road was a public road as a matter of law, (Trebnick v. Gorden, 259 Minn. 164, 106 N.W. 2d 622 (1960). It should also be noted that the City of Shoreview utilizes and maintains a water main under the subject roadway. The City Charges utility fees for water, natural gas, electricity and communication lines those are all present in the subject roadway. When the road way was dedicated by plat in 1947, the intention of the owner to set apart a strip of land for use of the public as a roadway is the foundation of every common-law dedication, (Anderson v. Birleland, 229 Minn. 77, 38 N.W. 2d 215 (1949). Where there is /was open, continuous use, visible and unmolested use of the land in question as a public road for more that fifteen years, the public acquired an easement by prescription and the public's right could not be divested without public consent, or operation of law, (Quist v. Fuller, 300 Minn. 365, 220 N.W. 2d 296 (1974)). In 1993, Jerold Anderson applied for a Minor subdivision of his property that resulted in the parcel known as 1000 Oakridge. This parcel was granted "Special Permission" for access/cartway. Establishment of a cartway is an exercise of eminent domain, (Silver v. Ridgeway, 733 N. W. 2d 165

(Minn. Ct. App. 2007)). If the subject roadway was in fact a “Private Road” as contended by the City, the City would have no authority to exercise the power of eminent domain. The property owner would need to purchase the rights from the affected land owners. Land taken for a public cartway is taken for a public purpose, (Power v. Town Bd, 175 Minn. 395, 221 N.W. 527 (1928)). The above-named Applicant of Record contacted the City Manager and/or his agent and City Attorney Patrick J. Kelly and requested they meet at the subject property and discuss items such as water mains running under the roadway, power poles that demonstrate intention of a public road, telephone communication lines, cable TV, natural gas lines and more. The Applicant of Record also requested that they provide proof that the subject roadway was in fact “private”, however, when the meeting was held, the City Manager and/or his agent and City Attorney Patrick Kelly could not provide any proof that the subject roadway was in fact a private drive.

### **CONCLUSION**

The City Manager and or his agent’s “opinion” that the above-named Applicant of Record’s, Application for Minor Subdivision of the above-named parcel of land, is without merit and should be denied in the name of justice for the reasons stated above.

### **TABLE OF EXHIBITS**

Exhibit A: Certificate of title

Exhibit B: Certificate of Survey

Exhibit C: City Attorney letter Dated July 24<sup>th</sup>, 1978



Exhibit D: Application for Consideration of Planning Request

Exhibit E: City of Shoreview Planning Commission Meeting Agenda

Exhibit F: Legal description

Exhibit G: Section Map

Exhibit H: Section Map

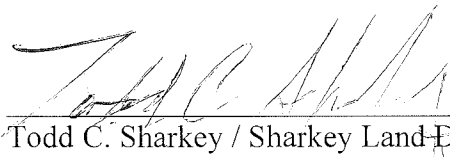
Exhibit I: City of Shoreview, Resolution 93-19

Exhibit J: Drawing of "Turn-around-T" Dedicated to the City of Shoreview.

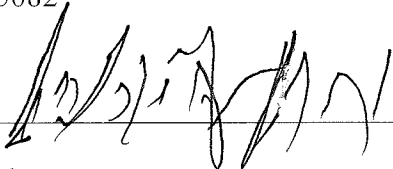
Exhibit K: Section Map indicating "Turn-around-T" Dedicated to the Public.

Exhibit L: Letter from Kathleen Nordine /Castle stating 2005 Application "Complete".

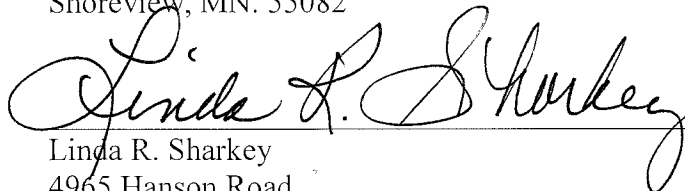
Exhibit M: Applicant's Proof of Equitable Interest

 4/10/2015

Todd C. Sharkey / Sharkey Land Development  
Applicant of Record  
1003 5<sup>th</sup> Street North  
Stillwater, MN. 55082

 4/10/2015

John T. Sharkey  
4965 Hanson Road  
Shoreview, MN. 55082

 4/10/2015

Linda R. Sharkey  
4965 Hanson Road  
Shoreview MN. 55126

01271949

1206434

JULY 13 1949 PAGE 419

This Indenture, Made this 27th day of July 1949 between Henry Hansen, unmarried; Louis Hansen and Ethel Hansen, his wife, of the county of Ramsey, State of Minnesota and George Hansen and Ruth Hansen, his wife,

of the County of Carver and State of Minnesota parties of the first part, and Ida Hansen

of the County of Carver and State of Minnesota part 2 of the second part,

Witnesseth, That the said part 1a of the first part, in consideration of the sum of One and no/100 DOLLARS to them in hand paid by the said part 2 of the second part, the receipt whereof is hereby acknowledged, do hereby Grant, Bargain, Sell, and Convey unto the said part 2 of the second part, her heirs and assigns, Forever, all the tract or parts of land lying and being in the County of Ramsey and State of Minnesota, described as follows, to-wit:

X

That part of the East 290 ft. of Govt. Lot 1, Section 14, T.30 N., R.23 W. lying North of a line running parallel to and distant 450 ft. North of the South line of said Govt. Lot 1, and lying South of lines described as follows:- Beginning at the intersection of the East line of said Govt. Lot 1 with a Northwesterly projection of the North line of Margaret St. as platted in Oak Ridge, in said Section 14; thence running Northwesterly on said projection to a point distant 600 ft. North of said South line of Govt. Lot 1; thence West parallel to said South line to a point distant 290 ft. West of said East line; subject to public rights in Hansen Road.

Also a roadway or driveway easement over a strip of land 30 ft. in width, lying adjacent to and on the Northerly side of afore described tract of land, said 30 ft. being measured at right angles to the Northerly lines of said tract, and said strip running from said East line of Govt. Lot 1 to a line running parallel to and distant 290 ft. West of said East line.

*[Handwritten signature]*

TAXES PAID AND TRANSFER ENTERED AUG 1 - 1949 EUGENE A. MONICK, Auditor RAMSEY COUNTY, MINN. *[Signature]*

To Have and to Hold the Same, Together with all the Hereditaments and appurtenances thereto belong or in anywise appertaining, to the said part 2 of the second part, her heirs and assigns, Forever. And the said Henry Hansen, unmarried; Louis Hansen and Ethel Hansen, his wife; and George Hansen and Ruth Hansen, his wife, part 1a of the first part, for their heirs, executors and administrators, do covenant with the said part 2 of the second part, her heirs and assigns, that they are seized in fee of the lands and premises aforesaid, and have good right to sell and convey the same in manner and form aforesaid, and that the same are free from all incumbrances.

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the said part 2 of the second part, her heirs and assigns, against all persons lawfully claiming or to claim the whole or any part thereof, subject to incumbrances, if any; heretofore mentioned, the said part 1a of the first part will Warrant and Defend.

In Testimony Whereof, The said part 1a of the first part have hereunto set their hand the day and year first above written.

In Presence of } acts } all } others }  
Jan E. Haug }  
J.F. Kolbuski }  
Witness as to }  
George and Ruth }  
*[Signature]* }  
*[Signature]* }

*[Signature]* Henry Hansen  
*[Signature]* Louis Hansen  
*[Signature]* Ethel Hansen  
*[Signature]* George Hansen  
*[Signature]* Ruth Hansen

EXHIBIT: A  
Page: 1 of 1 Pages

10

# CERTIFICATE OF SURVEY

MILNER W. CARLEY & ASSOCIATES  
CONSULTING CIVIL ENGINEERS — LAND SURVEYORS

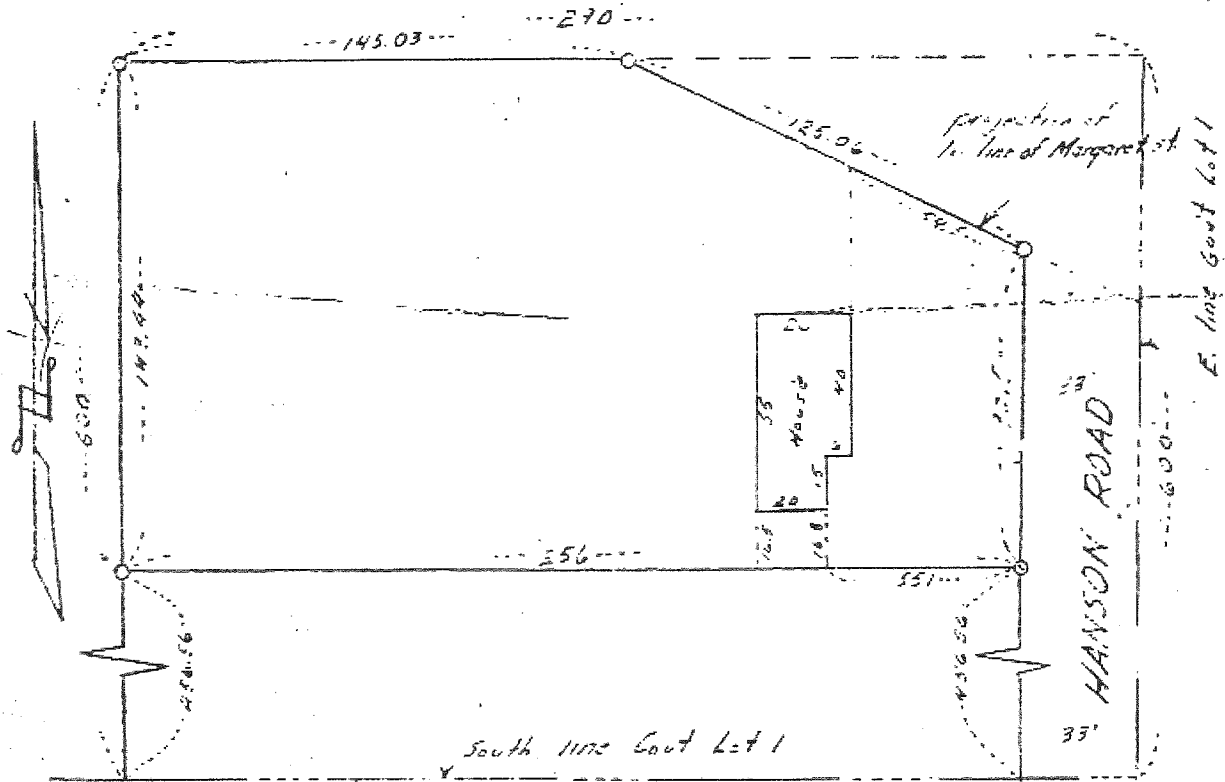
500 W. HWY. 96  
ST. PAUL 12, MINN.

IV 4-3321  
SCALE 1"= 50'

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Ronald C. Carley

Date Nov. 21, 1960 Reg. No. 5337



That part of the East 290 feet of Government Lot 1, Section 14, Township 30 North, Range 23 West, lying North of a line running parallel to and distant 456.56 feet North of the South line of said Government Lot 1, and lying South of lines described as follows:—Beginning at the intersection of the East line of said Government Lot 1 with the Northwesterly projection of the North line of Margaret St. as platted in Oak Ridge, in said Section 14; thence running Northwesterly on said projection to a point distant 600 feet North of said South line of Government Lot 1; thence West parallel to said South line to a point distant 290 feet West of said East line; subject to public rights in Hanson Road. Also a roadway or driveway easement over a strip of land 30 feet in width, lying adjacent to and on the Northerly side of afore described tract of land, said 30 feet being measured at right angles to the Northerly lines of said tract, and said strip running from said East line of Government Lot 1 to a line running parallel to and distant 290 feet West of said East line.

7-323

61-355

45

193-23

u

072478

ATTORNEYS AT LAW  
FILLA, WINGERD & WHISNANT

PROFESSIONAL ASSOCIATION  
2212 AMERICAN NATIONAL BANK BUILDING  
ST. PAUL, MINNESOTA 55101  
TEL (612) 298-0881

JEROME P. FILLA  
HAROLD R. WINGERD  
JOHN R. WHISNANT

OF COUNSEL  
PAUL G. DONLIN

July 24, 1978

Dr. Charles E. Bregel  
985 Oakridge Avenue  
Shoreview, MN 55112

Re: Road Easement  
985 Oakridge Avenue  
Our File No. 26,505

Dear Dr. Bregel:

I have reviewed the Abstract of Title to the above-referenced property which was last certified on the 6th day of June, 1975, at 8:00 a.m. by the St. Paul Title and Guarantec Company. The Abstract consists of Entries 1 through 84 inclusive, and a photocopy of that Abstract is enclosed.

At one point in time, most of the property located west of the centerline of Hanson Road and north of Robinhood Place was owned by Henry Bucher. Upon his death, a portion of this property was decreed to his daughter, Caroline Hansen, and upon her death, the property was given to her children, Henry Hansen, Louis Hansen, and Edna Hansen. (See Abstract Entries 17 and 22.)

When the Hansen children acquired their mother's interest in the property, they granted a 15-foot easement to Stuart Cohen. The easement extended westerly from Hanson Road across some property located south of your property. The easement was to provide access from Hanson Road to the Cohen property. This easement was eventually re-conveyed by Stuart Cohen to the Hansen children and no longer exists. (See Abstract Entries 25 and 51.)

I have enclosed a portion of a section map for the area surrounding your lot. On the section map, your lot appears as a blue shaded area. This lot was created in 1947 when the Hansen children conveyed this parcel to Mr. and Mrs. Bauer. However, when the Hansen children conveyed this parcel, they reserved an easement over the south 30 feet of the land. This 30-foot easement allowed them access to property which they owned located west of your land. The 30-foot easement is shown as a green shaded area on the enclosed section map. (See Abstract Entry No. 44.)

EXHIBIT:     C      
Page:   1   of   3   Pages

Dr. Charles E. Bregel  
Page 2  
July 24, 1978

After your parcel was created, the Hansen children conveyed a larger parcel to the west of your property to Stuart Cohen. This parcel is shown as a red checked area on the enclosed section map. Along with the conveyance of this parcel, the Hansen children gave Mr. Cohen the right to use the 30-foot easement across the southern parcel of your land, as well as, a 30-foot easement in between your land and the Cohen property. (See Abstract Entry No. 52.)

The Hansen children then conveyed the McEvoy property which is shown as a red shaded area on the attached section map. The conveyance was made subject to the rights of Mr. Cohen over the south 30 feet of the McEvoy property, and the conveyance was made together with the right to use the south 30 feet of your property. (See Abstract Entry No. 53.)

\* { Three of the Hansen then conveyed their interest and what was to become the Bedbury property to the fourth Hansen child. This area is shaded in orange on the attached section map. This is perhaps the most significant conveyance as far as the easement is concerned. The conveyance indicates that along with the title to the real estate, the Hansen children conveyed an interest in the 30-foot easement which is located on the southerly portion of your property, the McEvoy property and the property to the west of the McEvoy property. (See Abstract Entry No. 54.)

\* { Based upon my review of the Abstract, I can conclude that the 30-foot easement is located entirely on your property, the McEvoy property and the property to the west of the McEvoy property. No part of the 30-foot easement is on the Bedbury property. However, the people who originally acquired the Bedbury property and their successors in interest have a right to use the 30-foot easement. The right to utilize the easement does not necessarily carry with it an obligation to maintain the easement. Although you could not obstruct the access, you would have no obligation to maintain the easement for the benefit of the abutting property owners.

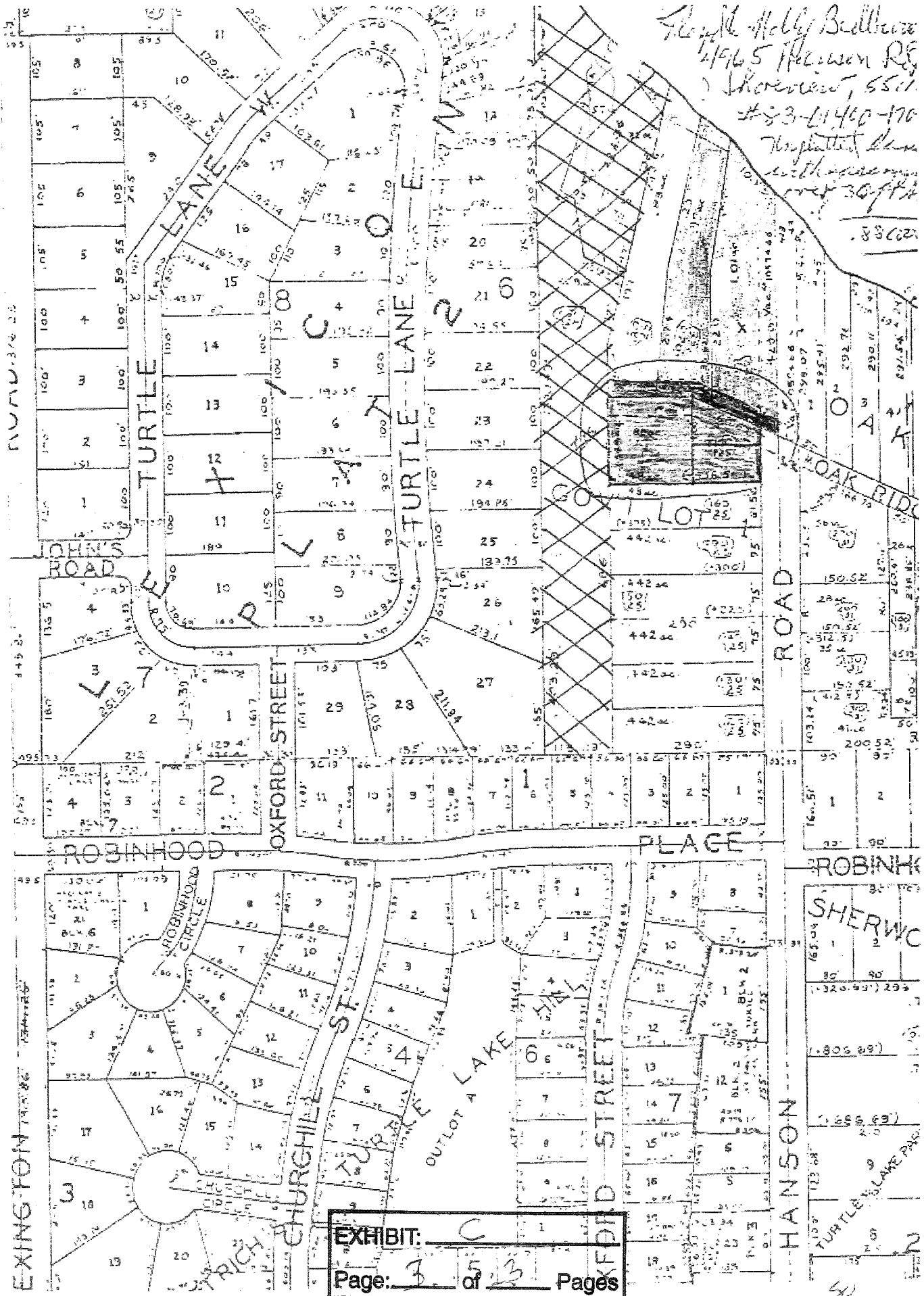
\* { If the present owner of the Bedbury property wishes to construct more than one residential dwelling on the property, he would have to obtain approval of a minor subdivision from the City of Shoreview. If you have any questions, please contact me.

Very truly yours,

  
Jerome P. Filla

JPF/lla  
enclosures

EXHIBIT:         C          
Page: 2 of 3 Pages



092578

RECEIPT # 44345  
DATE 9-26-78

CASE NO. \_\_\_\_\_

VILLAGE OF SHOREVIEW  
APPLICATION FOR CONSIDERATION  
OF  
PLANNING REQUEST

STREET LOCATION OF PROPERTY: 4965 HANSON RD.  
LEGAL DESCRIPTION OF PROPERTY: SEE ATTACHED SURVEY

OWNER: JOHN T. & LINDA R. SHARKEY 483-0906  
NAME ADDRESS PHONE #  
APPLICANT: JOHN T. & LINDA R. SHARKEY 483-0906  
NAME ADDRESS PHONE #

- TYPE OF REQUEST:
- |                                     |                      |                       |
|-------------------------------------|----------------------|-----------------------|
| <input type="checkbox"/>            | REZONING             | (SECTION 216.010-020) |
| <input type="checkbox"/>            | ZONING VARIANCE      | (SECTION 216.040)     |
| <input type="checkbox"/>            | PLATTING VARIANCE    | (SECTION 310.010)     |
| <input type="checkbox"/>            | BUILDING CODE        | (SECTION 405.210)     |
| <input type="checkbox"/>            | SPECIAL USE PERMIT   | (SECTION 216.030)     |
| <input type="checkbox"/>            | TOWNHOUSES           | (SECTION 214.220)     |
| <input type="checkbox"/>            | SUBDIVISION APPROVAL | (SECTION _____)       |
| <input checked="" type="checkbox"/> | MINOR SUBDIVISION    | (SECTION _____)       |
| <input type="checkbox"/>            | OTHER                | (SECTION _____)       |

DESCRIPTION & REASON: INTENT FOR MINOR SUB-DIVISION  
IS FOR PURPOSE OF HOUSE CONSTRUCTION ON WEST  
HALF AND SALE OF EAST HALF AND EXISTING HOUSE.

ATTACH SKETCH OF PROPOSAL SHOWING:

- |                       |                             |
|-----------------------|-----------------------------|
| 1. INDICATE NORTH, ✓  | 6. LOCATION OF BUILDINGS, ✓ |
| 2. LOCATION ON LOT, ✓ | 7. DISTANCES, ✓             |
| 3. STREET NAMES, ✓    | 8. OTHER INFORMATION        |
| 4. DIMENSIONS, ✓      |                             |
| 5. SETBACKS, ✓        |                             |

APPLICANT: [Signature]  
DATE: 9/25/78

EXHIBIT: D  
Page: 1 of 1 Pages

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10091979 ~~100979~~  
1 of 2

CITY OF SHOREVIEW

Planning Commission  
Regular Meeting  
Tuesday, October 9, 1979  
7:30 P.M.

1. Call to Order
2. Roll Call
3. Approval of Minutes - September 25, 1979
4. PUBLIC HEARING - Preliminary Plat  
Outlots A & B - Georgetown Acres  
File No. 797-79-45
5. SITE AND BUILDING PLAN REVIEW & VARIANCE - Double Home  
Hovald  
Lot 1, Block 1, Lakeshore Oaks Addition  
File No. 798-79-46
6. PUBLIC HEARING - Rezoning from R-2 to B-2  
Evenson Property  
File No. 713-78-54
7. SITE AND BUILDING PLAN REVIEW - Building #2 on Parcel A  
Evenson Cards Property  
File No. 713-78-54
8. SKETCH PLAN REVIEW - Meadowlands Townhomes  
South of Evenson property on Lexington Avenue  
File No. 744-78-85
9. SKETCH PLAN REVIEW - Shoreview Knolls Townhomes  
Planned Unit Development  
File No. 794-79-42
10. MINOR SUBDIVISION - K. Dahlstrom  
Lots 6 & 7, Block 1  
Chapman's Lake Owasso Addition  
File No. 796-79-44
11. MINOR SUBDIVISION - J. Sharkey  
4965 Hanson Road  
File No. 729-78-70
12. VARIANCE - D. Berglund  
3266 W. Owasso Boulevard  
File No. 795-79-43
13. Staff Report
14. Adjournment

EXHIBIT: <u>  E  </u>
Page: <u>  1  </u> of <u>  1  </u> Pages



That part of the East 290 feet of Government Lot 1, Section 14, Township 30 North of Range 23 West lying North of a line running parallel to and distant 450 feet North of the South line of said Government Lot 1 and lying South of lines described as follows: Beginning at the intersection of the East line of said Government Lot 1 with a Northwesterly projection of the North line of Margaret Street as platted in Oak Ridge in said Section 14; thence running Northwesterly on said projection to a point distant 600 feet North of said South line of Government Lot 1; thence West parallel to said South line to a point distant 290 feet West of said East line; subject to public rights in Hansen Road. Also a roadway or driveway easement over a strip of land 30 feet in width lying adjacent to and on the Northerly side of aforescribed tract of land, said 30 feet being measured at right angles to the northerly lines of said tract, and said strip running from said East line of Government Lot 1 to a line running parallel to and distant 290 feet West of said East line. Ramsey County, Minn.

EXHIBIT: EF  
Page: 1 of 1 Pages





*Special Permittion*

- c. Private driveway access is permitted by City Code when a private easement is recorded. *No Easement Run with the property*
- d. Timely emergency vehicle access can be guaranteed through compliance with Uniform Fire Code standards.



2. The resultant construction would not detract from the essential character of the area because not less than 130 feet of separation would exist between the proposed dwelling and the nearest existing dwellings,

The motion was duly seconded by Member Hassing and upon vote being taken thereon, the following voted in favor thereof: all members present,

and the following voted against same: none.

WHEREUPON, said resolution was declared duly passed and adopted this 23rd day of February, 1993.

ATTEST:

*Randall Johnson*  
Randall Johnson, AICP  
City Planner

*William Johnson*  
William Johnson, Chairman  
Planning Commission

SEAL

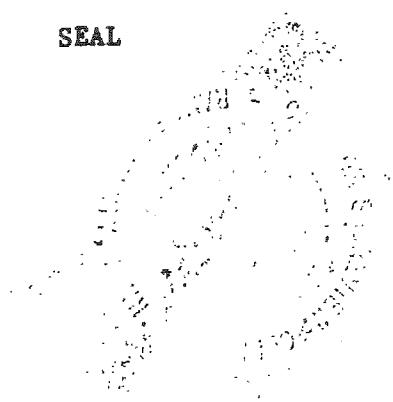


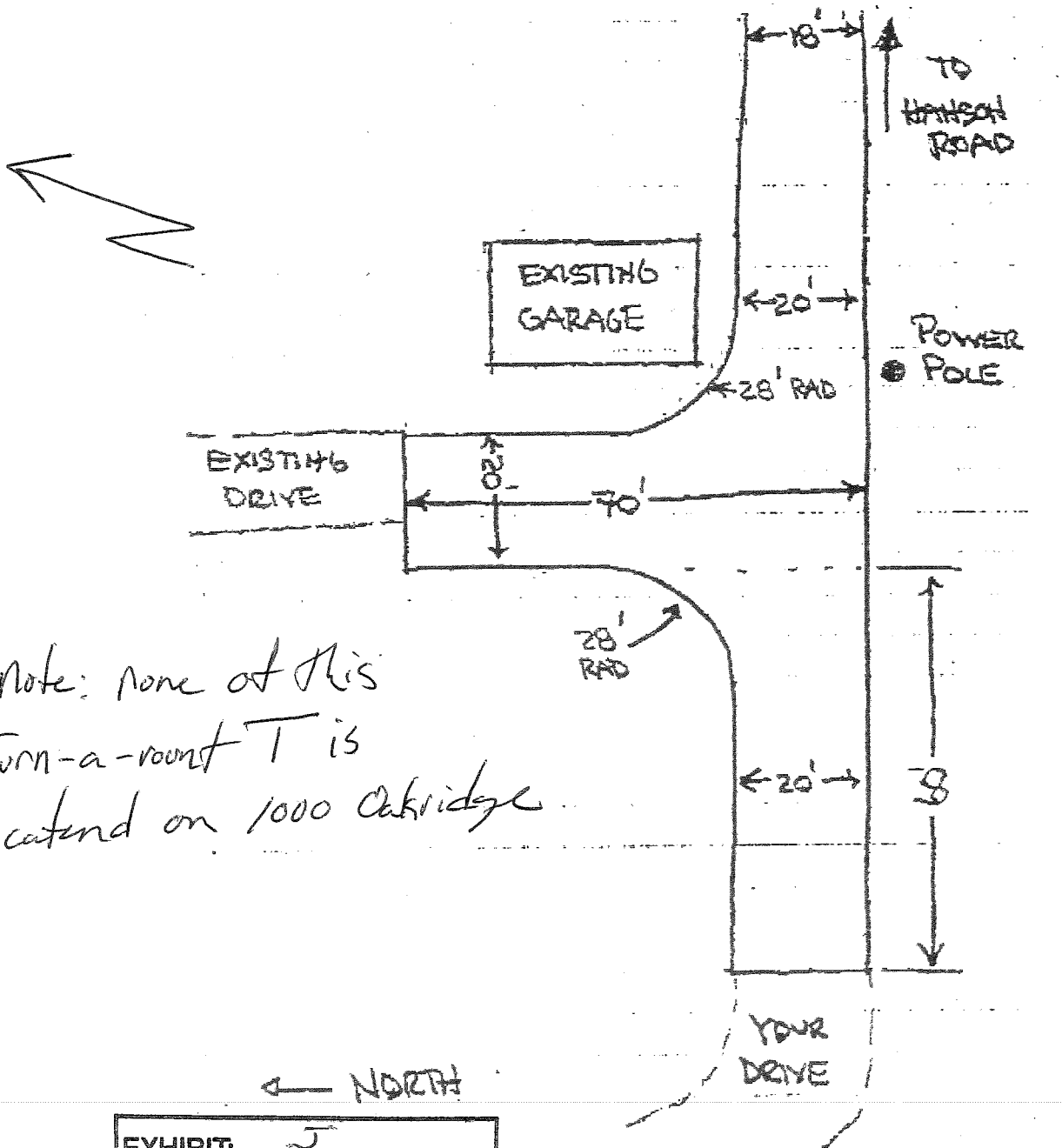
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Page: <u>  1  </u> of <u>  1  </u> Pages

*2*  
*2d*

05181993

MAY 18 '93 14:35 CITY OF SHOREVIEW

P.2/2



Note: None of this  
Turn-a-round T is  
located on 1000 Oakridge

← NORTH

EXHIBIT:	<u>5</u>
Page:	<u>1</u> of <u>1</u> Pages

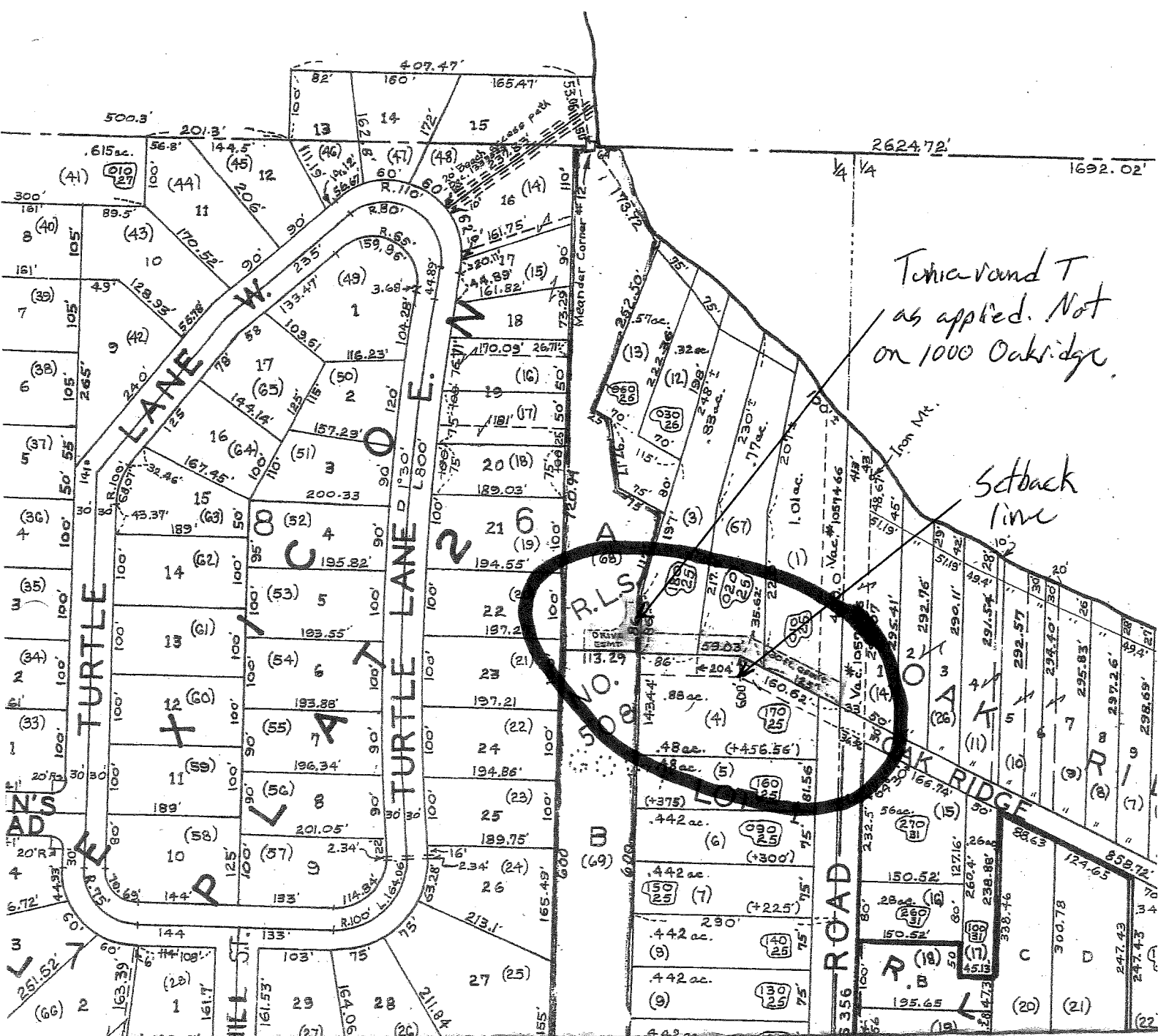


EXHIBIT:     K      
 Page:     1     of     1     Pages

EXHIBIT: M  
Page: 1 of 3 Pages

Document No. PENDING  
STATE OF MINNESOTA  
COUNTY OF RAMSEY  
Office of The Registrar of Titles  
This is the recording information of the document recorded in this office on the 10th day of April A.D. 2015 at 2:12 o'clock P M.

**\*\*Duplicate Recording Data\*\***

(Top 3 inches reserved for recording data)

QUIT CLAIM DEED  
Individual(s) to Joint Tenants

Minnesota Uniform Conveyancing Blanks  
Form 10.3.3 (2013)

eCRV number: \_\_\_\_\_

DEED TAX DUE: \$ 1.70

DATE: April 10, 2015  
(month/day/year)

FOR VALUABLE CONSIDERATION, John T. Shuckey and Linda R. Shuckey - Married  
(insert name and marital status of each Grantor)

\_\_\_\_\_  
("Grantor"),

hereby conveys and quitclaims to \_\_\_\_\_  
(insert name of each Grantee)

John T. Shuckey, Linda R. Shuckey, & Todd C. Shuckey ("Grantee"), as joint tenants, real property in See Attached Doc. County, Minnesota, legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

Check applicable box:

- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: \_\_\_\_\_)
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Grantor

\_\_\_\_\_  
(signature)

Linda R. Shuckey  
(signature)

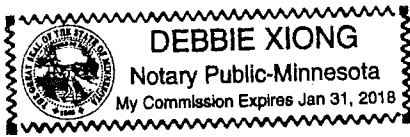
143023220004

State of Minnesota, County of Ramsey

This instrument was acknowledged before me on 4/10/15 by \_\_\_\_\_

John T. Sharkey and Linda R. Sharkey, married to  
each other  
(insert name and marital status of each Grantor)

(Stamp)



Debbie Xiong  
(signature of notarial officer)

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:  
(insert name and address)

Todd C. Sharkey  
1003 5th Street N.  
Stillwater, MN. 55082

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT TO:  
(insert legal name and residential or business address of Grantee)

John T. Sharkey  
4965 HANSON RD  
SHOREVIEW, MN  
55126

LINDA R. SHARKEY  
4965 HANSON RD  
SHOREVIEW, MN  
55126

EXHIBIT: M  
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29



That part of the E. 290 ft. of Govt. Lot 1, Sec. 14, T. 30 N., R. 23 W. lying N. of a line running parallel to and distant 456.56 ft. N. of the S. Line of said Govt. Lot 1 and lying S. of lines described as follows: Beginning at the intersection of the E. line of said Govt. Lot 1 with a NW'ly projection of the N. line of Margaret St. as platted in Oak Ridge, in said Sec. 14; thence running NW'ly on said projection to a point distant 600 ft. N. of said S. line of Govt. Lot 1; thence W. parallel to said S. line to a point distant 290 ft. W. of said E. line; subject to public rights in Hanson Road.

Also a roadway or driveway easement over a strip of land 30 ft. in width, lying adjacent to and on the N'ly side of afore described tract of land, said 30 ft. being measured at right angles to the N'ly lines of said tract, and said strip running from said E. line of Gov't Lot 1 to a line running parallel to and distant 290 ft. W. of said E. line.

EXHIBIT: M

Page: 3 of 3 Pages



Tom Simonson <tsimonson@shoreviewmn.gov>

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## Todd Sharkey variance / build requests

1 message

---

drhill <david@davidhill.org>

Thu, May 21, 2015 at 9:26 AM

To: Tom Simonson <tsimonson@shoreviewmn.gov>

Dear Shoreview Planning Commission,

I have been asked to comment on Todd's request for variance on their land. My comments on these requests since about 2005 have been consistent regarding the Sharkeys plans.

It seems they are changing the request to include their house in development? Do they want to move their house to the back lot?

What kind of changes do they want to make on the front lot? It seems a bit ambiguous at the moment. Having said that I will again comment as follows:

1) Developing the back lot, and any changes to the front lot (foundation wise) would result in adverse water runoff issues for me. My house sits low to the ground and there would be immediate and negative water flow issues to my foundation.

2) As stated before, given the juxtaposition of the lot with Jamot (immediately behind) and my lot (immediately West) the buildable area (if that were ever granted) would be a wall like or domino shape house. Todd has made all kinds of historic studies of the area tracing various permutations of lot lines and lot sells...but the fact is this is where we are today and abiding by the law today is a far better practice than cherry picking various happenings in the past to state a case. 2 wrongs don't make a right.

3) As stated before - even if the variance allowed Sharkeys access on the private drive, and the Sharkeys agreed to whatever financial clawback was requested by the private drive folks (a matter not settled by any stretch), you would need additional variance(s?) for the Sharkeys to build the kind of house they want to build to get maximum dollar, since they do not want to live there, they want to sell it. There has already been a determination (see your records) that a house on that area would adversely affect the neighborhood. This whole matter has been discussed so much and a determination was made years ago. In fact, I think the Sharkeys sued the City of Shoreview ( I do not remember exactly what happened, as I did not follow it closely), whatever happened it was quiet for a while after that.) Are you seriously considering starting this whole process up again after all of that wasted time and money?

It seems to me one of the beauties of a competent city council (which I consider Shoreview by all standards) is to make determinations that are fair and for the best of all concerned, regarding their citizens. Ideally neighbors would be able to agree naturally and live in harmony so that city council determinations are a natural outflow of residents mutual wishes. When that is not the case, cities need to step in and firmly, and consistently determine what is best. Refusal to accept a cities determination should not be rewarded.

We, as a neighborhood with vested interest in this development tried to meet with the Sharkeys years ago, to find out how we can work together. An offer was made to purchase the lot at a fair market value. Desire for community input was stated. Our efforts were rebuffed.

I am starting to feel a little like Bill Murray in Ground Hog Day, where he keeps getting up and living the same day over and over.

"I want to build here" (not possible)

"I want to build here" (no)

"I want to build here, or I will sue the city" (no)

"I want to build here - here is the lawsuit" (still no)

pause

"there is a long history of building in various ways - and I want to build here" (nope)

" I want to build here let's just get along" (no)

"I want to move / tear down my house, shuffle some stuff around - add a variance - develop land...and build here" (...?)

Come to think of it - there never was a sequel to Ground Hog Day....

hmmmmmm

Thanks for letting me comment - have a great day.  
Kind Regards,  
David



<http://www.davidhill.org>



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59K