

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

**TUESDAY, FEBRUARY 3, 2015 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue**

1. **CALL TO ORDER**
2. **APPROVAL OF PLANNING COMMISSION MINUTES FOR JANUARY 6, 2015.**
3. **APPLICANT REQUESTS AND PUBLIC HEARINGS**

3.01 JAMES CUNNINGHAM – CASE NO. 15-02V

Consider the following requests for property located along Dalton Court, identified as PID 20-02300-26-011:

- A) A **Variance** from the Critical Area standard 10-13C-9.h which prohibits improvements on slopes 18% or greater.

Planning Commission Action _____

- B) A **Variance** from the Critical Area standard 10-13C-16.B which requires all development to be setback no less than 40 feet from the top of the bluff for lots created before 1989.

Planning Commission Action _____

4. **OTHER BUSINESS**
5. **ADJOURN**

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

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, January 6, 2015 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Joan Robertson
Annette Maggi
Pat Simon
Tony Scales
Harold Gooch
Bill Klein

Commissioners Absent: Dennis Wippermann (excused)
Armando Lissarrague (excused)

Others Present: Allan Hunting, City Planner
Tom Kaldunski, City Engineer
Steve Dodge, Assistant City Engineer

APPROVAL OF MINUTES

The minutes from the December 2, 2014 Planning Commission meeting were approved as submitted.

Chair Maggi advised that Item 3.02 would be presented prior to Item 3.01.

Mr. Hunting made some opening comments, and advised that the Planning Commission is being asked to make a recommendation on three Capital Improvement Projects that were not part of the 2015-2019 CIP.

CITY OF INVER GROVE HEIGHTS – ENGINEERING

Reading of Notice

No public notice was required.

Presentation of Request

Tom Kaldunski, City Engineer, asked Commissioners to consider two public improvement projects for consistency with the Comprehensive Plan. City Project 2015-10 - NWA Trunk Utility Improvements Argenta District is a trunk sanitary and sewer improvement project that will go from Alverno Avenue to the Blackstone Vista site. City Project 2015-11 is the 70th Street lift station for the Argenta District. He advised that the sanitary sewer and water mains would be put in at depths of 40-50 feet in some cases and the lift station will be in the range of 40 feet. A force main will be built by the developer as a separate project connecting the two sections of sanitary sewer for Blackstone Vista.

Chair Maggi asked for clarification of the alignment regarding the Peltier property.

Mr. Kaldunski replied that the City is currently in negotiations with Mr. Peltier for an easement.

At Commissioner Klein's request, Mr. Kaldunski pointed out the location of Mr. Peltier's house.

Commissioner Klein noted that the easement would not interfere with Mr. Peltier's household

property.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Gooch, to find Capital Improvement Projects 2015-10 and 2015-11 consistent with the Comprehensive Plan.

Motion carried (6/0). This item goes to City Council on January 26, 2015.

CITY OF INVER GROVE HEIGHTS - ENGINEERING

Reading of Notice

No notice was required.

Presentation of Request

Steve Dodge, Assistant City Engineer, asked Commissioners to consider City Project 2015-09E for consistency with the Comprehensive Plan. He advised that the City Council received a petition for street improvements from nearby residents and authorized the preparation of a feasibility report for City Project 2015-09E - 47th Street and Neighborhood Street Reconstruction. They are proposing a mill and overlay and reconstruction project, with some utility improvements as well. He pointed out the nearby proposed Ulrich Addition.

Chair Maggi asked if the Ulrich Addition would align with the proposed improvements.

Mr. Dodge advised that the preliminary plats for the Ulrich Addition have been approved and found to be consistent with the Comprehensive Plan.

Commissioner Klein asked if this request was petitioned by the citizens in that area.

Mr. Dodge replied in the affirmative, stating that most of the petitioning was from the Bower Path area and Bethesda Church. In response to the petition, staff looked at the entire neighborhood and determined that all the curb and streets in this area needed to be improved. He advised that doing the project as a whole would result in better costs and efficiencies and would tie into the Ulrich Addition, which is proposed to have new storm sewers.

Commissioner Klein asked if both projects would be done simultaneously.

Mr. Dodge replied that 2015-09E and the Ulrich project would likely coincide.

Commissioner Klein asked if that would result in a cost savings for both the developer and the residents.

Mr. Dodge replied that most likely it would.

Chair Maggi reminded Commissioners that financial issues were not the purview of the Planning Commission.

Commissioner Simon asked if the small section south of 50th Street shown on the map would be included with this project.

Mr. Dodge replied it would not, stating that for various reasons that area would be looked at as an independent project.

Commissioner Simon asked if a certain number of people in the project area must sign the petition in order for a project to move forward by petition rather than being initiated by the City.

Mr. Dodge replied that 35% of the original area must be petitioned in order to move a project forward to Council. Council would then review it and authorize a feasibility report. During the feasibility report process the City can look at a more comprehensive view of the neighborhood.

Commissioner Gooch stated he has never seen streets as rough as those in certain sections of Inver Grove Heights, and asked if the cause for that was known.

Mr. Dodge replied that Inver Grove Heights contains a lot of glacial till which is frost susceptible. Streets that were built in the 1980s were built by using dried out existing subgrade with gravel and pavement over it. Throughout the metro there are a large number of streets experiencing tenting as they have gone through freeze/thaw cycles.

Commissioner Gooch asked if the contractors provide any type of guarantee that new streets being constructed will hold up.

Mr. Dodge replied that the industry has improved since the 1980's in how roads are built and they now use a 50 year design as opposed to the 25 year design of the 1980's.

Commissioner Klein asked what the cure was on the sub-base to keep this from happening again.

Mr. Dodge replied that what has been proposed on all streets is to go down two to three feet.

Commissioner Klein asked what materials they would use.

Mr. Dodge replied that it depended on the condition of the road, but in the worst case scenario typically they build up the section to approximately a three foot depth by putting in fabric, drain tile, a couple feet of sand, then gravel and bituminous. With a good subgrade in later years only the pavement would need to be replaced.

Planning Commission Recommendation

Motion by Commissioner Klein, second by Commissioner Scales, to find City Project 2015-09E consistent with the Comprehensive Plan.

Motion carried (6/0). This item goes to the City Council on January 26, 2015.

The meeting was adjourned by unanimous vote at 7:25 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

SURROUNDING USES

The subject site is surrounded by the following uses:

North – single family homes
East – railroad, vacant
West – single family homes
South – single family homes

EVALUATION OF REQUEST

- The applicant has submitted a site plan that shows a building pad area with proposed setbacks, grading and preliminary storm water design.
- The lot is a lot of record that was created prior to 1989 and thus would follow the required setbacks in the Critical Area Overlay District for lots created prior to 1989. Existing lot of record establishes a buildable lot.
- The lot has access from Dalton Court via a 30 foot wide driveway easement that was created with the plat of Hatchard Estates in 2004.
- The lot has very steep topography over the majority of the site. There are two possible building areas; on the area proposed and the other along the north boundary. The north boundary site is not readily accessible from a driveway. The proposed building site has a flat area leading to the site from the driveway easement.
- The proposed plan shows a building pad of 50 ft X 76 ft with minimal grading into the slopes. The pad is shown at a zero setback from the top of bluff whereas a 40 foot setback is required.
- There would be some grading on slopes greater than 18% for the storm water maintenance system.
- Preliminary design of a septic system has been provided to show where a system could go. Any variance approvals and building permits would be subject to approval of the septic system design by the building inspections department.
- Any home is limited to a maximum height of 35 feet from the midpoint of the peak of the roof.
- Any retaining walls that may be needed must meet the standards found in 10-13C-9.G.3.e which requires walls to be constructed of native stone or wood and shall not exceed five feet in height.

ENGINEERING REVIEW

Engineering has reviewed the request and offers the following comments:

- City Standards require a stormwater management plan to control all runoff with storm water facilities maintenance agreement (SWFMA) for features such as a paved driveway

with curb and gutter. A SWFMA would be required for all stormwater management facilities, such as ponds, raingardens and cisterns.

- The access drive shall drain toward Dalton Court.
- An improvement agreement and custom grading agreement shall be required.
- An escrow of \$4,000 is required for engineering review of the agreements and a \$10,000 surety is required with the custom grading agreement.

DNR REVIEW

The DNR has commented on the request and their letter is attached. They recommend denial of the request based on the building pad is too large and could have an impact on the blufflines causing possible erosion and encroachment into the bluff overtime. The DNR's comments are recommendations only and should be taken into account as part of the City's review of this request.

VARIANCE REVIEW

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

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

The comprehensive plan identifies the lot as being in the RDR, Rural Density Residential category which allows single family development on lots of at least 2.5 acres in size. The lot was also created prior to 1989 and therefore follows base zoning minimum lot size in the Critical Area Overlay District which requires a minimum 5.0 acre lot size. Allowing a variance to construct a single family home would meet the purpose and intent of the city code and comp plan. The surrounding area is also developed with large lot single family.

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

Critical Area requirements are in place to minimize the impacts of development on steep slopes, bluffs, aesthetics and erosion. The property has a very narrow top of bluff that has the potential for being developed without much disturbance to the slopes or existing vegetation on the site. The building pad area shown, however, extends to the edges of the bluff line and there would be virtually no setback from the bluff. In Staff's opinion, in order to meet the spirit and intent of the ordinance, there should be some setback from the bluff. Since we are dealing with a building pad and not an actual building footprint, Staff recommends a building pad of no larger than 35 ft X 60 ft be allowed. This would provide at least a 10 foot setback from the bluff line. Without some required

setback, there are concerns that the actual construction around the perimeter of a foundation would disturb the slopes and create possible erosion problems.

The buildable area is small and should be limited to a reasonable size home. Staff does not support a variance for a gazebo shown at the far east end of the site. This is not needed to be allowed reasonable use of the property.

Regardless of what setback becomes acceptable, a custom grading agreement would be required with any building permit to address erosion control, silt fencing, storm water management and inspections of these items before and during construction.

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

The natural topography of the site clearly limits the possible building area on the lot. A building pad of a size recommended by staff would provide a reasonable use of the property. Without a variance being granted from the bluff setback, there would not be any buildable areas on the site. This would severely limit reasonable use of the property.

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

By limiting the size of the building footprint, construction could take place on the natural flat area of the lot and no significant amount of grading or tree removal would be required to build a home. The neighborhood is developed with single family homes on wooded large lots with some having views of the river. Construction on this lot would not negatively affect views or cause other storm water or erosion problems for the surrounding lots. The lot is approximately 2,500 feet from the main channel of the river and would not have any direct negative impacts to the river or views from the river.

5. *Economic considerations alone do not constitute an undue hardship.*

Economic considerations do not appear to be a basis for this request.

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. Approval If the Planning Commission finds the setback variances to be acceptable, the Commission should recommend approval of the request with at least the following conditions:

1. The site shall be developed in substantial conformance with the following plans:

Site Plan	dated 10-30-14
Grading and Erosion Control Plan	dated 10-30-14
Utility Plan	dated 10-30-14
Drainage Map	dated 10-30-14

2. The approved building pad shall not exceed 35 ft X 60 ft and shall maintain at least a 10 foot setback from the bluff line.
3. A variance is not approved for a gazebo that shown on the site plan.
4. Any development on the property shall comply with the comments from the City Engineer noted in the memo dated 1-14-15.
5. The access drive shall drain toward Dalton Court.
6. An improvement agreement, stormwater maintenance agreement and custom grading agreement shall be required.
7. An escrow of \$4,000 is required for engineering review of the agreements and a \$10,000 surety is required with the custom grading agreement.
8. The septic system design for the lot shall be subject to approval by the Building Inspections Department as part of a building permit for the lot.
9. Any retaining walls needed on site shall be constructed of either native stone or wood in conformance with Section 10-13C-9.G.3.e.

B. Denial If the Planning Commission does not favor the proposed request, it should be recommended for denial and state findings for a denial.

RECOMMENDATION

Staff agrees with the DNR that the footprint proposed is too large and could have an impact on the bluffline. There needs to be some setback from the bluff to allow construction activity to occur on the flat areas of the lot and not encroach into the bluff. Staff however, believes that some setback variance is needed in order to allow reasonable use of the property as allowed by the base zoning. Staff supports a variance from bluff setbacks for construction of a single family home only and does not support a variance to allow a gazebo. Staff also supports a variance to allow construction of storm water improvements on slopes greater than 18% based on Engineering comments that address erosion control and storm water treatment.

Staff finds that a practical difficulty can be found for this requests and recommends approval of a setback variance of at least 10 feet from the top of bluff and a building pad dimension no larger than 35 ft X 60 ft based on the following:

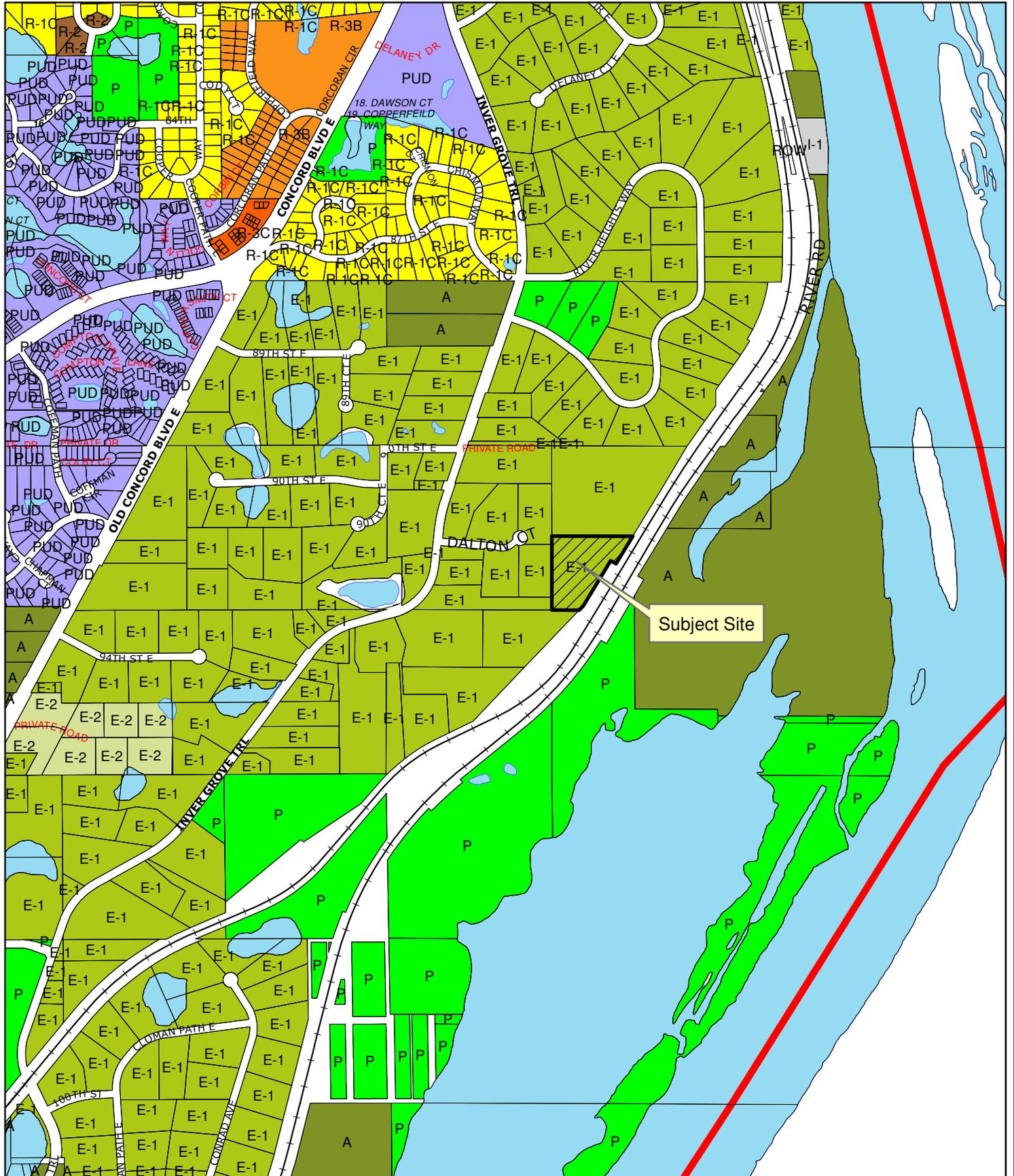
- The lot is a lot of record prior to 1989 and some type of variance from bluff setbacks is required for reasonable use of the property.
- The steep and restrictive topography severely limits the buildable area on the lot. A setback of at least 10 feet provides a reasonable building pad within a portion of the lot that would not have negative impacts to slopes, erosion or tree removal for a building site.
- The property would be used in a similar fashion as those lots surrounding it that are within the same general distance from the river.

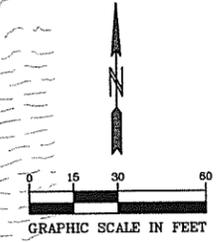
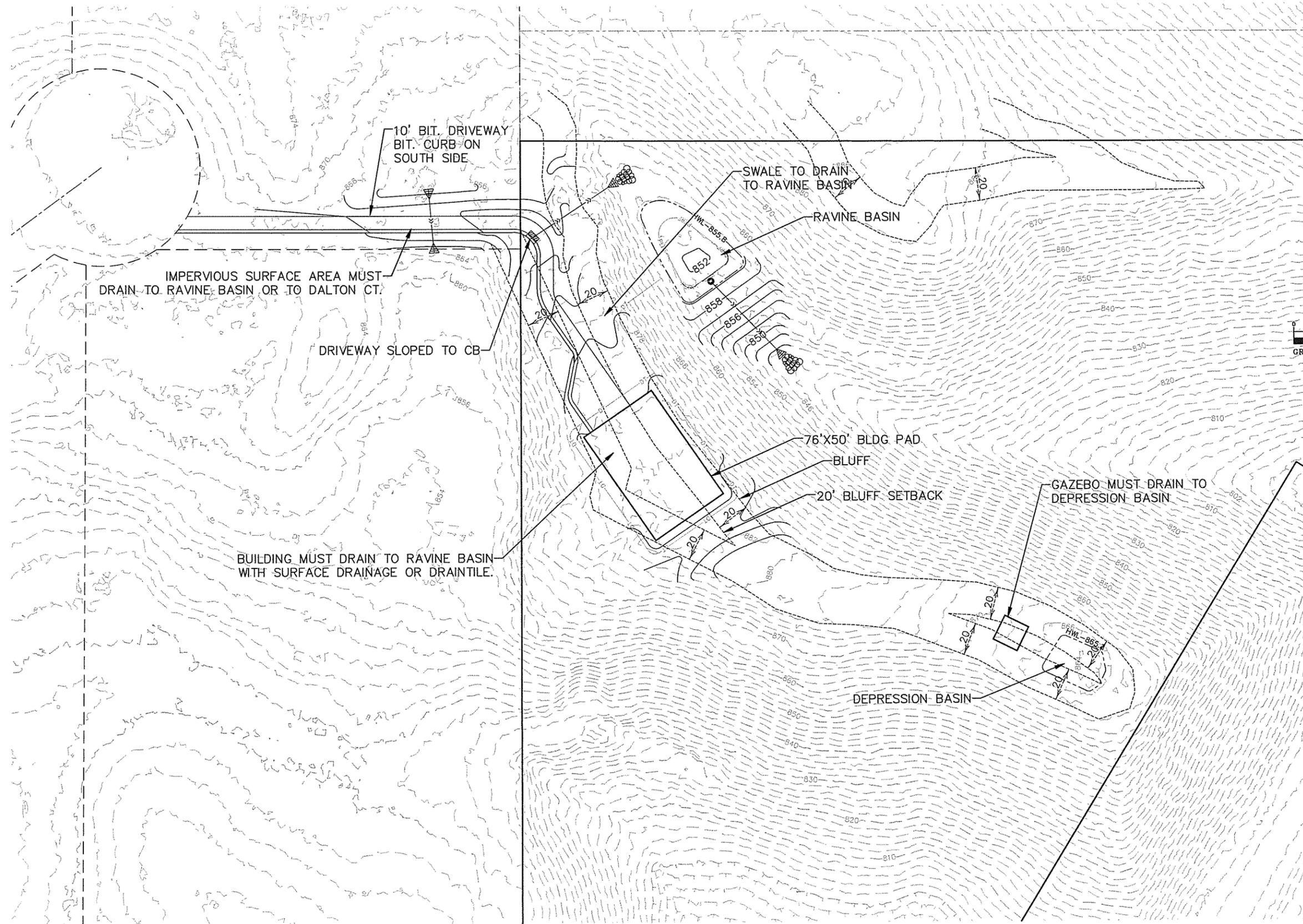
Attachments: Location/Zoning Map
Site Plan
Grading and Erosion Control Plan
Utility Plan
Drainage Map
Letter from DNR
City Engineer Memo dated 1-14-15



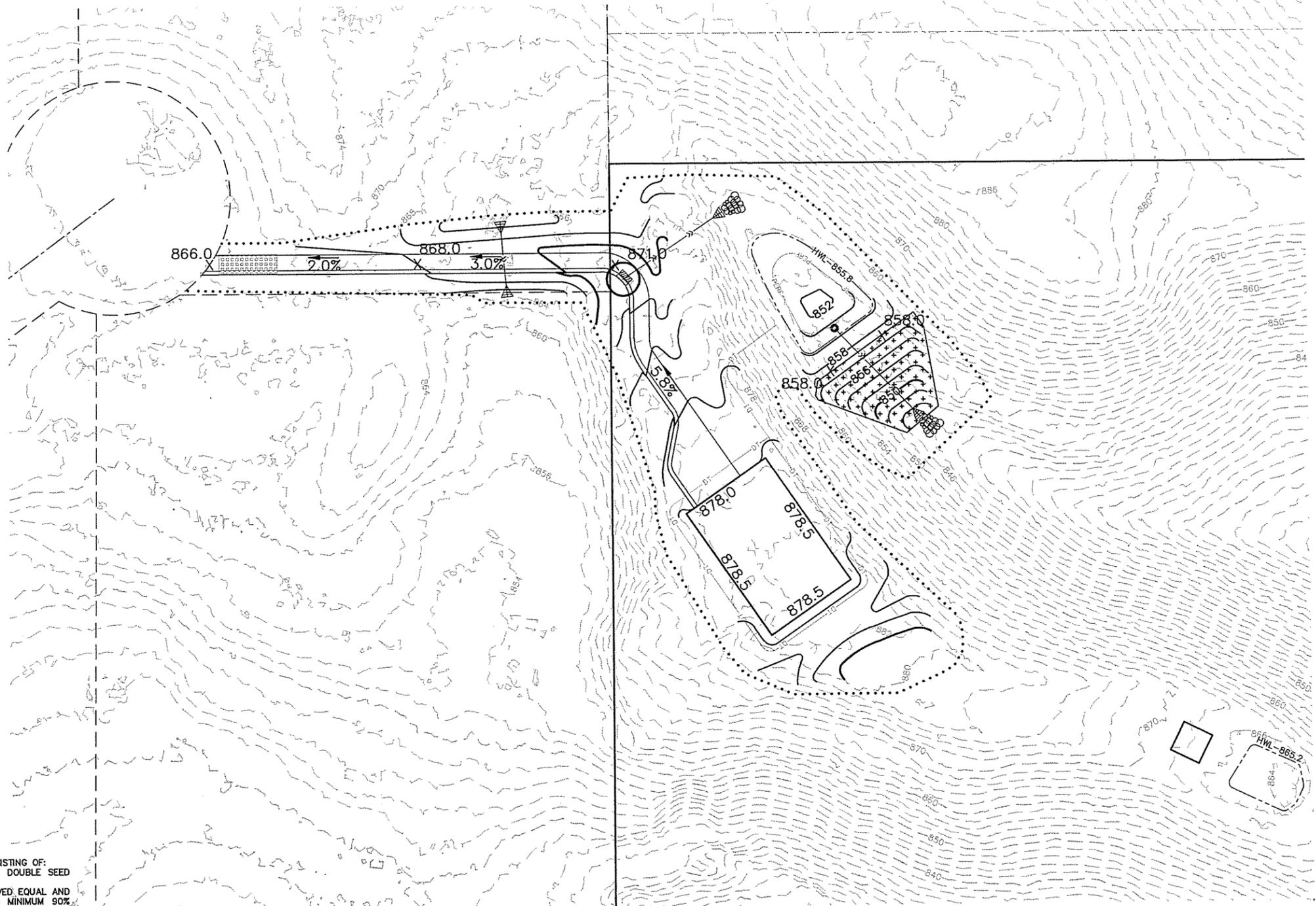
Location Map

Case No. 15-02V





BENCH MARK
TNH -
ELEV=XXX.X



NOTE:
ALL DISTURBED AREAS TO TEMPORARILY
OR PERMANENTLY STABILIZED WITHIN 7 DAYS.

TEMPORARY SEED SHALL BE DONE IN ACCORDANCE TO MNDOT 2575 & 3876; CONSISTING OF:
 • MNDOT MIX 22-111 @ 40 LBS. PER ACRE OR APPROVED EQUAL DOUBLE SEED RATE FOR DORMANT SEEDING AFTER NOVEMBER 1ST.
 • MULCH SHALL BE MNDOT TYPE 3 @ 2 TONS PER ACRE OR APPROVED EQUAL AND DISK ANCHORED IN PLACE OR APPROVED EQUAL, INSTALLED TO MINIMUM 90% COVERAGE OF THE SURFACE AREA DISTURBED.
 • TYPE 1 FERTILIZER, 10-10-20 @ 200 LBS. PER ACRE

PERMANENT TURF RESTORATION SHALL BE DONE IN ACCORDANCE WITH MNDOT 2575 & 3876 CONSISTING OF:
 • MNDOT MIXTURE 25-141 AT 75 POUNDS PER ACRE.
 • MULCH SHALL BE MNDOT TYPE 3 @ 2 TONS PER ACRE OR APPROVED EQUAL AND DISK ANCHORED IN PLACE OR APPROVED EQUAL, INSTALLED TO MINIMUM 90% COVERAGE OF THE SURFACE AREA DISTURBED.
 • TYPE 3 FERTILIZER, 22-5-10 80%W.I.N @ 350 LBS PER ACRE.

PERMANENT WET BASIN SEEDING SHALL BE DONE IN ACCORDANCE WITH MNDOT 2575 & 3876 CONSISTING OF:
 • MNDOT MIXTURE 33-261 AT 82 POUNDS PER ACRE TO BE BELOW THE NORMAL WATER LEVEL.
 • MNDOT MIXTURE 35-241 AT 84.5 POUNDS PER ACRE TO BE PLANTED FROM THE NORMAL WATER LEVEL TO THE HIGH WATER LEVEL.
 • MULCH SHALL BE MNDOT TYPE 3 @ 2 TONS PER ACRE OR APPROVED EQUAL AND DISK ANCHORED IN PLACE OR APPROVED EQUAL.
 • TYPE 4 FERTILIZER, 18-1-8 @ 120 LBS PER ACRE OR 17-10-7 @ 150 LBS PER ACRE

LEGEND

-  CATCH BASIN INLET PROTECTION TO BE INSTALLED AFTER 1ST LIFT OF BITUMINOUS.
-  PERIMETER EROSION CONTROL FENCE. INSTALL BEFORE START OF GRADING
-  MNDOT CAT 6 EROSION CONTROL BLANKET. INSTALL WITHIN 7 DAYS OF GRADING COMPLETION OR BEFORE 1ST RAINFALL EVENT WHICHEVER IS FIRST
-  ROCK CONSTRUCTION ENTRANCE. INSTALL BEFORE START OF GRADING



2422 Enterprise Drive
Mendota Heights, MN 55120
(651) 681-1914
Fax: 681-9488
www.pioneereng.com

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

Name: John M. Molinaro
Reg. No. 45831 Date: 10-30-14

Revisions

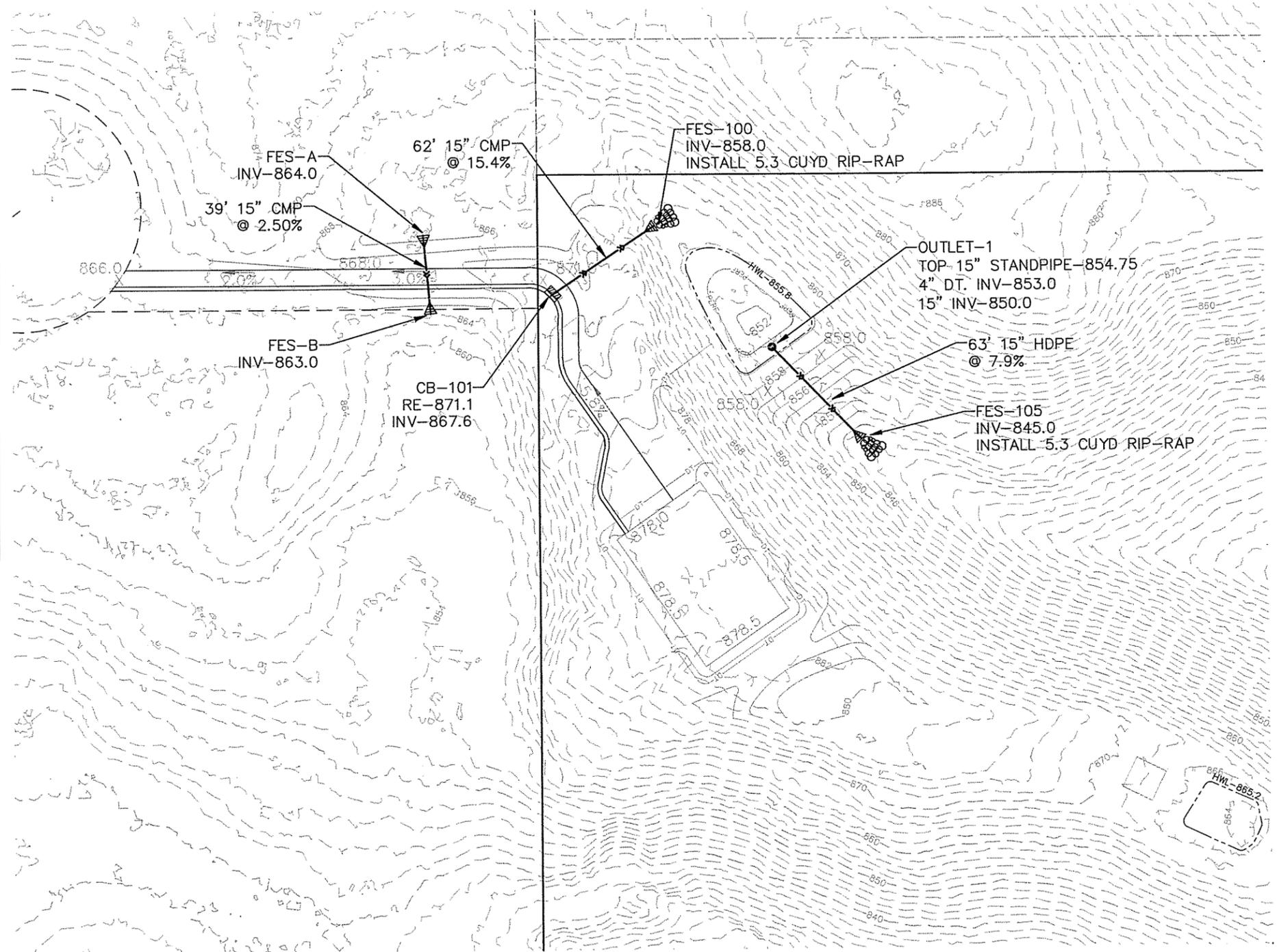
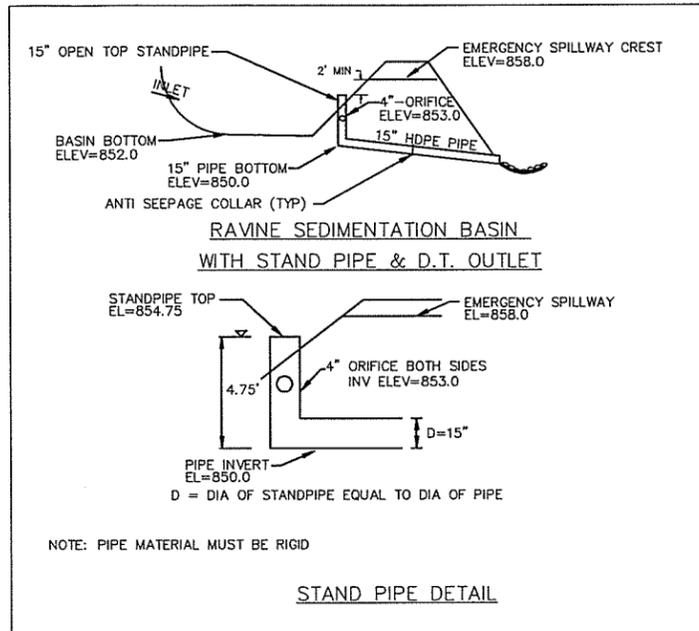
Date: 10-30-14
Designed: JMM
Drawn: JMM

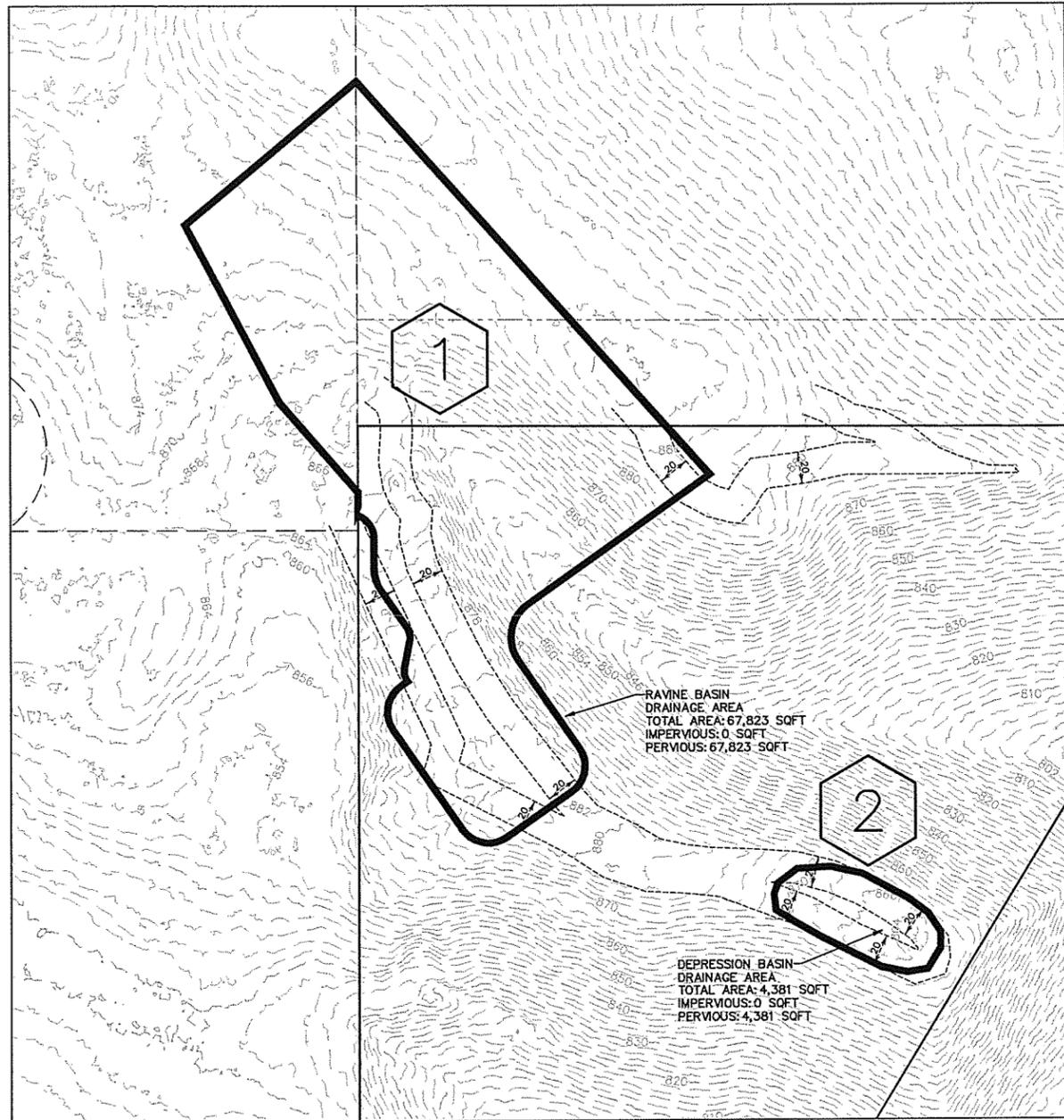
GRADING & EROSION CONTROL PLAN

JAMES CUNNINGHAM
1015 3RD ST. N.
SOUTH ST. PAUL, MINNESOTA 55075

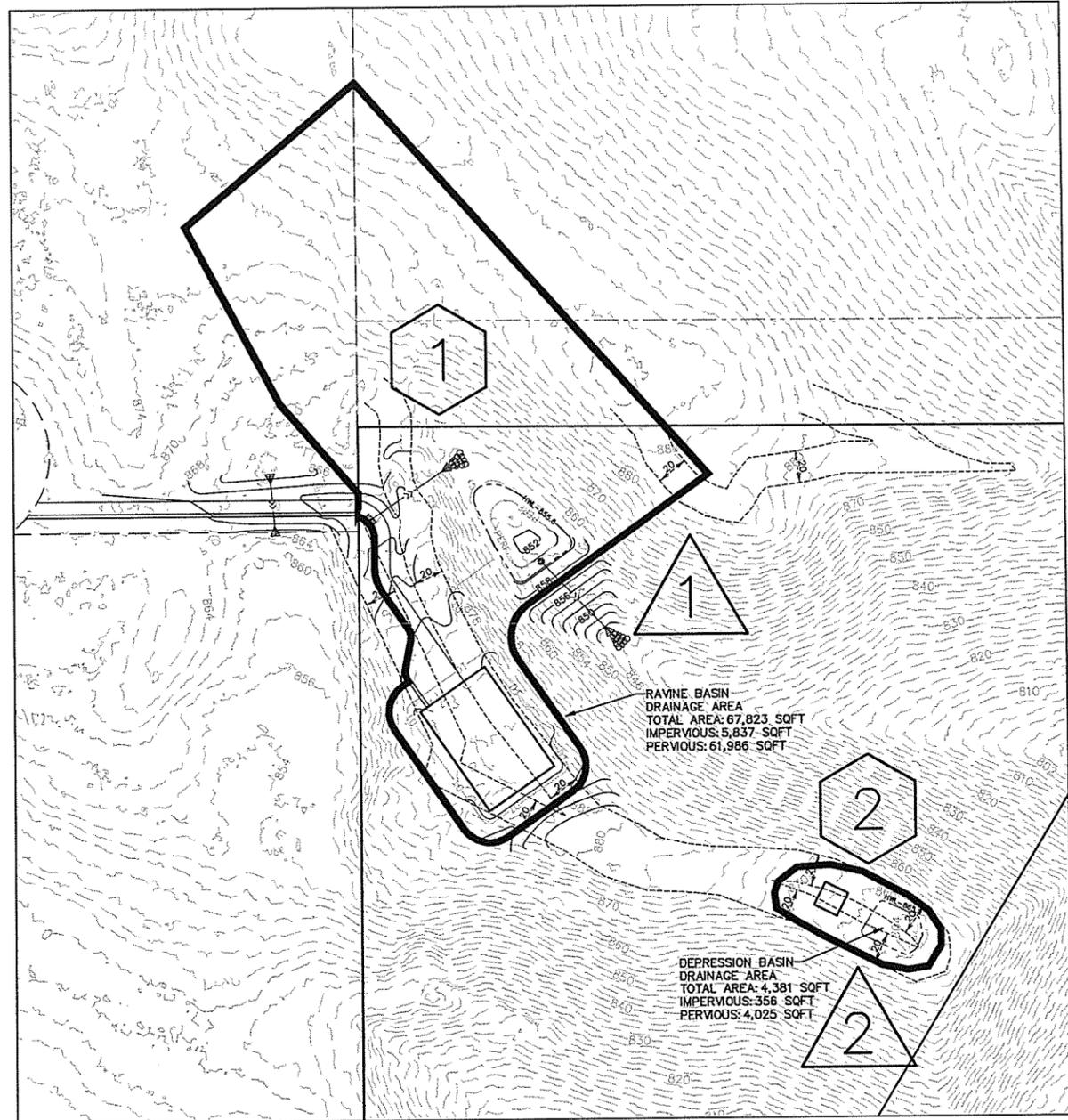
DALTON COURT PROPERTY
INVER GROVE HEIGHTS, MINNESOTA

RAVINE BASIN OUTLET-1

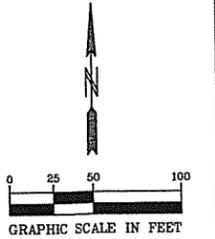




EXISTING CATCHMENTS



PROPOSED CATCHMENTS



BENCH MARK
TIN
ELEV=XXX.X

Minnesota Department of Natural Resources

Ecological and Water Resources Division
Central Region Headquarters
1200 Warner Road, Saint Paul MN 55106
Telephone: (651) 259-5845
Fax: (651) 772-7977



January 20, 2015

City of Inver Grove Heights
Attn: Allan Hunting
8150 Barbara Ave
Inver Grove Heights, MN 55077

RE: Variance Request for Cunningham Parcel, Dalton Court; Case #15-02V

Dear Mr. Hunting,

Thank you for the opportunity to comment on variance file #15-02V, regarding the request to build within the bluff line setback within the Mississippi River Corridor Critical Area (MRCCA). I believe this lot is located in the Rural Open District of the Critical Area, which requires a 100 ft setback from the bluff. Any development of this constrained lot will clearly require variances. In fact, the lot appears to be nearly unbuildable due to the small amount of area that is not steep slope/bluff. The City must consider whether this variance request is the *minimum necessary*. It is incumbent on the City to make findings addressing whether or not the proposal is reasonable given the conditions that existed when the lot was purchased. In other words, is the variance request self-created by the design preferences of the owner, or does the design minimize the amount of deviation from the standards? Is there a building pad size that would be appropriate for this lot? Based on my review of the proposal and the limitations of the lot, only a significantly smaller building pad would be acceptable and alternatives certainly exist for further minimizing the impact to the bluff. **For that reason the DNR recommends denial of the variance.**

The MRCCA was designated for numerous reasons, including protection and preservation of the biological and ecological functions of the corridor. Bluff setback regulations are primarily intended to prevent bluff erosion and slope failure. One may assume that impacts, such as vegetation clearing, retaining walls and other activities, will extend beyond any building footprint. Therefore, we strongly oppose a building pad that encroaches into the bluff setback, particularly one that extends right up to the edge of the steep slope, as is the case here. Is a variance or conditional use permit for grading and filling on a slope of 12% or more going to be required as well? The DNR has a serious concern with the proposed amount of structural encroachment into the bluff setback, and potential encroachment into the bluff on this lot over time.

Sensitive natural areas such as bluffs are protected in the MRCCA because they tend to have inherently unstable soils and are therefore much more sensitive to *any* disruption or disturbance. Bluff soils are prone to erosion, which can quickly put a structure (or septic system) at risk for slumping and/or failure.

mndnr.gov
An Equal Opportunity Employer

Thank you, once again, for the opportunity to review and offer comment on this variance request. Please contact me at 651-259-5790 with any questions regarding this letter.

Sincerely,

A handwritten signature in cursive script that reads "Jennie Skancke". The signature is written in black ink and is positioned above the typed name.

Jennie Skancke
Area Hydrologist

c: Dakota County SWCD and Lower Miss WMO, Brian Watson
USCOE, Ryan Malterud
DNR Conservation Officer, Steve Walter
DNR EWR, Jeanne Daniels

MEMO

CITY OF INVER GROVE HEIGHTS

TO: Heather Botten, Associate Planner
FROM: Thomas J. Kaldunski, City Engineer 
DATE: January 14, 2015
SUBJECT: James Cunningham – Case No. 15-02V
Dalton Court Parcel 20-02300-26-011

I have reviewed the information provided by Mr. Cunningham in the variance application. I have the following comments:

1. A Custom Grading Agreement (CGA) is required. The CGA shall have special conditions requiring the construction of all proposed stormwater features prior to issuance of a certificate of occupancy (CO).
2. A Stormwater Facilities Maintenance Agreement (SWFMA) is required for all stormwater features on the site.
3. A stormwater management plan is required for the site to contain back to back 100 year Atlas 14 rainfall events and to prevent additional runoff down the bluff.
4. The outfall pipe shall include an anti-seepage collar.
5. The driveway drainage shall be directed to Dalton Court and/or the proposed stormwater feature.
6. The roof drainage shall be directed towards the proposed stormwater feature using gutters and downspouts.
7. The gazebo shall be constructed and graded to drain to the natural depression at the point of the bluff.
8. The natural depression at the point of the bluff shall be expanded to hold the back to back 100 year Atlas 14 rainfall events.
9. The access driveway shall drain toward Dalton Court.
10. A \$4,000 engineering escrow is required for engineering review, inspection, drafting of agreements, and recording of agreements.
11. A \$10,000 surety is required for the CGA.
12. A \$5,000 surety is required for the stormwater features.

Attachments: Plan with redline comments