

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

Tuesday, October 6, 2009 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. **CALL TO ORDER**

2. **APPROVAL OF PLANNING COMMISSION MINUTES FOR September 15, 2009**

3. **APPLICANT REQUESTS AND PUBLIC HEARINGS**

3.01 MIKE PONE – CASE NO. 09-30V

Consider a **Variance** to construct a fence within the bluffline setback along the Mississippi River Critical Area. This request is for the property located at 8336 River Road.

Planning Commission Action _____

3.02 DEBRA WYLIE – CASE NO. 09-31C

Consider a **Conditional Use Permit** to exceed the allowed maximum impervious coverage on a lot that does not meet the minimum lot size. This request is for the property located at 7036 Dawn Court.

Planning Commission Action _____

3.03 CITY OF INVER GROVE HEIGHTS – CASE NO. 09-32ZA

Consider the following requests for property located along 66th Street, east of Concord Blvd, adjacent to the swing bridge:

A.) A **Rezoning** of the parcels from I-1, Limited Industry to P, Institutional.

Planning Commission Action _____

B.) A **Comprehensive Plan Amendment** to change the land use designation from Mixed Use to Public Park/Open Space.

Planning Commission Action _____

4. **OTHER BUSINESS**

5. **ADJOURN**

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, September 15, 2009 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Tom Bartholomew
Paul Hark
Christine Koch
Damon Roth
Pat Simon
Tony Scales
Mike Schaeffer
Harold Gooch
Dennis Wippermann

Commissioners Absent:

Others Present: Allan Hunting, City Planner
Heather Botten, Associate Planner

APPROVAL OF MINUTES

The minutes from the September 1, 2009 meeting were approved as submitted.

JAMES BROWN - CASE NO. 09-25WAV

Reading of Notice

The public hearing notice was read at the September 1, 2009 Planning Commission meeting.

Continuation of Public Hearing (public hearing remained open from September 1, 2009)

Allan Hunting, City Planner, explained the request as detailed in the report. He explained that the request is for a waiver of plat, a variance from minimum lot size in the E-1 zoning, and a variance to allow an accessory structure on a lot without a principle structure. Mr. Hunting advised that the applicant is requesting to re-subdivide his property into two parcels based on the original legal descriptions when the property was platted in the 1950's. Mr. Hunting advised that at some point in time the two lots were combined into one tax parcel. The proposed parcels would each be smaller than the E-1 zoning minimum lot size of 2.5 acres and staff believes that allowing the waiver of plat would be contrary to past actions taken by the City in this particular area to reduce the number of substandard sized lots. Staff does not find a viable hardship and recommends that the applicant improve the access should the request be approved. Staff recommends denial of the request.

Commissioner Simon asked if this area had been part of the ghost platting era of the 90's, to which Mr. Hunting replied it was not.

Commissioner Simon asked if staff received any comments from the neighbors.

Mr. Hunting replied that he received one call from a neighbor who had questions in regards to the existing barn; no concerns were stated.

Commissioner Wippermann asked if the two lots in question were combined prior to the current

owner purchasing the property, to which Mr. Hunting replied in the affirmative.

Chair Bartholomew asked if the applicant owned the lot to the west as well, to which Mr. Hunting replied in the affirmative.

Jim Brown, 1186 – 90th Street, stated he was unsure why the property was combined into one tax parcel but would like to return it to its original platting of two lots and for it to be allowed to be similar in size to the property to the north and west of his. Mr. Brown advised that he currently accesses his property from the east but the property could be accessed from the west as well, although the road configuration changed as it neared his property. He stated he would be hesitant to request that one of his neighbors remove their trees, etc. in order to do road improvements.

Commissioner Gooch asked why the applicant wanted to subdivide, to which Mr. Brown replied he wanted to be allowed to have lots equal in size to some of those in his neighborhood. He noted there were some lots in the development south of him that were just under 2.5 acres as well.

Chair Bartholomew asked if the applicant's understanding was that the property was consolidated by the County, to which Mr. Brown replied he was unsure.

Chair Bartholomew asked if there would be an opportunity if necessary to procure easement rights on the road to the east across from the newly formed lot, to which Mr. Brown replied in the affirmative.

Chair Bartholomew asked if the City would require that Mr. Brown upgrade the easterly road all along the southern lot or could it be improved only to Mr. Brown's driveway opening, to which Mr. Hunting replied that Mr. Brown would likely have to improve the road only to the driveway opening.

Commissioner Wippermann stated that while the lots immediately to the west and the two lots immediately to the north of the subject property were smaller, the majority of the lots in the area appeared to be 2.5 acres or larger.

Mr. Hunting advised that Commissioner Wippermann's statement was correct.

Mr. Brown advised that the lot to the northwest was consolidated just a few years ago.

Commissioner Hark asked if the applicant knew of any hardship for this request, to which Mr. Brown replied the hardship was that the property was originally platted as two lots and there were other lots in the neighborhood less than 2.5 acres in size.

Commissioner Simon referred to the applicant's previous statement that there were two accesses to the property, and asked if emergency vehicles would be able to access the applicant's home from the western road.

Mr. Brown replied they would not.

Commissioner Simon stated there was actually only one access then.

Mr. Brown responded there would be two accesses to the northern lot, however, the only access to his existing home would be from the easterly road. Mr. Brown advised that he has seen larger trucks (FedEx, etc.) use the westerly road and large commercial vehicles use the easterly road with no difficulty.

Planning Commission Discussion

Chair Bartholomew asked if the requirement for improving the condition of the road would be addressed at the time of building permit issuance.

Mr. Hunting replied staff would prefer that the road be improved prior to the recording of the waiver of plat so as to avoid putting that burden on whoever purchases the property in the future.

Chair Bartholomew stated it would be difficult for him to support the request without a valid hardship.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Simon, to deny the request for a waiver of plat to create two parcels from the existing one tax parcel, a variance to allow the lots to be less than the required 2.5 acre minimum, and a variance to allow an accessory structure on a lot without a principle structure, due to lack of hardship and the fact that this would be a significant reduction in minimum lot size from what the zoning district would allow, for the property located at 1186 – 90th Street.

Motion carried (9/0). This matter goes to the City Council on September 28, 2009.

McDONALD CONSTRUCTION – CASE NO. 09-28C

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to allow for 27.5% impervious coverage to construct a single family home, garage, sidewalk and driveway on an R-1C zoned lot. 27 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the request is to construct a new home that would have 27.5% total impervious surface on the property. The City has allowed up to 30% impervious surface on property in the R-1C zoned areas provided the conditional use permit criteria is met. Ms. Botten advised that the general conditional use permit criteria has been met and the applicant has agreed to comply with the conditions listed in the report. Staff recommends approval of the request with the conditions listed in the report. She advised that staff heard from one property owner stating there was an existing drainage issue in the neighborhood; his concerns have been forwarded to the engineering department.

Commissioner Gooch asked for details of the drainage concerns.

Ms. Botten advised they were concerns of general drainage in the neighborhood and of standing water in the roadway.

Commissioner Gooch asked where the caller lived.

Ms. Botten pointed out the caller's property on Avery Drive.

Commissioner Schaeffer asked if the existing drainage issue was not specifically from the subject property but rather the area in general, to which Ms. Botten replied in the affirmative.

Opening of Public Hearing

Bill Winter, McDonald Construction, 7601 – 145th Street, Apple Valley, advised he was representing the property owners and was available to answer any questions.

Chair Bartholomew asked if Mr. Winter was in agreement with conditions 2, 5, and 9, to which Mr. Winter replied in the affirmative.

Tom Hall, 11552 Ashley Court, displayed photographs of the area, stating there was mold and standing water on Ashley Court fourteen days after the last rain. He stated there was a continual problem with standing water which was a safety hazard. Mr. Hall stated he contacted the City's engineering department and was told that McDonald Construction was unwilling to resolve the drainage issue and therefore it was up to the City to address the problem. The plan was for staff to come out as a City group and look at the entire area and make a recommendation as to the best way to handle the situation. Mr. Hall advised he was unable to walk in his front yard without sinking up to his ankles and he stated the amount of water has increased exponentially since the grading was done.

Commissioner Simon asked when the grading was done.

Mr. Hall replied approximately 2006. He stated the City worked on it for a year without resolving the issue. Therefore he has been watching the City website to see when the lot was purchased for development in the hopes that once a building permit was pulled the Chief Building Inspector would get involved and perhaps get the issue corrected.

Chair Bartholomew asked if Mr. Hall's neighbors with homes behind them had similar drainage issues.

Mr. Hall replied in the affirmative, stating the majority of the runoff comes from between the two houses east of him. Mr. Hall added that a house is being built on 11635 Aileron Court and the house behind that now has a soggy yard and water running out into the street.

Chair Bartholomew advised that the conditions of approval require that the applicants maintain the runoff from the increased 2.5% impervious surface on their property.

Mr. Hall stated there has been runoff coming from that area for the last several years, noting there were homes on the lots next to the subject lot.

Chair Bartholomew stated the neighboring homes were not part of this request.

Commissioner Simon asked if the regulation for managing a homeowners stormwater on their own property was in place at the time the other homes were built, to which Mr. Hunting replied that would have to be answered by the engineering staff as he was unsure.

Commissioner Simon asked if the conditions would address any pre-existing problem or only the proposed 2.5% additional impervious surface.

Mr. Hunting replied the conditions would tie only to the development of this particular lot; however, he would make the City Engineer aware of the aforementioned drainage issues.

Commissioner Simon asked if the Commission could add a condition that the pre-existing problem with water be addressed before any permit was issued.

Mr. Hunting questioned whether they could require the larger scale grading from an individual lot owner, but stated he would discuss it with engineering so it could be addressed at the City Council meeting.

Mr. Hall noted that the builder (McDonald Construction) originally owned and developed all the lots.

Chair Bartholomew stated the current landowners would be responsible for managing the water from their individual properties.

Lori Hall, 11552 Ashley Court, questioned how McDonald Construction would be held accountable after the fact since there has been no accountability thus far for them to fix the issue.

Chair Bartholomew stated the applicant could only be held responsible for managing the water on their own property; not for the surrounding lots.

Ms. Hall advised that the issue was created when McDonald Construction owned all the lots.

Mr. Hall stated they didn't meet the master grading drainage plan. He questioned who would be liable if a child slipped on the water/ice in front of his home and was injured.

Ms. Hall submitted a copy of the letter referred to earlier by staff from a neighbor regarding safety concerns in relation to the existing drainage issue.

Molly Stakston, 11561 Avery Drive, stated numerous children have fallen in the street, including her own, due to slippery mold, mildew, and standing water. She asked that it be put on record that there is standing water for days after a rain.

Commissioner Roth stated it was unusual to have standing water during a drought, and asked if there were soil borings done for this development as perhaps there were underground springs causing the problem.

Mr. Winter stated soil borings were likely done when the property was originally developed.

Wade Labatte, 11556 Ashley Court, stated his children were unable to play in the back yard, and sometimes the front yard as well, in the spring and fall due to the soggy ground. He stated the drainage forces children to walk into the middle of the road to avoid the standing water and he believes the problem will only increase with the addition of the proposed home.

Tracy Newell, 11546 Avery Drive, stated the runoff in the street is located in front of her home and has been a concern for quite some time. She feels that grading the subject lot would only exacerbate the situation and she questioned why the current landowner would be responsible for fixing a pre-existing problem that was created by the builder.

Brad McDonald, 11533 Armstrong Court, stated he lives across from the sewer drain and has seen children walk out into the street to avoid the water. He stated in addition to it being a safety concern, the excessive moisture attracts insects as well. He then questioned who would take responsibility for the other properties that were previously developed by the builder and approved by the City and whether there would be some kind of resolution.

Chair Bartholomew stated that issue should be raised with the City's Engineering Department and the City Council. He advised that tonight's testimony has established on record that a water problem exists in the general area. He added, however, that if the proposed stormwater management plan works for this lot the City would have no choice but to approve the request.

Mr. Hunting stated he would make engineering aware of the drainage issue in the general area so they could answer the questions that have been raised tonight at the Council meeting.

Ms. Hall asked if the neighbors would get mailed notice of the Council meeting, to which Chair Bartholomew replied they would not, but that the Council date would be announced at the end of tonight's public hearing.

Commissioner Simon advised the homeowners they would be allowed to speak at the Council meeting just as they were at this meeting.

Planning Commission Discussion

Commissioner Wippermann stated he lives in the neighborhood being discussed tonight and vouched for the fact that standing water in the street was common and that it froze out six feet or more into the street in the winter months. He stated he would be hesitant to approve the request without further feedback from the Engineering Department as to how they planned to resolve the existing water issue. He stated that he would support adding a condition that the pre-existing drainage issue be addressed prior to approval of a building permit.

Commissioner Roth asked if the applicants would have to follow the master grading plan.

Mr. Hunting stated that as each house went in they would have had to match the original grading plan.

Commissioner Simon stated that it did not appear as if the original grading plan has worked so far.

Chair Bartholomew asked for clarification that if the applicant had proposed only 25% impervious surface no approvals would have been necessary as long as they agreed to follow the master grading plan, to which Mr. Hunting replied in the affirmative.

Commissioner Gooch suggested the request be tabled until additional engineering data could be received regarding the drainage in the general area, stating he questioned whether a rain garden would be effective or would just continue to leach the water down to the lots below.

Commissioner Wippermann asked if there were time limitations involved in tabling, to which Mr. Hunting replied the typical 60 days could be extended.

Commissioner Hark stated if it was tabled he would like it to become part of the motion that engineering staff should look at the existing water issue in the area.

Commissioner Roth stated he would like to work with the builder on this request as he understands the applicants could reduce the amount of impervious surface to 25% and thereby construct the home without any further approvals needed.

Chair Bartholomew asked the applicant if he would be agreeable to tabling the request.

Mr. Winter commented that McDonald Construction no longer owns the lot and therefore he would prefer the Commission took action on the application tonight rather than delaying the property owners. Mr. Winter stated the requested 2.5% impervious surface would actually alleviate runoff to neighboring properties since the extra impervious surface requires the addition of a rain garden.

Commissioner Roth asked where the rain garden would be located, to which Mr. Winter replied the exact location in the back yard had not yet been determined.

Commissioner Gooch questioned whether the water in the rain garden would eventually go to the storm sewer or leach down to the neighbor's back yard, to which Mr. Winter replied it would not, but rather would soak into the ground.

Chair Bartholomew stated rain gardens were designed to leach water into the ground rather than running to neighboring properties.

Mr. Hall asked for the definition of a rain garden.

Mr. Hunting stated rain gardens were recently being used to control stormwater runoff rather than using a traditional piping system. He advised that rain gardens were typically a depression in the ground designed with proper soils, sand, and vegetation to absorb water rather than sending it into the storm sewer.

Chair Bartholomew stated rain gardens have proven to be successful provided they are correctly built and maintained. He then asked who would own and maintain the proposed rain garden.

Mr. Hunting replied the rain garden would be owned and maintained by the property owner; however, the City would have the right to correct it if it became damaged or improperly maintained.

Chair Bartholomew stated he would support the conditional use permit as he had faith in rain gardens and trusted that the design would maintain the water on the applicant's property.

Mr. Hunting recommended that Commissioners move the application forward to Council along with the information that there were apparent water issues in the area that should be looked into. He stated that tabling the request would negatively impact the applicant who was not the cause of the problem.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Wippermann, to deny the request for a conditional use permit to allow for 27.5% impervious coverage to construct a single family home, garage, sidewalk and driveway on an R-1C zoned lot, based on the need for further engineering information, for the property located at 11617 Aileron Court.

Commissioner Schaeffer stated he felt the Commission did not have enough information to make an informed decision. He added that he was opposed to denying the request and thereby penalizing the property owner for a problem that appears to be larger than his specific property.

Commissioner Wippermann agreed that there appears to be an issue larger than just the subject lot, however, he felt it was a major contributor and therefore he supported the motion.

Motion failed (4/5 – Bartholomew, Schaeffer, Roth, Koch, and Scales).

Motion by Commissioner Scales, second by Commissioner Schaeffer, to approve the request for a conditional use permit to allow for 27.5% impervious coverage to construct a single family home, garage, sidewalk and driveway on an R-1C zoned lot, for the property located at 11617 Aileron Court, with the conditions listed in the report.

Chair Bartholomew asked if he could add a condition that the Engineering Department review the overall area to determine the cause of the water issue.

The recommended condition was approved by the motioners.

Motion failed (4/5 – Hark, Koch, Simon, Roth, Wippermann, and Gooch). This matter goes to the City Council on October 12, 2009 without a recommendation.

SHEEHAN/WOODS – CASE NO. 09-27V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance from the front yard setback to construct a covered porch addition for the property located at 6455 Delaney Avenue. 4 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He stated the request was for a variance to add a 4' x 6' covered porch onto the front of the house which would encroach four feet into the front yard setback. The applicant has stated the primary reason for the front porch is to correct a drainage problem but because the home is constructed right at the setback line, the applicant cannot construct a porch addition without a variance. Furthermore, City Code allows uncovered appurtenances to extend six feet into the front yard setback whereas the proposed porch would only extend four feet. Mr. Hunting advised that a similar request for the Herdtle's recently came before the Planning Commission. Staff believes the variance criterion has been met and therefore recommends approval with the condition listed in the report.

Chair Bartholomew asked what action was taken on the Herdtle request, to which Mr. Hunting replied it was approved by City Council.

Mr. Hunting advised that staff heard from one resident who was in support of the request.

Commissioner Wippermann stated he felt the proposed porch would enhance the aesthetics of the home.

Opening of Public Hearing

There was no public testimony.

Regarding the absence of the applicants, Mr. Hunting advised that staff has had difficulty getting in contact with them in the past and they may not have received notice of tonight's meeting.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Roth, to approve the request for a variance from the front yard setback to construct a covered porch addition, for the property located at 6455 Delaney Avenue, with the hardship as listed and one condition.

Motion carried (9/0). This matter goes to the City Council on October 12, 2009.

CITY OF INVER GROVE HEIGHTS – CASE NO. 09-29ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for an ordinance amendment to Title 10, Chapter 16 – Nonconformities, relating to maintenance and repair non-conforming uses and structures. No notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the Minnesota Legislature amended the state statute that governs non-conforming properties. To be consistent with state statute, the City Code should be amended to conform to Minn. Stat. 462.357, as amended. The amended language addresses improvements and changes to existing

non-conforming uses and structures. The amendments allow property owners of non-conforming uses and structures more rights and flexibility than what the code currently allows. Staff recommends approval of the ordinance amendment as shown in the planning report.

Commissioner Wippermann asked if the City was required to change City Code to be consistent with state statute.

Mr. Hunting replied it was wise to have consistency between City Code and state statute language, and he advised that state statute always supersedes City Code.

Commissioner Wippermann stated it appeared as if the existing ordinance was more restrictive than state statute.

Opening of Public Hearing

There was no public testimony.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Koch, to approve the request for an ordinance amendment to Title 10, Chapter 16 – Non-conformities, relating to the maintenance and repair of non-conforming uses and structures, as listed in the report.

Motion carried (9/0). This matter goes to the City Council on October 12, 2009.

OTHER BUSINESS

Commissioner Koch asked if the discussion among commissioners at public hearings was presented to City Council so Councilmembers were aware of the Commission's reasoning and that the vote was not always unanimous.

Mr. Hunting advised that Councilmembers were given the approved Planning Commission minutes for each request which described the discussion in detail.

ADJOURNMENT

Chair Bartholomew adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

East: Mississippi River

EVALUATION OF REQUEST:

DNR Review:

Staff from both the Shoreland and Critical Area divisions reviewed this request. Neither of the staff members opposed the request. The recommendation is attached.

Staff Review:

As indicated earlier, the applicant is requesting a variance to construct a fence that would encroach within the bluffline setback. Title 10, Chapter 3, Section 10-3-4D of the City Code, states that the City Council may grant variances in instances where practical difficulties exist or where a hardship would be imposed upon the property owner if the code were strictly enforced. In order to grant the requested variances, the City Code identifies several criteria which are to be considered. The applicant's request is reviewed below against those criteria.

- a. *Special conditions apply to the structure or land in question which are peculiar to such property or immediately adjoining property, and do not apply generally to other land or structures in the district in which said land is located.*

The general intent of this standard is to limit the precedent that could be set if the variance was granted. The property has a special condition in that it is not possible to construct a fence that would meet the setback requirements. The minimum setback for the fence is 100' from the bluffline, but the distance between the bluffline and the western property line is only about 75'. Therefore, it is impossible to meet the 100' setback. The applicant is requesting this variance in association with the construction of a fence to make the backyard safe for his children. The slope from the bluffline to the river is very steep and would certainly pose a hazard for children playing outside.

- b. *The granting of the application will not be contrary to the intent of the Zoning Code or the Comprehensive Plan.*

The application is not contrary to the Comprehensive Plan as the future land use is Rural Density Residential.

- c. *The granting of such variance is necessary as a result of a demonstrated undue hardship or difficulty, and will not merely serve as a convenience to the applicant.*

The hardship for this request is the lot configuration. It is not possible to construct the fence in compliance with the City Code. Furthermore, it's logical to allow a fence as the slopes to the river are very steep. Lastly, the applicant's request is reasonable as he is proposing to construct the fence along his already-established yard. He would not be doing any further tree removal and he would be erecting a

black, chain-link fence that would be visually inconspicuous from the river. Approving this variance would not have any impact on the views from the river.

d. 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 favors the requested Variance, the Commission should recommend approval of the request with at least the following condition:

1. The site shall be developed in substantial conformance with the site plan dated September 10, 2009 on file with the Planning Department.

Hardship: The applicant is requesting this variance to construct a fence that would encroach within the bluffline setback. The hardship is that, because of the lot configuration, the fence cannot be constructed in compliance with the Critical Overlay District Ordinance. Furthermore, the request is reasonable. The slopes are very steep and the fence will ensure safety for the applicant and his family.

B. Denial. If the Planning Commission does not favor the proposed application, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

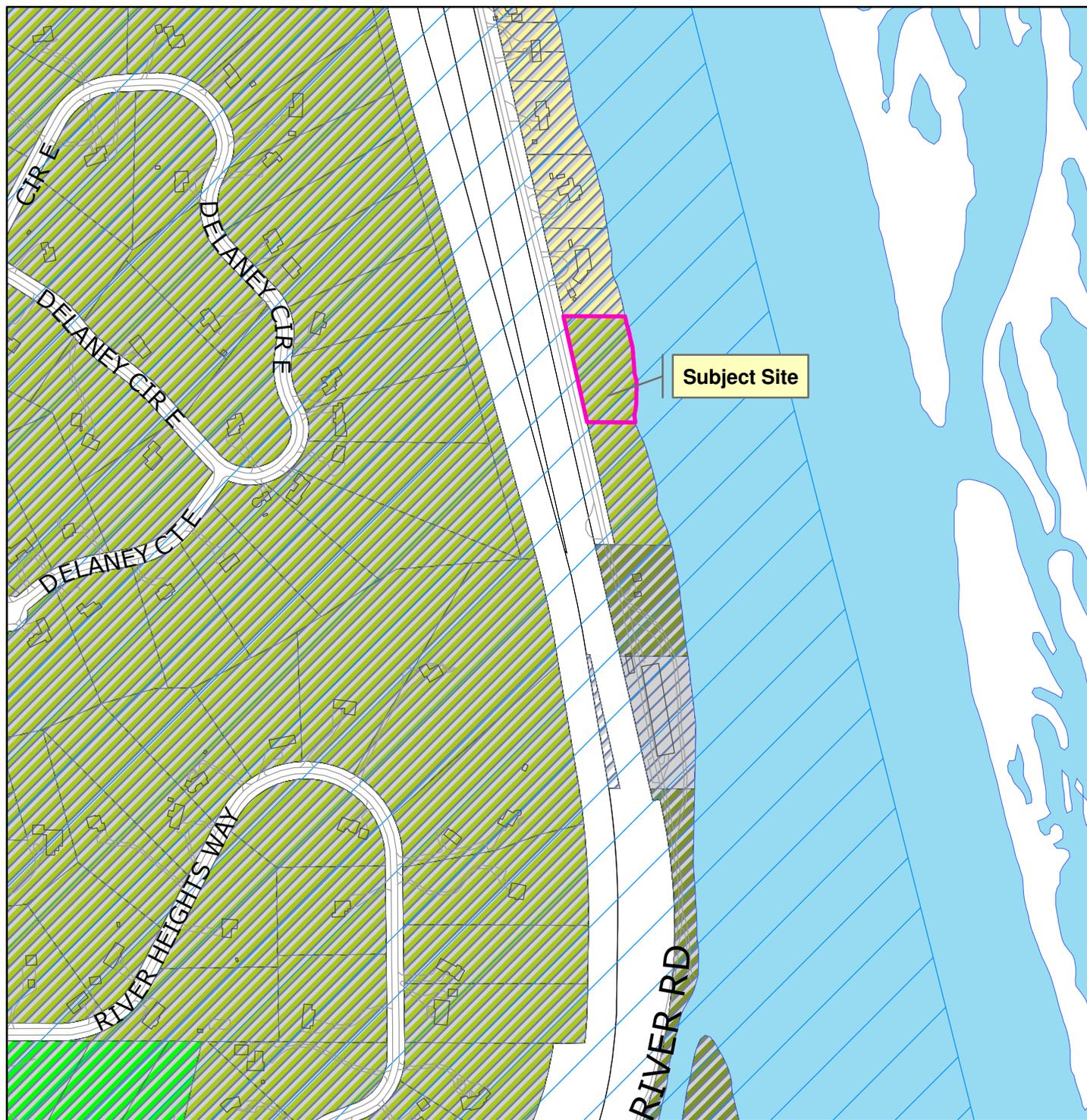
RECOMMENDATION

Staff believes that the variance criterion has been met and therefore Staff recommends approval of the variance as presented.

Attachments: Exhibit A – Location/Zoning Map
Exhibit B – Applicant Narrative
Exhibit C – Site Plan
Exhibit D – DNR Recommendation



Mike Pone Request Case No. 09-30V

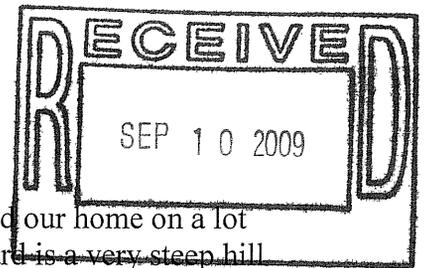


Subject Site

MUSA Limits	surfacewater	R-1C, Single Family (0.25 ac.)	B-1, Limited Business	OFFICE PUD
Shoreland District: Transitional River Zone	A, Agricultural	R-2, Two-Family	B-2, Neighborhood Business	Comm PUD, Commercial PUD
Shoreland District: Urban River Zone	E-1, Estate (2.5 ac.)	R-3A, 3-4 Family	B-3, General Business	MF PUD, Multiple-Family PUD
Shoreland & Critical Area Overlay Districts	E-2, Estate (1.75 ac.)	R-3B, up to 7 Family	B-4, Shopping Center	I-1, Limited Industrial
Sand & Gravel Overlay District	R-1A, Single Family (1.0 ac.)	R-3C, > 7 Family	OP, Office Park	I-2, General Industrial
Agricultural Overlay (10 ac. min. lot till sewer avail.)	R-1B, Single Family (0.5 ac.)	R-4, Mobile Home Park	PUD, Planned Unit Development	P, Public/Institutional
				Surface Water <small>Shoreline Limits (R.G. 15-41) See Section 15 Shoreline Ordinance</small>
				ROW

Exhibit A
Zoning Map

Variance request description

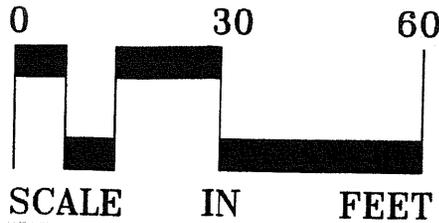
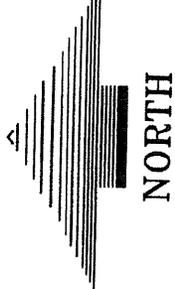


In 2005 we received a bluff and river setback variance to build our home on a lot that is bordered by the Mississippi river. Along our back and side yard ~~is a very steep hill~~ that leads down to a cliff which stands approximately 10 feet above the Mighty Miss. Should a child on a sled or on foot, slip or start down the hill, they would surely receive serious injuries and likely worse. With four children under the age of 5, this is of utmost concern to us. A sturdy fence is required to prevent children from such an event. It would seem to be logical that if a variance was reasonably granted to build our home, it would also be appropriate to grant such in order for us to build a fence.

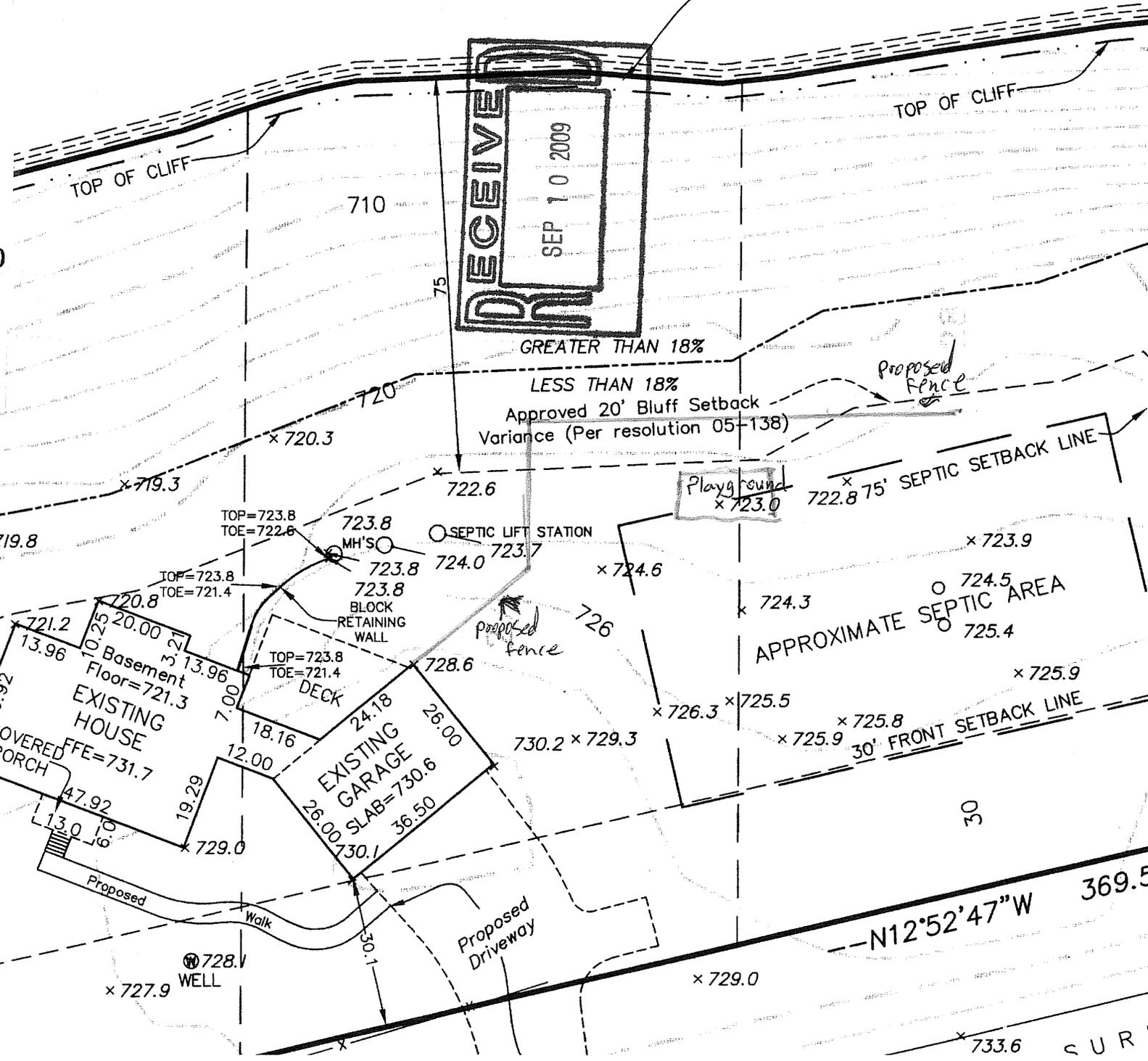
Most of our lot is heavily wooded, except the area that houses the septic drainage field to the south side of our home, which we use as our play area or 'back yard'. The current setbacks on our lot (100 foot river setback and 100 foot bluff setback) prevent us from building a fence in a logical location that would make a blockade between the play area and the bluffline. Our proposed fence is a black chain link fence runs from the garage and along the edge of our side yard lawn (and septic drain field) to the end of our yard that is bordered by thick forest and brush which would deter young kids from leaving the yard.

Our previous home in Burnsville had a 25 foot flat area in our back yard bordered with fairly steep hill (at least a 10% grade) that led into a holding pond. Our two older children, Helen and Ingrid (age 2 at the time) were playing in the back yard when Ingrid was pushing Helen in a 'cozy coupe'. (A foot-powered 'Flintstones-style' toy ride on car with wheels that can be pushed in any direction.) There is no way to steer the coupe from inside the car. As Ingrid was pushing, the coupe began to veer toward the hill and the next thing we knew, Helen was heading straight down the hill and into the holding pond - perfectly avoiding the bushes and trees that lined the pond. Thankfully the holding pond was only 10 inches deep and Helen was uninjured. I fear that such an incident at our current home on the Mississippi river will not end so happily. And with 2 more young children, it is all the more difficult to chase them in 4 different directions. I ask the council to approve this variance to help us ensure the safety of our children.

EXHIBIT B



S89°41'35"E 186 ±



RECEIVER
SEP 10 2009

GREATER THAN 18%
LESS THAN 18%
Approved 20' Bluff Setback
Variance (Per resolution 05-138)

75' SEPTIC SETBACK LINE

APPROXIMATE SEPTIC AREA

30' FRONT SETBACK LINE

N12°52'47"W

369.5

733.6 SUR

Jennifer Emmerich

From: Janell Miersch [Janell.Miersch@dnr.state.mn.us]
Sent: Wednesday, September 16, 2009 3:45 PM
To: Jennifer Emmerich
Cc: Rebecca Wooden
Subject: Request for variance - Case No 09-30V fence

Jennifer,

Thank you for sending notice for the variance request from Mike Pone to construct a fence along the Mississippi River bluffline. Although the DNR does not approve or disapprove variances, we appreciate the opportunity to review and provide comments.

Both Rebecca Wooden and I read the proposed variance and offer these comments: Since the style of the fence is dark chain-link, we don't see any problem with the variance. We would have comments if the fence were 10-feet high or painted white, or directly on the bluffline.

Janell

Janell Miersch
South Metro Area Hydrologist
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PLANNING REPORT

CITY OF INVER GROVE HEIGHTS

REPORT DATE: September 30, 2009

CASE NO.: 09-31C

HEARING DATE: October 6, 2009

APPLICANT & PROPERTY OWNER: Debra Wylie

REQUEST: A Conditional Use Permit to exceed the allowed maximum impervious coverage on a lot that does not meet the minimum lot size requirements in the R-1C, Single Family Residential District

LOCATION: 7036 Dawn Court

COMPREHENSIVE PLAN: LDR, Low Density Residential

ZONING: R-1C, Single family residential

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY:  Heather Botten
Associate Planner

BACKGROUND

The property owner would like to construct a pool in her rear yard, adding about 610 square feet of impervious surface. The total impervious surface on the lot would be about 39.6%. The proposed request is for a lot 10,777 square feet in size, about 10% smaller than what our Zoning Code requires today for minimum lot size in the R-1C district.

The City Code currently allows a maximum impervious surface of 25% on each lot. For lots that do not meet the minimum lot size requirement a Conditional Use Permit may be obtained to exceed the allowed maximum impervious surface amount.

	Square Feet	Percentage
Lot Size	10,777	-
Existing Impervious Coverage (House, driveway, patio, deck)	3,663	34%
Proposed additional impervious coverage	610	5.6%
Total impervious coverage requested	4,273	39.6%

SPECIFIC REQUEST

To install the pool as proposed the applicant is requesting a Conditional Use Permit to exceed the allowed maximum impervious coverage on a lot that does not meet the minimum lot size requirement in the R-1C, Single Family Residential District.

SURROUNDING USES: The subject site is surrounded by the following uses:

Single Family Residential; zoned R-1C, Single family; guided LDR,
Low Density Residential

EVALUATION OF REQUEST:

GENERAL CUP CRITERIA

Section 10-3A-5 of the Zoning Regulations lists criteria to be considered with all conditional use permit requests. This criterion generally relates to the Comprehensive Plan and Zoning consistency, land use impacts such as setbacks, drainage, and aesthetics, environmental impacts, and public health and safety impacts.

The proposed conditional use permit meets the above criteria. As shown in Exhibit A, the surrounding properties are all zoned single-family residential. Aesthetically the lot currently has a fence along the property line, screening the pool from abutting properties. Additionally, all setbacks will be met and the applicant has agreed to comply with the storm water treatment conditions, which help maintain the drainage and storm water runoff on the applicant's property.

IMPERVIOUS SURFACE CUP CRITERIA

For lots that do not meet the minimum lot size requirement a Conditional Use Permit may be obtained to exceed the allowed maximum impervious surface, if the following criteria are met:

- a) A Storm Water Management System shall be constructed within the property that meets the Best Management Practices design criteria as set forth in the Northwest Area Ordinances and Storm Water Manual.
- b) The Storm Water Management System and Grading Plan (including necessary details for construction, showing proper location, material, size, and grades) shall be approved by the Engineering Division prior to ground disturbance or installation of the facility.
- c) The Storm Water Management System is considered a private system and the responsibility of maintenance is that of the owner.
- d) A storm water facilities maintenance agreement shall be entered into between the applicant and City to address responsibilities and maintenance of the storm water system.
- e) An escrow or fee, to be determined by the City Engineer, shall be submitted to the City with the Storm Water Management System submittal. The final amount and submittal process shall be determined by the City by the time the Owners are ready to submit the Storm Water Management System and Grading Plan.
- f) The soils shall be tested to determine the infiltration capacity to insure the storm water maintenance facility performs and functions within the assumed design parameters.

The applicant has been made aware of the above conditions and the City's standard conditions for treating impervious surface. It is the City's understanding the property owner is working to meet the CUP requirements.

Grading and Drainage. The Engineering Department has reviewed the request. If the impervious surface conditional use permit is approved it is recommend that at a minimum, the applicant shall provide a storm water management system to mitigate any new impervious surface, enter into a stormwater facilities maintenance agreement, and submit necessary Engineering escrows. The Engineering Department would prefer that the owner attempt to mitigate the pool and hard surface being added to the maximum extent possible by removing existing hard surfaces in order to avoid adding additional impervious surface above the existing 34% coverage.

ALTERNATIVES

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

A. Approval If the Planning Commission finds the Conditional Use Permit to exceed the impervious coverage standards 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 site plan date stamped September 8, 2009 on file with the Planning Department or as modified herein.
2. The applicant/homeowner shall provide a storm water management system to mitigate the increased storm water runoff from the new impervious surface added to the property.
3. The impervious surface calculations have been provided; the owner shall provide a storm water management system to mitigate at least 610 square feet of direct run-off from impervious surface.
4. Any future impervious space additions for the respective lot will need to meet the requirements of the impervious space requirement at that time.
5. The temporary erosion control and permanent storm water management plan should capture and route storm water runoff in a manner that does not adversely impact the adjoining or downstream properties.
6. A Storm Water Management System shall be constructed within the property that meets the Best Management Practices design criteria as set forth in the Northwest Area Ordinances and Storm Water Manual.
7. The Storm Water Management System and Grading Plan (including necessary details for construction, showing proper location, material, size, and grades) shall be approved by the Engineering Division prior to ground disturbance or installation of the facility.
8. The Storm Water Management System is considered a private system and the responsibility of maintenance is that of the owner.

9. Prior to issuance of a building permit, a storm water facilities maintenance agreement shall be entered into between the applicant and City to address responsibilities and maintenance of the storm water system.
10. Prior to issuance of a building permit, an Inspection Escrow in the amount of \$610 (or 1\$ per square foot of impervious space to be treated, whichever is greater) and a Construction Escrow of \$2440 (or \$4 per square foot of impervious space to be treated, whichever is greater) shall be submitted to the City with the Storm Water Management System submittal. The final amount and submittal process shall be determined by the City by the time the Owners are ready to submit the Storm Water Management System and Grading Plan. The City Engineer reserves the right to have both a cash escrow for expenses, fees, inspections and maintenance requirements and an additional construction escrow assuring the storm water facility is constructed properly.
11. At the discretion of the City Engineer, the Construction Escrow may be replaced by a condition that: the storm water maintenance facility is to be constructed, and approved by the City Engineer, prior to the Building and Inspections Division performing the final inspection and allowing use of the newly built structure.
12. The soils shall be tested to determine the infiltration capacity to insure the storm water maintenance facility performs and functions within the assumed design parameters.
13. Prior to release of the remainder of the Inspection Escrow and Construction Escrow, the storm water facility needs to be constructed in its entirety, vegetation planted, and approved by the Engineering Division.
14. All existing easements shall be shown on the building permit submittal to ensure that the proposed structures are not encroaching in an easement area dedicated to the City. If there is encroachment, it will be the sole discretion of the City Engineer to either accept or deny the proposed encroachment. If allowed, an encroachment agreement would need to be executed prior to issuance of building permit.

B. Denial If the Planning Commission does not favor the proposed Conditional Use Permit, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of the conditional use permit request.

Attachments: Exhibit A - Location/Zoning Map
Exhibit B - Applicant Narrative
Exhibit C - Site Plan



Wylie - Case No. 09-31C
7036 Dawn Ct.

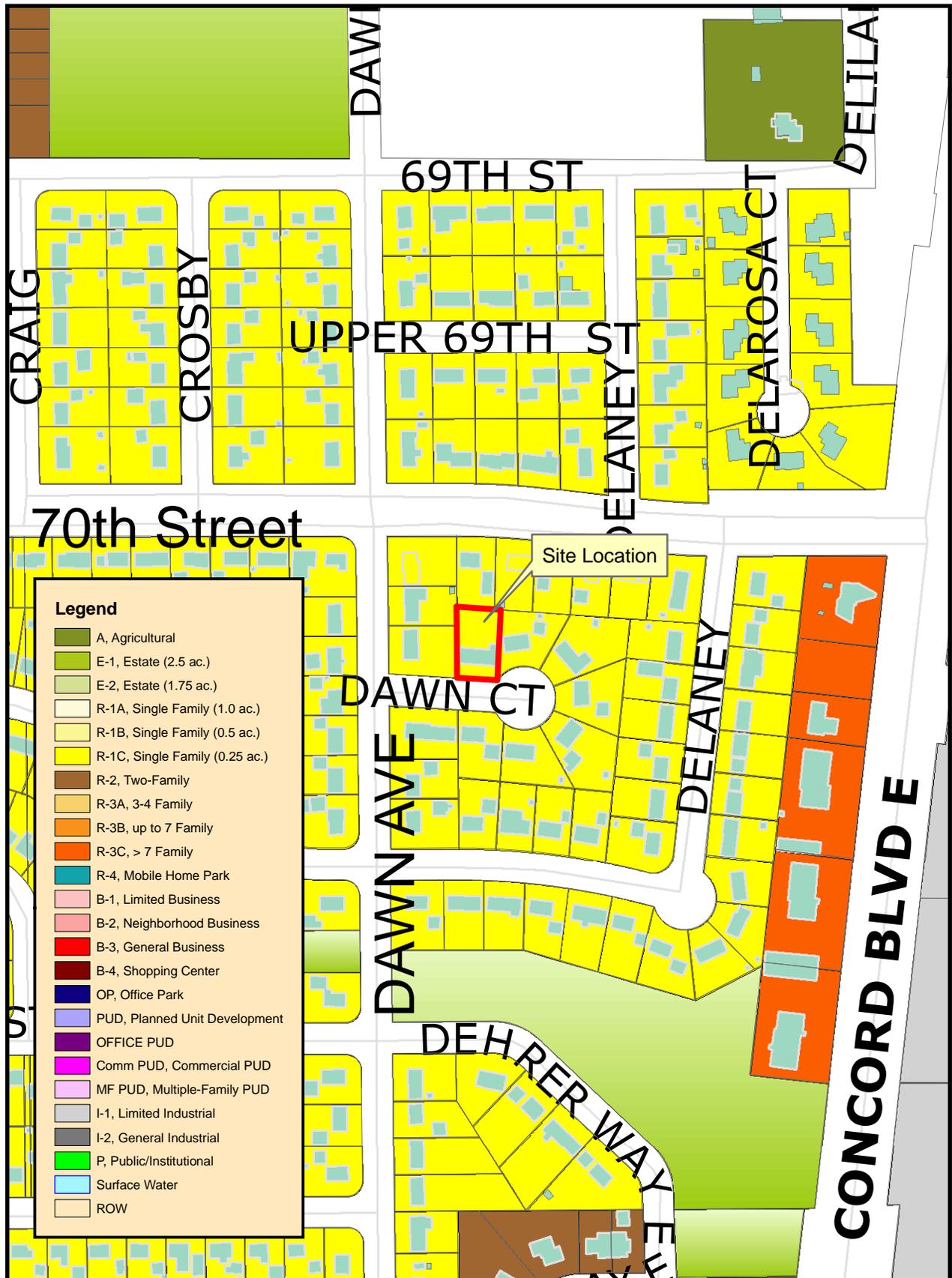


Exhibit A
Zoning Map

Written Request for Conditional Use Permit

September 8, 2009

I, Debbie Wylie currently own a property located at 7036 Dawn Court in Inver Grove Heights, MN with my mother. We are requesting for the approval of a Conditional Use Permit so that we could install an in-ground pool in our backyard. To my understanding we currently have a lot size of 10,776sq'. My current impervious coverage amount is at 33% which I realize is over the allowable 25%. I am looking at adding approximately 610sq' of impervious coverage which would put us at a total of 38% of impervious coverage for my current lot.

We hope that you can come to a discussion to approve this permit for our new pool so that we may get started on our new adventure.

Sincerely,
Debbie Wylie

Exhibit 'B'

**PLANNING REPORT
CITY OF INVER GROVE HEIGHTS**

REPORT DATE: September 30, 2009 **CASE NO.:** 09-32ZA

APPLICANT: City of Inver Grove Heights

PROPERTY OWNER: State of Minnesota (Tax Forfeit)

REQUEST: Rezoning from I-1, Limited Industry to P, Institutional, a Comprehensive Plan Amendment from Mixed Use to Public Park/Open Space.

LOCATION: Along 66th Street, east of Concord Boulevard adjacent to Rock Island Swing Bridge

HEARING DATE: October 6, 2009

COMPREHENSIVE PLAN: Mixed Use

ZONING: I-1, Limited Industry

REVIEWING DIVISIONS: Planning
Park and Recreation **PREPARED BY:** Allan Hunting
City Planner

BACKGROUND

The City Council directed the Planning Commission to hold a public hearing regarding a comprehensive plan change and rezoning of two tax forfeit parcels abutting the Rock Island Swing Bridge. The City is in the process of acquiring the tax forfeit parcels from the State for future development of park land that would be part of an overall city park including the redevelopment of the piers of the old Rock Island Swing Bridge. The Parks Department is currently studying possible uses for the property.

The property is currently zoned I-1, Limited Industry and guided Mixed Use. The use of the property as a city park would require a change to both the Comprehensive Guide Plan Land Use Map and zoning to a public park/open space category so the use of the property would be consistent with the comprehensive guiding and zoning of the property.

SPECIFIC REQUEST

The specific requests for this project consist of the following:

1. A Comprehensive Plan Amendment to change the land use designation of the property from Mixed Use to Public Park/Open Space.
2. Rezoning of the property from I-1, Limited Industry to P, Institutional District.

SURROUNDING USES

The subject property is surrounded by:

North	Marinas, industrial development; Zoned I-1, Limited Industry; guided Mixed Use, Public Park/Open Space.
East	Mississippi River.
West	Marina, industrial uses, bar; Zoned I-1; guided Mixed Use, Public Park/Open Space.
South	Vacant, residential; Zoned A, Agriculture, R-1C, Single Family Residential; guided Low Density Residential, Private Open Space.

EVALUATION OF REQUEST

Comprehensive Plan Amendment

At a previous meeting, the Planning Commission recommended to the City Council to purchase this property for park purposes with the condition that the Council direct the Planning Commission to hold a public hearing for a comprehensive plan amendment to address the land use designation of the property compared to its future use as park.

The subject property is located in the Concord Boulevard neighborhood. The plan identifies this area as;

“Another area of mixed use is the Concord Boulevard corridor (generally north of 70th Street.). The idea for mixed use along the Concord Boulevard Corridor is to encourage or facilitate redevelopment and reinvestment along the corridor in a way that helps traffic flow by controlling access, encourages an attractive street frontage as a gateway corridor to the City and allows feasibility on the use of lands along the corridor as business or residential uses. This pattern of use currently exists along the corridor. A redevelopment plan was prepared by the Concord Boulevard area, which was adopted by the City in 1998.”

One of the guiding principles listed in the 2030 Comprehensive Plan identifies the need to provide pedestrian connectivity to area amenities and attractions such as Heritage Park and the Mississippi River.

The Implementation chapter of the 2030 Comprehensive Plan identifies the need to update the 1998 plan for the Concord Corridor to reflect the County’s improvements to Concord Boulevard and to study the mixed use concept for the area.

The Parks and Recreation chapter has a discussion on Historic and Cultural Resources which addresses specifically the Rock Island Swing Bridge, which is called Bridge 5600 in the plan. The following is an excerpt from the plan;

“The City has a rich history as a river community and the City’s residents long for a physical and historical connection to its river history. The City has been acquiring land for the development of Heritage Village Park, a community park on the Mississippi River. The continued acquisition and development of the park, including the restoration of the Bridge 5600, will have the potential to satisfy much of the community’s desire for a connection with its past.”

The parks chapter shows the City’s commitment to redevelop the bridge and provide a community wide park in this area of the city and along the river. The change of land use designation to a public park/open space category would be consistent with these goals. This land could be used as an expanded park area at the entrance of the bridge providing an opportunity to create additional amenities associated with the bridge for the residents.

The parcels have limited development potential due to the multiple overlay districts that exist along the river. The southern parcel is located within the floodway of the Flood Zone District which does not allow for any substantial type structures. This would preclude this parcel from being able to develop as a commercial or residential use. Much of the land adjacent to the river is also very marshy and may contain wetlands. Changing the land use designation to park/open space would help preserve the natural features and wetlands.

Rezoning

In order to be consistent with the proposed zoning, the property should be rezoned to P, Public/Institutional. The purpose of the district is to “provide for areas that are appropriate for public and semipublic uses.”

The City Code, Title 10-3-5 states that a rezoning request must be “in the best interest of the physical development of the City” in order to be approved. This suggests that the request should be reviewed against such factors as infrastructure availability; compatibility with existing land uses in the neighborhood; and consistency with the Comprehensive Plan.

Infrastructure Utilities are available in this part of the city, however limited need is foreseen. No further road or other improvements would be required.

Neighborhood Compatibility This criterion is meant to focus thought on whether the proposed use would be compatible within the existing and planned neighborhood. As noted earlier, the City has been acquiring land for Heritage Village Park, which is just to the west and north of these parcels and the City is also in the process of acquiring the bridge to use as a scenic overlook park amenity. The ability to expand park area around the bridge would be consistent with the City’s vision of having more park area by the river.

Rezoning All rezoning requests must be reviewed against the City’s Comprehensive Plan. Review against the various components of the Comprehensive Plan follows.

- Wastewater Treatment The proposed use would not generate any additional wastewater.
- Transportation The site is located on 66th Street, just east of Concord Boulevard. No additional roads would be needed. It would be anticipated that some type of parking lot improvements would be required with park development.
- Park Facilities The goal would be to provide additional park facilities that are tied to the bridge and Mississippi River.
- Employment Because of the limited development potential of this land, a change of land use designation would not have a negative impact on employment generation in the area.
- Natural Resources The site being developed as park would more opportunity to save the natural resources such as wetlands and trees on the site.
- Land Use The proposed zoning would be consistent with the proposed change of land use designation.

ALTERNATIVES

The Planning Commission has the following alternatives available for the proposed request:

A. Approval If the Planning Commission finds the application acceptable, the Commission should recommend approval of the Comprehensive Plan Amendment from Mixed Use to Public Park/Open Space and rezoning from I-1, Limited Industry to P, Institutional District.

B. Denial If the Planning Commission finds that the comprehensive plan amendment and rezoning are not in the best interest of the physical development of the City, a recommendation of denial should be forwarded to the City Council. With a recommendation of denial, findings or the basis for the denial should be given.

RECOMMENDATION

Staff is recommending approval of the proposed comprehensive plan amendment and rezoning.

Attachments: Exhibit A – Location and Zoning Map
Exhibit B – Aerial Photo
Exhibit B – 2030 Future Land Use Map

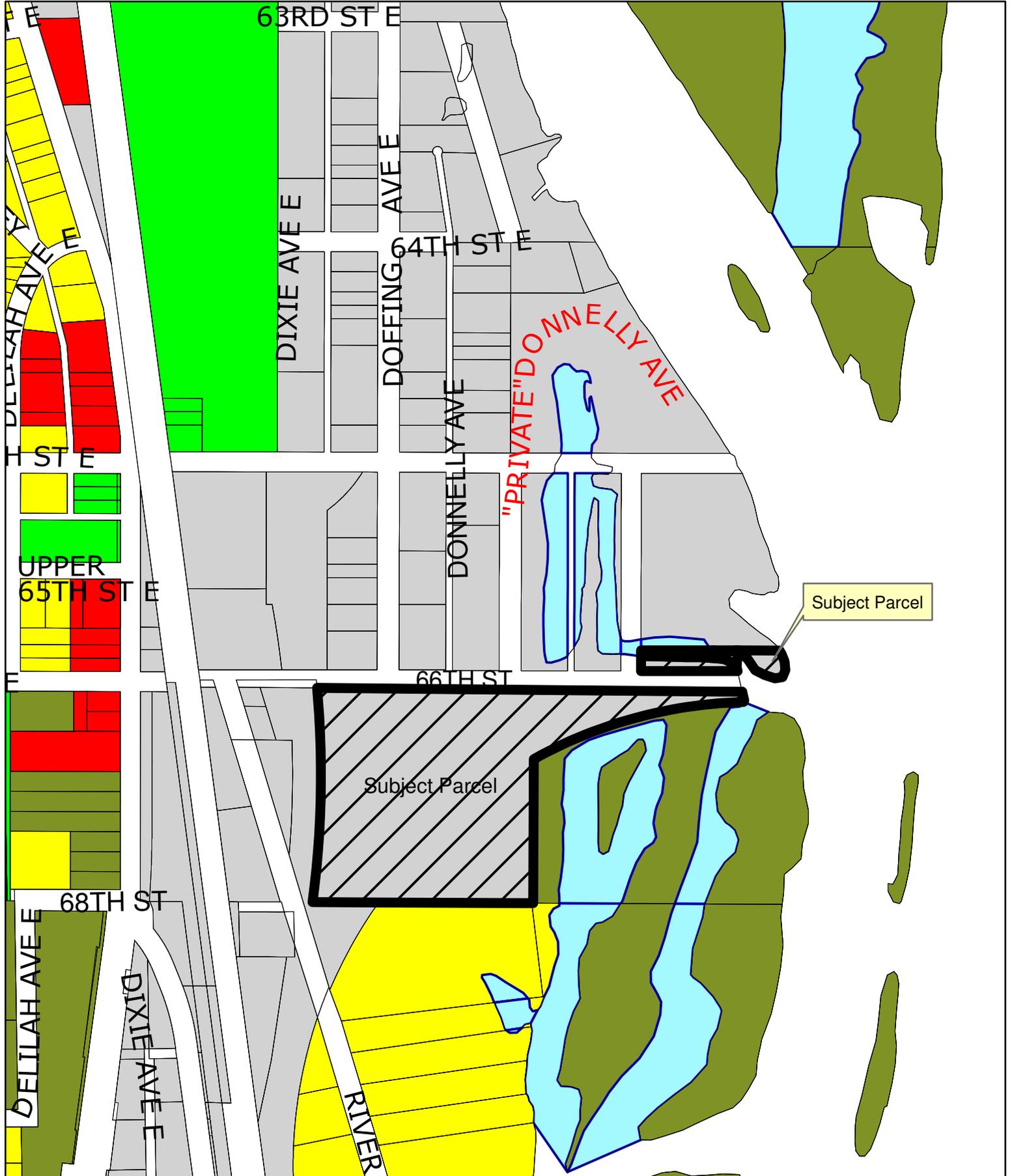


Location/Zoning Map

Case No. 09-32ZA



NOT TO SCALE





Aerial Photo Case No. 09-32ZA



NOT TO SCALE



63RD ST E

DIXIE AVE E

DOFFING AVE E

64TH ST E

DONNELLY AVE

"PRIVATE" DONNELLY AVE

H ST E

UPPER
55TH ST E

66TH ST

Subject Parcel

Subject Parcel

68TH ST

DELLAH AVE E

DIXIE AVE E

WILSON AVE E



2030 Land Use Plan Case No. 09-32ZA



Legend

Proposed 2030 Land Use parcels_051208.PPLU_HKGi	Low-Medium Density Residential	Community Commercial	Industrial Office Park	Public / Institutional	Open Water / Wetlands
Medium Density Residential	Regional Commercial	Light Industrial	Public Park / Open Space	Private Open Space	
Rural Density Residential	High Density Residential	Mixed Use	General Industrial	Private Open Space	
Low Density Residential	Neighborhood Commercial	Office	Industrial Open Space	Rail Road	

