

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

Wednesday, November 4, 2009 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue

1. **CALL TO ORDER**

2. **APPROVAL OF PLANNING COMMISSION MINUTES FOR October 20, 2009**

3. **APPLICANT REQUESTS AND PUBLIC HEARINGS**
 - 3.01 **JOYCE JOHNSON – CASE NO. 09-35CV**
Consider a **Conditional Use Permit** to increase the size of a nonconforming structure by 14% of the original size. This request is for the property located at 7432 Cloman Way.

- Planning Commission Action _____

4. **OTHER BUSINESS**

5. **ADJOURN**

PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, October 20, 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
Tony Scales
Mike Schaeffer
Dennis Wippermann
Pat Simon
Harold Gooch

Commissioners Absent: Damon Roth (excused)

Others Present: Tom Link, Community Development Director
Allan Hunting, City Planner
Heather Botten, Associate Planner
Eric Carlson, Parks and Recreation Director

APPROVAL OF MINUTES

The minutes from the October 6, 2009 meeting were approved as submitted.

CITY OF INVER GROVE HEIGHTS – CASE NO. 09-34PA

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a comprehensive plan amendment relating to the proposed trails along Barnes Avenue, Ann Marie Trail East, Annalisa Path, and Courthouse Boulevard Court as shown on the Parks, Trails, and Open Space Plan in the Parks and Recreation chapter of the 2030 Comprehensive Plan. 15 notices were mailed.

Opening of Public Hearing

Heather Botten, Associate Planner, explained the request as detailed in the report. She presented the history of the request and advised that Eric Carlson would be presenting the proposed changes. Ms. Botten stated there were nine proposed amendments to the Parks, Trails, and Open Space Plan in the Parks and Recreation chapter of the 2030 Comprehensive Plan. These amendments can be broken down into two parts: 1) those segments of trails where the status of the trail has changed since the start of the Comprehensive Plan update, and 2) those segments of trail that have been brought to the Park and Recreation Commission's and City Council's attention for possible removal from the plan. Ms. Botten advised that the comprehensive plan looks to the future of Inver Grove Heights. Staff has not found any compelling reasons to remove any of the proposed trail segments in the southern portion of the City and therefore is recommending approval of map changes 1-5 as listed in the report, and the denial of the removal of the four listed trails (Barnes Avenue, Ann Marie Trail, Annalisa Path, and Courthouse Blvd Ct.) from the Parks, Trails, and Open Space Plan. She advised that the Park and Recreation Commission recommends keeping the proposed Barnes Avenue trail on the plan and removing the proposed trails along Courthouse Blvd. Ct., Ann Marie Trail, and Annalisa Path. Ms. Botten advised that staff received one phone call from a resident who was in favor of the Barnes Avenue trail.

Eric Carlson, Director of Parks and Recreation, discussed the trail segments that have changed since the 2030 Comprehensive Plan process started, including trails that should now be shown as 'constructed' or 'removed', as well as the addition of a North/South Regional Trail Search Corridor rather than the identification of a specific trail route. Mr. Carlson stated he would like to add a future trail connection to the map which is located along 66th Street between Concord Boulevard and the Rock Island Swing Bridge. Mr. Carlson advised that the Park and Recreation Commission originally reviewed the request and made a recommendation to the City Council that the proposed Barnes Avenue, Ann Marie Trail, Annalisa Path, and Courthouse Blvd. Ct. trails be removed from the map. City Council then reviewed the request, where it was determined that because there was a change to the map it first needed to go through the public hearing process. Because of this, the request then went back before the Park and Recreation Commission again. As a result of this second meeting, the Park and Recreation Commission is now recommending the removal of the trails along Courthouse Blvd. Ct, Ann Marie Trail, and Annalisa Path, but that the proposed trail along Barnes Avenue remain with the stipulation that it be connected to the roadway in a manner that is the least intrusive to the affected property owners as possible. Mr. Carlson said part of the Commission's thinking was that a paved shoulder could be added along Barnes Avenue at such time as the County reconstructed the roadway and that the City was lacking a north/south trail in the southern portion of the City.

Commissioner Wippermann asked if the motion to have Barnes Avenue remain on the map was a unanimous decision, to which Mr. Carlson replied that he believed it was a 6/0 vote with three commissioners missing.

At Commissioner Gooch's request, Mr. Carlson explained the route of the Mississippi River Regional Trail through Inver Grove Heights, stating it was his understanding that they were not able to get a trail closer to the river as they could not obtain acceptance from land owners in the area.

Commissioner Gooch stated it was a shame that the Inver Grove Heights segment was basically located on city streets whereas neighboring communities were able to provide a picturesque trail along the river. He asked if the trail would eventually run down to Hastings where it could connect up with the Cannon River Trail, to which Mr. Carlson replied in the affirmative.

Commissioner Simon asked if the Park and Recreation Commission was proposing to add a curb between the road and the proposed trail along Barnes Avenue for safety reasons.

Mr. Carlson stated he believed the Park and Recreation Commission's intentions were that they recognized the need for a trail along Barnes Avenue as a means of providing safety for pedestrian traffic, and they encouraged the City Council to look at ways of providing a safer environment in as least an intrusive manner as possible.

Commissioner Simon asked if the next improvement of Barnes Avenue would be a complete reconstruct or just a mill and overlay, to which Mr. Carlson replied it was unknown as at this point in time it was not included in the five year CIP.

Commissioner Simon stated she supported a trail along Barnes Avenue and felt it should be constructed in conjunction with the next scheduled road improvement.

Commissioner Wippermann asked if the Park and Recreation Commission discussed the possibility of running the trail from Courthouse Blvd. Ct., along Highway 55 to Highway 3, to which Mr. Carlson replied they had not.

Commissioner Wippermann asked if that was a possible alternate trail route, stating he was concerned about the removal of Courthouse Blvd. Ct since there was a safety issue and monies were available from the developer on the north side of the street.

Mr. Carlson stated that whether or not a trail was built in the Annalisa Path/Ann Marie Trail neighborhood, he felt there was still value in a trail along Courthouse Blvd. Ct.

Commissioner Hark asked what the arguments were for removing the proposed trail on Courthouse Blvd. Ct.

Mr. Carlson replied that the property owners in that neighborhood did not see a value in it and were perhaps concerned about how a trail would affect their front yards. City Council therefore ordered a feasibility study to look at three options for trail construction. After Council reviewed the potential costs, the only option they were interested in was a paved shoulder which was the least expensive.

Commissioner Hark asked if the proposed trail along Courthouse Blvd. Ct. would be something similar to the one south on Courthouse, to which Mr. Carlson replied in the affirmative.

Commissioner Hark stated the Courthouse Blvd. Ct/Annalisa Path/Ann Marie Trail neighborhood was basically landlocked in terms of pedestrian traffic as it was unsafe to travel on Courthouse Blvd. Ct. and would likely be even more dangerous once the commercial development was in place. He asked if any of the Park and Recreation Commissioners were in favor of the trail.

Mr. Carlson replied there were minority members in favor of the Courthouse trail but it was not made as part of a motion at the last meeting because they did not think there would be enough votes to pass.

Commissioner Hark stated the Courthouse trail was promised to that neighborhood. He asked for details regarding United Properties' financial obligation for the trail.

Mr. Hunting replied that the development contract states the City will look at the trail segment once 200,000 square feet of the development has been leased. At that point the Council would decide whether to construct the trail or not. If Council chose not to build the trail the developer would be released from their responsibility.

Commissioner Hark asked if this process could be reinitiated in another five years if the Courthouse trail were removed from the 2030 Comprehensive Plan at this time.

Mr. Hunting replied it was his understanding that if Council decided to remove the Courthouse Blvd. Ct. trail from the comprehensive plan at this point, United Properties' financial obligation would be eliminated.

Commissioner Hark agreed with Mr. Carlson that a trail on Courthouse had value whether or not the Ann Marie Trail section was constructed. He stated the reason there was currently no pedestrian traffic on Courthouse was that it was too dangerous.

Commissioner Wippermann noted there were survey stakes along Courthouse Blvd. Ct, and asked if they represented the borders of the proposed trail.

Mr. Carlson replied in the affirmative, stating the stakes were put in so that property owners along that road could better understand where the edge of the trail and the new ditch would be located.

Commissioner Wippermann stated it did not appear as if any major trees were affected, to which

Mr. Carlson replied he would agree with that statement.

Commissioner Hark stated the stakes ran down Courthouse all the way into the cul-de-sac, and asked where the trail would end.

Mr. Carlson replied that the costs represented in the feasibility report were for construction of a trail down to the cul-de-sac, however, it was his understanding that the trail would end at Annalisa Path.

Commissioner Hark stated that ending the trail at Annalisa Path should likely reduce the cost.

Lee Lindberg, 8965 Alfa Lane, stated the developer's agreement says the City may install a pedestrian biking trail along the south side of Courthouse Blvd. Ct. within one year of the issuance of certificates of occupancy for the first 200,000 square feet of development of the plat. At that point they may assess the developer up to \$175,000 which would be paid in 15 one-year installments. Mr. Lindberg questioned how much of that money would be left to go towards the cost of the trail assuming the City footed the bill for the trail up front. He questioned how the City had money available to build trails when funding was always seemed to be an issue. Mr. Lindberg stated he had seen no evidence of anyone in the neighborhood who wanted the trails in question, he saw very few people using the existing trails in the southern part of the City, and stated the topography along Ann Marie Trail and Annalisa Path was not conducive to a safe trail, and stated he supported looking into a trail alignment along Highway 55. He advised that Courthouse was widened to the east side of Barnes Avenue where the posted speed limit is 50 MPH; he felt it was dangerous to have vehicles traveling that fast next to pedestrian traffic.

Tim Sweeney, 9223 Barnes Avenue, questioned the process, stating he spoke in front of the Park and Recreation Commission, then the City Council, then there was another meeting with the Park and Recreation Commission that he was not aware of, at which time they modified their vote, and now the Planning Commission is discussing it.

Chair Bartholomew advised that ultimately the request would go back before the City Council.

Mr. Sweeney stated that while there was value in parks and trails he was concerned about the projected cost, questioned why so much time was being spent on proposed trails that might never be constructed, was concerned about losing a good portion of his wooded area if the trail was constructed on Barnes, had safety concerns with putting a trail on Barnes due to the heavy traffic and high speeds, stated there were safer routes for getting to the southern part of the city, and questioned whether families would use the trail system to get to Rich Valley Park as the baseball and soccer complex were closed to the general public.

Gretchen Koestler, 10081 Barnes Avenue, stated she was opposed to the proposed Barnes Avenue trail. She advised that she had already attended several city meetings regarding the proposed trail system and would have attended the Park and Recreation Commission meeting this past Wednesday if she had been aware of it. She stated Barnes was dangerous as people drove faster than the posted 55 mph, it was unlikely bikers would use a trail since they typically preferred to ride on the road, the existing trails at the park were rarely used, and it was unlikely people would walk to the park, especially since there was little for children to do at the park except a play area for small children who would likely be driven there. Ms. Koestler questioned why only 15 people were made aware of tonight's meeting since the last Council meeting was packed with citizens.

Mike Knapp, 8700 Ann Marie Trail, stated he was disappointed that neighbors were not made aware that the trails were being discussed at the last Park and Recreation Commission meeting and was disappointed they had modified their recommendation to no longer remove the proposed

trail from Barnes Avenue, stated a trail would ruin the aesthetic value of his property and lower his property value, the topography was too steep for a trail, he questioned why the city would add sidewalks when they are repeatedly denying variances for increased impervious surface, and recommended that all the proposed trails being discussed tonight be removed from the comprehensive plan.

Trudy Weise, 10195 Barnes Way, questioned how a decision was made at the last Council meeting, but then the issue was sent back to the Park and Recreation Commission with no notice to the neighbors.

Chair Bartholomew stated that Council did not make a decision at that meeting, but rather sent it back to the Planning Commission for a public hearing.

Ms. Weise asked staff to clarify the notification process.

Ms. Botten stated the public hearing notice was published in the newspaper, however, the City is not required to personally notify neighbors of a comprehensive plan amendment. She added that as a courtesy, however, they notified everyone that testified at the City Council and Park and Recreation Commission meetings where the Park and Trail Plans were discussed.

Ms. Weise stated that Barnes had difficult topography and was not a good route to get to the southern part of the city, if the intention was to provide a route to the athletic facility it had nothing to offer the public except a playground for small children and a tennis court, she was concerned about potential park vandalism, and it was unlikely that children would haul their baseball and soccer equipment to the park on a bike.

Chair Bartholomew asked if the City Council had recommended at their last meeting that the Barnes Avenue, Annalisa Path, and Ann Marie Trail be removed from the comprehensive plan.

Tom Link, Director of Community Development, advised that the City Council did not have statutory authority that evening to remove any trails from the comprehensive plan, however, they were considering removing the trails mentioned by Chair Bartholomew as well as Courthouse Boulevard.

Chair Bartholomew asked how the issue got brought back to the Park and Recreation Commission.

Mr. Link replied that City Council often asks for the advice of the Park and Recreation Commission if it is a park or trail related issue.

Chair Bartholomew noted there was nothing in the Council minutes that indicated it was going back to the Park and Recreation Commission, and he reminded the public that the Park and Recreation and Planning Commissions were advisory commissions only and that only City Council had the authority to make the final decision.

Mr. Knapp stated he went to City Hall to review the proposed amendment and it was his understanding that the removal of the proposed trails would be considered at this public hearing. He questioned why he had to go to City Hall to read the amendment rather than it being sent to his home.

Chair Bartholomew stated the Planning Commission would make a recommendation to City Council regarding the proposed amendment.

Ms. Koestler stated it was a disservice that more neighbors were not notified of this public hearing as the number of people that would likely have attended may have affected the Planning

Commission's recommendation.

Chair Bartholomew advised that Councilmembers would read the minutes of this meeting and would be aware of tonight's testimony.

Commissioner Simon advised Ms. Koestler that the Planning Commission was provided with six pages of testimony from the previous Council meeting regarding the Park and Trail plan and were aware of the concerns that were raised.

Ms. Koestler advised that only 13 people actually spoke, however, the room was filled with concerned citizens.

Mr. Sweeney asked for details of the location of the proposed trails in the southern part of the city.

Mr. Carlson showed Mr. Sweeney the proposed trail plan.

Mr. Sweeney asked how often the comprehensive plan was addressed, to which Chair Bartholomew replied every ten years.

Mr. Sweeney asked if the proposed Barnes Avenue trail was on the last comprehensive plan, to which Chair Bartholomew replied that he believed it was and he advised that the lines shown on the plan were only approximate trail locations.

Mr. Sweeney stated the process had been confusing and he questioned whether attending these meetings were a waste of the public's time.

Chair Bartholomew assured Mr. Sweeney that his testimony was important.

Mr. Lindberg questioned why the Park and Recreation Commission changed their recommendation regarding the proposed Barnes Avenue trail. He stated he knew of no one on Courthouse Blvd. Ct. that wanted the trail.

Planning Commission Discussion

Chair Bartholomew asked for clarification regarding the proposed trail along 66th Street, to which Mr. Carlson explained that staff would like to add a proposed trail along 66th Street between Concord Blvd. (Mississippi River Regional Trail) and the Rock Island Swing Bridge to act as a pedestrian connection between the two.

Commissioner Gooch asked if a trail could be simply a widened shoulder, to which Mr. Carlson replied in the affirmative.

Commissioner Koch explained to the public that a motion was made at the last City Council meeting to remove all trails that do not currently exist from the comprehensive trail plan and to look at future trails on a case by case basis. That motion failed. After further discussion it was determined that a public hearing with the Planning Commission was required to make any changes to the Park and Trail plans. At that point a motion was made to support the Park and Recreation Commission's recommendation and to direct the Planning Commission to hold a public hearing to consider the changes to the comprehensive plan. That motion passed. Commissioner Koch recommended that the Commission vote on the four trails individually and stated she was opposed to adding any of the proposed future trails. She stated that generally once something was put on record, such as the comprehensive plan, it remained there forever. She stated she would prefer they discussed the trails at such time as they were ready to build them and she noted that the city was obligated to review the comprehensive plan again in ten years.

Chair Bartholomew stated the four proposed trails were currently shown on the comprehensive plan as possible future trails and the discussion tonight was whether or not to remove them. He stated he had safety concerns regarding a trail along Barnes Avenue and he felt it was unwise at this point to keep it on the comprehensive plan. He stated he felt the topography on Ann Marie Trail was too steep for a trail, and was hesitant to construct a sidewalk across the front yards on Annalisa. He stated he had mixed feelings regarding the Courthouse Blvd. Ct. trail but felt it would be wise to have something separating the pedestrians from the traffic along that road.

Commissioner Hark asked Mr. Sweeney, Mrs. Koestler, Mr. Lindberg, and Mr. Knapp if they advocated removal of all the trails or just the ones in front of their house.

Mr. Sweeney replied he was only advocating the removal of the trail that would be in front of his home on Barnes Avenue.

Ms. Koestler replied she was specifically here for the removal of Barnes Avenue, but supported the removal of the other trails as well if the people living there did not want it.

Mr. Knapp replied he would like Barnes Avenue, Ann Marie Trail and Annalisa Path removed, and he was indifferent to Courthouse.

Mr. Sweeney restated his previous statement, adding that he was indifferent to Courthouse Blvd. Ct., but felt that Annalisa Path and Ann Marie Trail should be removed as well due to the topography and the fact that running that trail to Highway 3 would make it basically a trail to nowhere.

Mr. Lindberg replied that a trail on Barnes Avenue would be unsafe, a trail on Ann Marie Trail and Annalisa Path did not seem to make sense, and therefore a trail on Courthouse Blvd. Ct. would then lead to nowhere so he saw no reason for that trail either.

Chair Bartholomew stated a trail on Courthouse Blvd. Ct. would give the neighborhood a means of getting to Barnes Avenue.

Mr. Lindberg stated that if the trail was built on Courthouse it would be on the south side of the road which would require that anyone wanting to go north would still have to cross Courthouse Blvd. Ct.

Commissioner Gooch stated he was an avid bicycle rider and Barnes Avenue was a fairly well traveled bike route. He stated the road should have either a wider shoulder or a bike trail. He stated that Inver Grove Heights had much narrower shoulders than its surrounding cities and he would support keeping the proposed trails on Courthouse Blvd. Ct. and Barnes Avenue in the hopes that perhaps it would encourage the County to seriously consider widening the shoulder or providing bike trails on the two roads.

Mr. Sweeney asked if Commissioner Gooch had considered taking an alternate route, to which Commissioner Gooch replied there was no other way south.

Mr. Sweeney stated there were alternate routes he could take; he apparently just preferred to use Barnes Avenue.

Commissioner Wippermann stated he supported removing the proposed Ann Marie and Annalisa trails as they were strictly residential streets, however, since Barnes was a collector street and it was unsafe for pedestrians he was in favor of leaving it in the comprehensive plan. He also

supported leaving the proposed Courthouse Blvd. Ct. trail in the plan as it would provide safety for the neighborhood, especially from future traffic from the commercial development. He stated it was important to keep these trails in the plan so that future property owners would know what was being considered for that area.

Commissioner Hark stated he supported a trail on Courthouse Blvd. Ct. for safety reasons, he felt the topography was too steep for a bike trail on Ann Marie Trail and Annalisa Path, and he was undecided on the proposed Barnes Avenue trail.

Chair Bartholomew asked if there were any city regulations that would dictate that the shoulders be widened on county roads during reconstruction, to which Mr. Hunting replied there was not, and that the county would follow their own standards.

Mr. Link advised that the county typically works with cities in designing the roads. He stated that putting a proposed trail on the comprehensive plan indicates to the county what the city's desires are for the future and consequently they would assume the city did not want a trail if it was not shown on the plan.

Commissioner Simon asked if the county would hold a public hearing if they were reconstructing a county road, to which Mr. Link replied in the affirmative.

Planning Commission Recommendation

Motion by Commissioner Wippermann, second by Commissioner Simon, to approve the proposed comprehensive plan amendment regarding the segments of trails where the status of the trail has changed since the start of the comprehensive plan update (Items 1-5 listed on page 6 of the planning report dated 10/15/09), as well as the addition of Item 5A, which is a trail along 66th Street between Concord Boulevard and the Rock Island Swing Bridge.

Motion carried (8/0).

Motion by Commissioner Koch, second by Chair Bartholomew, to remove the proposed trail along Barnes Avenue from the 2030 Comprehensive Trail Plan.

Motion failed (2/6 - Gooch, Schaeffer, Wippermann, Simon, Hark, Scales).

Motion by Commissioner Simon, second by Commissioner Scales, for the proposed trail along Barnes Avenue to remain on the 2030 Comprehensive Trail Plan.

Motion carried (6/2 - Bartholomew, Koch).

Mr. Lindberg raised an objection, stating that the public was not notified of the October 15th staff report being discussed.

Chair Bartholomew advised that a public copy of the report was available in the City Hall lobby.

Motion by Commissioner Simon, second by Commissioner Koch, to remove the proposed trail along Ann Marie Trail from the 2030 Comprehensive Trail Plan.

Motion carried (8/0).

Motion by Commissioner Simon, second by Commissioner Koch, to remove the proposed trail along Annalisa Path from the 2030 Comprehensive Trail Plan.

Motion carried (8/0).

Motion by Commissioner Schaeffer, second by Commissioner Wippermann, for the proposed trail along Courthouse Blvd. Ct. to remain on the 2030 Comprehensive Trail Plan.

Commissioner Simon asked to make a friendly amendment that the City look at possibly extending the Courthouse Blvd. Ct. trail to Highway 3 via a trail along Highway 55.

Both motioners were agreeable with the proposed amendment to their motion.

Motion carried (6/2 - Koch, Bartholomew). This matter goes to the City Council on November 9, 2009.

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

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a comprehensive plan amendment to change the land use designation of the parcels from Mixed Use to Public/Institutional, and a rezoning of the parcels from I-1, Limited Industry to P, Public/Institutional, for the property located at the eastern terminus of 66th Street along the old Rock Island Railroad Swing Bridge. 13 notices were mailed.

Opening of Public Hearing

Allan Hunting, City Planner, explained the request as detailed in the report. He explained that the City is in the process of acquiring two tax forfeit parcels from the State for future development of park land that would be part of an overall city park. The City Council directed the Planning Commission to hold a public hearing regarding a reguiding and rezoning of these parcels so they are consistent with the proposed use. The Planning Commission is also to make a recommendation on the capital expenditure for the bridge improvements for consistency with the Comprehensive Plan. Staff recommends approval of the proposed comprehensive plan amendment and rezoning as it would be consistent with the City's intention of expanding park presence along the river. Staff also feels the proposed capital improvement is consistent with the comprehensive plan.

Chair Bartholomew asked if the Commission's responsibility regarding the capital improvement plan was only to determine whether it was consistent with the comprehensive plan, to which Mr. Carlson replied in the affirmative.

Chair Bartholomew stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Hark, to approve the request for a rezoning of the parcels located along 66th Street, east of Concord Boulevard, and adjacent to the swing bridge, from I-1, Limited Industrial to P, Institutional, a comprehensive plan amendment to change the land use designation from Mixed Use to Pubic Park/Open Space, and to support the proposed Capital Improvement for the bridge project as it is consistent with the comprehensive plan.

Motion carried (8/0). This matter goes to the City Council on October 26, 2009.

OTHER BUSINESS

Mr. Hunting advised that the November 3 meeting will be rescheduled to Wednesday, November 4 due to the third being Election Day.

Motion by Commissioner Simon, second by Commissioner Koch, to approve the rescheduling of the November 3, 2009 Planning Commission meeting to November 4, 2009.

Motion carried (8/0).

Mr. Hunting referred to a previous comment that information was not available to the public, and advised that staff reports are always available at City Hall as well as on the City's website.

ADJOURNMENT

Chair Bartholomew adjourned the meeting at 9:00 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

DRAFT

EVALUATION OF REQUEST:

GENERAL CUP CRITERIA

Section 10-3A-5 of the Zoning Regulations states that a Conditional Use Permit may be granted if it complies with the following criteria:

1. *The use is consistent with the goals, policies and plans of the city comprehensive plan, including future land uses, utilities, streets and parks.*

The Comprehensive Plan designation for the property is LDR, Low Density Residential and the request to construct a single family home on the property would be consistent with that designation.

2. *The use is consistent with this code, especially this title and the intent of the specific zoning district in which the use is located.*

The applicant is proposing to construct a single family home on the property, which would be consistent with the zoning district of R-1C, Single Family Residential.

3. *The use would not be materially injurious to existing or planned properties or improvements in the vicinity.*

Not applicable.

4. *The use does not have an undue adverse impact on existing or planned city facilities and services, including streets, utilities, parks, police and fire, and the reasonable ability of the city to provide such services in an orderly, timely manner.*

Not applicable.

5. *The use is generally compatible with existing and future uses of surrounding properties, including:*

- a. *Aesthetics/exterior appearance.*
- b. *Noise.*
- c. *Traffic.*
- d. *Drainage.*
- e. *Fencing, landscaping and buffering.*
- f. *Other operational characteristics.*

The use is compatible with the neighborhood. The applicant would be constructing a slightly larger home, but she has designed it so that it would fit in with the aesthetics and character of the neighborhood. Furthermore, there would not be any additional noise or traffic with the proposed use and the applicant would not be creating drainage issues as she would not be increasing the impervious coverage.

6. *The property is appropriate for the use considering:*
 - a. *Size and shape.*
 - b. *Topography.*
 - c. *Vegetation.*
 - d. *Other natural and physical features.*

- e. Access.
- f. Traffic volumes and flows.
- g. Utilities.
- h. Parking, setback, lot coverage and other zoning requirements.
- i. Emergency access, fire lanes, hydrants, and other fire and building code requirements.

The proposed home is an appropriate use and size as it is only slightly larger than the existing home.

7. *The use does not have an undue adverse impact on the public health, safety or welfare.*

The single family home would not have an adverse impact on the public health, safety and welfare.

8. *The use does not have an undue adverse impact on the environment, including, but not limited to, surface water, ground water and air quality.*

The proposed home would not have an undue adverse impact on the environment.

NONCONFORMING CUP CRITERIA

Section 10-16-5 of the Zoning Regulations states that a lawfully existing nonconforming structure or structure containing a legally existing nonconforming use may conditionally expand its gross floor area by up to thirty percent (30%) if the following criteria are satisfied:

1. *A complete conditional use permit application shall be applied for and approved by the city council. Chapter 3, article A of this title shall regulate the city review and approval or denial of the conditional use permit.*

The applicant has submitted a Conditional Use Permit Application.

2. *A complete building permit application shall be submitted to the building inspections division, found satisfactory and issued prior to the commencement of any work on the expansion.*

The applicant has submitted a building permit for review by city staff.

3. *The structure expansion shall meet all of the bulk standards for the zoning district within which the structure is located. A variance may be applied for if the structure expansion does not meet the respective bulk standards. The variance application and its review by the city shall be regulated according to the section 10-3-4 of this title.*

The structure would meet all of the zoning standards except the side yard setback requirement of ten feet. However, the existing home was setback five feet from the north property line, establishing a new side yard setback requirement. The applicant is allowed to reconstruct the home at that setback. The proposed structure not only meets that setback, but is constructed farther away, at seven feet from the side property line.

4. *If an expansion is requested under this subsection, the city may impose standards and/or conditions upon the underlying nonconforming use or structure for purposes of health, safety or welfare.*

This criteria has been met.

ENGINEERING REVIEW

The Engineer staff have reviewed this request and have determined that the egress windows on the north side of the house encroach within the five foot drainage and utility easement. After reviewing the building plans with staff, it was determined that the egress windows could not be moved out of the easement. Therefore, the City Attorney's office has drafted an encroachment agreement to allow the egress windows to encroach within the drainage and utility easement. The applicant is aware of the encroachment agreement and has agreed to enter into the contract.

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 reconstruct and expand the home 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 October 19, 2009 on file with the Planning Department or as modified herein.
 2. Prior to issuance of the building permit, the applicant shall submit to the Engineering Department, the completed encroachment agreement.
 3. The "porch" listed on the building plans must be constructed without a roof or reduced in size so that it meets the 30' front yard setback requirement.
- 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.

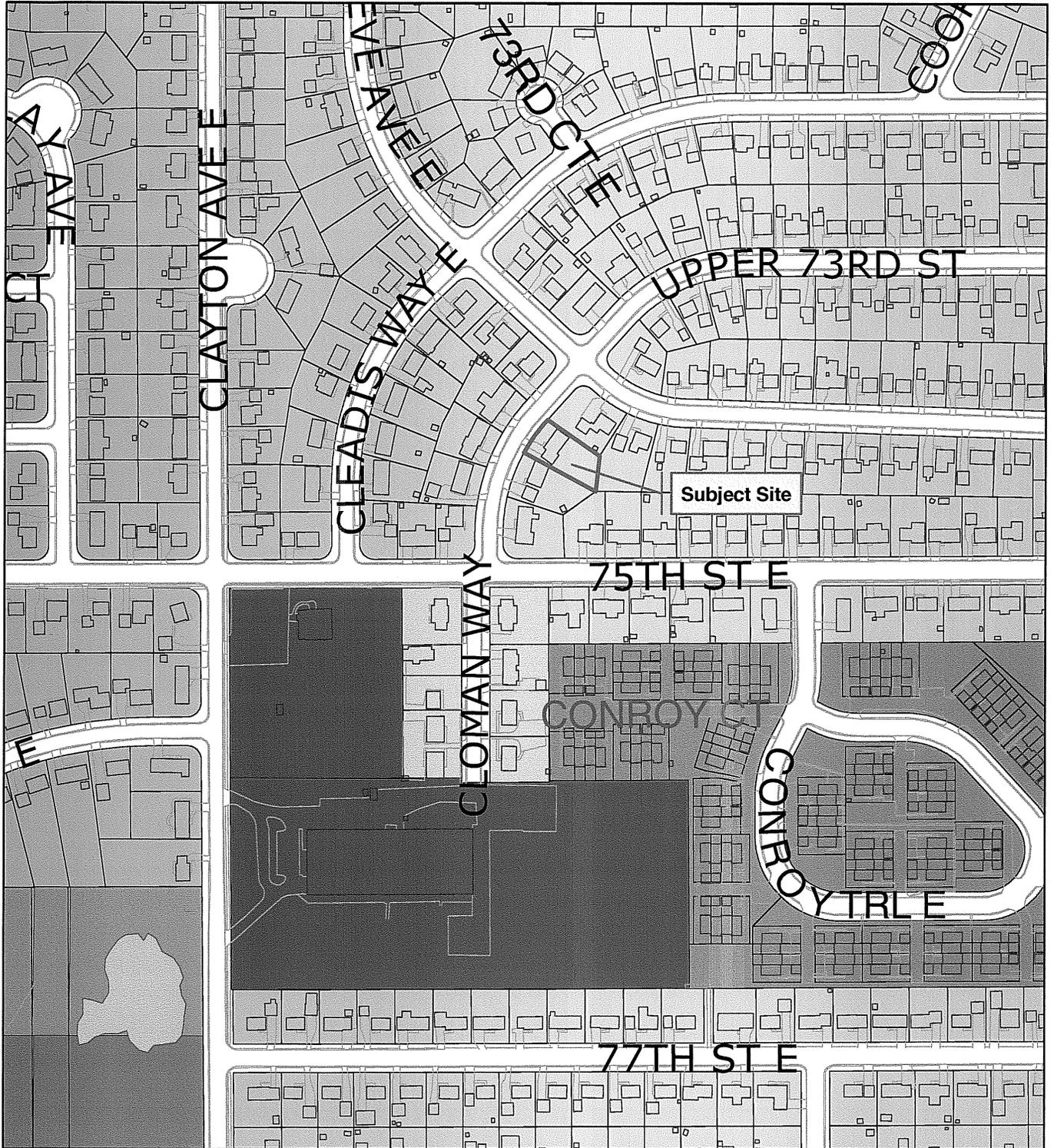
RECOMMENDATION

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



Joyce Johnson Request - Case No. 09-35CV



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>Source: LRS 10/15/11 10/15/11 10/15/11</small>
				ROW

Exhibit A - Zoning Map



Joyce Johnson
7432 Cloman Way
Inver Grove Hts, MN 55076

On August 4, 2009 my home caught fire during a duct work cleaning and subsequently was a total loss.

I have demolished and cleared the lot and would like to rebuild my home. However, I have learned that the side setback is no longer 5' and is now 10 feet. I am here to ask for a variance.

My existing house was 44' wide and the attached garage on the West side was 22' wide. Both the East and West side were at 5' setbacks.

I would like to keep the house the same size as before (68' wide) so I have moved the house/garage over to the West as far as possible and even designed the garage to sit 4' in front of the house, but I am still only able to create an 8' side setback on the East. I really do not wish to have a single stall garage as mine was a double stall attached.

My house with the proposed 8' side setback would be in line with the rest of the neighborhood as they are all still at the 5' setback. Furthermore, there is no house immediately to the East but rather a corner lot with their garage facing the other street. My house will not have a negative appearance nor block any views on the East side.

My insurance has a 'ceiling cap' for funds to rebuild and any further delay will prohibit the commencement of the new house and will impact the cost of excavating due to ground freeze. The excavating company has stated in their bid that a 7% Winter Charge will be added for all work completed Nov. 1- May 1.

Because of my design background, I have been very deliberate in trying to be architecturally correct so it will not look like a 2010 house in a 1950 neighborhood. I believe I have taken great precautions to make sure the new house is within keeping of my neighborhood and our community.

Thank you for your consideration,

Joyce Johnson

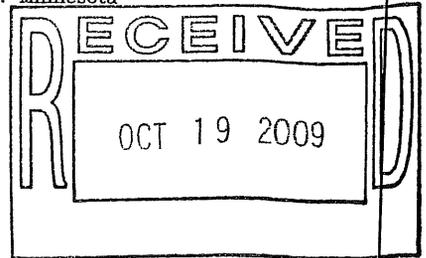
EXHIBIT B

LOT CERTIFICATE

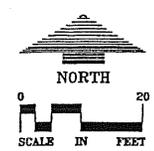
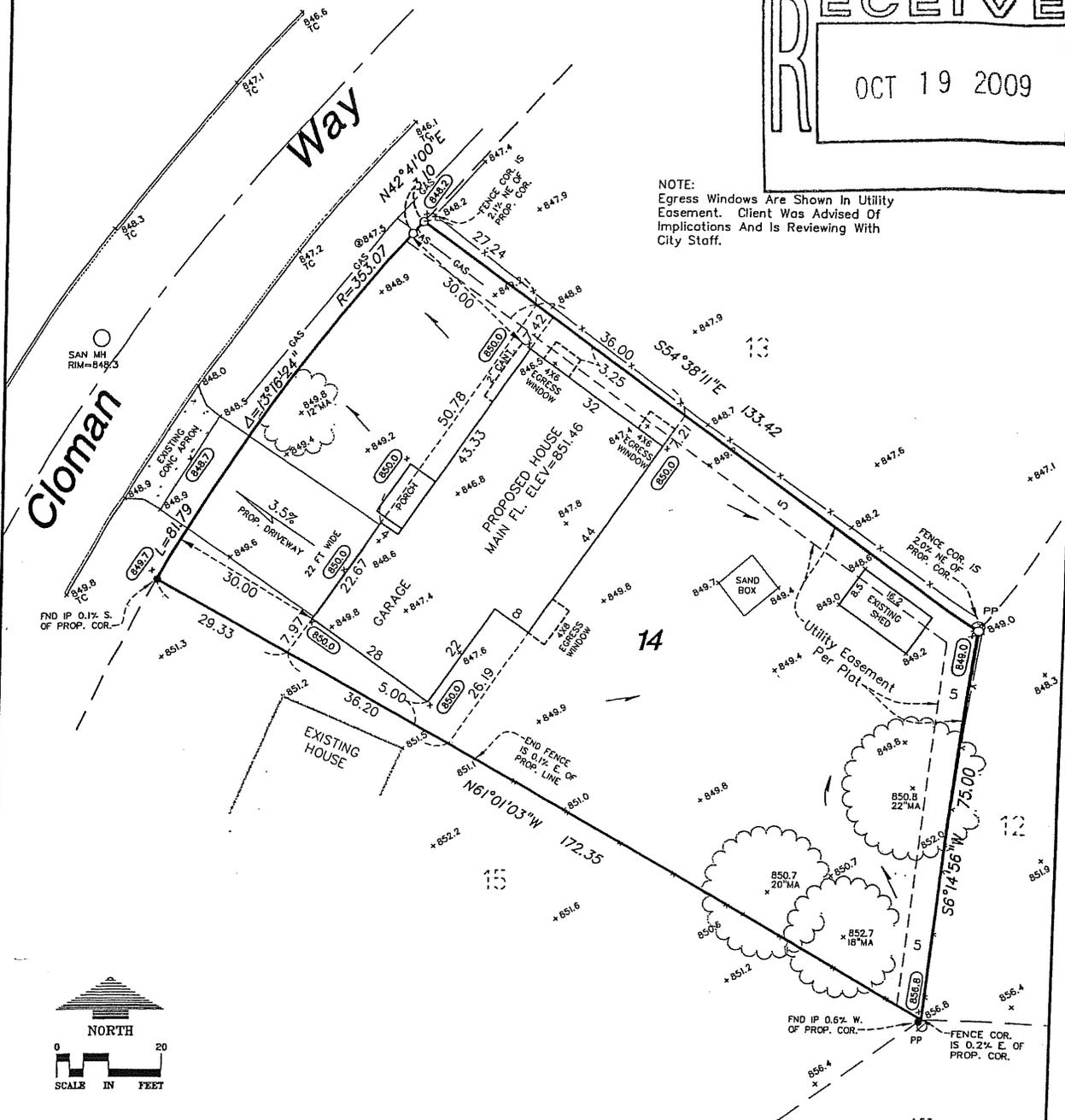
FOR: Joyce Johnson

7432 Cloman Ave

LEGAL DESCRIPTION: Lot 14, Block 4, SOUTH GROVE NO.2, Dakota County, Minnesota



NOTE:
Egress Windows Are Shown In Utility Easement. Client Was Advised Of Implications And Is Reviewing With City Staff.



- LEGEND**
- Denotes iron pipe to be set
 - Denotes iron pipe found
 - Denotes direction of flow
 - *866.5 Denotes existing elevation
 - *866.5 (circled) Denotes proposed elevation
 - *866.5 (boxed) Denotes as-built elevation

	PROPOSED	AS BUILT
House Type	-	FULL BASEMENT
Bsnt. Floor Elev.	-	842.13
Garage Floor Elev.	-	850.0
Top of Foundation	-	850.5

BENCHMARK: TOP NUT OF HYDRANT AT NE QUAD OF 75TH ST & CLEADIS WAY.
ELEV=864.09 FT (NGVD 1929)

NOTES:
PLEASE NOTE THAT THE PROPOSED BUILDING INFORMATION MUST BE CHECKED WITH APPROVED ENGINEERING AND ARCHITECTURAL PLANS BEFORE EXCAVATION OR CONSTRUCTION

DRAWN BY: _____ PROJECT NUMBER: 09166

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

Signed: *Paul M. Emley*

Reg. No.: 16099 Date: OCT. 12, 2009

LOUCKS ASSOCIATES

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Landscape Architecture • Environmental Archaeology

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SUBMITTAL	
DATE	DRAWING ISSUED

EXHIBIT C