

**INVER GROVE HEIGHTS  
PLANNING COMMISSION AGENDA**

**TUESDAY, JANUARY 7, 2014 – 7:00 p.m.  
City Council Chambers - 8150 Barbara Avenue**

- 1. CALL TO ORDER**
  
- 2. APPROVAL OF PLANNING COMMISSION MINUTES FOR DECEMBER 3, 2013.**

**3. APPLICANT REQUESTS AND PUBLIC HEARINGS**

**3.01 CITY OF INVER GROVE HEIGHTS - CASE NO. 14-01X**

Consider the review of Capital Improvement Project #2014-09D for Consistency with the Comprehensive Plan.

Planning Commission Action \_\_\_\_\_

**3.02 RYAN REINI - CASE NO. 13-54V**

Consider the request for a **Variance** to allow an accessory building 28 feet from the front property line whereas 50 feet is the required setback. This request is for the property located at 11365 Albavar Path.

Planning Commission Action \_\_\_\_\_

**3.03 KEH&H (Morries Mazda) - CASE NO. 13-56V**

Consider the request for a **Variance** to allow 49% of a wall surface to be comprised of metal paneling whereas 33% is the maximum allowed. This request is for the property located at 10 Mendota Road.

Planning Commission Action \_\_\_\_\_

**3.04 ANTHONY & ANNE DEPALMA - CASE NO. 13-55V**

Consider the request for a **Variance** to allow an accessory building 15 feet from the side property line whereas 50 feet is the required setback. This request is for the property located at 6860 Athena Way.

Planning Commission Action \_\_\_\_\_

**3.05 MARY T'KACH - CASE NO. 13-58V**

Consider the request for a **Variance** to allow a 42 inch solid fence within the front yard whereas the code requires 75% clear visibility on front yard fences. This request is for the property located at 1987 – 80<sup>th</sup> Street.

Planning Commission Action \_\_\_\_\_

**3.06 VINCE NONNEMACHER - CASE NO. 13-57V**

Consider the request for a **Variance** to construct a new home on a vacant lot that does not meet the minimum lot size requirements. This request is for the property located at 7929 Argenta Trail W.

Planning Commission Action \_\_\_\_\_

**4. OTHER BUSINESS**

**5. ADJOURN**

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

## PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Tuesday, December 3, 2013 – 7:00 p.m.  
City Hall Chambers - 8150 Barbara Avenue

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

Commissioners Present: Paul Hark  
Pat Simon  
Tony Scales  
Bill Klein  
Annette Maggi  
Harold Gooch  
Armando Lissarrague

Commissioners Absent: Victoria Elsmore (excused)  
Dennis Wippermann (excused)

Others Present: Tom Link, Community Development Director  
Kristi Smith, Finance Director

### **APPROVAL OF MINUTES**

The minutes from the November 19, 2013 Planning Commission meeting were approved as submitted.

### **CITY OF INVER GROVE HEIGHTS**

#### **Reading of Notice**

There was no public hearing notice.

#### **Presentation of Request**

Tom Link, Community Development Director, explained the request as detailed in the report. He advised that the Planning Commission is being asked to consider whether the proposed modifications to TIF District 2-1 are consistent with the Comprehensive Plan and they have no responsibility to address financial aspects of the plan. He advised that TIF District 2-1 is located on the southeast corner of Robert Street and Mendota Road and is designated as Regional Commercial and zoned B-3, General Business. The property is fully developed and consists of the Southridge Shopping Center and the Home Depot store. The proposed modification would extend the TIF District for up to four years. Since this modification would not change the Comprehensive Plan designation, the zoning classification, or the existing use, staff recommends that the modification to TIF District 2-1 be found consistent with the Comprehensive Plan.

#### **Opening of Public Hearing**

Jessica Cook, representing the City's financial consultant, Ehlers & Associates, 3060 Center Pointe Drive, Roseville, summarized the request. She advised that TIF Districts are created to facilitate development when it will not happen solely within the private sector. When modifying a TIF district, there is a statutory process that must take place which includes a finding on the part of the City Council that the TIF district is in conformance with the plans of the City as a whole; the City Council relies on a review by the Planning Commission in order to do so. Ms. Cook explained that in 1986 there was some development on the subject property that was a barrier to new development. The City, therefore, established a 25 year TIF district to facilitate the development that has now occurred on the property. The taxes attributable to the new development (Home Depot and the Southridge Shopping Center) were captured in the tax increment district and sent to

the City to be used to pay for the development related costs. In the mid-1990's there were some changes made by the City Council to this TIF district to allow increments from the district to be spent on the water treatment plant and the community center. Bonds were issued by the City for those projects. In 2001-2003 the legislature made changes to the tax rates which significantly reduced the amount of increment that was being generated by the district. The City, however, was relying on increment to pay back those bonds and, because of the legislative change, the increment has a shortfall. One of the remedies that the State legislature provided for was to allow the City to extend the term of the TIF district, thereby capturing up to four additional years of increment.

Commissioner Klein noted that additional increment was used when Southview Boulevard was improved.

Chair Hark asked if there were any circumstances under which the extension would be less than four years.

Ms. Cook replied if the tax increment was more than anticipated and the bonds were then paid off in less than four years.

Chair Hark asked if the finance director had any comments to add.

Kristi Smith, Finance Director, advised she did not, but was available for questions.

Chair Hark reminded Commissioners that their focus was consistency with the Comprehensive Plan.

Chair Hark closed the public hearing.

#### **Planning Commission Discussion**

Commissioner Klein asked if the four year extension would be enough to pay off the bonds.

Ms. Smith replied according to the projections from Ehlers & Associates it would.

#### **Planning Commission Recommendation**

Motion by Commissioner Gooch, second by Commissioner Klein, to find the modification to TIF District 2-1 to be consistent with the Comprehensive Plan.

Motion carried (7/0). This item goes to the City Council on December 9, 2013.

#### **OTHER BUSINESS**

Commissioner Klein invited people to attend the Holiday on Main Street events taking place on December 14 at the Veterans Memorial Community Center.

Mr. Link advised that the December 17<sup>th</sup> Planning Commission meeting has been cancelled.

The meeting was adjourned by unanimous vote at 7:17 p.m.

Respectfully submitted,

Kim Fox  
Recording Secretary

P L A N N I N G   R E P O R T  
C I T Y   O F   I N V E R   G R O V E   H E I G H T S

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**REPORT DATE:** December 31, 2013

**CASE NO:** 14-01X

**HEARING DATE:** January 7, 2014

**APPLICANT:** City of Inver Grove Heights

**PROPERTY OWNER:** N/A

**REQUEST:** Review of Capital Improvement Project #2014-09D for Consistency with the Comprehensive Plan

**LOCATION:** College Trail, College Heights neighborhood streets, and Barbara Avenue

**COMPREHENSIVE PLAN:** N/A

**ZONING:** N/A

**REVIEWING DIVISIONS:** Planning  
Engineering

**PREPARED BY:** Allan Hunting  
City Planner  
Tom Kaldunski  
City Engineer

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**BACKGROUND**

The City Council is holding a public hearing on Monday, January 27, 2014 to consider ordering a public improvement project to reconstruct College Trail, College Heights neighborhood streets, and Barbara Avenue.

The project includes roadway improvements, some concrete curb and gutter, a concrete walk, and a bituminous trail, storm sewer, storm water facilities, water main valve and hydrant replacements, some culvert replacements, a small sanitary sewer extension, appurtenances and restoration.

The proposed project, 2014-09D College Trail Reconstruction and Barbara Avenue Partial Reconstruction, is part of the City's 2014 Pavement Management Program. The total estimated project cost is \$3,199,200.00. A multi-faceted funding package has been proposed to cover the project costs. It includes the Pavement Management Fund, Water and Sewer Funds, Municipal State Aid Funds, and Special Assessments. Construction is tentatively scheduled for summer 2014, pending Council approval.

Per State Statutes, the Planning Commission must review capital improvement projects for consistency with the Comprehensive Plan (Minnesota Statute 462.356 subd. 2).

## EVALUATION OF THE REQUEST

Compliance with the Comprehensive Plan. Minnesota Statutes requires the Planning Commission to review capital improvement projects to verify they are in compliance with the City's Comprehensive Plan.

The project is part of the City's ongoing pavement management program. All other proposed improvements are consistent with the Parks trail plan to infill the trail gaps and the storm water improvements would be consistent with the storm water element of the Comprehensive Plan.

## ALTERNATIVES

A. Approval. If the Planning Commission finds the request acceptable, the following actions should take place:

- An Approval recommendation that Capital Improvement Project #2014-09D is consistent with the Comprehensive Plan.

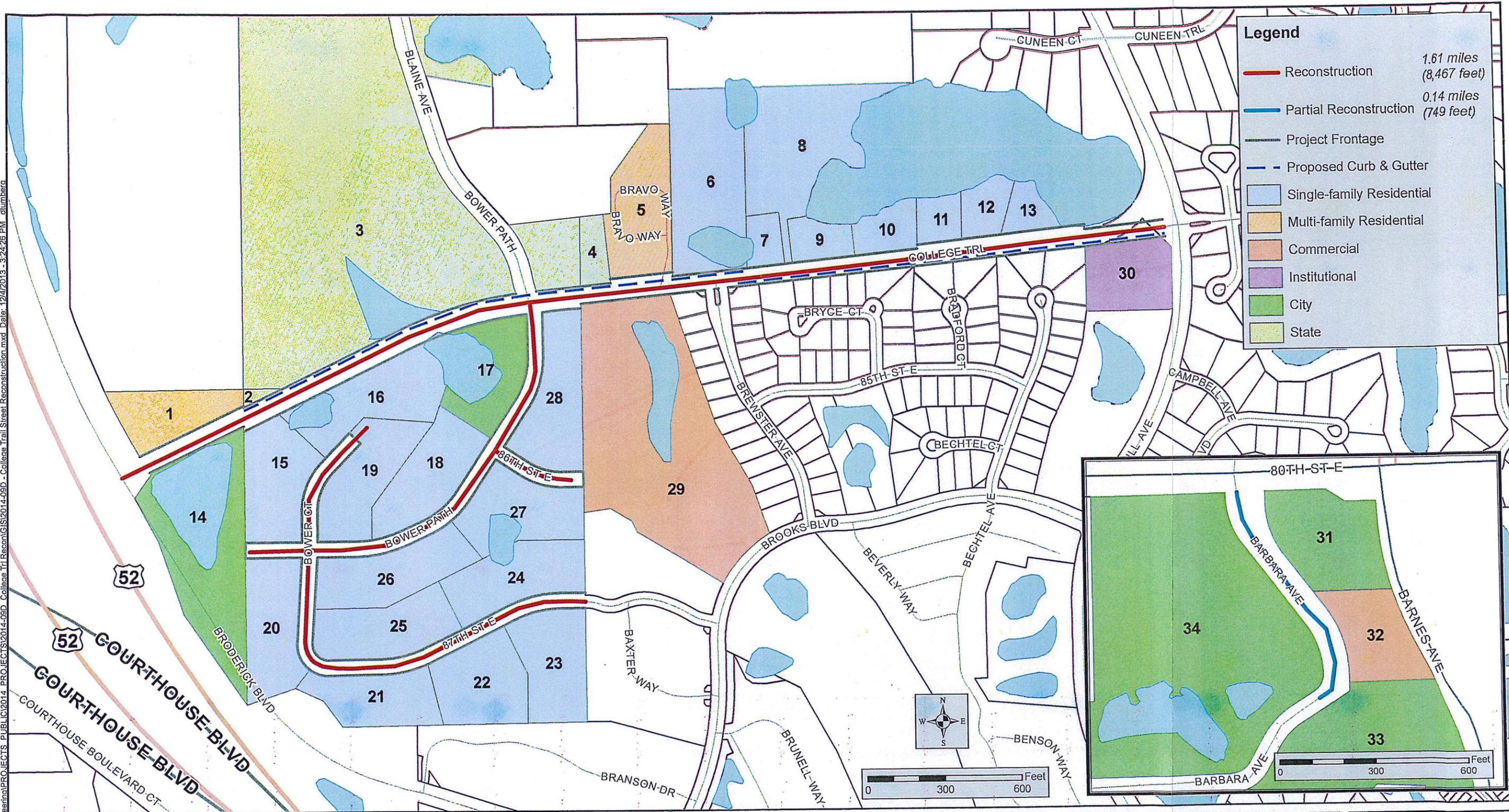
B. Denial. If the Planning Commission does not find the proposed project consistent with the Comprehensive Plan, the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

## RECOMMENDATION

The City Engineer and Planning Staff both recommend the project be found consistent with the Comprehensive Plan. The City Engineer will attend the meeting to answer any questions.

Attachments: Location Map

Document Path: Z:\Public\Work\GIS\Engineering\Projects\2014-09D - College Trail Reconstruction.mxd Date: 12/4/2013 - 3:24:26 PM dlumbaga



City of Inver Grove Heights, MN

## City Project 2014-09D College Trail Reconstruction and Barbara Avenue Partial Reconstruction

THIS DRAWING IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, INFORMATION AND DATA LOCATED IN VARIOUS CITY, COUNTY AND STATE OFFICES AND OTHER SOURCES AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE CITY OF INVER GROVE HEIGHTS IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.

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## PLANNING REPORT CITY OF INVER GROVE HEIGHTS

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**REPORT DATE:** December 30, 2013      **CASE NO.:** 13-54V  
**HEARING DATE:** January 7, 2014  
**APPLICANT AND PROPERTY OWNER:** Ryan Reini  
**REQUEST:** A variance from the front yard setback requirements  
**LOCATION:** 11365 Albavar Path  
**COMP PLAN:** RDR, Rural Density Residential  
**ZONING:** A, Agricultural  
**REVIEWING DIVISIONS:** Planning      **PREPARED BY:** Heather Botten  
Associate Planner 

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### **BACKGROUND**

The applicant would like to construct an accessory building on the five (5) acre property 28 feet from the front property line (40 feet from the road) whereas 50 feet is the required setback. The proposed building would be 36' x 48' (1,728 square feet) in size. The property is a wooded lot with some topographical challenges along with a large pipeline / NSP easement that runs through the property.

The proposed accessory building would be in compliance with all other setback, size, and impervious surface requirements. Based on the zoning district and the lot size the property is allowed two accessory buildings up to 2,400 gross square feet in size. If the structure would be a home or an accessory building 1,000 square feet or less in size the front yard setback would be 30 feet.

### **SPECIFIC REQUEST**

The following specific application is being requested:

- 1) A variance from the front yard setback requirements to construct a 1,728 square foot accessory building 28 feet from the property line whereas 50 feet is required.

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

North - Single Family Residential; zoned A; guided Rural Density Residential  
South - Single Family Residential; zoned A; guided Rural Density Residential  
West - Single Family Residential; zoned A; guided Rural Density Residential  
East - Single Family Residential; zoned A; guided Rural Density Residential

## EVALUATION OF REQUEST:

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

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

In respect to the land use, size of the proposed structure and number of accessory buildings on the property the request is in harmony with the intent of the city code and comprehensive plan.

The regulations on accessory structures have changed over the years to allow for larger buildings in the larger lot areas of the City. When the code was last changed to allow for larger accessory buildings, it was recognized that larger buildings should have greater setbacks. Any accessory structure larger than 1,000 square feet requires a setback of at least 50 feet. If the structure was less than 1,000 square feet in size or a new home it would follow the standard structure setbacks; in this case, a setback of 30 would be required from the front property line.

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

The request for an accessory building and the size of the building are allowed by the zoning ordinance. The size of the accessory building is not out of character for this area. The proposed structure would allow the owner to use the property in a reasonable manner. In respect to the land use, impervious surface, other setbacks and code requirements the request is in harmony with the provisions in the zoning ordinance.

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

While the lot may be 5 acres in size, the topo relieve and NSP/pipeline easement limit the location of any structure. The flattest part of the property is within the easement area. Staff finds that the general location from the front setback would fit the practical difficulty criteria because of the topographical challenges and the large easement on the property. However, staff feels that the front setback should be at least 30 feet, complying with the principle structure setback requirements.

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

The proposed building would be visible from the street. At this time the applicant is not asking for the building to be pole constructed/sheet metal siding. Overall the

neighborhood is heavily wooded and the structure would be screened from neighboring homes. The closest residential structure to the proposed building would be over 250 feet away.

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

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

## **ALTERNATIVES**

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

**A. Approval** If the Planning Commission finds the setback variance 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 on file with the Planning Department.
2. The accessory structure shall not be used for commercial uses, storage related to a commercial use, or home occupations.
3. A grading/erosion control plan will be required at the time of the building permit application.

**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**

The accessory structure is a typical improvement for a residential property and the reduced setback does not appear to have any adverse impacts on the neighboring properties. Staff believes a practical difficulty can be found for a front yard setback variance due to the NSP easement and the topography of the lot limiting the buildable area. Staff would support a 30 foot front yard setback whereas 50 feet is required for a 1,728 square foot structure.

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of a 30 foot setback from the front property line.

Attachments: Exhibit A - Location/Zoning Map  
Exhibit B - Applicant Narrative  
Exhibit C - Site Plan  
Exhibit D - Picture of property  
Exhibit E- Letters from neighbors



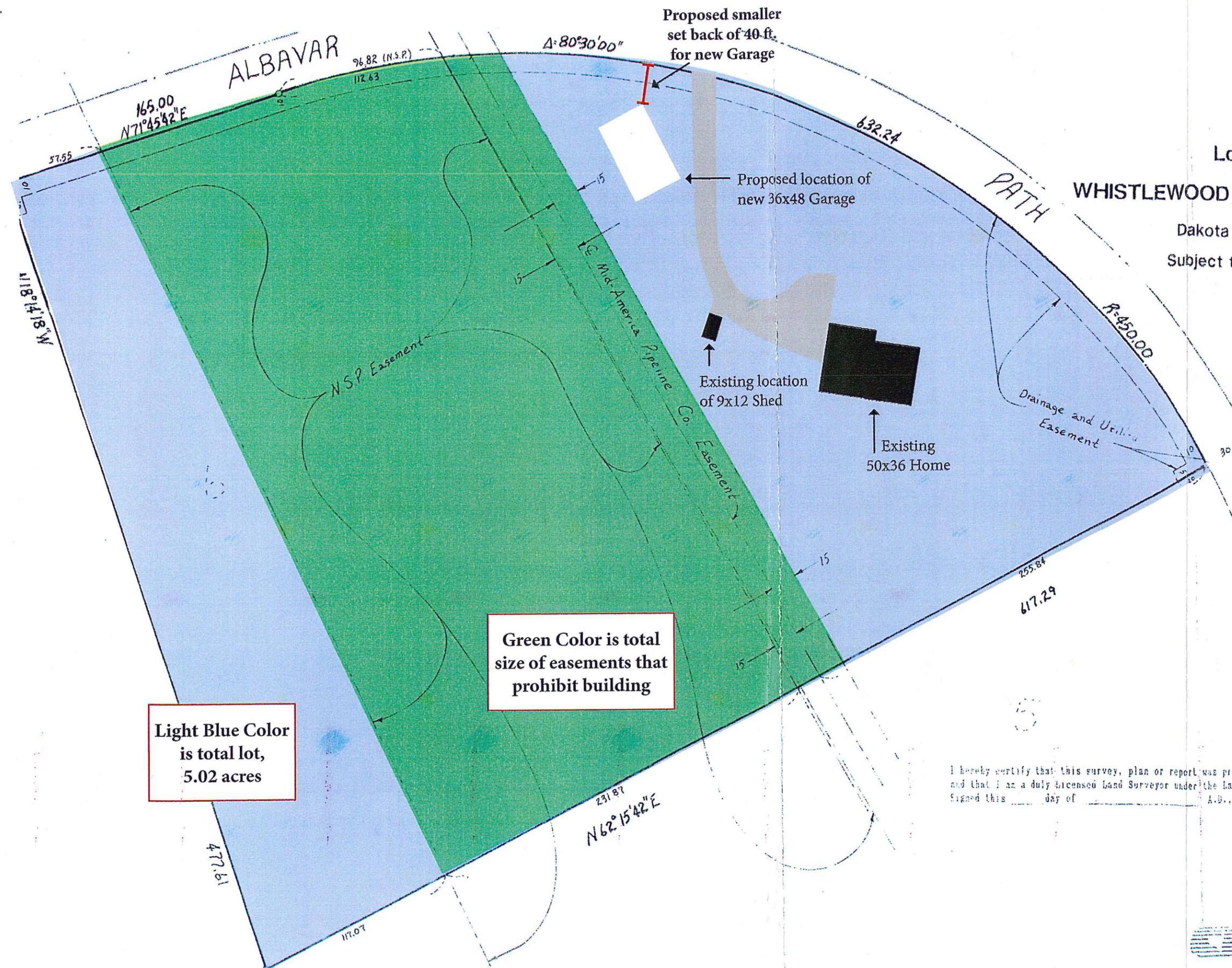
## Variance Request for 11365 Albavar Path

I am requesting a variance be granted on the set back of a new 1,700 sq. ft. garage we would like to build on our property. We'd like to reduce the set back requirement to 40 feet from the road as there is no other reasonable location to build a garage on our land at 11365 Albavar Path. Our lot is a 5.02 acre heavily wooded lot with varying topography and over half of the property we are unable to build on due to NSP and Mid-America Pipeline easements. Due to this we have a practical difficulty complying with the current zoning ordinance and this is the only reasonable location to build such a structure. Also, building in this location will not significantly change the essential character of the surrounding neighborhood.

Thank you for your time and consideration.

Ryan Reini  
11365 Albavar Path  
IGH, MN 55077  
651-208-6200

R



Light Blue Color is total lot, 5.02 acres

Green Color is total size of easements that prohibit building

Proposed smaller set back of 40 ft. for new Garage

Proposed location of new 36x48 Garage

Existing location of 9x12 Shed

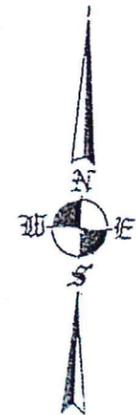
Existing 50x36 Home

Lot 6, Block 2

WHISTLEWOOD FARMS 2nd ADDITION

Dakota County, Minnesota

Subject to easements of record



Scale : 1 inch = 50 feet

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 this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 1987.

*Robert E. Stransky*  
Robert E. Stransky, Minn. Reg. No. 14945

picture taken near the house looking towards garage location/street.



area of the proposed garage.

D

## Heather Botten

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**From:** llkd455@comcast.net  
**Sent:** Thursday, January 02, 2014 2:15 PM  
**To:** Heather Botten  
**Subject:** RYAN REINI- CASE NO. 13-54V

Heather Botten,

In regards to the variance to a 20 foot setback instead of the required 50 foot setback, I would not be in favor. This would set a precedent that would not be acceptable. As large as the lots are on Albavar Path, you should not need to build closer than the 50 foot required setback.

Please have the Planning Commission vote against this request. I ask that the City Council vote against this variance also.

Leonard Sederstrom  
11450 Albavar Path  
Inver Grove Heights, MN 55077  
651-455-5090

## Heather Botten

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**From:** LawtonAbery, Cynthia [Cynthia.LawtonAbery@delta.com]  
**Sent:** Thursday, January 02, 2014 4:20 PM  
**To:** Heather Botten  
**Cc:** Brian Abery; abery@comcast.net  
**Subject:** RYAN REINI - CASE NO. 13-54V

Brian Abery and Cynthia Lawton-abery  
11380 Albavar Path  
Inver Grove Heights, MN 55077

Heather Botten  
Planning Department  
8150 Barbara Ave  
Inver Grove Heights, MN 55077

January 2, 2014

Dear Ms. Botten:

We reside at 11380 Albavar Path in Inver Grove Heights and are writing you to express concern and lack of support for a variance that has been requested for construction of a 1,700 square foot garage that is only 6.5 yards from the front property line at 11365 Albavar Path (PID # 20-84001-02-060). This *extremely* large garage, which, if I understand correctly, could wind-up looking like a commercial structure or pole barn with a simple request for "conditional use", will essentially sit on the street, visible from the road and our adjoining property. I do realize that on the lot in question there are few other locations on which an outbuilding could be constructed, but I believe that the current proposal would change the nature of the neighborhood in number of ways and have a significant impact on the value of our property. As a result, I am asking the Planning Commission to deny the home owners request for a variance.

Our neighborhood primarily consists of 5-10 acre heavily treed lots. On these lots most structures are currently set back far more than the minimum legal distance of 50 feet from the street and most are hidden from view by woods or on open lots, diminished in impact by distance from the road and consistency with the appearance of the house. This is in keeping with the original covenants of the neighborhood when it was developed over 20 years ago. A number of residents do have outbuildings, and some of these are fairly large in scale, but all are located far from the road and well concealed from the property of neighbors by woods or berms. A set-back of only 20 feet, as requested, will place a structure that is larger than the footprint of most houses directly on the road with no way to screen it from neighbors or the road. Allowance of this request for a variance will therefore change the basic characteristics and nature of our neighborhood.

Although the variance requested by the owners of this parcel may be the easiest solution to their need for a massive amount of storage, it is not the only solution – just the least expensive. We realize that they might have purchased the property with this in mind, but nothing has changed since they purchased the property in 2012, and they should have known the limitations when they bought it. If this was a critical need, the owners should have considered and worked out alternatives prior to closing on the property.

In addition to the neighborhood impact from the location, we also have very strong concerns that the intended use of the structure is commercial rather than residential in nature. With the extreme size, we would need reassurance from the Property owner(s) that they are not intending to use the space for a commercial venture, and reassurance from the City that they could appropriately monitor and prevent such a use. Increased traffic, especially of commercial vehicles, would dramatically change the nature of our quiet wooded residential

neighborhood, be disruptive to the natural setting, and interfere with our enjoyment of the wildlife currently inhabiting our adjoining property. Commercial noise that is significantly above normal residential volumes would have similar impacts, and as such would impact the value of properties throughout the neighborhood.

We also have strong concerns that the structure will not necessarily adhere to neighborhood standards for appearance. The original covenants for the neighborhood required any structure to be built on a property reflect the nature of the existing house. Our understanding is that if the proposed variance is granted, the homeowner could subsequently petition for an exemption that would allow a pole barn or other type of more temporary structure to be built and that neighbors would not be notified at that point. The Planning commission would most likely approve the petition under a "conditional use" permit that would not expire, allowing the structure to remain indefinitely. As this breaks with standards for the neighborhood, and in the proposed location, it would be especially visible from the road and other properties, it would significantly diminish the value of adjoining properties like ours and negate the efforts of others who have worked to ensure consistency in design and structure of visible outbuildings. If, however, the building were screened from view by a significant amount of woods (>50'), the existing house, or hillside, then appearance would not be as big a concern.

We are planning to attend the public hearing on January 7<sup>th</sup>, but wanted to be sure that our feelings were clear in the event that we were unable to participate. We are very concerned with the proposal and believe that it does not fit with the nature of the neighborhood, and will impact the value of our property and other properties on Albavar Path. Please help us ensure that this is not approved as proposed.

Sincerely,  
*Brian Abery*  
*Cynthia Lawton-bery*

## Heather Botten

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**From:** Joe Hess [joe.hess@comcast.net]  
**Sent:** Friday, January 03, 2014 9:53 AM  
**To:** Heather Botten  
**Cc:** Bonnie Hess; joe.hess@comcast.net  
**Subject:** Case No 13-54V

Dear Heather Botten,

We received notice of a request at 11365 Albavar Path for variance from the front yard setback to allow a 1,700 square foot garage 20 feet from the front property line whereas 50 feet is the required setback.

We are concerned about this request as the area of Inver Grove Heights where the property is located is a rural setting with residences and outbuildings set back in 5 acre lots. We would like to maintain the consistency of structural placement in the area. We moved to this area to enjoy the rural setting and not have obstructions in line of view. The lots are 5 acres with houses and outbuildings set back from the road and much of the area is wooded so that residents can enjoy the scenery and not have to view structures. This area of Inver Grove Heights is a rare area where many from the neighborhood and neighboring areas walk to enjoy the scenery, animals, and trees. We feel that allowing structures close to the road will detract from the beauty and rural feeling of the area. We would like to maintain the ascetic quality and street view.

As residents of this area, we are opposed to the variance. Residents have 5 acre lots to accommodate structures and we feel the 50 foot required setback is adequate. We have talked to other residents along Albavar Path that did not receive the notice and learned that they are also opposed to the building of structures so close to the road. Approval of a variance could set a precedence for other encroachment setbacks in the area. Please enforce the current required setback to preserve the beauty and rural nature of this area of Inver Grove Heights.

Please let us know if you have any questions.

Thanks,

Joe and Bonnie Hess  
11370 Albavar Path  
Inver Grove Heights  
[joe.hess@comcast.net](mailto:joe.hess@comcast.net)

## Heather Botten

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**From:** tbeckwith@mmm.com  
**Sent:** Friday, January 03, 2014 11:07 AM  
**To:** Heather Botten  
**Cc:** steve.beckwith@hbfuller.com  
**Subject:** Public Hearing Notice Participation: Ryan Reini - Case No. 13-54V; 11365 Albavar Path, requested Variance form 50 ft to 20 ft setback

January 2nd, 2014

Heather Botten – Inver Grove Heights Planning Dept.

[hbotten@invergroveheights.org](mailto:hbotten@invergroveheights.org)

Dear Heather,

I am writing you regarding:

Ryan Reini - Case No. 13-54V; 11365 Albavar Path, requested Variance form 50 ft to 20 ft setback

We will be unable to attend the planning commission meeting on this case scheduled for Tuesday, January 7, 2014.

I would like to therefore express our strong OPPOSITION to the requested variance in writing. Our main reason for opposing this request is that a structure of this large size (1700 sq ft) that is only 20 feet from the front property line will alter the look and feel of this neighborhood. With 5 acre lots along this stretch of Albavar Path, there exists a tranquil, rural setting that we feel would be disrupted with the addition of this garage at the proposed location. The 50 foot setback was put in place to ensure that this look and feel was maintained.

Our second point is that the Reini's have a 5 acre lot that certainly has ample space to locate such a structure well within the setback guidelines.

Our final comment is that we do not want to set a new precedence for Albavar Path, opening the door for other such requests.

Thank you for notifying me of this proposed variance, and for conveying our strong opposition to the planning commission on my behalf.

Sincerely,

Steve and Tanya Beckwith

11360 Albavar Path

Inver Grove Heights, MN 55077

651-455-2108

## PLANNING REPORT CITY OF INVER GROVE HEIGHTS

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**REPORT DATE:** December 23, 2013 **CASE NO.:** 13-56V  
**HEARING DATE:** January 7, 2014  
**APPLICANT:** KEH&H (Morries Mazda)  
**PROPERTY OWNER:** KEH&H  
**REQUEST:** Exterior Material Variance  
**LOCATION:** 10 Mendota Road  
**COMPREHENSIVE PLAN:** CC, Community Commercial  
**ZONING:** B-3, General Business  
**REVIEWING DIVISIONS:** Planning **PREPARED BY:** Allan Hunting  
City Planner

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### **BACKGROUND**

The applicant is requesting a variance to allow more than 1/3 of a building wall to have corrugated metal panels. Morries Mazda will be moving into and renovating the old Volkswagen Dealership, currently Lametry Collision, into a Mazda dealership. Part of the renovation consists of remodeling the exterior of the building to match the Mazda dealership architecture. The variance consists of allowing 49% percent of the south facing wall of the building to have architectural metal panels. Section 10-15-17 limits the use of sheet or corrugated steel or aluminum panels to a maximum of 1/3 of a building wall.

### **SURROUNDING USES**

The subject site is surrounded by the following uses:

North - Commercial; City of West St. Paul

East - Commercial; zoned B-3, General Business; guided Community Commercial

West - Commercial; zoned B-3, General Business; guided Community Commercial

South - Commercial; zoned B-3, General Business; guided Community Commercial

### **EVALUATION OF REQUEST**

#### **VARIANCE CRITERIA**

City Code Title 11, Chapter 3. **Variations**, states that the City Council may grant variations when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in

complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

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

The surrounding neighborhood is zoned commercial and the primary use of the surrounding properties is auto dealerships. The use of the property is consistent with the surrounding neighborhood.

The ordinance prohibits the use of sheet metal or corrugated metal as the primary exterior material in order to eliminate the use of "metal pole barns" for commercial buildings and to provide a higher quality exterior for aesthetics and tax valuation purposes. Over the years, the code has been modified to allow some metal on each side of a building. In this case, the metal is architectural metal panels which are incorporated into the overall exterior design of the building. It is not being used as means to construct a less expensive building. The balance of the building exterior is consistent with the building material requirements. The use of metal in this case is an architectural design element used to enhance the look of the building. The use of the metal in this instance is not contrary to the intent of the ordinance provision.

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

There is an existing conditional use permit for automobile sales at this location. The applicant will be operating under that permit. The only changes to the site consist of the renovation to the building. The use of the building is consistent with the current zoning. The use of the metal panels is to enhance the exterior of the building architectural design.

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

The variance to the regulations is not tied to any unique physical constraint of the property. The regulation addresses physical constraints to buildings. The use of metal in this case is an architectural design element used to enhance the look of the building is not contrary to the intent of the ordinance provision.

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

Allowing varied exterior materials would not alter the character of the neighborhood. There is a mix of commercial buildings that have their own unique character. The use of the metal panels is not contrary to the intent of the ordinance restriction.

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

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

**ALTERNATIVES**

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

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

- Approval of a **Variance** to allow the use of architectural metal panels over more than 1/3 of the exterior of the south face of the building, up to 49%, subject to the following condition:
  1. The building exterior shall be remodeled in substantial conformance with the exterior elevation plan dated 11/18/13 on file with the Planning Division.

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

**RECOMMENDATION**

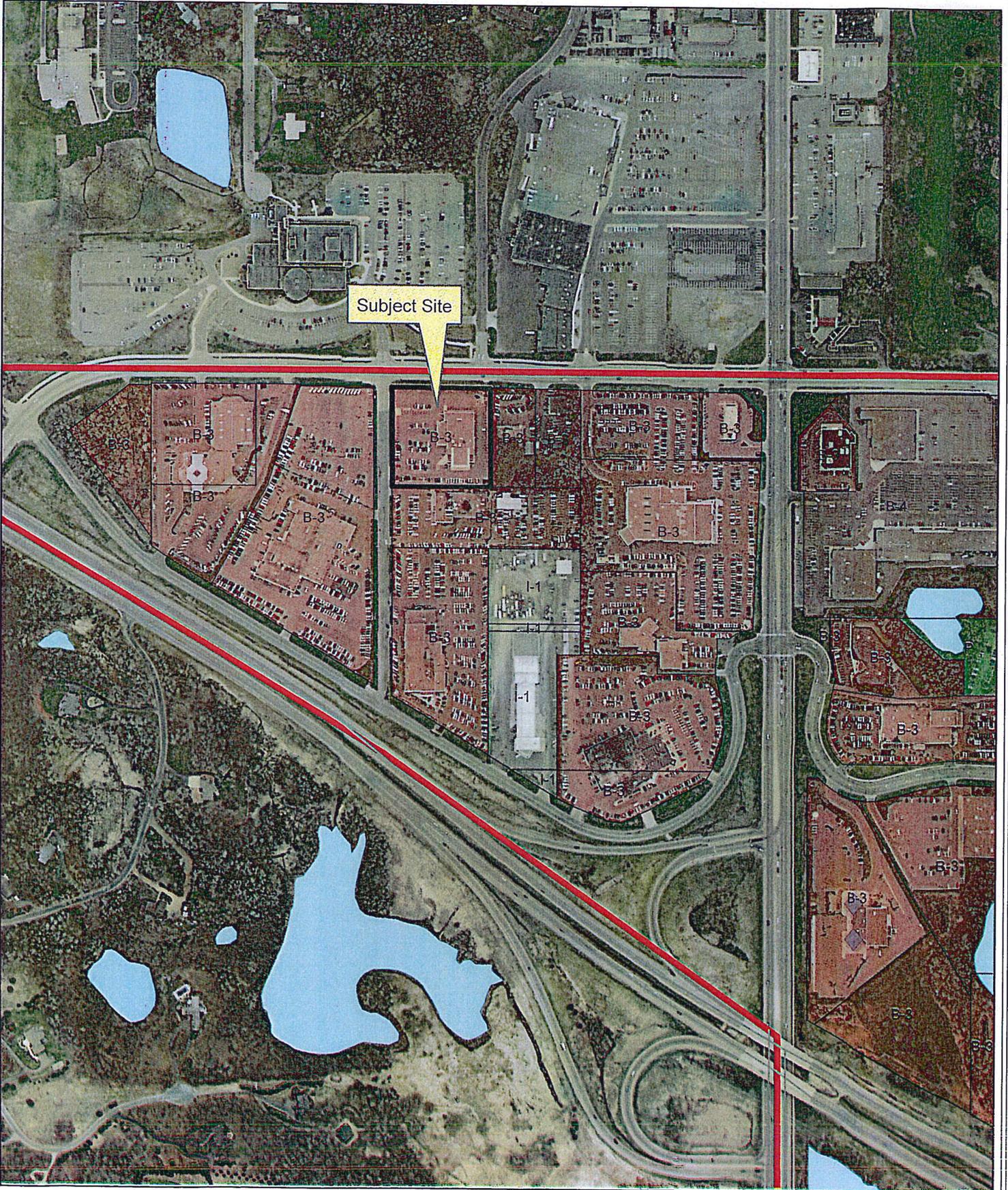
Staff believes a practical difficulty can be found as the use of the architectural metal panels in this instance is not contrary to the intent of the code. The panels are being used as an integral architectural element of the overall building exterior scheme and not being used as a cheaper alternative to any of the allowed exterior materials.

Attachments: Exhibit A - Location/Zoning Map  
Exhibit B - Applicant Narrative  
Exhibit C - Exterior elevation plan



# Location Map

## Case No. 13-56V



**Morrie's Mazda – Inver Grove Heights**  
**10 Mendota Road East**  
**Inver Grove Heights, Minnesota**  
**Variance Application**

**Narrative:**

**Introduction:**

- The Applicant, KEH&H wishes to request a Variance from the requirements governing exterior building materials set forth in section 10-15-17 of the Inver Grove Heights Zoning Code, in regard to the remodel/ expansion to their existing building on the following property: Lot 3 and Lot 4 of Glenn Clarke Homestead, except for the west 30 feet of Lot 4, Glenn Clarke Homestead (hereafter referred to as the “Development Site”).
- The Variance request is to allow the proposed design to exceed the maximum amount of exterior metal panel cladding allowed by the Zoning Code by an **additional 16% for the south facade**, as further described in this narrative and the other Variance Application documents.

**General Project Scope:**

- The project renovation and additions are for the purpose of adapting and updating the existing Volkswagen dealership facility on the Development Site to the unique facility image standards required by the current automobile manufacturer (Mazda) the Applicant is under contract with, in order to sell vehicles on the Development Site.

**Exterior metal panel is integrated into the building design:**

- The majority of the renovation/ remodel occurs on the south side of the existing building. Architectural grade metal panel is proposed to comprise **49%** of this facade.
- The west, north, and east elevations will have minimal remodeling with limited amounts of metal panel - below the limits set forth in section 10-15-17.
- Architectural grade metal panels of varying color and texture are *intentional* elements of the manufacturer's palette of materials, which are meant to exemplify the Mazda “sports car” aesthetic.
- The primary materials of the proposed building addition and remodel are; storefront glazing with framing and trim of various colors, black E.I.F.S. at the ground floor, with metal panel above. The remainder of building will receive

fresh paint.

- Architectural grade metal panels are integrated into the existing building in a thoughtful, aesthetically pleasing architectural design, as illustrated in the conceptual rendering of the south elevation below.

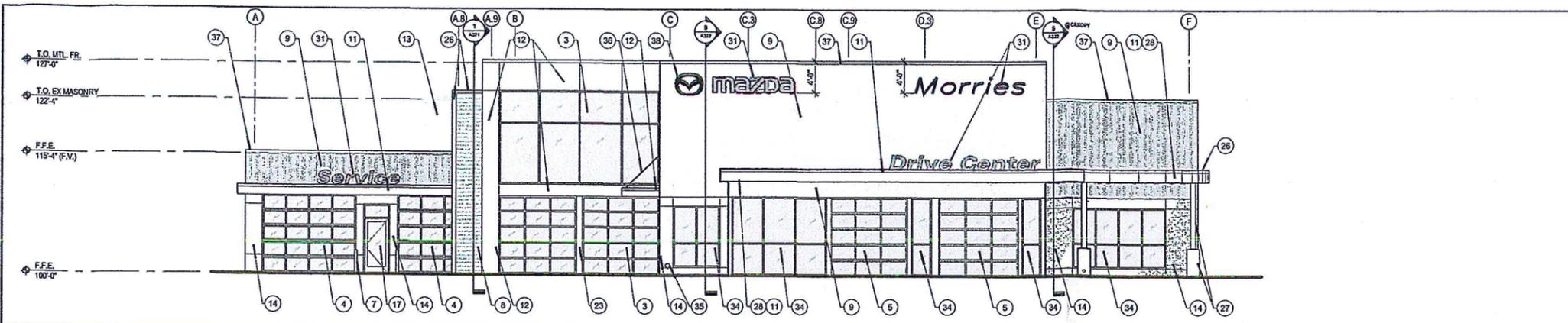


### **Conclusion:**

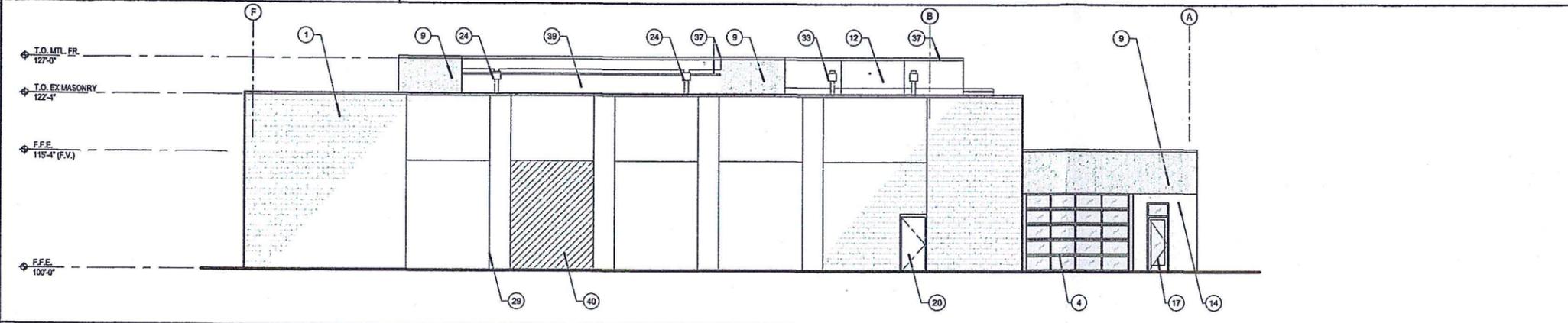
We believe the Variance to allow an additional 16% of metal panel on the south facade beyond the limit set forth in section 10-15-17, should be granted for the following reasons:

- Architectural grade metal panels in the proposed design are mostly limited to narrow linear expanses to reinforce the vertical and horizontal elements in the facade – there are no vast unbroken expanses of metal panel.
- The amount of Architectural grade metal panel proposed doesn't significantly exceed the amount allowed in the City Code, and results in an attractive architectural design that is harmony with the intent of the City Code and Comprehensive Plan for the district.
- Upon receipt of the Variance, the Applicant will be able to receive approval from the Manufacturer, and thus return the Development Site to it's reasonable intended use consistent with the existing CUP.

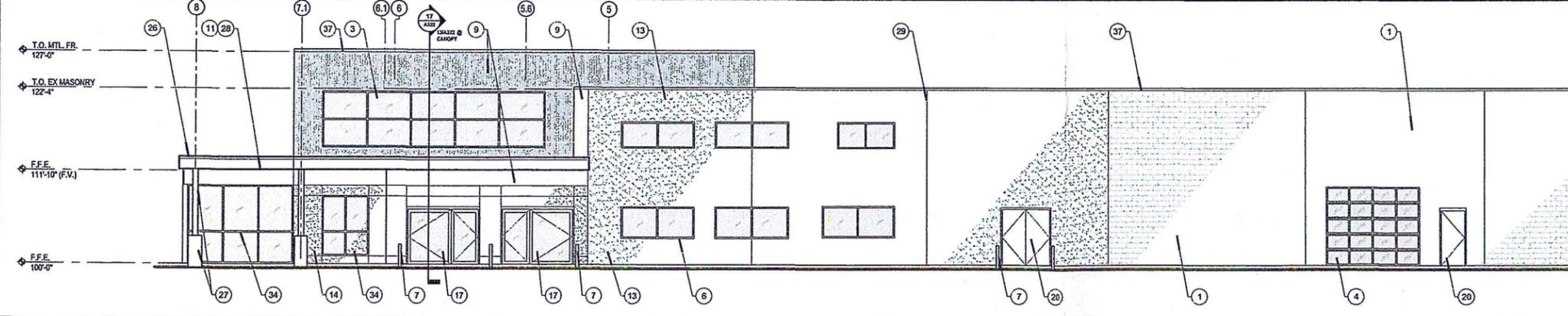
11/18/2013 3:43:10 PM Z:\Projects\AutoCAD\2013-27 - Morrie's Mazda - Inver Grove\Morrie's Mazda\Sheets\A201 EXTERIOR ELEVATIONS.dwg



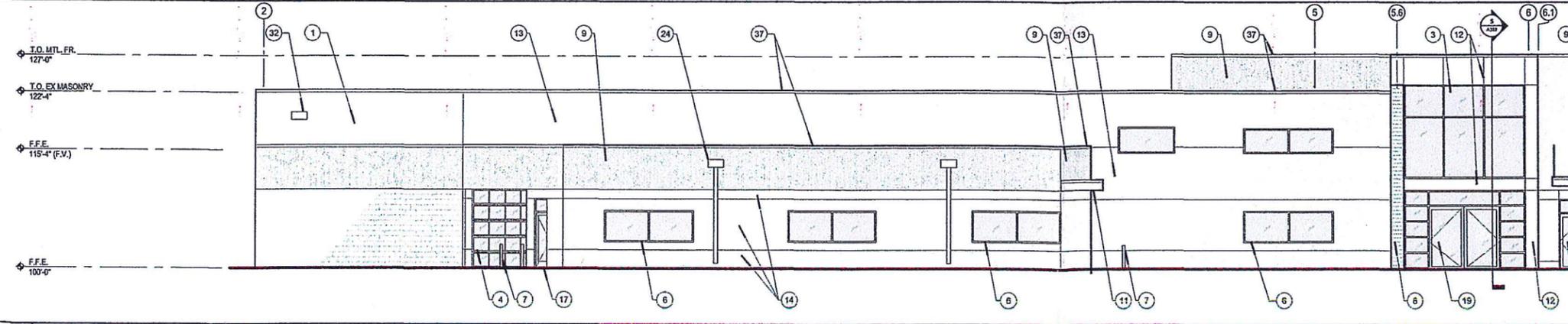
**20 SOUTH ELEVATION**  
1/8" = 1'-0"



**19 NORTH ELEVATION**  
1/8" = 1'-0"



**18 EAST ELEVATION**  
1/8" = 1'-0"



**17 WEST ELEVATION**  
1/8" = 1'-0"

**KEY NOTES:**

1. EXIST. CMU WALL - PAINT TO MATCH E.I.F.S. - 1 (DRYVIT #102; BRITE WHITE)
2. PREFIN. ALUMINUM BREAK METAL
3. CLEAR ANODIZED ALUMINUM STOREFRONT W/ CLEAR INSULATED GLAZING
4. EXIST. SECTIONAL OVERHEAD DOOR WITH CLEAR ANODIZ. ALUM. FINISH & CLR. INSUL. TEMP. GLAZ
5. SECTIONAL OVERHEAD DOOR WITH CLEAR ANODIZ. ALUM. FINISH & CLR. INSUL. TEMP. GLAZ
6. EXIST. CLEAR ANODIZED ALUMINUM STOREFRONT W/ CLEAR INSULATED GLAZING
7. EXISTING PIPE BOLLARD - PREP., PRIME, AND PAINT P8 (GLIDDEN PRO. #4216SP, #70YR 30651, ORANGERY)
8. MP-1: CORRUGATED METAL PANEL - CENTRIA 1W-20A, #43586S1, LIME GREEN
9. MP-2: CORRUGATED METAL PANEL - CENTRIA STYLE RB, #9946, SILVERSMITH
10. NOT USED
11. MP-4: FLAT METAL PANEL - CENTRIA, #43586S1, LIME GREEN
12. MP-5: FLAT METAL PANEL - CENTRIA, #946, SILVERSMITH
13. E.I.F.S. - 1; (DRYVIT #102 BRITE WHITE)
14. E.I.F.S. - 3; (DRYVIT #715 LICORICE)
15. NOT USED
16. HOURS OF OPERATION SIGN
17. EXISTING CLEAR ANODIZED ALUMINUM FRAME. DOOR FRAME FINISH COLOR: GLIDDEN PRO #4216HP, #1338 17399 REGATTA BAY
18. NEW CLEAR ANODIZED ALUMINUM STOREFRONT FRAME. DOOR FRAME FINISH COLOR: GLIDDEN PRO #4216HP, #1338 17399 REGATTA BAY
19. NEW CLR. ANODIZ. ALUM. STOREFRONT FRAME W/ CLR. INSUL. TEMP. GLAZ. DOOR FRAME FINISH COLOR: GLIDDEN PRO #4216HP, #1338 17399 REGATTA BAY
20. EXISTING HOLLOW METAL DOOR AND FRAME - PAINT TO MATCH ADJACENT WALL
21. PREFINISHED OVERFLOW SCUPPER TO ADJACENT WALL
22. DOWNSPOUT NOZZLE
23. CLEAR ANODIZED ALUM. BREAK METAL TRIM
24. EXISTING CONDUCTOR HEADS AND DOWNSPOUTS - PAINT TO MATCH ADJACENT WALL
25. CLEAR ANODIZED ALUMINUM BREAK METAL CLADDING @ FURRED DOOR JAMB
26. PRE-FINISHED BREAK METAL FLASHING TO MATCH ADJACENT METAL PANEL
27. STEEL COLUMN - PAINT TO MATCH MP-5 ON C.I.P. CONC. BASE - STAIN SEAL TO MATCH MP-5
28. CANOPY STRUCTURE CLAD WITH PREFINISHED METAL PANEL
29. EXISTING CONTROL JOINT.
30. EX. CLEAR ANODIZED ALUMINUM AUTO DOOR & FRAME WITH CLEAR INSUL. TEMPERED GLAZ.
31. ILLUMINATED SIGNAGE, BY MNSP APPROVED VENDOR. PROVIDE J-BOX AND BRACING BEHIND MTL WALL PANELS REQUIRED BY SIGN MANUFACTURER
32. EXISTING SCUPPER - PAINT TO MATCH ADJACENT WALL
33. CONDUCTOR HEAD AND DOWNSPOUT - PAINT TO MATCH ADJACENT WALL
34. PREFIN. ALUM. STOREFRONT W/ CLEAR INSULATED GLAZING. FRAME FINISH COLOR: P-8 GLIDDEN PRO #4216HP, #70YR 30651 ORANGERY
35. DOWNSPOUT NOZZLE
36. DECORATIVE TURN BUCKLE / TENSION ROD. FAUX CANOPY SUPPORT, TO MATCH MP-5 (SEE ABOVE)
37. PRE-FINISHED METAL CAP FLASHING TO MATCH ADJACENT WALL
38. SIGNAGE BY MNSP APPROVED VENDOR. PROVIDE BRACING BEHIND MTL WALL PANELS REQUIRED BY SIGN MANUFACTURER.
39. EXISTING WALL - PAINT TO MATCH MP-2
40. EXISTING OPENING TO BE FILLED WITH NEW CMU - PAINT TO MATCH E.I.F.S. - 1 (DRYVIT #102; BRITE WHITE)

VARIANCE APPLICATION - ISSUED: 11-18-13

**Darwin Lindahl Architects, P.A.**  
4124 Quebec Ave. North, Suite 106  
Minneapolis, Minnesota 55427  
Ph: 763.560.0448 Fax: 763.560.0441  
e-mail: [darwinlarch@gmail.com](mailto:darwinlarch@gmail.com)

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Project #: 2013-27

PROPOSED FACILITY FOR:  
**MORRIE'S MAZDA**  
 10 MENDOTA ROAD EAST  
 INVER GROVE HEIGHTS, MINNESOTA

**Revisions:**

| No. | Revision:     | Date:    |
|-----|---------------|----------|
| 1   | VARIANCE APP. | 11-18-13 |
|     |               |          |
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**Certification:**  
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.

*Darwin M. Lindahl*  
Darwin M. Lindahl  
Date: 07/25/11 License No: 15248

**Drawing:**  
EXTERIOR  
ELEVATIONS

Sheet No:  
**A201**

# PLANNING REPORT CITY OF INVER GROVE HEIGHTS

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REPORT DATE: December 30, 2013

CASE NO: 13-55V

HEARING DATE: January 7, 2014

APPLICANT & PROPERTY OWNER: Anthony and Anne DePalma

REQUEST: Variance from the side setback requirements

LOCATION: 6860 Athena Way

COMPREHENSIVE PLAN: Low Density Residential

ZONING: E-1, Estate Residential

REVIEWING DIVISIONS: Planning

PREPARED BY: Heather Botten  
Associate Planner



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## BACKGROUND

The applicant is requesting a side yard setback variance to allow the construction of a 1,200 square foot accessory building to be located 15 feet from the side property line whereas 50 feet is the required setback for accessory buildings larger than 1,000 square feet. If the new structure was a home or an accessory building less than 1,000 square feet in size the side yard setback would be 10 feet.

The proposed structure would not be pole construction and it would be in compliance with all other setback, size, and impervious surface requirements. The property is a wooded lot with topographical challenges and a limited buildable area.

## SURROUNDING USES

The subject site is surrounded by the following uses:

- North - Residential; zoned R-1C, Single Family; guided LDR, Low Density Residential
- East - Residential; zoned R-1A, Single Family; guided LDR, Low Density Residential
- West - Residential; zoned E-1, Estate Residential; guided LDR, Low Density Residential
- South - Residential; zoned E-1, Estate Residential; guided LDR, Low Density Residential

## EVALUATION OF REQUEST

### VARIANCE CRITERIA

City Code Title 11, Chapter 3. **Variations**, states that the City Council may grant variations when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variations, City Code

identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

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

The regulations on accessory structures have changed over the years to allow for larger buildings in the larger lot areas of the City. When the code was last changed to allow for larger buildings, it was recognized that larger buildings should have greater setbacks. The proposed building is 1,200 square feet; any accessory structure larger than 1,000 square feet requires a setback of at least 50 feet. Less than 1,000 square feet follows standard accessory structure setbacks; in this case, a setback of 10 would be required.

The request is in harmony with the intent of the comprehensive plan as the lot is being utilized as residential which would contain improvements such as accessory structures.

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

The 1,200 square foot accessory building is not out of character for this area. Based on the zoning of the property and the size of the lot (2.68 acres), one accessory building up to 1,600 gross square feet in size would be allowed on the property. The proposed structure would allow the owner to use the property in a reasonable manner. In respect to the land use, impervious surface, other setbacks and code requirements the request is in harmony with the provisions in the zoning ordinance.

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

The lot contains a wide range of topographic relief. The topo grades drop on the west side of the driveway. Based on the topography, location of the house, well, and driveway there is no viable place east of the driveway that can meet the 50 foot setback requirement. The lot may be 2.68 acres in size but the topography of the property does severely limit the location of any structure.

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

One of the functions of setback requirements is to maintain consistency of structure placement and aesthetic qualities from view. Allowing a reduced side yard setback may not have a direct impact on this neighborhood. The lot is wooded and screened from the neighboring properties. The proposed structure would be setback over 200 feet from the road and the closest residential structure to the proposed building would be to the south located about 240 feet away.

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

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

### **ALTERNATIVES**

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

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

- Approval of a **Variance** to allow a 1,200 square foot accessory structure 15 feet from the side lot line subject to the following conditions:
  1. The site shall be developed in substantial conformance with the site plan on file with the Planning Division.
  2. The accessory structure shall not be used for commercial uses, storage related to a commercial use, or home occupations.
  3. A grading/erosion control plan shall be required at the time of the building permit application and approved by the City Engineer.

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

### **RECOMMENDATION**

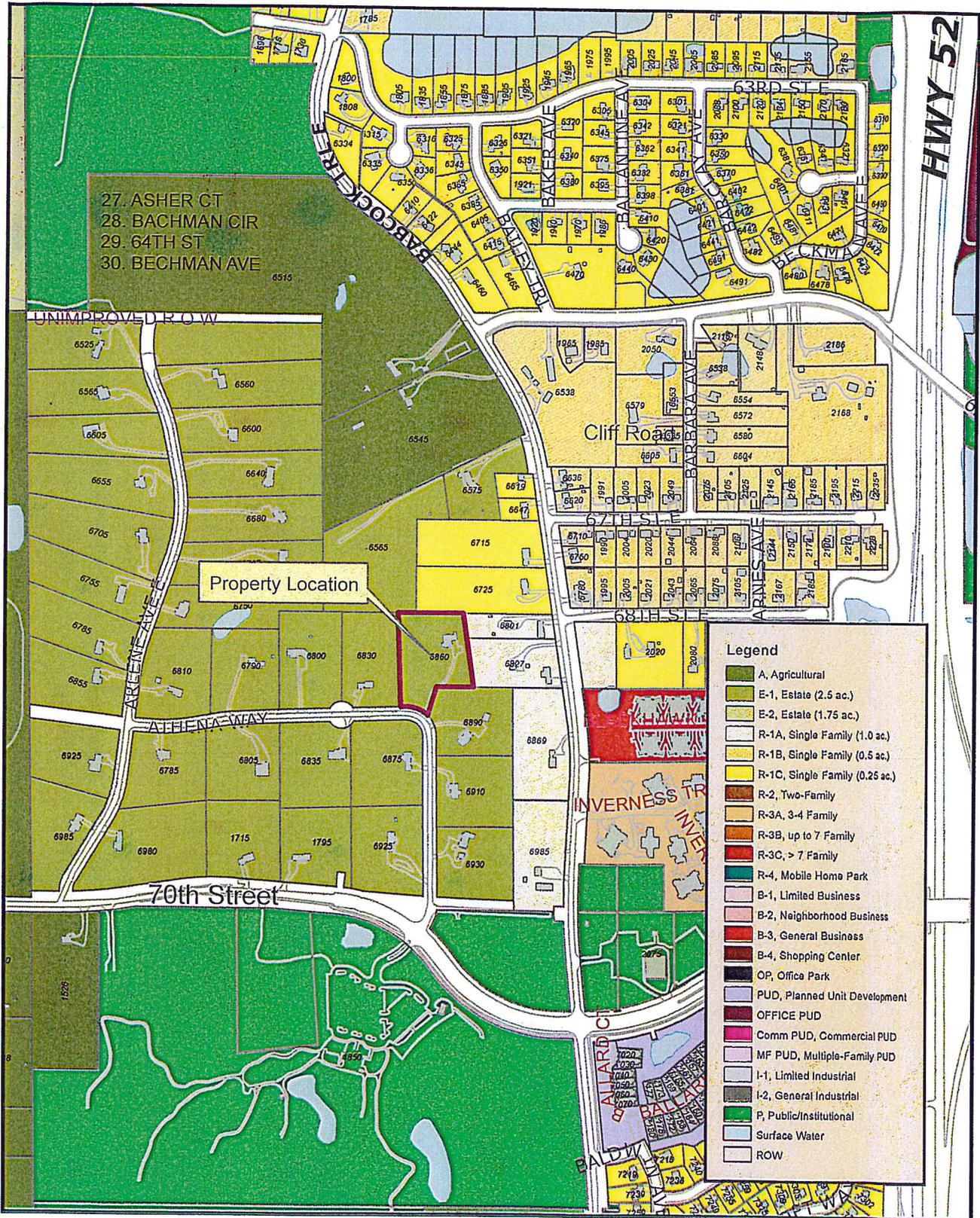
The request is not out of character for the neighborhood and is consistent with the comprehensive plan. The accessory structure is a typical improvement for a residential property and the 15 foot setback does not appear to have any adverse impacts on the neighboring properties. Staff believes a practical difficulty can be found for the 15 foot side yard setback due to the topography of the lot limiting the buildable area for the proposed structure.

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of the setback variance.

Attachments: Exhibit A - Location/Zoning Map  
Exhibit B - Applicant Narrative  
Exhibit C - Site Plan with topography  
Exhibit D - Comments from neighbors



# 6860 Athena Way Case # 13-55V



N  
Map not to scale

Exhibit A  
Zoning and Location Map

Anthony & Anne DePalma  
6860 Athena Way  
Inver Grove Heights, MN 55077

November 18, 2013

City of Inver Grove Heights  
8150 Barbara Avenue  
Inver Grove Heights, MN 55077

To Whom It May Concern,

We are requesting a variance to building code 10-8A-2B to enable construction of a 30' x 40' detached garage on our property, within the required 50' setback area. Our property is zoned E-1 which allows for a 1600 square foot structure per 10-15-18C. However, our property does not have a flat area that would allow the required 50' setback on the east side. Setbacks would be met on the other 3 sides of the property.

As you can see from the topographical map, our property is significantly sloped (ravine). The previous owners placed the house near the northeast corner. The existing house has a 2 car garage. We are proposing this detached garage be built near the existing driveway, along the east side of the property to provide ease of access to the building. The east side of our property is the rear property line of the neighbors to the east. Due to distance and tree cover, this building will not likely be visible from the street. It will have no impact on light or air supply to adjacent properties.

Neighbors whose property is adjacent to our east property line are:

Adolph and Eleanor Kostrezewski  
6801 Babcock Trail

James and Rhonda Greshowak  
6827 Babcock Trail

Neighbors whose property is adjacent to our south property line are:

Greg and Karen Stephan  
6890 Athena Way

Neighbors across the street are:

Dennis and Pat Crist  
6875 Athena Way

Neighbors adjacent to the other, unaffected property lines are:

Michael Pliml and Kristine Olson  
6830 Athena Way

Joseph and Jane Costa  
6725 Babcock Trail

Jeffrey Kemp  
6565 Babcock Trail

Please review this request and let us know of any additional information needed. Thank you in advance for your cooperation.

Sincerely,

*Anthony DePalma*

*Anne DePalma*

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**City of Inver Grove Heights Property Map**




0 30 60 90 120 Feet

6801



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940

6830

6860

48'

x Well

15'

30'

40'

55'

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ATHENA WAY

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**Heather Botten**

---

**From:** tuzee@comcast.net  
**Sent:** Thursday, January 02, 2014 1:01 PM  
**To:** Heather Botten  
**Subject:** Variance case 13-55V

From:

Gregory and Karen Stephan,

6890 Athena Way

Heather,

this is in response to upcoming Planning and Council meetings considering Depalma's request for variance at 6860 Athena Way. We are an abutting property owner of the Depalma's.

This note is to affirm that we have no objection to this variance.

Please respond to indicate you have received this note, that this note is adequate to represent our position, and that this note will be appropriately included in review of Depalma's request to the Planning Commission and to the Council.

Thank you,

Signed:

Gregory Stephan  
Karen Stephan

## Heather Botten

---

**From:** DENNIS W CRIST [dennycrist@msn.com]  
**Sent:** Wednesday, January 01, 2014 9:52 AM  
**To:** Heather Botten  
**Subject:** 6860 Athena Way Case #13-55V

Hi Ms. Botten,

Thank you for taking the time to read this letter.

These lots are 2 1/2 acre minimum and it seems to me that the party should be able to locate a garage within the required setbacks.

The development covenants and restrictions do not allow pole barn type buildings. Any auxiliary/garage type buildings need to be finished to like materials of the main residence structure.

8. No building, fence, wall or other structure shall be erected, placed or altered upon any lot until the plans and specifications showing the nature, kind, shape, height, materials, and location of same shall have been submitted to and approved as to the quality of workmanship and materials, harmony of design with existing structures to the Architectural Control Committee.

Denny Crist  
6875 Athena Way,  
Inver Grove Heights, Mn. 55077  
651-455-6793

**Heather Botten**

---

**From:** K O [k6830@hotmail.com]  
**Sent:** Wednesday, January 01, 2014 2:27 PM  
**To:** Heather Botten  
**Subject:** variance for 6860 Athena Way

City of Inver Grove Heights

Planning Commission:

Please do not grant the variance requested for the property at 6860 Athena Way.

These are large lots and no building of any size should need to encroach on the property lines.

The privacy and spaciousness of these lots should be retained to maintain the value of these properties .

Thank you

K. Olson  
6830 Athena Way

- A copy of this letter was also sent by US mail -

**P L A N N I N G   R E P O R T**  
**C I T Y   O F   I N V E R   G R O V E   H E I G H T S**

---

**REPORT DATE:** December 27, 2013

**CASE NO:** 13-58V

**HEARING DATE:** January 7, 2014

**APPLICANT & PROPERTY OWNER:** Mary T'Kach

**REQUEST:** Variance to allow a solid fence within the front yard setback

**LOCATION:** 1987 - 80<sup>th</sup> Street

**COMPREHENSIVE PLAN:** Low Density Residential

**ZONING:** R-1B, Single-family Residential

**REVIEWING DIVISIONS:** Planning

**PREPARED BY:** Heather Botten  
Associate Planner 

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**BACKGROUND**

The applicant is requesting a variance to allow the construction of two solid fence segments 42 inches high, 10 feet from the front property line. The zoning code requires any fence within a front yard to be no higher than 42 inches and have at least 75% opacity. The reasons for the rule appear to be mainly visibility for traffic and emergency vehicles along the street and driveways. A second reason would be aesthetics, both in uniformity along front views and visual appeal.

The property is located along 80<sup>th</sup> Street/CR 28, across from the Veterans Memorial - Community Center. The applicant is requesting a 66 foot segment of fence to be located 10 feet from the front property line (about 37 feet from the curb). The second segment would be 18 feet of fence located along a secondary drive area also setback 35 +/- feet from the curb. The applicant has stated the purpose of the solid fencing in the front yard would be to mitigate the lights shining into the house from the Community Center traffic and to reduce some of the noise pollution from 80<sup>th</sup> street.

As the Commission may recall, the applicant requested a variance a couple months ago to allow a seven foot high solid fence to be located along the front property line; this request was denied by the City Council. The revised request would be to install a solid 42" fence on top of a 2-3 foot high berm, ten feet from the front property line. The fence would meet height and setback requirements only needing a variance to allow a solid fence verses a chain link fence.

**SPECIFIC REQUEST**

The following specific application is being requested:

- A.) A variance to allow a solid fence within the front yard setback whereas 75% opacity is required for all fences within the front yard.

### EVALUATION OF THE REQUEST

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

North-Residential; zoned R-1B, single-family; guided LDR, Low Density Residential  
West - Residential; zoned R-1B, single-family; guided LDR, Low Density Residential  
East - Residential; zoned R-1C, single-family; guided LDR, Low Density Residential  
South - Community Center/ Armory; zoned P, public/institutional; guided P/I, Public Institutional

### VARIANCE REVIEW

City Code Title 11, Chapter 3. **Variances**, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

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

The general intent of this standard is to limit the precedent that could be set if the variance was granted. The area is developed with other single family homes to the north, west and east. The code allows fences that are at least 75% opaque (chain link) in the front yard; allowing a solid fence could set a precedent for other fences located in the front yard.

The request is in harmony with the intent of the comprehensive plan as the lot is being utilized as residential which would contain typical accessory structures or improvements such as fences.

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

The location of the fence segments would be at least 10 feet back from the property line, out of any traffic sight lines along 80<sup>th</sup> Street. The maximum length of the large segment would be 66 feet, extending a little beyond the length of the house, not across the entire length of the property. The shorter segment of fencing would be no longer than 18 feet in length. Traffic visibility leaving the residence should not be impacted as there would be over 35 feet between the fence and the curb.

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

When Dakota County widened 80<sup>th</sup> street from two lanes to what it is today they acquired over 30 feet from the applicant's property reducing the setback area from the house to the edge of right-of-way. Additionally, the house was built in 1949, prior to the Community Center being constructed. This situation is somewhat unique in that property was taken from the applicant to widen a road and the house is located across the street from the Community Center. Both not typical impacts to a residential lot, however there are other instances throughout the City where properties are located along busy county roads or across from churches, schools, businesses, etc. that could also be impacted by vehicle lights and noise, the variance may be considered a convenience to the applicant, not a practical difficulty.

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

There are fences in all residential neighborhoods. One of the functions of zoning regulations is to maintain consistency of structure placement and aesthetic qualities from street and neighboring views. The zoning code allows chain link fences 42 inches or shorter within the front yard setback. The applicant is planning to create a 2-3 foot high berm on the property and installing a 42 inch solid fence on top of it. The fence height would comply with zoning requirements but allowing a solid fence in the front yard whereas the code requires 75% opacity could alter the character of the neighborhood.

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

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

## **ALTERNATIVES**

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

**Approval:** If the Planning Commission finds the Variance to be acceptable, the Commission has the following options:

A. Approval of the Variance to allow the construction of a solid fence within the front yard setback whereas 75% opacity is required subject to the following conditions:

1. The fence installation shall be in substantial conformance with the site plans dated 12-9-13 on file with the Planning Department.
2. The fence must be located on the land owner's property and out of the County right-of-way.

3. A County work permit is required for equipment located within the County right-of-way.

**Denial:** If the Planning Commission does not favor the proposed request, it should be recommended for denial, which could be based on the following rationale:

1. Denying the variance request does not preclude the applicant from reasonable use of the property as the property would still function as a single family residence.
2. Approval of the variance could set a precedent for other solid fences located within the front yard.
3. Staff does not believe there are practical difficulties in complying with the official control and the solid fence may be considered a convenience to the applicant, not a practical difficulty.
4. Approval of a solid fence within the front setback could alter the character of the neighborhood as it would be the only solid fence within the front yard in this neighborhood.

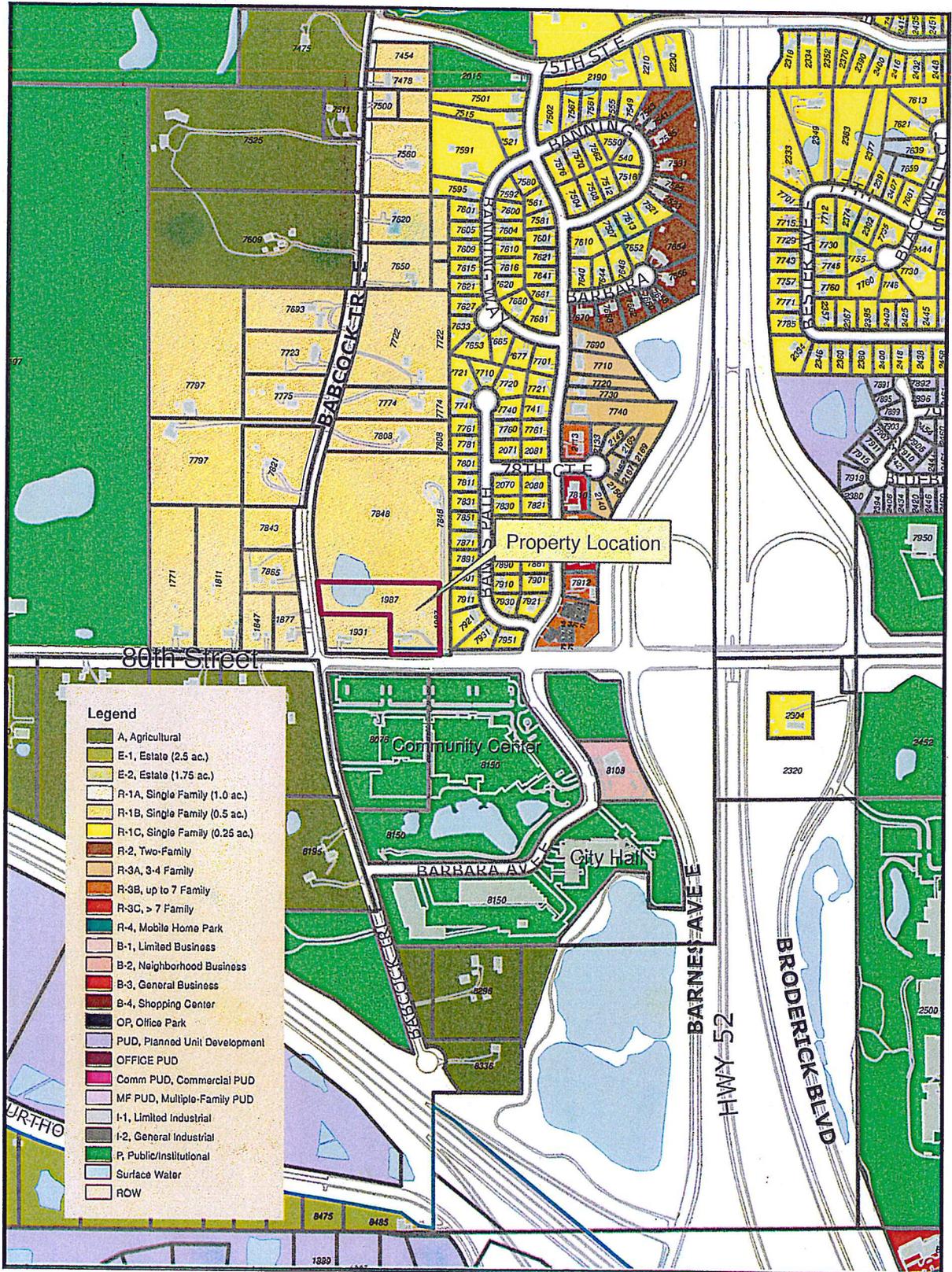
### **RECOMMENDATION**

Staff believes the variance situation is somewhat unique due to the fact the County obtained about 30 feet of right-of-way from the property to widen 80<sup>th</sup> street reducing the amount of space between the house and the edge of right-of-way; however, the request still seems to be a convenience to the applicant and not necessary for the property to be used in a reasonable manner. For the reasons listed in alternative B staff is recommending denial of the proposed request.

Attachments:           A) Location Map  
                              B) Applicant Narrative  
                              C) Site Plan  
                              D) Elevation Plan



# Fence Variance 1987 - 80th Street



- Legend**
- A, Agricultural
  - E-1, Estate (2.5 ac.)
  - E-2, Estate (1.75 ac.)
  - R-1A, Single Family (1.0 ac.)
  - R-1B, Single Family (0.5 ac.)
  - R-1C, Single Family (0.25 ac.)
  - R-2, Two-Family
  - R-3A, 3-4 Family
  - R-3B, up to 7 Family
  - R-3C, > 7 Family
  - R-4, Mobile Home Park
  - B-1, Limited Business
  - B-2, Neighborhood Business
  - B-3, General Business
  - B-4, Shopping Center
  - OP, Office Park
  - PUD, Planned Unit Development
  - OFFICE PUD
  - Comm PUD, Commercial PUD
  - MF PUD, Multiple-Family PUD
  - I-1, Limited Industrial
  - I-2, General Industrial
  - P, Public/Institutional
  - Surface Water
  - ROW

December 9, 2013

Inver Grove Heights Planning Commission  
8150 Barbara Avenue  
Inver Grove Heights, MN 55077

Dear Planning Commission Members:

This is a request for a variance from the existing City code requiring a front yard fence, within 30 feet of the front property line, have at least 75% of its area open. Since my last request, that was denied, I have re-designed my plans (please see attached drawing) for two sections of fence to reduce noise and light issues based on the concerns of the Planning Commission and the City Council. Although the Council denied my original variance request at the November 12, 2013 City Council meeting, a suggestion was made to reduce the visual impact of the fence sections by creating a landscaped berm and constructing the fence on the berm, back from the property line, rather than on the property line as originally requested. Also, there was a concern regarding the overall height of the original fence design. This request will not require a height variance, as the fence will not exceed the 42 inch height limit.

I agree that these changes will result in a more esthetically pleasing fence, and therefore, am now seeking a single variance to allow a solid fence that meets the 42 inch fence height requirement and is set back from the property line, for the front yard of my property at 1987 80<sup>th</sup> Street East.

The practical difficulty in this case is a lack of space to build a solid fence that meets the setback requirements of the City. This practical difficulty was created when Dakota County reduced the front yard of this property by 32 feet when County Road 28 (80<sup>th</sup> Street) was widened from two lanes to four-plus lanes.

There will be landscaping maintained on the street side of the 42" fence sections that will create a pleasant visual esthetic for the public while reducing the noise and light pollution from the road and nearby parking lots.

If you have questions or would like to discuss this request, please contact me at 651-455-8452. Thank you for your re-consideration of this request.

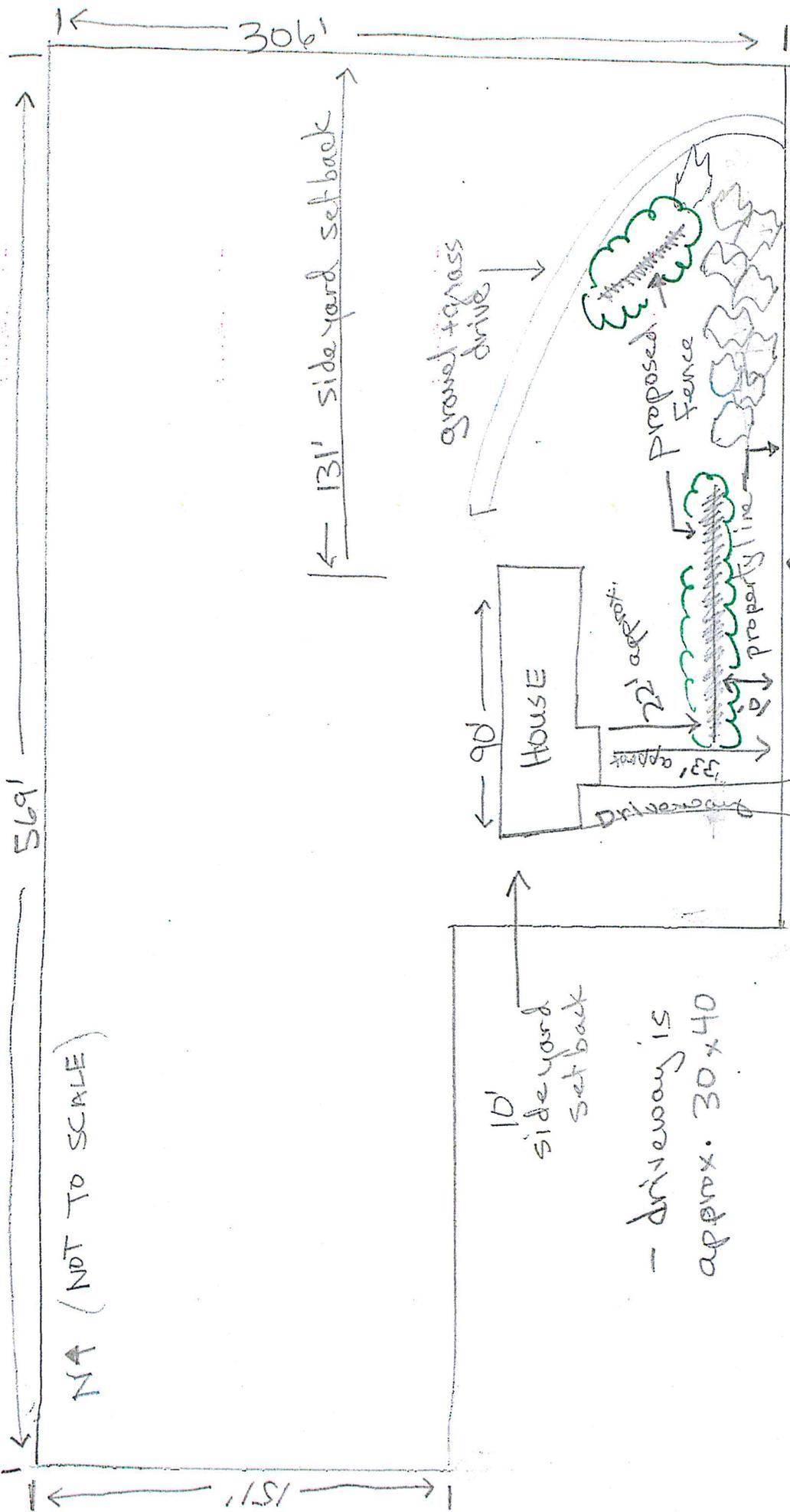
Sincerely,



Mary T'Kach

Property owner  
1987 80<sup>th</sup> Street East  
Inver Grove Heights, MN 55077

B



NA (NOT TO SCALE)

10' side yard setback  
 - driveway is approx. 30x40

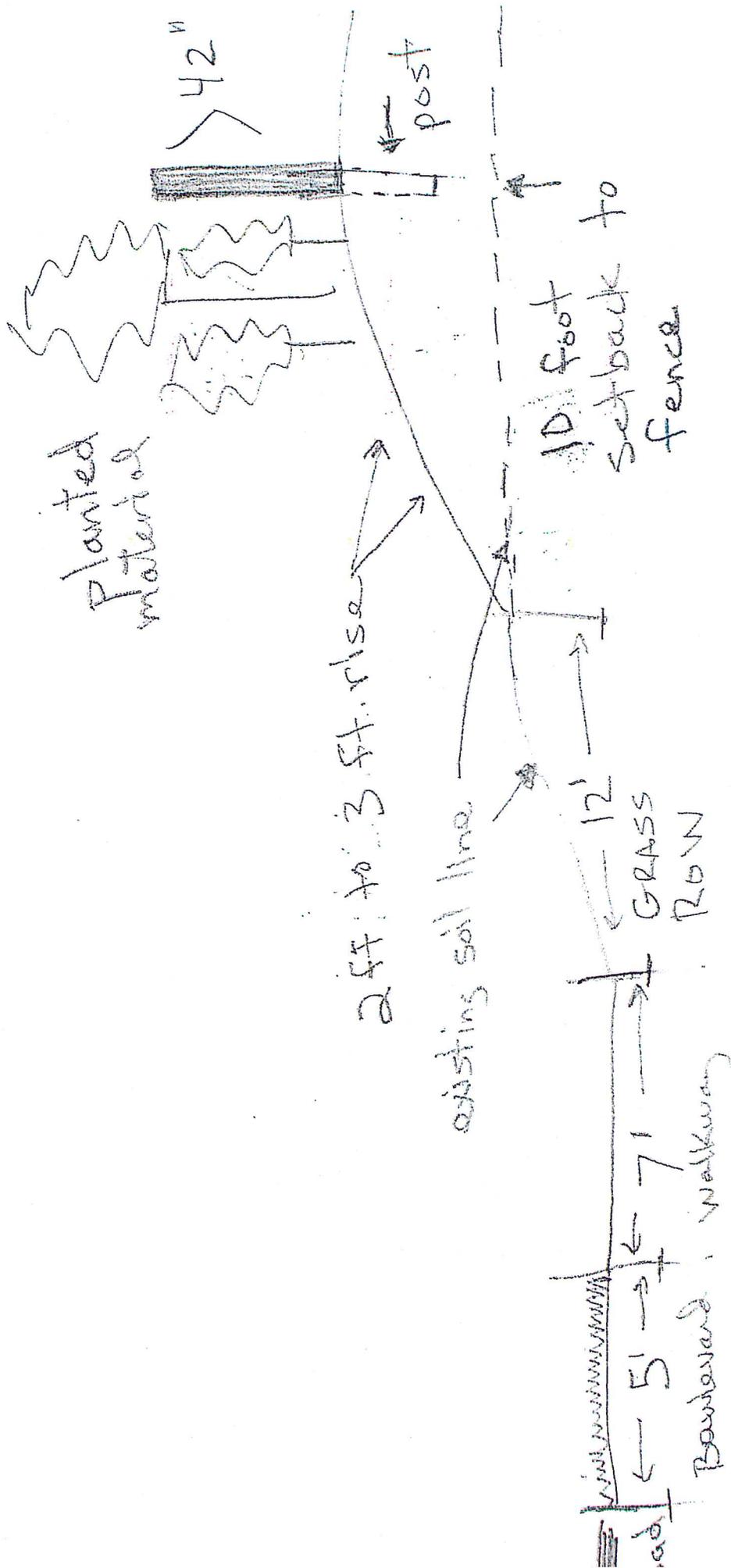
1987 E. 80th St

Parcel ID# 20-64000-00-120



DEC - 9 2013

12' County ROW  
 7' trail/sidewalk  
 5' boulevard  
 80th Street



U.



West - Residential; City of Eagan

South - County Rd 28 and Vacant; zoned A, Agricultural; guided LMDR

## EVALUATION OF REQUEST

### VARIANCE CRITERIA

City Code Title 11, Chapter 3. **Variations**, states that the City Council may grant variations when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variations, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

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

The surrounding neighborhood is guided for low to medium density residential. The use of the property for a single family home would be consistent with the surrounding neighborhood.

The Code provision was designed to address existing lots of record that were created before the 1965 zoning ordinance. In this case, the lot was created through right-of-way acquisition and the remnant lot size was a result of a government action and not from a landowner action. The lot is only .05 acres shy of meeting the 70% rule.

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

The site would be used for a single family home which is allowed by zoning and is consistent with the comprehensive plan.

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

The lot size issue is a result of right-of-way acquisition through a government action and the resultant lot is not a circumstance created by the landowner. The lot is only .05 acres or 2,178 square feet shy of meeting the 70% rule.

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

Allowing development on this lot will not alter the character of the neighborhood. The immediate area is developed with houses on larger lots with well and septic.

Eventually, it is expected that this area will redevelop with higher density once sewer is extended to the area.

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

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

#### Miscellaneous Item Analysis:

Access. The site abuts County Road 28 and is therefore subject to the County's access and driveway restrictions. Both the City and the applicant have talked to the County regarding the driveway location and the County has indicated the driveway is to be as far west on the property as possible. The submitted drawings show the driveway along the west boundary of the site. The County will review the plans and issue a driveway access permit. This will be required to be completed prior to the City issuing a building permit.

Storm Water. The City Engineer has reviewed the plan against the Northwest Area Storm Water requirements to make sure the proposed home location does not impact any future storm water needs. There is a planned retention basin on the property and the applicant will be required to create a storm water basin on the property in the existing low area on the west side of the lot. The house location, lowest floor elevation, and overall grading have been reviewed and will not impact the ability of the storm water basin to function when redevelopment of the area eventually occurs. A storm water maintenance agreement will be required for the property to address the construction and maintenance of the pond.

Easements. The lot is a metes and bounds described lot without any existing drainage and utility easements. As a general practice, the City Engineer is requesting that perimeter drainage and utility easements be dedicated by the landowner as part of the variance request. These easements would be created via separate documents and would be prepared by the City Attorney. These easements must be submitted to the County for recording prior to issuance of the building permit.

Future Development Potential. Both Planning and Engineering have reviewed this parcel along with the surrounding parcels for future development once sewer is extended to the site. The location of the house has been sighted so it does not impact future storm water. Based on the storm water pond restriction and the triangular shape to the lot, there is not much flexibility to locate the house. We do not believe the proposed house location negatively impacts future development of this site or of the surrounding properties. Future access to this site would most likely come from an internal local road network extending from the west or north of this site. Staff has no objections to the location of the house.

### **ALTERNATIVES**

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

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

- Approval of a **Variance** to allow the construction of a new home on a vacant lot of record not meeting the 70% minimum lot size requirement of the A, Agricultural District subject to the following conditions:
  1. The site shall be developed in substantial conformance with the site plan dated 12/30/13 on file with the Planning Division.
  2. The location of the driveway onto County Road 28 shall be subject to approval by Dakota County. A driveway access permit is required to be obtained from the County prior to issuance of the building permit.
  3. A Storm Water Facilities Maintenance Agreement shall be required to be entered into between the applicant and City. This agreement must be signed and executed prior to release of a building permit. The owner shall submit a \$2,500 escrow to reimburse the City for expenses relating to staff and attorney time to draft the documents, review, inspections and oversight.
  4. A custom grading agreement is also required by City Code to ensure proper drainage and erosion control standards are met. A \$10,000 surety is required to be submitted with the custom grading agreement. Said agreement shall be signed and executed prior to issuance of a building permit.
  5. A 10 foot drainage and utility easement shall be granted along the entire perimeter of the site. The easements shall be granted via documents prepared by the City Attorney. The easement document shall be signed/executed and submitted to the County for recording prior to issuance of a building permit.
  6. The project and plans shall be subject to the review and approval by the City Engineer. All plans shall be approved prior to issuance of a building permit.

**B. Denial** If the Planning Commission does not favor the proposed variance, 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 a practical difficulty can be found since the lot size was created through right-of-way acquisition and was not the result of the landowner. The placement of the proposed house

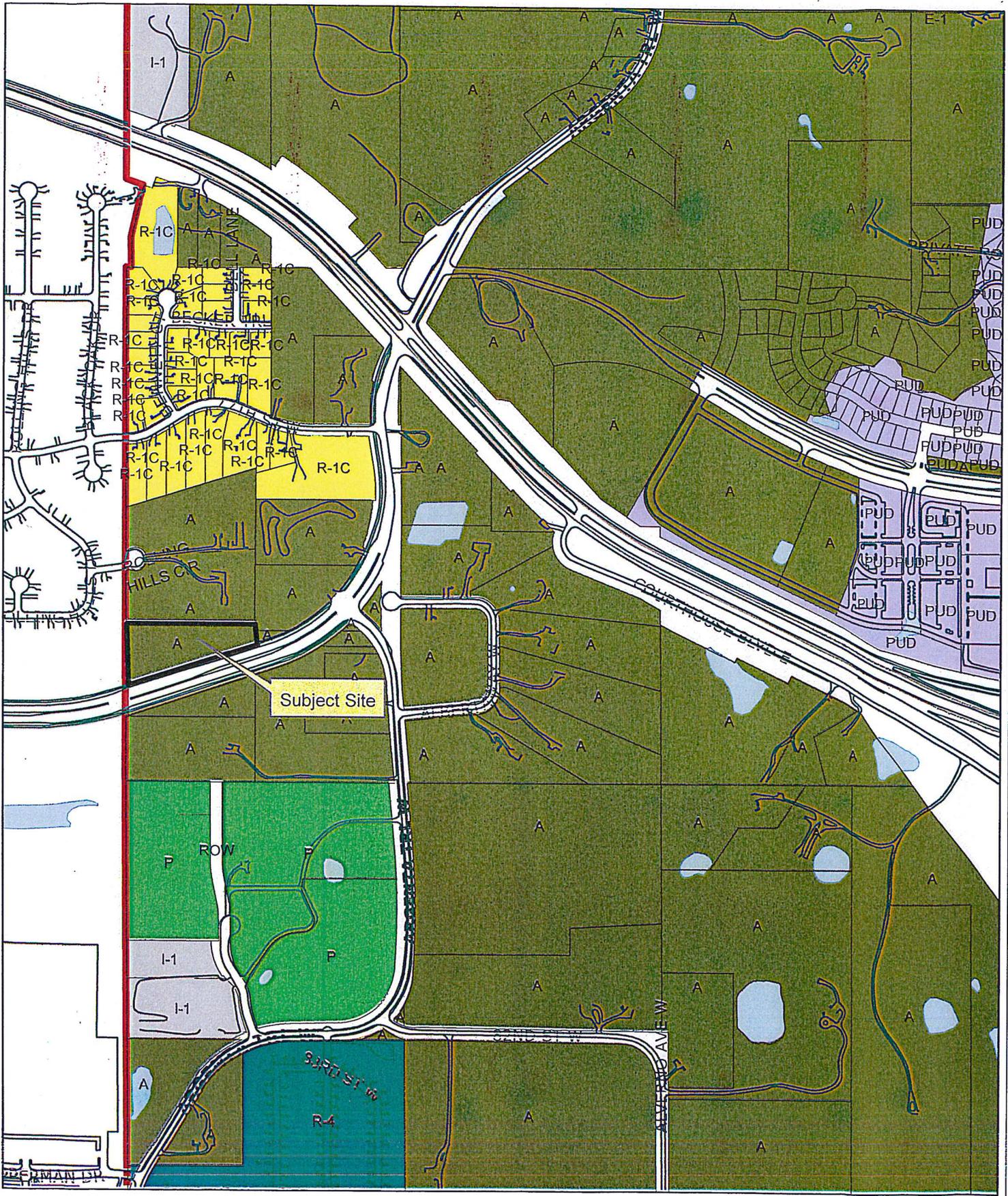
does not negatively impact future development of the site and is consistent with storm water needs for the area. Staff recommends approval of the lot size variance.

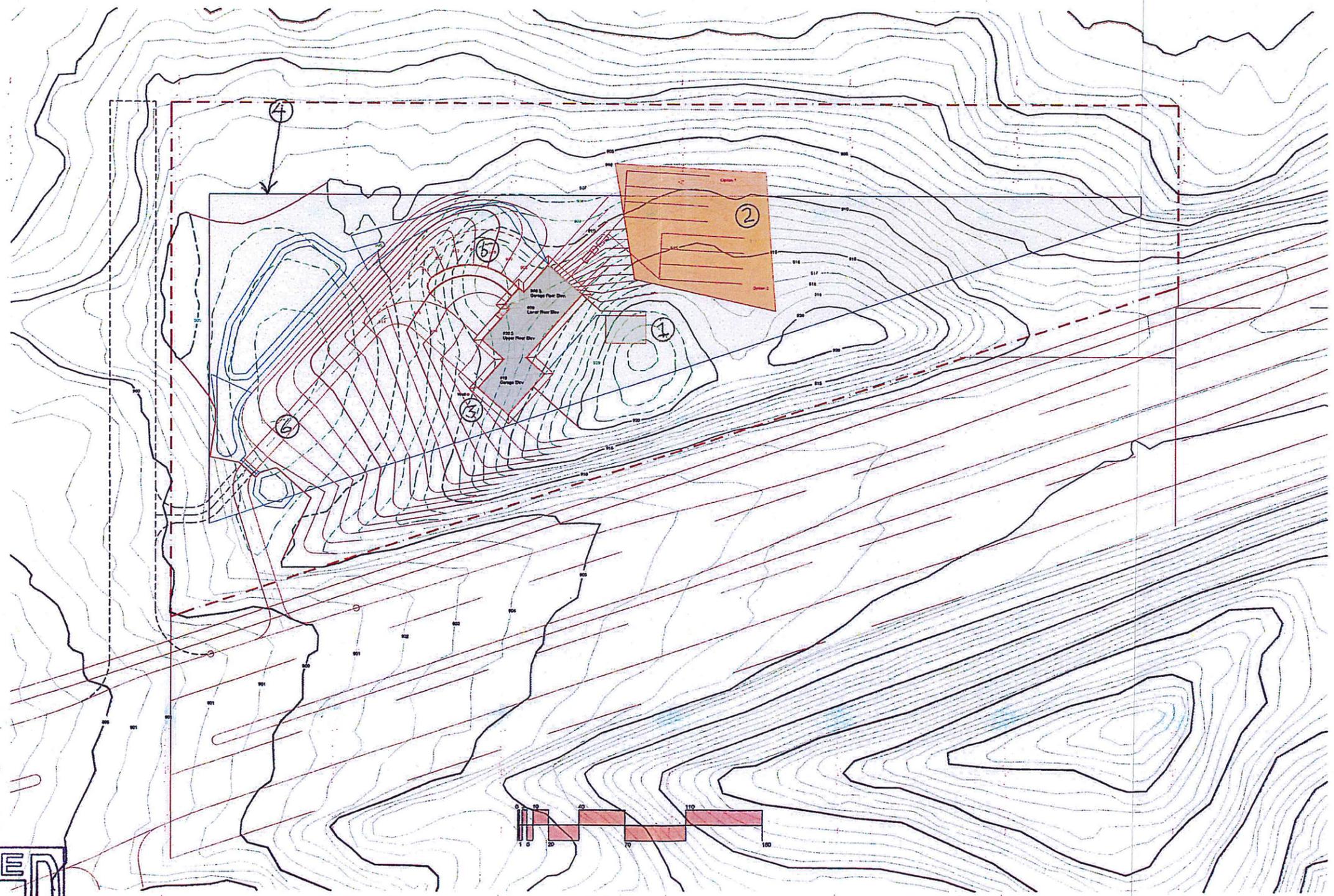
Attachments: Exhibit A - Location/Zoning Map  
Exhibit B - Site Plan



# Location Map

## Case No. 13-57V





RECEIVED  
DEC 30 2013

7929 ARGENTA TRAIL W.  
INNER GROVE HEIGHTS, MN 55077  
PID 20-00700-52-081  
SECTION 7 TWN 27 RANGE 72  
7 27 22

(A)