

AGENDA
North Oaks Planning Commission Meeting
Community Meeting Room – 100 Village Center Drive, Suite 150
North Oaks, MN 55127
Thursday, August 29, 2019 at 7 PM

Call to Order

Swearing in of new Planning Commissioner Jim Hara

Roll Call

Approval of Agenda

Approval of the July 25, 2019 Regular Meeting Minutes

Public Hearing – Request for Subdivision Approval/Lot Split – Vacant Lot at 42
Mallard Road – Sarah Kudebeh

Public Hearing - Request for Conditional Use Permit – 33 Mallard Road –
Combined Garage Space Over 1,500 Square Feet – Fady Daw

Planning Commission Training – City Attorney Kory Land

Next Planning Commission meeting is Thursday, September 26, 2019

**Planning Commission Meeting
July 25, 2019
7:00 PM**

Call to Order:

Commissioner Mark Azman, as appointed temporary chair, welcomed everyone to the meeting and called the meeting to order at 7:00 pm.

City Administrator Mike Robertson conducted Swearing in of Commissioner Azman as temporary Chair. Chair Azman then swore in new Planning Commissioner Nick Sandell. New Commissioner Jim Hara was unable to attend due to a long standing vacation.

Roll Call:

Present: Chair Mark Azman, Commissioners Stig Hauge, Nancy Reid, Nick Sandell, Sara Shah. Absent were Commissioners Joyce Yoshimura-Rank and Jim Hara. City Staff: City Administrator Mike Robertson, Recording Secretary Debbie Breen, City Planner Bob Kirmis, and soon to be City Attorney Kory Land.

Former Commissioners Katy Ross and Kara Ries also were seated at the table. Chair Azman, as per directive of the City Council as an overseeing body of authority, asked former Commissioners Ross and Ries to step away from the Planning Commission. Commissioners Ross and Ries gave prepared statements in disagreement with manner in which Ordinance 130, Chapter 34 regarding composition of the Planning Commission was recently enacted, stating they were grandfathered in. They stated they were harmed by not being allowed to remain on the Planning Commission. Following the directive of the City Council, Chair Azman asked Ross and Ries to leave the Planning Commission table. He encouraged anyone to share their thoughts on the issue with the City Council. Ries and Ross left the Planning Commission table.

Approval of Agenda:

Commissioner Reid moved to approve the agenda. Commissioner Hauge seconded. Motion approved unanimously.

Approval of Minutes:

Commissioner Reid moved to approve the May 30, 2019 meeting minutes. Commissioner Shah seconded. Motion approved unanimously.

**Public Hearing – Request for Conditional use Permit – 33 Mallard Road
Combined Garage Space over 1,500 Square Feet – Fady Daw**

Chair Azman opened the Public Hearing at 7:35 p.m.

Administrator Robertson reviewed the request by resident Fady Daw who is asking to convert his existing exercise room into additional garage space. Garage space over 1,500 sq. feet requires a Conditional Use Permit (CUP) per City ordinance. Originally, Mr. Daw was told that he would need a CUP to construct additional garage space, but he decided to use it as an

exercise room instead so he could begin home construction. He is now requesting conversion of the exercise room to garage space. The property is 1.53 acres, single family home, and zoned as Single Family by zoning. The house square footage is not changing and it meets floor area ratio (FAR) requirements. The proposed use of garage space doesn't appear to burden neighbors, traffic, drainage or endanger public welfare. These are all conditions that must be satisfied for approval. Proposed conditions of approval are: final plans must be approved by the Building Official and outstanding fees must be paid.

Commissioners Shah and Reid asked for a drawing of the request, which Administrator Robertson retrieved from the City office. Commissioner Hauge asked if the use as a garage vs. exercise space makes a difference per ordinances. Administrator Robertson stated that "Conditional Use" means use permitted with conditions put on it. Commissioner Reid inquired if NOHOA is looking at the landscape drawings, and Commissioner Shah asked for clarification on the role of NOHOA in Planning Commission rulings. Robertson stated that while we encourage residents to go before NOHOA under state law we can't deny a building permit if they haven't received NOHOA approval. Robertson stated per discussion with Executive Director Griffin, NOHOA indicated that they are close to resolving outstanding issues with Mr. Daw. Commissioners had questions about the location of the driveway, how to access the garage, etc. The applicant was not in attendance to answer questions. Commissioners Shah, Hauge and Reid all had driven by the applicant's property but were unable to get feel for the project with only the written description of the applicant's request.

Scott Reed – 28 Mallard Road

Mr. Reed is a neighbor to Mr. Daw, and feels he is a very nice guy but has a history of not following proper procedures. He is concerned that in winter, cars could end up in the pool because of the very steep driveway. Mr. Reed has done his own work on his own property and was required to follow all the processes and procedures. He feels Mr. Daw does everything backwards, does projects and then asks later. He also believes Mr. Daw's exterior lighting is not to code and inconsistent with natural area, as well as having 4 pillars which is 2 more than allowed.

Lisa Dujmovic – 15 Black Lake Road

As part of the NOHOA Architectural Review Committee, she indicated they are still working with Mr. Daw and not close to resolution. There are at least 7 open violations, and a date for the meeting with him has not yet been scheduled.

City Planner Kirmis mentioned that typically a CUP permit request for this sized garage would look at site plan and building impact, as well as any potential negative impacts and any unique features. Commissioner Sandell asked if it meets code setbacks from property lines. It does.

Susan Hinrichs – 55 East Pleasant Lake Road

Ms. Hinrichs asked procedurally what happens when there is a legal challenge to ordinances, and what the next steps are from a City perspective to ensure the planning is properly seated. Chair Azman stated there is not a legal challenge at this point. Administrator Robertson said

that on the next City Council Agenda is the request to approve the new attorney contract, as well as a request they review the newly enacted Ordinance 130.

Jo Ann Hanson – 5 Sumac Lane

Ms. Hanson asked for the date of the City Council meeting when the ordinance was passed removing the two planning commissioners. Robertson stated June 13, 2019.

Without further comments, the Public hearing was left open and adjourned until the next meeting.

Administrator Robertson stated that residents may do unusual things with their property, but the Planning Commission must look at the building code and ordinances in their decisions. Commissioner Reid wanted a site plan with locations of the septic, well and drain fields, and felt we are missing too much information to make a decision on the CUP request. Commissioner Sandell was in favor of tabling and waiting on more information.

Commissioner Shah moved to table CUP 19-04, the Request for Conditional use Permit at 33 Mallard Road for Combined Garage Space over 1,500 Square Feet, pending additional information requested. This includes: site plan with everything located (well, septic, driveway), engineer report on drainage, and applicant response on the lighting issue. Discussion: Commissioner Shah asked if the Planning Commission can bring the outstanding ASC issues into the discussion, with Reid asking if we could get a list of those issues. City Planner Kirmis stated that typically within the City's responsibilities is adherence to ordinances, while a home owners association is responsible for imposing and enforcing any restrictions above and beyond ordinances. Administrator Robertson agreed to ask NOHOA staff if they would be willing to share the outstanding applicant issues as background information, however it is not a condition of the motion. He will also again encourage the applicant to attend the next meeting on the CUP application to answer questions by the Commission. **Commissioner Reid seconded the motion, and the Motion unanimously approved.**

Planning Commission Training – Open Meeting Law, Social media

City Attorney Kory Land, with law firm LeVander, Gillen & Miller LLC, came to introduce herself and provide training on a variety of topics. She has a passion for helping governments do things the right way, and has been with the firm for 23 years since law school. She is looking forward to helping the City of North Oaks set things up in a thoughtful organized way. Covered in this 1st session: why Planning Commissions exist, their purpose, the opening meeting law, social media and general operating procedures.

Role of Planning Commission:

1. Planning Commissions exist because the state allows them to exist. Having this commission says to residents "These are the rules put in place and lets the community know if they play by rules they can do certain things here." The Planning Commission is advisory to the City Council.

2. **Role and purpose:** Develop comprehensive plan, review zoning/subdivision ordinances, subdivision regulations and applications, conditional use permits and variance requests. The perfect use of the Planning Commission was the review of the CUP Application for Mr. Daw immediately prior. The rule books for the Planning Commission are: comprehensive plan, zoning ordinances, any subdivision regulations.
3. **Key general terms:**
 - Comprehensive Plan:** Long term vision for community, usually broad, not detailed, broad brush.
 - Zoning Ordinances:** Takes information in the Comprehensive Plan and puts in more details for regulations such as height, zone, stories, open spaces, uses of buildings and structures. Zoning map divides into all the different types of zones, Residential, Commercial, etc., - more specific and particular.
 - Subdivision Regulations:** Even further dividing into lot sizes, setbacks, trails, plats, etc. By the time the Planning Commission sees a plan, the City staff has primarily worked out many details.

Open Meeting Law:

Open Meeting Law says that “all meetings are open to the public”. All elected officials and commissions, or any committee the council has authorized must adhere to the Law.

Meetings aren’t specifically defined in statutes, but include:

1. Anytime a quorum of the body discusses, decides, or receives information as a group.
2. Information discussed is related to official business.

For City Council 3 of 5 discussing an issue applies, for the Planning Commission it would be 4 out of 7. Typically, this refers to in person meetings but also includes email and social media as the biggest pitfalls. Biggest concern: email when too many members involved results in quorum and violation. Emails with questions about an issue should only be sent to City staff. Staff can then copy all Commissioners with an answer. Commissioners should not do a reply all, which would constitute a quorum for discussion. If they need more info she suggests just reply to City staff as an individual.

Social Media – Facebook:

If you are friends on Facebook with a quorum of Planning Commissioners, don’t comment or discuss on anything that could possibly come before you as official business. The exception is unless the Facebook page is completely open to the public like the city page, then able to comment because it is open to the entire public. On the NOHOA Facebook page where all North Oaks members could be on the page – Commissioners can read the comments, but no response commentary. Hitting a “Like” button counts as weighing in on a decision, where you can’t comment on something that comes before you. This applies to personal Facebook pages, so just don’t discuss things on your Facebook page if you have a quorum and it could come before you. The penalties for a violation could include \$300 fine and public embarrassment.

What Requires a Public Hearing:

A Public Hearing ensures all sides of story are heard, that due notice is given, and that it is on the public record. This allows full presentation by the applicant, City and the public. Chair Azman asked about guidelines for conducting a public hearing, and thought asking for public comments 3 times would be sufficient guideline to provide opportunity to speak. Attorney Land responded that 3 is a good rule of thumb.

Due Process during meetings:

Staff provides information first, then gives others opportunity to present their case when a property interest is at stake. The Commission then makes a decision and adopts findings of fact that articulate the basis for decision.

Prior to a public hearing, the Planning Commission does not have the complete set of information, so they must leave the window open for an objective hearing of the application. If they deny an application without proper cause, the applicant can appeal. The result might be an overturned decision, or to send the application back to review for a possible new decision. Chair Azman asked if the record shows both sides of discussion, but found sufficient facts for approval (or denial), would it be upheld by a court? Attorney Land stated of utmost importance was to get findings of fact in the record. The City cannot supplement the record later if they realize an error was made. If there is additional information, it can be brought forth at the time the Council reviews the application for final decision. The key to is remain impartial until they make decision at the formal meeting.

Can I make own sight visit?

Attorney Land suggested that doing a drive by of the property to be reviewed is okay, but suggested not to engage with the applicant because they might get outside information that other Commission members don't have. The key is for all information to be received in the room at once. It is okay to do site visits solo or in groups of 2, unless posted as a "public meeting" and then they could go as an entire group in a van, etc. She recommends to advise an applicant who wants to tell you something that they need to come themselves to the public meeting to share that information. Any information received verbally from property owners or neighbors is hearsay. If that person has a message to tell they need to say it in person at the public meeting.

Findings of Fact:

Attorney Land reviewed valid Findings of Fact for approving or denying an application. If objecting to application, it is important for residents to show how an application endangers, injures or detrimentally impacts surrounding properties. They must be able to articulate what the damage is, with objections supported by some kind of fact.

Susan Hendricks of 55 East Pleasant Lake Road asked if there is an agreement in place, such as a developer negotiated agreement, if this might sign away rights to meeting some of these guidelines. Attorney Land can't speak to this without reviewing all the agreements, but in general commissioners must follow rules and not a gut feeling.

She reviewed appropriate questions to ask at a Public Hearing, and emphasized the Planning Commission can only be concerned with the outside of building and can't request the applicant make changes to the interior. Having rules make it a level playing field for all.

Reviewed Basic Meeting Protocol -Roberts Rules of Order.

Typical meeting order: Open the subject matter, staff overview, invitation to applicant to speak, open public hearing, take testimony, close public hearing, further discussion, motion and vote. The dialog between the Planning Commissioners is typically in the "further discussion" section. It is up to the Chair if they wish to reopen the Public Hearing after It is closed.

She recommended to try not to get sidetracked with things that are not in your pervue. Commissioner Hague mentioned that typically the Commissioners have discussion before the Motion, which Attorney Land indicated was fine. The Planning Commission must stick to things within your jurisdiction – let NOHOA do their thing, let Planning Commission do their thing. Can ask for things that concern them outside of this scope, but it is just background info. Do not be tempted to look things up during meetings, but ask for continuance for City staff to review issue(s). If on deadline for decision, recommend approve or deny – with request to get needed additional information upon recommendation to council. Know when to move on once your point has been made, regardless of whether you've convinced others to agree with you.

Attorney Land thanked the Commissioners for the opportunity to share with them, and will continue with part two of the session at a future date.

Next Planning Commission Meeting: Thursday, August 29, 2019

Adjournment:

Chair Azman thanked everyone for coming and their comments.

Commissioner Hauge made a motion to adjourn. Commissioner Reid seconded, and the motion unanimously approved. The meeting ended at 9:06 pm.



PLANNING REPORT

TO: North Oaks Planning Commission

FROM: Bob Kirmis, City Planner
Mike Robertson, City Administrator
John Mazzitello, City Engineer
Bridget Nason, City Attorney

DATE: August 22, 2019

RE: North Oaks – Sarah Kudebeh Lot Split (Preliminary Subdivision Plan) - 24 Mallard Road

FILE NO: 321.02 - 19.01

Date Application Determined Complete:	July 25, 2019
Planning Commission Meeting Date:	August 29, 2019
City Council Meeting Date:	September 12, 2019
120-day Review Date:	November 22, 2019

BACKGROUND

Sarah Kudebeh has submitted a request to subdivide her vacant, 2.97-acre property located south of East Oaks Road and west of Mallard Road (42 Mallard Road). The applicant is proposing to subdivide the parcel into two single family residential lots.

The subject property is zoned RSL, Residential Single Family - Low Density which lists "single family detached dwellings" as a permitted use.

Additionally, the site lies within the Shoreland Management Area of South Mallard Pond a designated "recreational development" lake.

Attached for reference:

- Exhibit A: Site Location
- Exhibit B: Certificate of Survey (Preliminary Subdivision Plan)
- Exhibit C: Soils Report





ISSUES AND ANALYSIS

Subdivision Processing. Unlike many subdivision ordinances, the North Oaks Subdivision Ordinance requires all subdivision applications to adhere to a formal, two-stage review process (preliminary and final plan). In this regard, simple lot splits, such as that proposed, are subject to the same processing procedures as large scale subdivisions.

According to the Subdivision Ordinance, applicants for simple lots splits must first submit an application for preliminary plan approval which is subject to the following:

1. Staff review of the application for completeness
2. Preparation of a staff report for City Officials
3. Planning Commission review and recommendation (with a public hearing)
4. City Council consideration and action on the request

Following preliminary plan approval, the property owner may then submit an application for final plan approval which is subject to a similar review process, the difference being that Planning Commission review and a public hearing is not required.

In many communities, simple lot splits which satisfy applicable ordinance requirements are subject to either administrative review and approval or simultaneous preliminary/final subdivision consideration by City Officials. The intent of an expedited process is to minimize the burden on applicants in terms of processing time and review costs.

Lot Area. As indicated, the subject site is zoned RSL, Residential Single Family - Low Density and lies within the Shoreland Management District. In the case of multiple zoning district applications, it is important to note that the most restrictive provisions apply. Within RSL Districts, the average size of each lot must not be less than 1.45 acres and in any case may not be less than 1.25 acres in size.

South Mallard Pond is classified as "recreational development" lake. Lots within such shoreland classification may not be less than one acre in size. To be noted is that land below the ordinary high water level may not be included in the minimum lot area requirement.





According to the submitted certificate of survey (preliminary subdivision plan), proposed Parcel A measures 1.48 acres in size (above the ordinary high water level) while Parcel B to the south measures 1.49 acres in size. In this regard, both proposed lots exceed the minimum area requirements of the Ordinance.

Lot Width. The RSL District does not impose a minimum lot width requirement. A minimum lot width requirement of 150 feet is however, imposed within the Shoreland Management District. Shoreland District regulations define "lot width" as "the shortest distance between lot lines measured at the midpoint of the building line."

Both proposed lots meet the minimum 150-foot lot width requirement as measured from the building line.

Setbacks. Within RSL Districts, no building, sewage treatment system or well may be located within 30 feet of any lot line. In addition to the preceding setback requirements, a structure setback of 75 feet is required from the ordinary high water level of South Mallard Pond.

Approximate house pad locations are illustrated on the submitted certificate of survey (preliminary subdivision plan). While such house pad locations meet the 75-foot setback requirement from South Mallard Pond, they do not meet side yard setback requirements and will have to do so before any building permits will be granted.

Within Parcel A, the house pad is located 14 feet from the East Oaks Road easement. The City requires 30-foot setbacks from roadway easement lines. As a condition of preliminary subdivision plan approval, the house pad location of Parcel A should be shifted southward to illustrate a setback not less than 30 feet from the East Oaks Road easement.

Within Parcel B, the house pad is illustrated 25 feet from the south lot line. Such setback should be increased to not less than 30 feet.

As a condition of preliminary subdivision plan approval, it is recommended that the plan be modified to illustrate house pad locations which meet City setback requirements.

Modified subdivision plan received just before agenda packets were processed. Both plans included for illustration.

Lot Access. As shown on the certificate of survey (preliminary subdivision plan), proposed Parcel A is bordered on the north by East Oaks Road and on the east by Mallard Drive. Considering that East Oaks Road is classified as a "minor collector"





street and carries a higher volume of traffic than Mallard Drive, it is recommended that driveway access to proposed Parcel A be provided from the east via Mallard Drive.

The City Engineer recommends that the driveway access for Parcel A be a minimum of 100 feet south of East Oaks Road. He recommends that the driveway access for Parcel B should be a minimum of 100 feet south of the driveway access for Parcel A.

Floor Area Ratio. The maximum floor area ratio for structures within the RSL zoning districts is 12 percent of the gross land area, less two-thirds of wetlands on the property. Such floor area ratio will be imposed as a condition of subdivision approval.

Docks. Recognizing that the two proposed lots abut South Mallard Pond, an opportunity exists for future dock construction.

If proposed, such docks must comply with Shoreland Management Ordinance regulations pertaining to water-oriented accessory structures (Section 153.110.D.3).

Sewer Facilities. The subject site lies in an area of the City in which is not served by municipal sewer facilities. As a result, the installation of individual sewage treatment systems will be necessary. Such individual treatment systems must comply with applicable Minnesota Department of Health requirements, including the identification of two drain field sites.

As a condition of preliminary subdivision plan approval, it is recommended that the certificate of survey (preliminary subdivision plan) be modified to illustrate primary and secondary drain field sites for both proposed lots.

This issue should be subject to further comment and approval by the City Engineer.

Water Facilities. A water main presently exists within the Mallard Road easement which borders the subject site to the east and is available for hookup. The final plan submitted should show the watermain and the approximate location(s) of the proposed wet taps per the City Engineer.

Easements. The submitted certificate of survey (preliminary subdivision plan) illustrates the following easements:

- Roadway easements for East Oaks Road and Mallard Road (30 feet in width)
- Drainage and utility easements along the East Oaks Road and Millard Road (12 feet in width)



- A “bridle path” easement along the boundary of South Millard Lake Pond (10 feet in width)

The easements are acceptable to the City Engineer.

CONCLUSION

The Planning Commission is being asked to examine a preliminary subdivision plan which calls for the subdivision of a vacant 2.97-acre property located south of East Oaks Road and west of Mallard Road (42 Mallard Road). The applicant is proposing to subdivide the parcel into two single family residential lots.

If the Planning Commission finds that the preliminary subdivision plan demonstrates an ability to meet applicable requirements of the City’s Zoning, Subdivision and Shoreland Ordinances, the Commission should recommend approval of the plans and list conditions to be considered by the City Council.

If the Planning Commission finds that the preliminary subdivision plan does not meet applicable requirements of the City’s Zoning, Subdivision and Shoreland Ordinances, the Commission may recommend denial of the request by stating findings of fact as to the specific reasons for such recommendation.

PLANNING COMMISSION OPTIONS

In consideration of the preliminary subdivision plan application, the Planning Commission has the following options:

- A) Recommend approval, with conditions, based on the applicant’s submission, the contents of this report, public testimony and other evidence available to the Planning Commission.**
- This option should be utilized if the Planning Commission finds the proposal adheres to all City Code requirements or will do so with conditions.
 - Approval at this time means that, upon City Council approval, the applicant can proceed to final plans with assurances that final subdivision approval will be granted provided all conditions are met.





B) Recommend denial based on the applicant's submission, the contents of City Staff report, received public testimony and other evidence available to the Planning Commission.

- This option should only be utilized if the Planning Commission can specifically identify one or more provisions of City Code that are not being met by the preliminary subdivision proposals.

C) Table the request for further study.

- This option should be utilized if the Planning Commission feels the proposal is appropriate and should move forward, but that certain design aspects need to be amended and brought back before a recommendation for approval can be given.

RECOMMENDED CONDITIONS

The following are conditions which Staff recommends be attached to a Planning Commission recommendation of approval for preliminary subdivision plan:

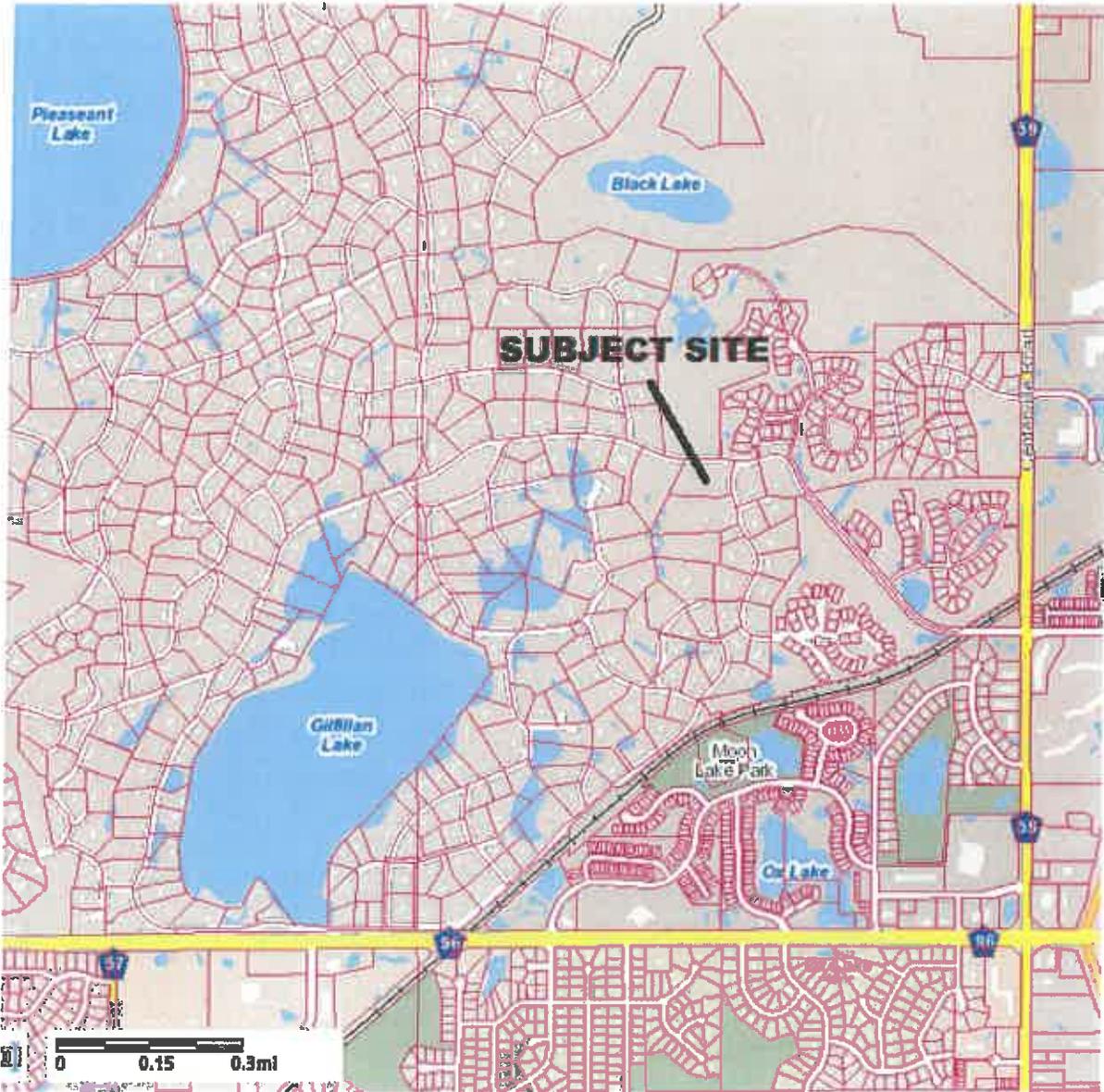
- ~~1. House pad locations illustrated on the certificate of survey (preliminary subdivision plan) be modified to meet City setback requirements. For Parcel A, a 30-foot setback from the East Oaks Road roadway easement shall be illustrated and for Parcel B, a 30-foot setback from the south lot line shall be illustrated.~~
Condition removed due to receipt of revised plan.
2. Driveway access to proposed Parcel A shall be from Mallard Drive and shall be at least 100 feet south of East Oaks Road. Driveway access to proposed Parcel B shall be at least 100 feet south of the driveway access to Parcel A.
3. Homes upon the two lots shall satisfy the maximum 12 percent floor area ratio requirement for structures within the RSL zoning districts.
4. Dock construction, if proposed, shall comply with applicable regulations of the Shoreland Management Ordinance (water-oriented accessory structures - Section 153.110.D.3).
5. The certificate of survey (preliminary subdivision plan) shall be modified to illustrate primary and secondary drain field sites for both proposed lots.



6. Individual sewage treatment systems shall comply with applicable Minnesota Department of Health requirements.
7. The location of the wet tap(s) into the watermain shall be subject to approval of the City Engineer.
8. Comments of other City Staff

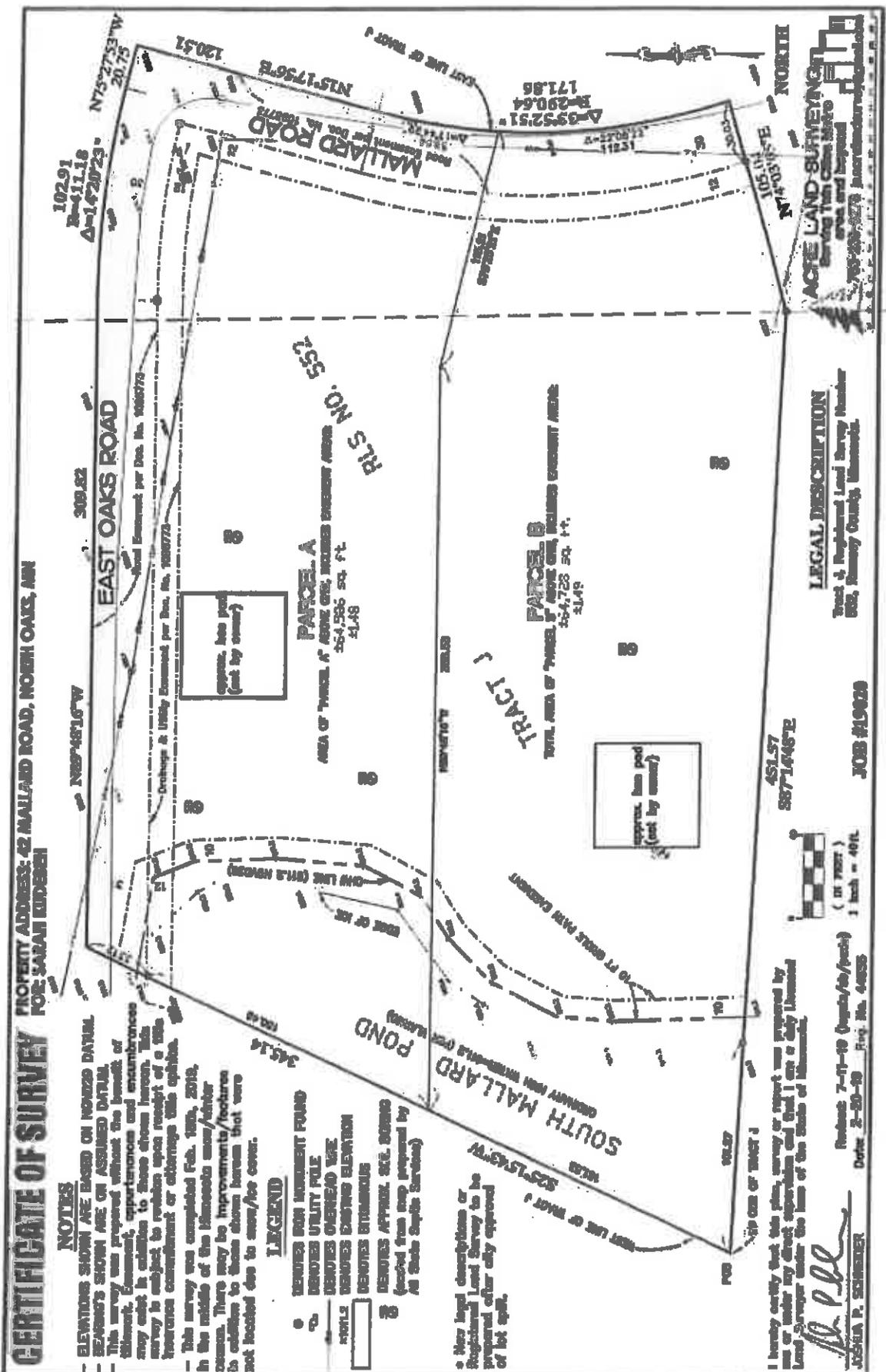
cc: John Mazzitello, City Engineer
Bridget Nason, City Attorney
Mikeya Griffin, NOHOA Executive Director North Oaks Company
Stephanie McNamara, Vadnais Lake Area Water Management Organization
Jenifer Sorensen, Department of Natural Resources





MAP SOURCE: RAMSEY COUNTY

EXHIBIT A: SITE LOCATION



CERTIFICATE OF SURVEY PROPERTY ADDRESS: 42 MALLARD ROAD, NORTH OAKS, MN FOR: SARAH EUBEN

NOTES
 ELEVATIONS SHOWN ARE BASED ON MONROZ DATUM.
 BEARINGS SHOWN ARE ON ASSUMED DATUM.
 This survey was prepared without the benefit of
 alignment, easement, appurtenances and encumbrances
 survey exist in addition to those shown hereon. This
 survey is subject to reversion upon receipt of a title
 insurance commitment or otherwise with option.
 This survey was completed Feb. 10th, 2019,
 in the middle of the Minnesota snow/ice
 season. There may be improvements/features
 in addition to those shown hereon that were
 not located due to snow/ice cover.

- LEGEND**
- DENOTES IRON MONUMENT FOUND
 - DENOTES UTILITY POLE
 - DENOTES OVERHEAD WIRE
 - DENOTES EXISTING ELEVATION
 - DENOTES DITCH/STAKE
 - DENOTES APPROX. ICE BOUNDARY (derived from map prepared by M State Digital Services)

A More legal description or Registered Land Survey to be prepared after city approval of lot split.

I hereby certify that this plan, survey 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.
 JACOBIA P. SCHMIDT
 Date: 2-20-19 (month/day/year) 7:11-19 (month/day/year)
 Job No. 44035 Proj. No. 44035



LEGAL DESCRIPTION
 Tract 4, Registered Land Survey Number 852, Ramsey County, Minnesota.

JOB #19028

451.97
 88714467E

ACRE LAND SURVEYING
 Serving Twin Cities Metro area and beyond
 763-297-8278 jacobia@acresurvey.com

CERTIFICATE OF SURVEY

PROPERTY ADDRESS: 42 MALLARD ROAD, NORTH OAKS, MN
FOR: SARAH KUDEBEH

NOTES

- ELEVATIONS SHOWN ARE BASED ON NGVD29 DATUM.
- BEARING'S SHOWN ARE ON ASSUMED DATUM.
- This survey was prepared without the benefit of utility work. Easement, appurtenances and encumbrances may exist in addition to those shown hereon. This survey is subject to revision upon receipt of a title insurance commitment or attorney's title opinion.
- This survey was completed Feb. 18th, 2019, in the middle of the Minnesota snow/winter season. There may be improvements/features in addition to those shown hereon that were not located due to snow/ice cover.

LEGEND

- DENOTES IRON MONUMENT FOUND
- DENOTES UTILITY POLE
- DENOTES OVERHEAD WIRE
- DENOTES EXISTING ELEVATION
- DENOTES BITUMINOUS
- DENOTES APPROX. SOIL BORING (scaled from map prepared by All State Septic Services)

* New legal descriptions or Registered Land Survey to be prepared after city approval of lot split.

I hereby certify that this plan, survey 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.

J.P.S.
JOSHUA P. SCHNEIDER

Revised: 8-20-19 (pod loc. sheet 1 only)
Revised: 7-11-19 (isgals/ab/pods)
Date: 2-20-19 Reg. No. 44655



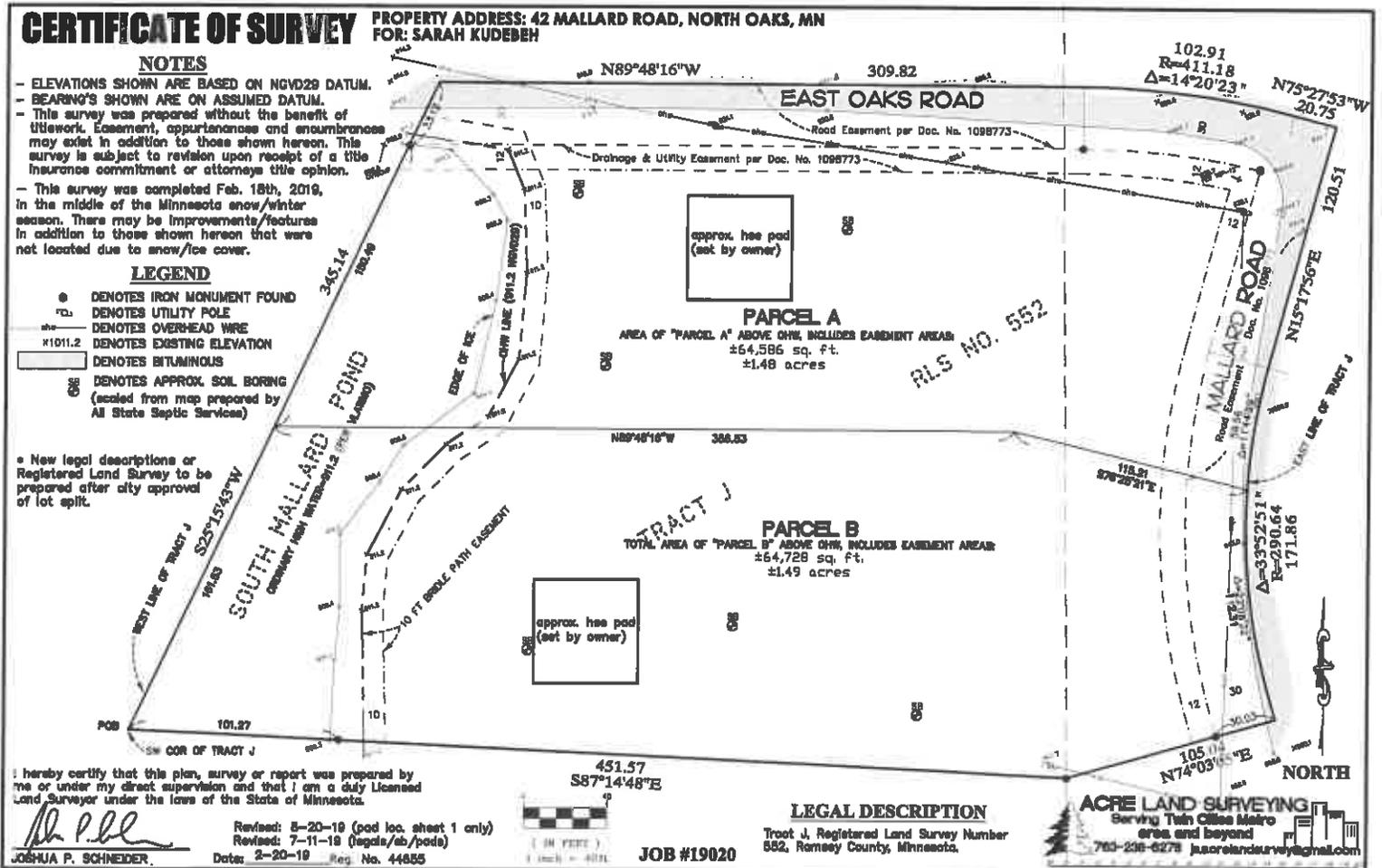
JOB #19020

LEGAL DESCRIPTION

Tract J, Registered Land Survey Number 552, Ramsey County, Minnesota.

ACRE LAND SURVEYING

Serving Twin Cities Metro area and beyond
763-238-6278 jaacreslandsurvey@gmail.com



ALL STATE SEPTIC SERVICES, LLC

1215K North Ave N Stillwater, MN 55082

Office 651-439-7323

Cell 612-594-4496

June 17, 2019
42 Mallard Rd
North Oaks, MN 55127

Dear Mr. Barraclough:

At your request, we have completed the preliminary soil testing needed for your subdivision application at 42 Mallard Rd, North Oaks, MN 55127. We dug a total of six soil borings, three on each lot. They were done in the areas where future drainfields will likely be located. The approximate boring locations are marked on the attached parcel map.

The soil consists of sand, coarse sand, loamy sand, sandy loam and loamy fine sand. We found redoximorphic features in soil borings 1, 2 and 4. This indicates the soil is saturated at least part of the year, which necessitates a mound drainfield. Borings 3, 5 and 6 showed dry soil down to at least 60." An in-ground drainfield could possibly be installed in those areas, contingent upon complete soil testing.

The lots appear suitable for standard septic systems; however, complete septic system designs for each of the future homes must be submitted to, and be reviewed and approved by the City of North Oaks Septic Inspector.

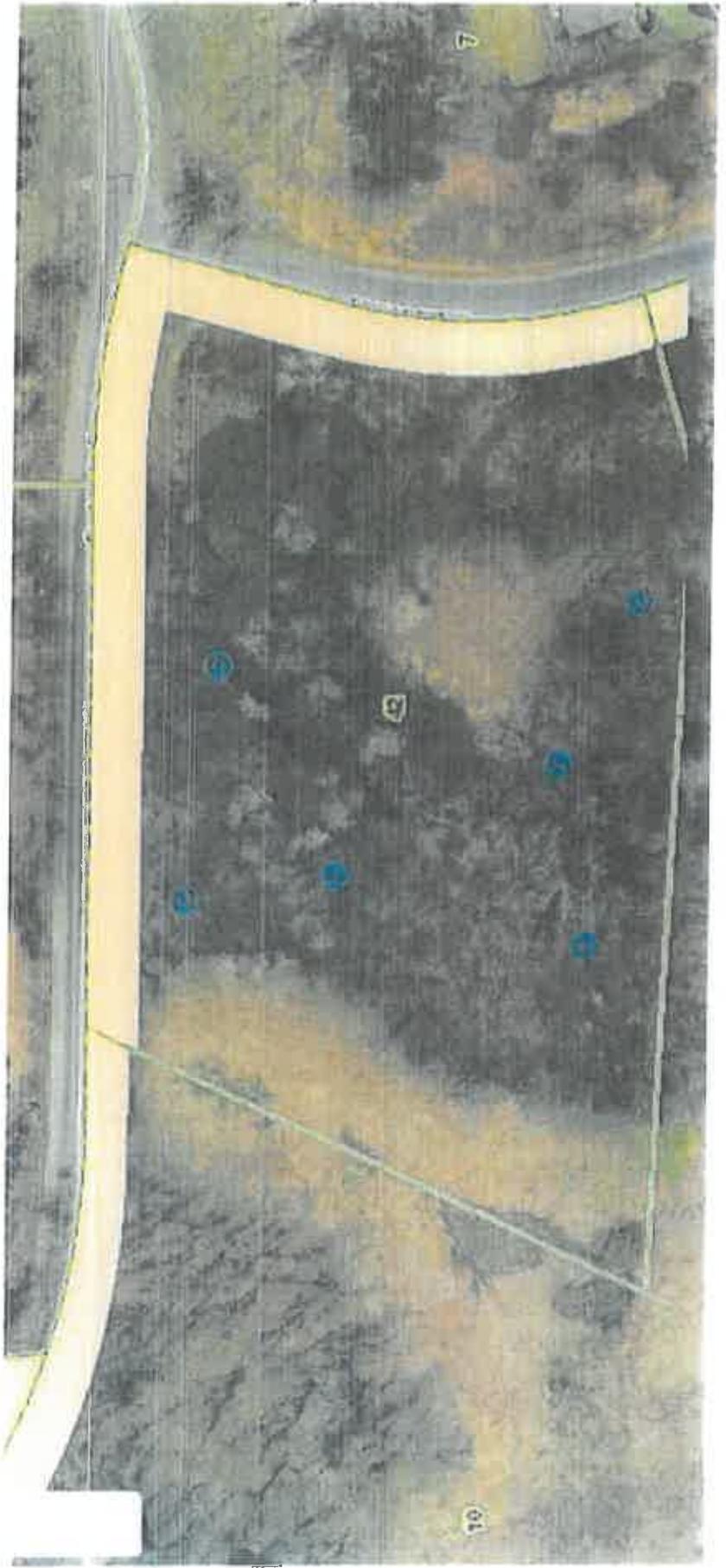
Thank You,

Tom Troolen
All State Septic Services LLC



Navigation

• Click or tap a map location to add a point.





Soil Observation Log

Project ID: **V 04.02.2019**

Client: Seah J Washish		Location / Address: 42 Hilliard Road North Oaks, MN 55127						
Soil parent material(s): (Check all that apply)		<input checked="" type="checkbox"/> Outwash	<input type="checkbox"/> Alluvium					
Landscape Position: (check one)		<input type="checkbox"/> Summit	<input checked="" type="checkbox"/> Foot slope					
Vegetation: wooded		Slope shape: Conver, Convex						
Weather Conditions/Time of Day: cloudy am		Date: 06/15/19						
Observation #/Location: B-1		Elevation: _____						
Depth (ft)	Texture	Rock Frag. %	Matrix Color(s)	Mottle Color(s)	Redox Band(s)	Indicator(s)	Observation Type	
							Shape	Grade
0-12	Loamy Fine Sand	<5%	10YR 3/2				Granular	Moderate
12-48	Loamy Sand	<5%	2.5YR 4/4	10YR 6/8	Concentrations	S1	Granular	Moderate
				7.5YR 5/2	Depletions	S1		
Comments: Redox @ 20"								
I hereby certify that I have completed this work in accordance with all applicable ordinances, rules and laws.								
Designer/Inspector: Tom Troden							License #: 1888	
							Date: 06/15/19	

Additional Soil Observation Logs



Project ID:

Client: Sarah J. Reischbach		Location / Address: 42 Mallard Road North Oaks, MN 55127	
Soil parent material(s): (Check all that apply) <input checked="" type="checkbox"/> Outwash <input type="checkbox"/> Lacustrine <input type="checkbox"/> Less <input checked="" type="checkbox"/> Till <input type="checkbox"/> Alluvium <input type="checkbox"/> Bedrock <input type="checkbox"/> Organic Matter			
Landscape Position: (check one) <input type="checkbox"/> Summit <input checked="" type="checkbox"/> Shoulder <input type="checkbox"/> Backside Slope <input type="checkbox"/> Foot Slope <input type="checkbox"/> Top Slope <input type="checkbox"/> Slope shape: Convex, Convex			
Vegetation: wooded	Soil survey map codes: 43D	Slope %:	Elevation:
Weather Conditions/Time of Day: cloudy am		Date: 06/15/19	
Observation #/Location: B-2			
Depth (ft)	Texture	Rock Frag. %	Observation Type: Auger
0-14	Loamy Fine Sand	<3%	Structure: Consistence
14-48	Coarse Sand	<3%	Structure: Consistence
			Granular Weak Friable
			Single grain Structureless Loose
Indication(s): Concentrations S1 Depletions S1			
Redox (Knot(s))			
Mottled Color(s)			
Soil survey map codes			
Comments: Redox @25'			

Soil Observation Log

Project ID: Y 04.02.2019

Client: **Sarah J Roadsbury** Location / Address: **42 Mallard Road North Oaks, MN 55127**

Soil parent material(s): (Check all that apply) Outwash Locust TB Mottled Siltstone Organic Matter

Landscape Position: (check one) Summit Shoulder Backside Slope Foot Slope Top Slope Slope shape: Convex, Concave

Vegetation: **wooded** Soil survey map units: **453D** Slope %: _____ Elevation: _____

Weather Conditions/Time of Day: **cloudy sun** Date: **06/15/19**

Depth (ft)	Texture	Rock Frag. %	Matrix Color(s)	Mottle Color(s)	Redox Kind(s)	Indication(s)	Observation Type	
							Shape	Consistence
0-13	Loamy Fine Sand	<5%	10YR 3/2				Granular	Moderate Friable
13-60	Sand	<5%	10YR 4/4				Single grain	Weak Loose

Comments: **OK to 60"**

I hereby certify that I have completed this work in accordance with all applicable ordinances, rules and laws.

Tom Treolen (Designer/Inspector) **Tom Treolen** (Signature) **1566** (License #) **06/15/19** (Date)

Additional Soil Observation Logs



Project ID:

Client: Sarah J Haiden		Location / Address: 42 Mallard Road North Oaks, MN 55127							
Soil parent material(s): (Check all that apply) <input checked="" type="checkbox"/> Loess <input type="checkbox"/> Lignite <input type="checkbox"/> Alluvium <input type="checkbox"/> Bedrock <input type="checkbox"/> Organic Matter									
Landscape Position: (check one) <input type="checkbox"/> Summit <input checked="" type="checkbox"/> Slope <input type="checkbox"/> Backside Slope <input type="checkbox"/> Foot Slope <input type="checkbox"/> Top Slope <input type="checkbox"/> Convex, Convex									
Vegetation: wooded	Soil survey map ref: 488D	Slope %:	Elevation:						
Weather Conditions/Time of Day: cloudy am		Date: 06/15/19							
Observation #/Location: B-4 Auger									
Depth (in)	Texture	Rock Frag. %	Moist Color(s)	Mottle Color(s)	Redox (Mn)(s)	Indicator(s)	Shape	Structure	Consistence
0-16	Loamy Fine Sand	<3%	10YR 3/2				Granular	Weak	Friable
16-48	Sandy Loam	<3%	7.5YR 4/6	10YR 6/3	Concentrations	SF	Granular	Moderate	Friable
				10YR 5/2	Depletions	SF			
Comments: Redox @ 30"									



Soil Observation Log

Project ID: Y 04.02.2019

Client: Sarah J Kaufmann Location / Address: 42 Mallard Road North Oaks, MN 55127

Soil parent material(s): (Check all that apply) Loess Sandstone Shale Organic matter

Landscape Position: (check one) Summit Shoulder Backside Slope Foot Slope Top Slope Slope shape Convex, Concave

Vegetation: wooded Soil survey map units: 453D Slope %: Elevations:

Weather Conditions/Time of Day: cloudy am Date: 06/15/19

Observation #/Location: B-5

Depth (in)	Texture	Rock Frag. %	Mottic Color(s)	Matrix Color(s)	Mottle Color(s)	Roots (in)	Indicators(s)	Observation Types	
								Shape	Auger
0-10	Loamy Fine Sand	<5%	10YR 3/2					Granular	Moderate
10-30	Sand	<5%	10YR 4/4					Single grain	Weak
30-60	Fine Sand	<5%	7.5YR 5/4					Granular	Weak

Comments: OK to 60"

I hereby certify that I have completed this work in accordance with all applicable ordinances, rules and laws.

Tom Truelsen (Designer/Inspector) Signature: *Tom Truelsen* License #: 1869 Date: 06/15/19

MEMO

Date: August 22, 2019
To: Planning Commission
From: City Administrator Mike Robertson
City Planner Bob Kirmis
Re: Conditional Use Permit (CUP) 19-05 – 33 Mallard Road
Construction of Garage Space over 1,500 Square Feet

Date Application Determined Complete: June 21, 2019
Planning Commission Meeting Date July 25 & August 29, 2019
City Council Meeting Date: September 12, 2019
120 Day Review Date: October 18, 2019

I've enclosed the additional information requested by the Planning Commission at the July 25, 2019 meeting. This includes;

- 1) A site plan of the property with everything located.
- 2) Elevations for the front and back of the home. The lower level garage doors are highlighted on the upper left drawing.
- 3) A landscape plan.

The City Engineer has stated that the drainage on the property is acceptable. Mr. Daw said he will be in attendance to answer any questions. I have already extended Mr. Daw's review period from 60 days to 120 days. The public hearing on this issue was left open so after the staff report is reviewed and Planning Commission questions are answered the hearing should be reopened for any comments on this issue.

Description of Request

Mr. Fady Daw of 33 Mallard Road is requesting a Conditional Use Permit (CUP) to turn part of the lower level of his home into a garage. The main level garage is 1,182 square feet. The lower level room is 644 square feet. That means that the combined square footage of the garage space would be 1,826. Anything over 1,500 square feet requires a CUP.

I have attached Mr. Daw's written justification for his CUP application. As he notes, the original building plans submitted to the City showed the garage space on the lower level. When informed that he would need a CUP for the garage space he re-submitted the building plans with the lower level garage space changed to an exercise room because he did not want to wait to start construction of his house.

In addition, there have been issues with Mr. Daw's compliance with NOHOA requirements. My understanding is that he does not have an approved landscape plan as of the date of this memo.

A conditionally permitted use is considered to be a permitted use by law. The difference between a CUP and a regular permitted use is that the Planning Commission and City Council must review the facts to be certain that all special conditions are met before allowing construction to proceed. Should the City wish to deny a proposed CUP, the onus is on the City to show that conditions are not being met rather than the applicant.

Conditional Use Permit Criteria

The following eleven criteria are required to be met by all CUP's.

1. Relationship of the proposed conditional use to the Comprehensive Plan.
2. The nature of the land and the adjacent land or building where the use is to be located.
3. Whether the use will in any way depreciate the area in which it is proposed.
4. The effect upon traffic to and from the land and on adjoining roads, streets and highways.
5. Whether the use would disrupt the reasonable use and enjoyment of other land in the neighborhood.
6. Whether adequate utilities, roads, streets and other facilities exist or will be available in the near future.
7. Whether the proposed conditional use conforms to all of the provisions of this chapter.
8. The effect on natural drainage patterns onto and from the site.
9. Whether the proposed use will be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
10. Whether the proposed use would create additional requirements for public cost for public facilities and services and whether or not the use will be detrimental to the economic welfare of the neighborhood or city.
11. Whether the proposed use is environmentally sound and does not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, land or the general welfare because of excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare or odors.

Findings

- 1) This lot is 1.53 acres and is currently occupied by a new single family home and is guided by the Comprehensive Plan for single family use. It is surrounded by single family uses except directly to the east where the Summit Townhomes are located.
- 2) The house is 6,865 square feet.
- 3) The plans are in compliance with the Zoning Ordinance as they do not exceed the Floor Area Ratio (FAR) requirements 0.12. The FAR ratio is 0.103.
- 4) The plans are in compliance with the Comprehensive Plan.
- 5) The proposed use is residential in nature and is not anticipated to depreciate the area.
- 6) The proposed extra garage space would not disrupt the reasonable use and enjoyment of other land in the neighborhood.

- 7) The proposed extra garage space would not place any burdens or additional public costs upon municipal or private infrastructure or services.
- 8) The proposed extra garage space would not have any negative effects on traffic or drainage.
- 9) The proposed use is not anticipated to endanger the public health, safety, comfort, convenience or general welfare due to excessive production of traffic, noise, smoke, fumes, wastes, toxins, glare or odors.

Recommendation

Approve the CUP based on the findings of fact in the report and with the following conditions.

- 1) Plans must be approved by the Building Official prior to the beginning of construction.
- 2) Any outstanding fees shall be paid prior to the approval of the plans.

Motions

A motion to approve staff's recommendations and/or options would read as follows.

I move to approve the proposed CUP based on the Findings of Fact with the conditions listed in the staff recommendation.

A motion to deny the applicants request would read as follows.

I move to deny the proposed CUP based on the following reasons;

- 1)
- 2)

If more information or review is required, a motion to table would be in order.

Move to table the request for the following reasons;

- 1)
- 2)

cc: Fady Daw
City Attorney Bridget Nason

Mike Robertson

From: Info@goldenvalleycorp.com <fady@goldenvalleycorp.com>
Sent: Tuesday, June 18, 2019 6:15 PM
To: Mike Robertson
Cc: Paul Lesieur; Bob Kirmis (bkirmis@nacplanning.com)
Subject: Re: Your Variance Application

Caution: This email originated outside our organization; please use caution.

Hello Mike,

Thanks for the follow up, I can submit a new form if this is going to cause an issue with your office. Please let me know.

Below is the answers to your questions:

1. The square footage of the existing main level garage. (1182sqf)
2. The square footage of the exercise room that would be converted into a garage. (644sqf which will be used as an Exercise room/garage)
3. The total square footage of the house. (6865sqf)
4. The total square feet or acreage of hard surface covering the property. (Outside pavers total hard surface total is 8647sqf)
5. Written justification for why this application should be approved. In particular please provide justification for why your original building plans showed this area as a garage. When you were informed that having this much garage space would require an additional permit, this space was changed to an exercise room. Now you wish to change the space back to a garage. Please provide an explanation for all these changes.

We decided to build the addition on the house to give it a symmetric complete look with an underground garage space and a living upper space. The lower space was designed and drawn originally as a garage to park the summer vehicle and the boat in it instead of paying for storage every year. In the process of submitting the drawing to your office and before you informed me that an additional permit will be needed to build an additional garage space, my wife gave me the idea that an exercise/play room for our son will be the best fit for that large space where our son can have a full indoor play space and a work out area for us. I contacted the architect and changed the space to exercise room, replaced the garage door by a bi-fold accordion glass door and submit it to your office and that's when I was informed by you that I need an additional license for a garage space which was the previous drawing and I had stated to you that we transformed the garage to an exercise room which better fit our needs. The change in drawing/plans had no connection with applying for additional permit which could easily been done, it was simply changing it to fit our needs better.

We pulled permits and started construction, building the addition lower space as an exercise room with 3 large 48" x 92" windows and a large 8 panels bi-fold glass door. During the second inspection, Mr. Kevin White suggested that since we are designing a patio walkway outside the exercise room that it will be a good thought to have this space being a dual use, garage/exercise room. We can use the room as an exercise room/indoor playground for our son and replace the original glass bi-fold door by a fancy insulated garage door to give us both options of use.

I contacted our architect to adjust the drawing again replacing the lower part framing of the bi-fold door to accommodate a garage door, cancelled the order of the bi-fold door and ordered a garage door. The space now could be used as Exercise/Garage space

The space walls and floor is fully finished, lighted and heated. We have a total of 4 vehicles, 2 motorcycles and a recreational boat, which is a lot to keep out in the driveway. We would prefer to keep all of them inside. The lower garage space will fit my summer vehicle, 2 motorcycles and the boat and the upper space will fit our other 3 vehicles.

I hope this will give you a good understanding how the plan process changed to a better fit space and the need to have an additional garage space for future use.

Thanks much, please feel free to contact me if you have any questions.

Fady Daw

Golden Valley Co.
Office: 783-502-7777 || Fax: 783-788-9252
Toll Free: 855-Golden-V
Email: fady@goldenvalleycorp.com
www.goldenvalleycorp.com

On Tue, Jun 18, 2019 at 4:00 PM Mike Robertson <MRobertson@ctvofnorthoaks.com> wrote:

Fady,

I need the following information for your application to be complete. First of all, the application you need is actually for a Conditional Use Permit (CUP) to have more than 1,500 square feet of garage space, not a Variance.

Please provide the following information.

1. The square footage of the existing garage.
2. The square footage of the exercise room that would be converted into a garage.
3. The total square footage of the house.
4. The total acreage of the lot.
5. The total square feet or acreage of hard surface covering the property.
6. Written justification for why this application should be approved. In particular please provide justification for why your original building plans showed this area as a garage. When you were informed that having this much garage space would require an additional permit, this space was changed to an exercise room. Now you wish to change the space back to a garage. Please provide an explanation for all these changes.

Because a Conditional Use Permit requires a public hearing, there is not enough time to meet the public notice requirements. Therefore the Planning Commission cannot hear this application at its next meeting on June 27, 2019. If you can get the information to me in the next two weeks that will be enough time to provide notice for the following meeting on July 25, 2019.

Please contact me if you have any questions.

VARIANCES/CONDITIONAL USE PERMITS EXPLANATION

To whom it may concern;

I submitted a plan for an addition with an exercise room at the lower level.

Attached is the variance application to convert the exercise room to "garage/exercise room" in order for us to park 2 more cars inside. We will be replacing the pocketing bi-fold 16 foot door by a garage door.

The room is fully finished, heated, lighted and has 3 large 8' x 4' picture frame windows.

Please feel free to contact me at 612-532-6666 or by email at :

fady@prestigehomesco.com

Thank you.

KEMPER & ASSOCIATES INC.
 PROFESSIONAL LAND SURVEYORS

1000 WEST 10TH STREET
 SUITE 200
 MINNEAPOLIS, MN 55425
 (612) 338-1111
 www.kemper.com

33 MALLARD ROAD

CITY OF ROBERT CLARK, BARRETT COUNTY, MINNESOTA

PROJECT:
 PRELIMINARY PLAT
 FOR THE
 33 MALLARD ROAD
 TRACT

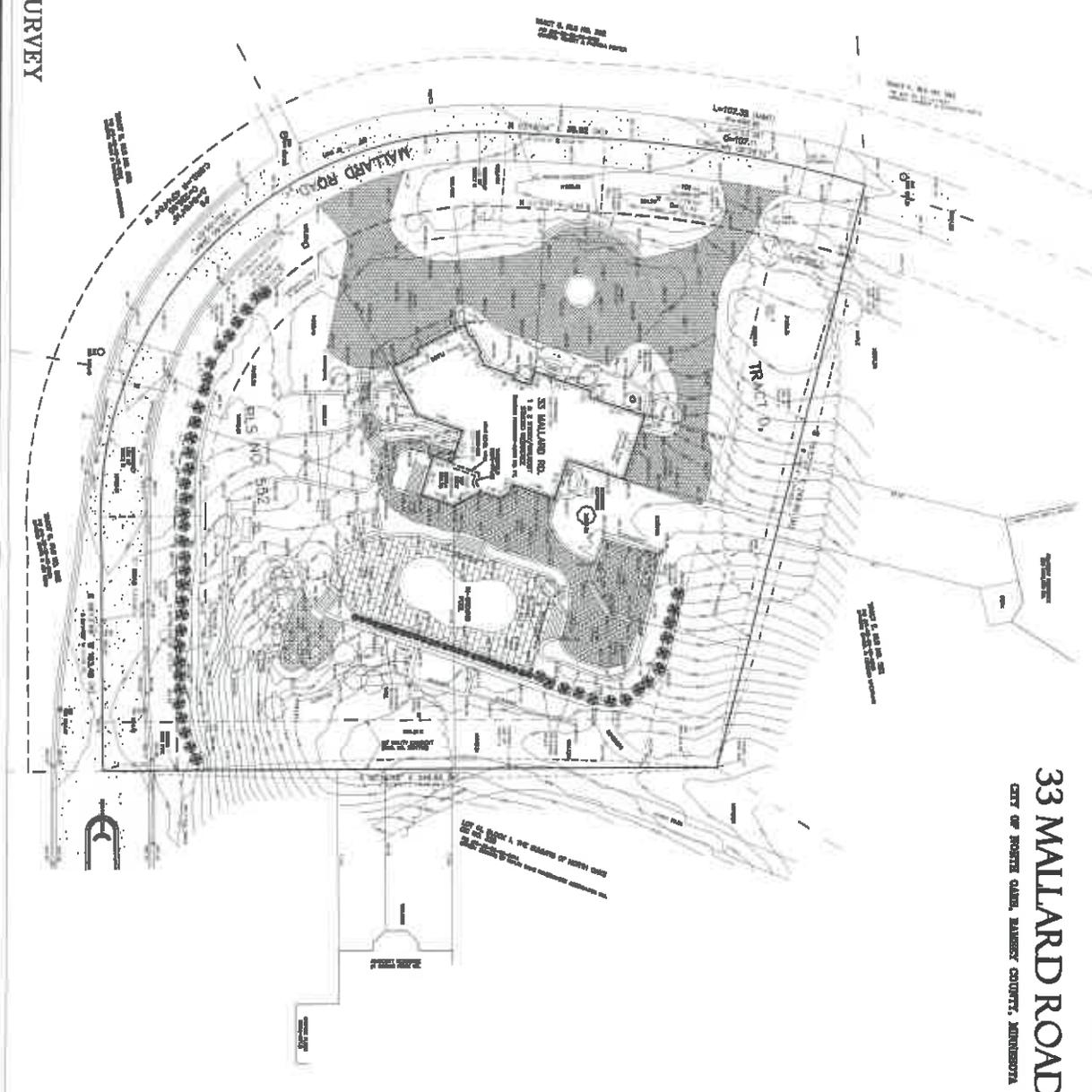


CITY OF ROBERT CLARK, BARRETT COUNTY, MINNESOTA

GENERAL DESCRIPTION:
 THIS SURVEY WAS CONDUCTED FOR THE CITY OF ROBERT CLARK, BARRETT COUNTY, MINNESOTA, TO DETERMINE THE EXACT LOCATION AND AREA OF THE 33 MALLARD ROAD TRACT. THE TRACT IS BOUND BY MALLARD ROAD TO THE NORTH, WEST, AND SOUTH, AND BY THE CITY OF ROBERT CLARK TO THE EAST. THE TRACT IS SHOWN ON THE ATTACHED PLAT.

LEGEND:

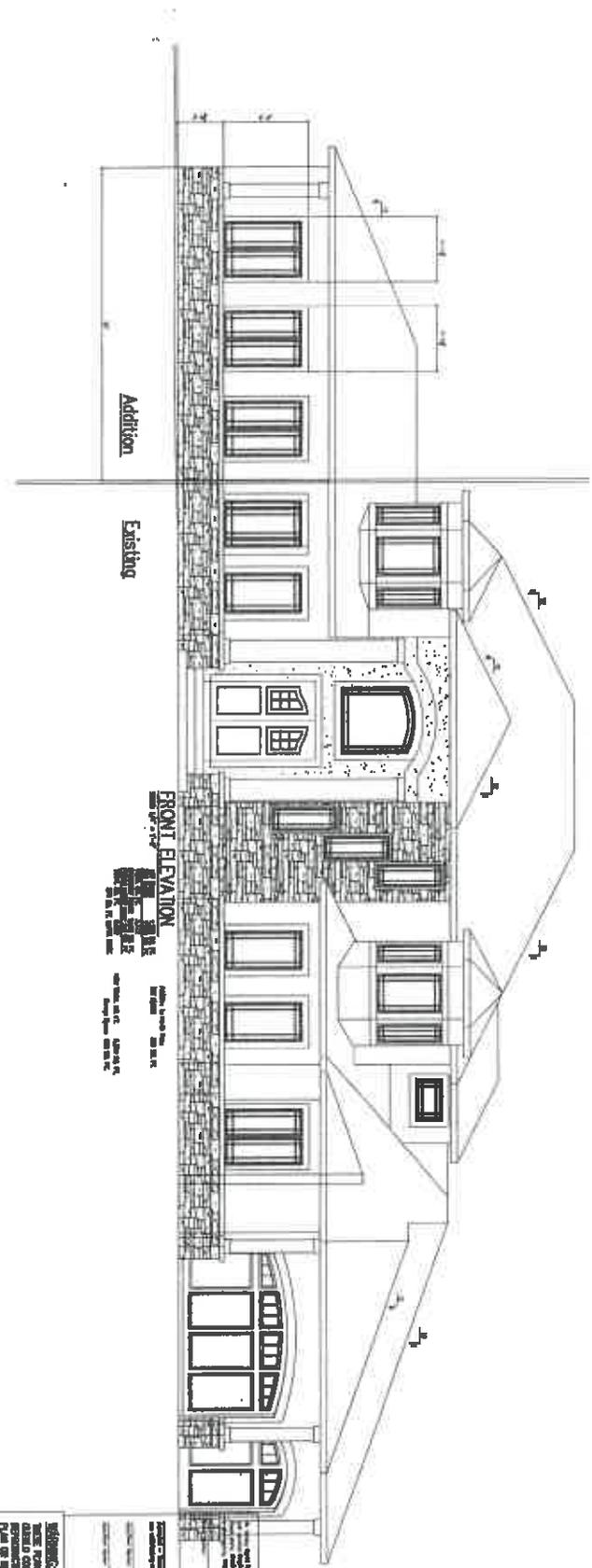
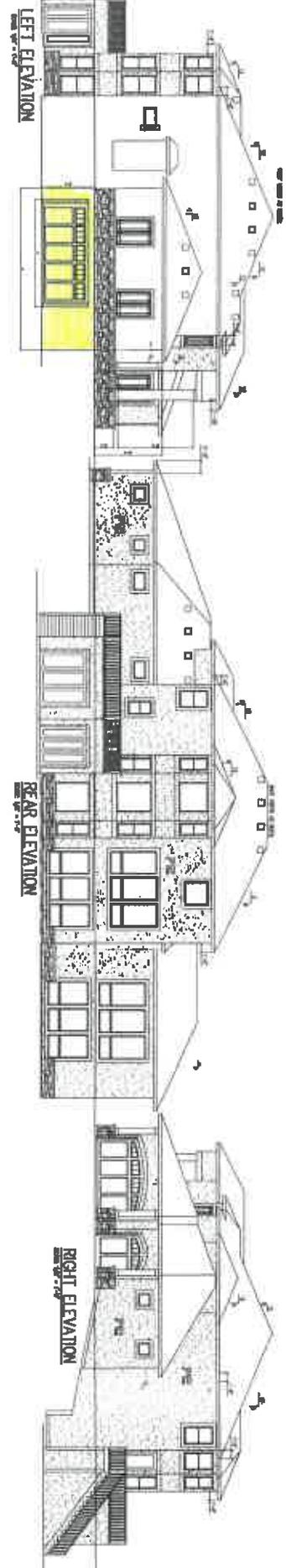
- 1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
- 2. ALL CORNERS ARE TO BE MARKED WITH IRON PIPES OR IRON BOLTS.
- 3. ALL CORNERS ARE TO BE BENEATH THE SURFACE OF THE GROUND.
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- 19. ALL CORNERS ARE TO BE BENEATH THE SURFACE OF THE GROUND.
- 20. ALL CORNERS ARE TO BE MARKED WITH IRON PIPES OR IRON BOLTS.



CERTIFICATE OF SURVEY



KEMPER & ASSOCIATES INC.
 PROFESSIONAL LAND SURVEYORS
 STATE OF MINNESOTA
 REG. NO. 10000
 1000 WEST 10TH STREET, SUITE 200
 MINNEAPOLIS, MN 55425
 (612) 338-1111
 www.kemper.com



Addition

Existing

FRONT ELEVATION

Scale: 1/8" = 1'-0"

DATE: 08/15/2017

PROJECT: 17-001

CLIENT: [REDACTED]

NOTES:

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).

2. ALL MATERIALS SHALL BE APPROVED BY THE ARCHITECT.

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE.

4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.

6. THE CONTRACTOR SHALL MAINTAIN A NEAT AND ORDERLY WORK SITE AT ALL TIMES.

7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DISPOSING OF ALL DEBRIS AND WASTE MATERIALS.

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL ADJACENT PROPERTIES FROM DAMAGE.

9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSURANCE.

10. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

