



## **PLANNING COMMISSION AGENDA**

**AUGUST 6, 2018**

**7:00 pm**

- 1. CALL TO ORDER -**
- 2. PLEDGE OF ALLEGIANCE –**
- 3. ROLL CALL -**
  - a) Scott Patten
  - b) Sally Doherty
  - c) Kris Kopitzke (Chair)
  - d) Mark Nelson
  - e) Lucia Wroblewski
  - f) Jim Langan
  - g) Roger Bowman
  - h) Annie Perkins
  - i) Justin Sykora
- 4. APPROVAL OF AGENDA –**
- 5. APPROVAL OF MINUTES –**
  - A. June 4, 2018 Meeting Minutes
  - B. July 9, 2018 Meeting Minutes
- 6. REPORTS AND PRESENTATIONS – None**
- 7. PUBLIC HEARINGS –**
  - A. River Valley Riders Amended CUP Application Regarding an Indoor Riding Arena at 2007 Neal Avenue
  - B. Steve and Jennifer Knuth/Nathan Landucci, Landucci Homes Variance Application at the Property on Valley Creek Trail approximately 1300 feet east of Neal Avenue with Property Identification Numbers 17.028.20.24.0001 and 17.028.20.24.0002
  - C. Ordinance Amendment to Allow Swimming Pool Auto Covers as an Alternative to a Fence Enclosure
- 8. NEW BUSINESS – None**
- 9. OLD BUSINESS -**
  - A. Update on City Council Actions – Council Highlights from the July 17, 2018 Council meeting - attached.
- 10. ADJOURN –**

**A quorum of the City Council or Other Commissions may be present to receive information.**

CITY OF AFTON  
DRAFT PLANNING COMMISSION MINUTES  
June 4, 2018

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5 1. **CALL TO ORDER** – Chair Kris Kopitzke called the meeting to order at 7:02 PM  
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- 7 2. **PLEDGE OF ALLEGIANCE** – was recited.  
8
- 9 3. **ROLL CALL** – Present: Chair Kris Kopitzke, Lucia Wroblewski, Mark Nelson, Roger Bowman, Sally  
10 Doherty, Justin Sykora, James Langan, Annie Perkins. A Quorum was present. Absent was Scott Patten  
11 (excused).  
12 **ALSO IN ATTENDANCE** – City Council member Joe Richter, City Administrator Ron Moore, City Clerk  
13 Julie Yoho  
14
- 15 4. **APPROVAL OF AGENDA** –  
16 **Motion/Second: Wroblewski/Nelson to approve agenda. Passed 8-0.**  
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- 18 5. **APPROVAL OF MINUTES** –  
19 A. May 7, 2018  
20 **Motion/Second: Wroblewski/Langan To approve the minutes of the May 7, 2018 Planning**  
21 **Commission meeting with changes noted. Passed 8-0.**  
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- 23 6. **REPORTS AND PRESENTATIONS** – none  
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- 25 7. **PUBLIC HEARINGS** –  
26 A. Afton Marina & Yacht Club Inc. Application for a Conditional Use Permit for a Restaurant at 16071 31<sup>st</sup>  
27 Street  
28  
29 Chair Kopitzke opened the public hearing at 7:05 pm.  
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31 Administrator Moore provided the following summary:  
32 The Afton Marina and Yacht Club, Inc. has requested approval of a conditional use permit to allow the  
33 establishment of a seasonal restaurant upon its marina site located at 16071 31<sup>st</sup> Street South. The  
34 restaurant is proposed to occupy 2,700 square feet of an existing boat and slip repair building which  
35 measures approximately 9,400 square feet in size. Specifically, the restaurant would occupy the eastern  
36 portion of the building which is provided views of adjacent St. Croix River.  
37  
38 City Planner Bob Kirmis gave a summary of his report. He pointed out that the primary issue is the access  
39 from 32<sup>nd</sup> St. Alternative accesses discussed in the report are not supported by the marina.  
40 Brad Aho, Afton Marina Treasurer, provided background information on the marina and the proposed  
41 restaurant. They would like to have a second entrance for safety.  
42 John, Lumberyard Pub. Stated he will work with Windmill to address their concerns as much as possible.  
43 He expects different spikes in traffic, along with foot and boat traffic coming in to restaurant. He said the  
44 parking lot could be closed to vehicles during peak boat launch times.  
45 Rich, Attorney for Windmill Marina. Stated they are opposed to the CUP and the proposal. Windmill  
46 maintains that portion of 32<sup>nd</sup> Street as a boat launch area, not public road. Afton marina is proposing to use  
47 private roadway. For 50 years the access off 31<sup>st</sup> street has worked for Afton marina; they can access off  
48 their own property. 32<sup>nd</sup> street is the busiest street in Afton. A full traffic study is needed. There also is a  
49 gas tank and holding tank on the border.  
50 Joe, Windmill Marina, spoke against the CUP and described typical traffic patterns and congestion. They  
51 have an agreement to operate the boat launch for the community. Provided photos showing traffic  
52 congestion. Noted that 32<sup>nd</sup> street goes at an angle toward the river.  
53 Bev Aho, Afton Marina. Spoke in support of the CUP. Stated they are requesting to use the public right of  
54 way.

55 Tamara Peterson, Afton Marina. Spoke in support of the CUP request. Windmill could reverse traffic circle  
56 flow to help ease congestion.  
57 DeDee Armstrong, local resident. Stated that this will impact on the people living here in town.  
58 Ted, Windmill Marina asked if the road is capable of handling additional traffic? When would study be  
59 available?  
60 City Engineer Nick Guilliams replied that counts were done over Memorial Day; but need to be analyzed.  
61 Ted asked about drainage  
62 Guilliams replied that as part of design they will need VCWD and culvert permits. Traffic study not complete  
63 yet.  
64 Glen Bowman, Afton Marina, stated that a preliminary study done for the culvert is in progress.  
65 Joe, Windmill Marina, stated they have paid for maintenance and improvements for past 40 yrs. on that road.  
66 Brad Aho, Afton Marina, spoke in support of the second access road.  
67 Kevin Kelling Afton Marina; spoke in support of the CUP.  
68 DeDee Armstrong stated her specific concerns are regarding traffic and parking.  
69 Beth Nelson, 2990 Itasca Ave S. St Mary's Point; asked about impervious surface next to the river and how  
70 the runoff will be mitigated.  
71

72 **Motion/Second Doherty/Bowman To close public hearing. Passed 8-0.**

73  
74 Public hearing closed at 8:23pm  
75

76 Wroblewski asked why hasn't Afton Marina addressed a different access point, or fixed the gate if it doesn't  
77 function well? Why is there no alternative? Questions on traffic estimates? Getting a CUP isn't a right,  
78 concerns have to be mitigated. (no answers provided for the questions)

79 Nelson asked what kind of road we need on 32<sup>nd</sup> for cars to pass boat traffic to get into driveway.

80 Guilliams replied that it is a 2-way street. Vehicles would have to wait in line or illegally pass. Road would  
81 remain 2-way traffic.

82 Perkins stated that the 32<sup>nd</sup> St photos had boats parked along it. It was not being used as a 2 way road. CUP  
83 requires 32<sup>nd</sup> St to be sufficient to accommodate increased traffic. A formal traffic study is needed.

84 Kopitzke stated that it is a city street built to standards, but it is not used as a normal road. Public street, yet  
85 not used as public street.

86 Administrator Moorse stated that it is a public ROW, the public has a right to use. The marina agreement  
87 indicates hasn't operated as a public street; also the ROW is at an angle, road becomes private as you head  
88 toward the river.

89 Perkins asked why are options B & C in the planning report off the table? They have 34 acres to work with  
90 and can modify the entrance. (no answer)

91 Bowman stated he hasn't heard a good explanation on why the other entrance won't work. How much traffic  
92 is too much on 32nd? Also consider the pedestrian traffic impacts. The restaurant mentioned closing the  
93 parking lot at peak times – a parking lot is required for a CUP.

94 Sykora agreed that closing the parking lot isn't going to work.

95 Bowman stated he doesn't see a solution

96 Doherty stated she sees it as a land locked parcel. Same ownership but different parcels. Could approve CUP  
97 with conditions for the city to figure out how to do it safely, complete traffic study and work with both  
98 marinas.

99 Bowman asked about timing. (Mid July is 60 days)

100 Doherty stated she would move to recommend approval of the CUP with conditions listed. It is an approved  
101 use and no variance is needed.

102 Kopitzke asked about the responsibility for the kitchen equipment if owners change. (CUP is to the lease  
103 holder. It is a DNR requirement that the kitchen equipment be removable)

104 Bowman asked about light pollution if there is a wall of windows facing the river. (Seasonal restaurant, not  
105 open in the winter. Lighting will not be bright when open).

106 Wroblewski asked why can't the entrance come in from the other way?

107 Brad Aho answered that it was considered and needs 2/3 majority to approve change in marina bylaws. The  
108 gate isn't wide enough and is not designed to be public.  
109 Perkins asked about the marina bylaws; if the restaurant benefits the marina, they should be easy to change.  
110 Aho replied that it is private property, the members buy in and have right to use the private property.  
111 Perkins asked about the driveway application that was submitted in December. Moorese replied that it was  
112 submitted then rolled into this application.  
113 Doherty asked about food equipment design. (Full service restaurant with equipment that can be removed  
114 in event of flood if necessary.)  
115 Bowman asked about outside dining or bar service? (There will be none outside)  
116 Langan asked if the CUP is approved and parcel is sold off, is the CUP transferable? Does it go with  
117 property? Moorese replied that it is a restaurant CUP and goes with the property. New owners would need  
118 to meet all conditions.  
119 Langan stated that in the future he could see that parcel being sold off  
120 Doherty asked that if it is sold, does that change any of the requirements of conforming to the ordinance?  
121 Bowman asked if a CUP can be seasonal? (Application is for seasonal use)  
122 Wroblewski asked if the CUP can be approved with conditions or denied with no conditions. What is the  
123 best way to approach?  
124 Kirmis replied it is best to add more conditions. There is nothing about seasonal use right now.  
125 Kopitzke noted there is nothing about seasonal use as a condition right now.  
126 Doherty added she would not recommend putting seasonal use as a condition.  
127

128 **Motion/Second Doherty/Kopitzke To recommend approval of the Conditional Use Permit for a**  
129 **restaurant at 16071 31<sup>st</sup> St with 14 conditions provided below, plus additional.**

- 130 1. The Planning Commission provide recommendation and the City Council determine the preferred  
131 access location to the restaurant site (32<sup>nd</sup> Street South, 31<sup>st</sup> Street South or a combination thereof which  
132 corresponds to peak demand times).  
133 2. The following access-related conditions shall apply:  
134 A. All recommendations of the City Engineer related to driveway and/or street improvements and  
135 traffic analysis/traffic management shall be satisfied.  
136 B. Any costs associated with the improvement of 32<sup>nd</sup> Street South, if required, shall be borne by the  
137 applicant.  
138 C. If a new access to 32<sup>nd</sup> Street South is deemed acceptable by City Officials, such access shall be  
139 subject to driveway permit processing.  
140 D. An opportunity shall be provided for emergency vehicles to access the restaurant site from 32<sup>nd</sup>  
141 Street South.  
142 E. Project development plans shall be modified as necessary to reflect the approved site access  
143 location (or locations).  
144 3. Information be provided by the applicant which documents the exterior building appearance of the  
145 restaurant and related finish materials.  
146 4. The City Engineer and/or Washington County Department of Public Health provide comment and  
147 recommendation regarding the adequacy of existing well and septic systems and any modifications  
148 which are necessary to accommodate the proposed use.  
149 A. Conform with city's and county's recommendation on connecting to city sewer  
150 5. The applicant provide proof to the City that new boat slips have been approved by the official  
151 governing authority and are to be legally established.  
152 6. City Officials find the proposed hours of restaurant operation (11:00 am to 10:00 pm, seven days a  
153 week) to be acceptable.  
154 7. All newly erected site signage shall comply with the applicable provisions of Section 12-210 of the  
155 Zoning Ordinance, be subject to review by the City's Design Review/Heritage Preservation  
156 Commission and be subject to sign permit.  
157 8. The submitted site plan shall be modified to identify a trash handling area. The trash handling area  
158 shall be located such that it will be accessible to refuse pick-up vehicles.

- 159 9. Trash handling receptacles shall be located in an enclosure such that they are screened from view of  
160 public rights-of-way and neighboring properties.  
161 10. The site plan shall be modified to identify a loading area which provides ample maneuvering space for  
162 delivery vehicles.  
163 11. The amount of impervious surface coverage upon the subject site shall not be increased.  
164 12. Outdoor dining activities shall not be allowed except via the processing of a conditional use permit  
165 amendment.  
166 13. Issues related to site grading and drainage shall be subject to comment and recommendation by the  
167 City Engineer, including water quality best management practices.  
168 14. Comments of other City Staff.  
169 15. DNR approval must be received for intended use including all aspects and implementation relative to  
170 runoff containment  
171 16. Lighting must conform with Afton ordinances, the DNR, and relevant river organizations.  
172

173 Discussion

174 Doherty stated that the 3 big issues are traffic management, that all costs be borne by the applicant, and that  
175 the new access is deemed acceptable subject to driveway permit.  
176 Bowman stated that we are making a decision without full information on traffic due to time constraints.  
177 Sykora stated that the other options have not been fully explored. This is an approved use, but other options  
178 need to be explored.  
179 Kopitzke stated that it doesn't require a variance, and it is a public street.  
180 Doherty agreed that there are other ways to solve the problem, but this is a separate parcel that has rights  
181 Perkins pointed out that no variance is required, as long as 32<sup>nd</sup> street can accommodate the traffic  
182 Kopitzke stated that Windmill Marina can't block a public street from other uses  
183 Nelson stated that the motion should be phrased as a recommendation to the council. Doherty accepted.

184 **Motion Vote**

185 **4 Aye, 4 Nay. Split recommendation goes to council.** (Doherty, Nelson, Koptizke, Perkins Aye; Langan,  
186 Wroblewski, Sykora, Bowman Nay)  
187

- 188 B. Ordinance 01-2018, An Ordinance Amendment regarding allowed uses, design standards, landscape  
189 requirements and exterior storage in the City's Industrial zones (I1-A, I1-B and I1-C)  
190

191 Administrator Moose provided the following summary: The ordinance amendment reflects revisions to  
192 the list of uses allowed in the Industrial zones, clarifying exterior storage regulations, and updating design  
193 standards and landscape requirements, based on feedback from both the Planning Commission and City  
194 Council.  
195

196 Chair Kopitzke opened the public hearing at 9:06 pm

197 No comments were received

198 **Motion/Second Doherty/Wroblewski To close public hearing. Passed 8-0.**

199 Public hearing closed at 9:07 pm  
200

201 Perkins stated we should require pollinator friendly plantings and non-turf grass rather than recommend.  
202 Moose stated that the planning commission can recommend and bring to the council. He will look into  
203 existing guidelines.

204 Sykora asked about allowing fuel storage tanks, and that not allowing may limit uses too much.

205 Bowman asked about height and setback requirements, change setback to 10'.

206 Moose stated there is a 35' setback now

207 Discussion over heights

208 **Motion/Second Nelson/Wroblewski To recommend the City Council to approve the ordinance  
209 amendment with changes discussed.**

210 Discussion

211 Langan stated that an interior height of 40' interior is recommended.  
212 Sykora stated he would recommend 25% for natural habitat plantings.  
213 Perkins stated it could be written as "natural habitat as defined by xx".  
214 Doherty stated that it may be hard to come up with specs for stronger terms about native plantings, have staff  
215 look into recommendations. Friendly amendment / accepted.  
216 **Motion Vote 8-0**

217  
218 **8. NEW BUSINESS - none**

219  
220 **9. OLD BUSINESS –**

221 A. Update on City Council Actions  
222 1. Council highlights from the May 15, 2018 Council meeting  
223 Council member Richter provided a summary of the Council meeting.  
224

225 **10. ADJOURN**

226 **Motion/Second Langan/Wroblewski To adjourn. Passed 8-0.**

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228  
229 Meeting adjourned 9:33pm

230  
231  
232 Respectfully submitted by:

233  
234 \_\_\_\_\_  
235 Julie Yoho, City Clerk

236  
237  
238 **To be approved on July 9, 2018 as (check one): Presented: \_\_\_\_\_ or Amended: \_\_\_\_\_**

CITY OF AFTON  
DRAFT PLANNING COMMISSION MINUTES  
July 9, 2018

- 1  
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5 1. **CALL TO ORDER** – Chair Kris Kopitzke called the meeting to order at 7:00 PM  
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7 2. **PLEDGE OF ALLEGIANCE** – was recited.  
8  
9 3. **ROLL CALL** – Present: Chair Kris Kopitzke, Lucia Wroblewski, Mark Nelson, Sally Doherty, Justin  
10 Sykora, Annie Perkins, Scott Patten. A Quorum was present. Absent was Roger Bowman, James Langan  
11 (excused).  
12 **ALSO IN ATTENDANCE** – City Council member Joe Richter, City Administrator Ron Moore, City Clerk  
13 Julie Yoho  
14  
15 4. **APPROVAL OF AGENDA** –  
16  
17 5. **APPROVAL OF MINUTES** –  
18 A. June 4, 2018  
19 **Motion/Second: Doherty/Kopitzke To have staff review lines 106-117 and add answers to the**  
20 **questions so that the commission can review next month.**  
21 **Friendly Amendment – review lines 74-117 (accepted)**  
22 **Passed 6-0-1 (Patten abstain due to absence)**  
23  
24 6. **REPORTS AND PRESENTATIONS** – none  
25  
26 7. **PUBLIC HEARINGS** –  
27 A. Ruth Friedlander Application for Minor Subdivision, variance and rezoning at 2900 Stagecoach Trail  
28  
29 Chair Kopitzke opened the public hearing at 7:05 pm  
30  
31 Administrator Moore provided the following summary:  
32 Ruth Friedlander has applied for a minor subdivision, variance and rezoning at 2900 Stagecoach  
33 Trail, 2948 Stagecoach Trail, the undeveloped parcels with PID #'s 22.028.20.11.0039, 22.028.20.11.0040  
34 and 22.028.20.12.0002 and the parcel at 15785 Afton Hills Drive  
35 The minor subdivision is being proposed to address multiple parcels under one ownership that are totally  
36 or partially unbuildable due to steep slopes. The three smallest parcels (existing Parcels 2, 3 and 4 as  
37 designated on the attached survey) are unbuildable due to steep slopes, the parcel at 2948 Stagecoach Trail  
38 (existing Parcel 1) is unbuildable because there is a steep slope between Stagecoach Trail and the buildable  
39 portion of the lot, and the mid-portion of the parcel at 2900 Stagecoach Trail (existing Parcel 5) is  
40 unbuildable due to steep slopes.  
41 The minor subdivision does not create any additional lots, but combines several parcels under the same  
42 ownership and rearranges lot lines to add property to the adjacent parcel under separate ownership to the  
43 north at 15785 Afton Hills Drive (existing Parcel 6). The result of the subdivision will be two parcels  
44 instead of six parcels (see the attached sketch of the parcels). Parcel A will be 2.14 acres and Parcel B will  
45 be 11.07 acres. The eastern portion of Parcel 1, which has buildable topography and is adjacent to Parcel  
46 5, is proposed to be added to the eastern portion of Parcel 5 to provide as much accessible buildable area to  
47 this parcel as possible. The result would be that the new Parcel A would have 2.14 acres vs. the current lot  
48 size of 1.86 acres and would have more buildable area than it currently has. All of the land other than the  
49 new Parcel A would be combined with existing Parcel 6 to create a new Parcel B with 11.07 acres.  
50  
51 A Representative for Friedlander & Pesavento summarized their request.  
52  
53 No other comments were received  
54  
55 Chair Kopitzke closed the Public hearing at 7:15 pm

56  
57 Wroblewski asked about the parcel in between (It is public right of way, on a steep slope)  
58 Nelson asked about the reasons a variance is needed.  
59 Applicant replied it is due to the steep slopes and the practicality of maintaining and policing property on  
60 top of the slope.  
61 Nelson pointed out that unreasonable topography is an allowed reason for a variance.  
62 Kopitzke asked if the parcel could be rezoned to VHS-R. Moose said the city has not looked to expand the  
63 area of the VHS-R beyond the current boundary.  
64 Patten asked for clarification on which parcels would be combined.  
65 Doherty asked if Ron has seen deeds for each of the properties. Is there a 3<sup>rd</sup> owner? Friedlander stated the  
66 title was in her mother's name also and will be updated when recorded. Moose stated a condition could be  
67 put on regarding the deed transfer.  
68 Doherty stated that it seems straightforward, it's less non-conforming to make these 6 parcels into 2 with  
69 two houses. Not sure a variance is needed. Moose stated he took conservative approach to go through the  
70 process. The lots are non-conforming and variance is to minimum lot size requirement for RR.  
71 Kopitzke stated that to avoid a variance the lot line could be moved to have a 5 acre lot. This proposal is a  
72 more practical division.  
73 Wroblewski agreed that this seems like a good solution  
74 Kopitzke would recommend abandoning the right of way. Moose stated that the city is reluctant to vacate.  
75 Kopitzke stated he doesn't want to see more RR properties hooking up to sewer system.  
76 Nelson asked if there is room for another drainfield?  
77 Owner would likely prefer to find alternative on site as opposed to connecting due to costs.  
78 Moose suggestion for sewer connection was because property was relatively close to sewer. May want to  
79 state "protect future site for drainfield on new parcel A".  
80 Doherty recommended we don't require hookup to city sewer in language.  
81 **Motion/Second Wroblewski/Kopitzke to recommend approval of the Friedlander application for a**  
82 **minor subdivision with findings 1-10, with deed being correct and owner of record as a condition,**  
83 **eliminate condition 1. Both parcels be zoned RR with finding that parcel A will be less non-**  
84 **conforming; no variance.**

85 **Findings**

- 86 **1. The proposed subdivision includes two parcels zoned VHS-R and four parcels zoned Rural**
- 87 **Residential**
- 88 **2. The land to the north, south and east of the subdivision is zoned Rural Residential and the**
- 89 **land to the south is zoned VHS-R.**
- 90 **3. The proposed minor subdivision does not create any additional lots.**
- 91 **4. The proposed subdivision combines several parcels that are under the same ownership**
- 92 **5. The proposed subdivision reduces the number of parcels from six to two.**
- 93 **6. The proposed subdivision adds 7.25 acres to existing parcel 6, which is currently**
- 94 **nonconforming with a lot area of 3.82 acres vs. the required minimum lot area of 5.0**
- 95 **acres.**
- 96 **7. The proposed subdivision includes a lot (Parcel A) that has a lot area of 2.14 acres vs. the**
- 97 **required minimum lot area of 5 acres.**
- 98 **8. New Parcel A has a greater lot area than existing Parcel 5, and has a greater amount of**
- 99 **buildable area than existing Parcel 5.**
- 100 **9. With the exception of the nonconforming lot area of the new Parcel A, the subdivision meets all**
- 101 **subdivision requirements**
- 102 **10. The proposed subdivision makes the currently nonconforming existing Parcel 6 a**
- 103 **conforming parcel with a lot area of 11.07 acres.**

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**Conditions**

1. **When the existing septic system on Parcel A becomes non-compliant, the property will be connected to the municipal sanitary sewer system, if there is sufficient capacity in the system at that time**
2. **Drainage and utility easements as required by the City Engineer shall be granted**
3. **Scenic easements shall be placed on all areas with slopes of 18% or greater, and on all areas with slopes of 12% or greater in the Lower St. Croix River Bluffland and Shoreland Management District**
4. **The developer shall execute a scenic easement agreement and shall record the scenic easement concurrent with the subdivision**

Discussion

Nelson agrees with Moore's recommendation to require a variance.

Perkins asked why we would not want a variance?

Kopitzke replied that when we have a variance, we are required to minimize the variance. It also sets a precedence for a small lot.

Doherty stated she likes to avoid over-reach; this is a gray area.

Perkins why could a variance be required? (Lot size and shape, rezoning)

**Friendly amendment (Doherty) to add wording "1 parcel becomes conforming, eliminates a flag lot, parcel A less non-conforming. (accepted)**

**MotionVote: passed 7-0-0.**

**8. NEW BUSINESS - none**

**9. OLD BUSINESS –**

A. Update on City Council Actions

1. Council highlights from the June 19, 2018 City Council meeting  
Council member Richter provided a summary of the Council meeting.

**10. ADJOURN**

**Motion/Second Wroblewski/Patten to Adjourn. Passed 7-0-0.**

Meeting adjourned at 8:02 pm.

Respectfully submitted by:

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Julie Yoho, City Clerk

To be approved on August 6, 2018 as (check one): Presented: \_\_\_\_\_ or Amended: \_\_\_\_\_

City of Afton  
3033 St. Croix Trl, P.O. Box 219  
Afton, MN 55001

# Planning Commission Memo

## Meeting: August 6, 2018

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: August 1, 2018

Re: River Valley Riders Application for an Amended Conditional Use Permit at 2007 Neal Avenue –  
**Public Hearing**

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### Background

In 2009, the River Valley Riders obtained approval of a Conditional Use Permit (CUP) for an outdoor riding arena for therapeutic riding and carriage driving for people with special needs at 2007 Neal Avenue. The outdoor riding arena was the first stage of a much larger master plan for an indoor riding arena and related indoor spaces. River Valley Riders has now applied for an amended CUP to allow the second phase of their riding arena master plan to proceed. The second phase is the construction of an indoor riding arena to extend the number of months per year during which it can provide therapeutic riding and carriage driving for people with special needs. This second phase of the master plan does not include related indoor spaces such as offices, a public viewing area or a restroom. These spaces will be constructed in a third phase of the master plan. Attached are a narrative from River Valley Riders regarding the second phase of the master plan and the master plan for the facility.

### Permanent vs. Temporary Restroom Facilities

The current outdoor riding arena operates with a portable restroom. The indoor riding arena, which will serve the same clients as the outdoor riding arena, is proposed to continue to operate with a portable restroom until the next phase of the master plan, which will include a septic system and a permanent restroom. The City's Building Official has indicated the continued use of the portable restroom on an interim basis is allowed with approval by the Washington County Public Health Department.

### Stormwater Management

When the outdoor riding arena was constructed, the bulk of the drainage infrastructure for both the outdoor riding arena and the then-planned indoor riding arena was installed, based on the review and approval of the drainage plans by the Valley Branch Watershed District. Because the proposed indoor riding arena is not in the same location as the original plan, the drainage plan is being revised for review by the VBWD. Any changes to the drainage infrastructure required by the VBWD will need to be made as part of the indoor riding arena project.

### Findings

The following is a recommended set of findings. The Planning Commission may revise the findings as desired.

1. In 2009, a CUP was approved for the subject property for an outdoor riding arena as the first phase of a master plan that included an indoor riding arena
2. River Valley Riders has applied for an amended CUP to construct an indoor riding arena
3. The subject property is zoned Ag which allows an indoor riding arena with a conditional use permit
4. As part of the outdoor riding arena construction, the bulk of the drainage infrastructure for both the outdoor riding arena and the indoor riding arena was installed

5. The outdoor riding arena operates with a portable restroom. The indoor riding arena will serve the same clients as the outdoor riding arena.
6. The City's Building Official has indicated the continued use of the portable restroom on an interim basis is allowed with approval by the Washington County Public Health Department.

Conditions

If the Planning Commission decides to make a recommendation for approval, the following is a recommended set of conditions of approval. The Planning Commission may revise the conditions as desired.

1. The property owner shall obtain approval from the Washington County Public Health Department for continued use of the portable restroom for the indoor riding arena use.
2. A permit shall be obtained from the Valley Branch Watershed District (VBWD), and all requirements of that permit shall be met
3. Grading and drainage improvements shall be constructed according to final plans approved by the VBWD. Silt fences or other types of erosion control shall be properly installed prior to construction; and shall be maintained in good condition until the construction is complete.
4. Any additional lighting shall be subject to review and approval by the City Engineer and City Administrator.
5. Non-compliance with the conditions of this permit shall be considered a violation, and may result in revocation of this permit.
6. Construction shall begin within one year of the date of issuance of this permit or the permit shall become null and void.

**Planning Commission Recommendation Requested:**

Motion regarding a recommendation concerning the River Valley Riders application for an amended Conditional Use Permit for an indoor riding arena at 2007 Neal Avenue, with findings, and conditions if applicable.



River Valley Riders

Date: July 17, 2018

To: Ron Moorse, City Administrator  
Duane Stensland, Building Inspector  
Isaac Stensland, Building Inspector

From: Cheryl Holt, RVR Board Officer/Instructor

Subj: River Valley Riders Indoor Arena Project

Thank you for reviewing our building proposal for 2007 Neal Ave. South, Afton, MN. This memo will explain the planned usage of the indoor arena as compared to the current outdoor arena, usage of porta-potty and next stage of build.

The planned usage of the indoor arena will be the same as the current outdoor arena. We have carriage driving and therapeutic horseback riding classes on Tuesdays, Wednesdays and Thursdays. In May and September, we do accommodate small school groups during the day when they have funding for the activity. These school groups are the same or smaller than our normal classes that are detailed below.

Carriage driving would only be in the indoor arena if it was raining, otherwise those classes are conducted on our carriage path and in the mowed areas of the field. If raining, two carriages, two horses, six volunteers and two clients would be in the indoor arena at the same time. The volunteers include the instructors.

Therapeutic horseback riding has a maximum of six riders in a class, three classes each evening (Tues/Wed/Thurs). The riders require one to three volunteers each depending on their abilities. Overall average is two volunteers per rider. In a class there would be six riders, six-eighteen volunteers, plus two or three instructors, so at any one time less than thirty people, plus six horses.

Riders/Drivers are brought to the site by a parent or caregiver. These people often sit under the picnic shelter or in their cars. Horses are brought to the site by their owners, who are included in the volunteer count.

With the indoor arena, a limited number of parents/caregivers could stand at the end of the arena to watch the lesson, this would add another 6-8 people that could be inside the roof of the arena. We would fence off this end of the arena which will include a mounting area and room for 6-8 people to stand and watch the lesson. At this time, the indoor arena will not comfortably accommodate any spectators, so they may chose to continue to stay at the picnic shelter or in their cars.

*River Valley Riders, 8362 Tamarack Village, Suite 119-440, Woodbury, MN 55125*



River Valley Riders

Currently the indoor arena usage is to keep our lessons on track by avoiding cancellations due to rain/heat and to extend our riding season from "May to October" to "April to November". If the weather is nice we would be riding in the outdoor arena or on our carriage path. The indoor arena is a big step to our final vision but cannot be fully used to its capacity at this time. We could expand our season, but not increase the number of riders/drivers/volunteers until we have the rest of the site complete to accommodate RVR owned horses living on the property.

Our current porta-potty is located near the picnic shelter and is ADA compliant. With the build of the indoor arena we plan to add another ADA compliant porta-potty near the human door entrance of the indoor arena. We are planning to put up a canopy over the human door entrance that will reach the door of the porta-potty.

Our next phase of the site project does include bathrooms/septic. We plan to build onto the west end of the indoor arena. This add on would include the required bathrooms, septic system, viewing room for parents/caregivers, storage and an office. We would begin fundraising activities for this addition as soon as the indoor arena is complete.

Please let me know if you have any further questions or need further clarification.

Best regards,

Cheryl Holt  
RVR Board Officer/Instructor  
Cell 651-494-7883

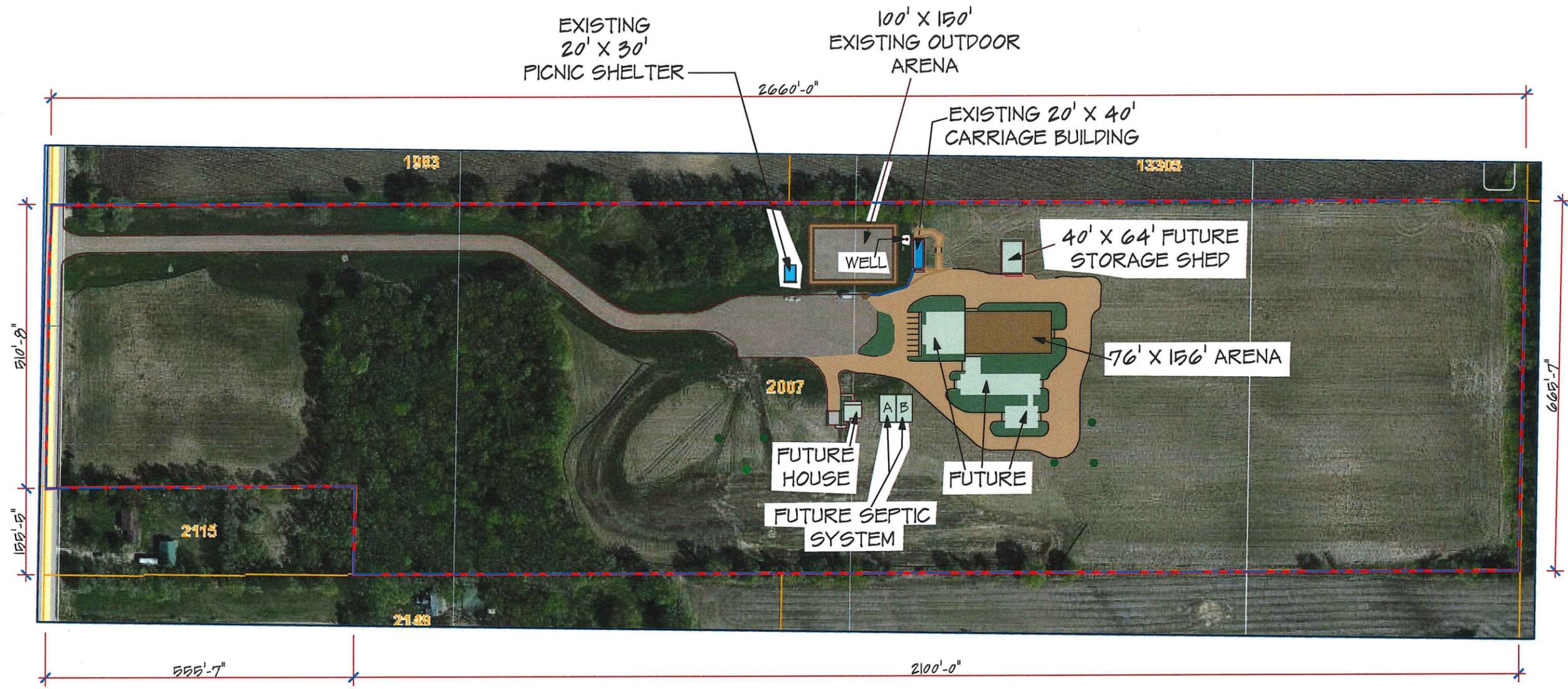


*21847*

**CITY OF AFTON  
CONDITIONAL USE PERMIT APPLICATION**

**CUP RENEWAL or EXTENSION**

Owner	Address	City	State	Zip	Phone
River Valley Riders (Cheryl Holt-E)	2007 Neal Ave. South	Afton	MN	55001	651-494-7883
Applicant (if different than owner)	<i>(Bd Officer)</i> Address	City	State	Zip	Phone
River Valley Riders (Cheryl Holt-Bd)	2007 Neal Ave. South	Afton	MN	55001	651-494-7883
Project Address					
2007 Neal Ave. South		AFTON	MN	55001	
Zoning Classification	Existing Use of Property	PID# or Legal Description			
Agricultural	Operating an outdoor riding arena. <i>for therapeutic Riding &amp; Carriage driving.</i>	17.028.20.21.0001			
Description of Request					
<i>Building an indoor arena, 156' x 76' x 16', wood structure. Use will be the same as the outdoor arena - therapeutic Riding + Carriage driving for people with special needs.</i>					
By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City. If work authorized by this Conditional Use Permit is not started <b>within 12 months of the date issued</b> , this CUP will EXPIRE and be INVALID.					
<i>Cheryl Holt</i>				<i>7/11/18</i>	
Signature of Owner/Applicant				Date	
Make checks payable to <b>City of Afton:</b>					
<b>FEES:</b>		<b>ESCROW DEPOSIT:</b>			
CUP Renewal	\$250	Escrow	\$350.00	TOTAL:	<i>600.00</i>
CUP Extension	\$250	(for CUP's with timelines)		DATE PAID:	<i>7/11/18</i>
City Engineer	_____	Eng Escrow	_____	CHECK #:	<i>1822</i>
Other	_____	Other	_____	REC'D. BY:	<i>[Signature]</i>
<b>ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION</b>					



**SITE PLAN**



DRAWN BY: R.S.  
 DATE: 7/9/2018  
 SHEET: 1 OF 3

PROJECT NAME: RIVER VALLEY RIDERS  
 AFTON, MINNESOTA

PROJECT NUMBER: (18-\_\_\_)

BUILDING DESCRIPTION: 76'-0" X 156'-0" X 16'-0" ARENA

DESIGN NUMBER: P18119

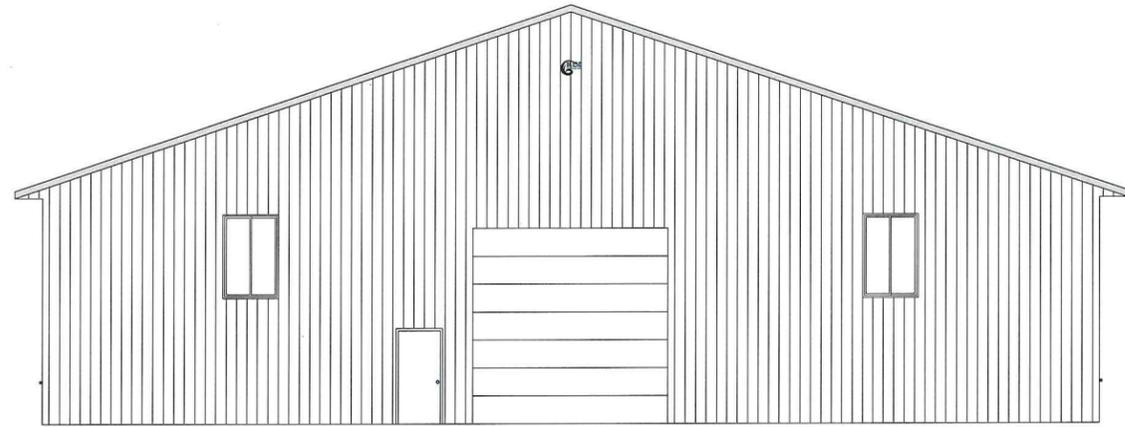
**RAM Buildings Inc.**

592 Industrial Drive  
 P.O. Box 660  
 Winsted, Minnesota 55395

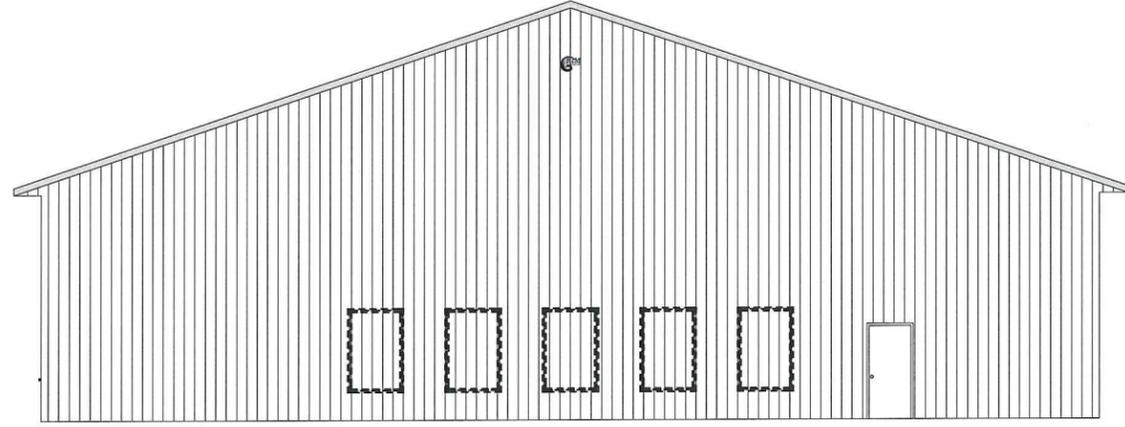
320-485-2844 800-710-4726  
 Fax 320-485-3625  
 www.rambuildings.com

Contractor License Number: BC-171976

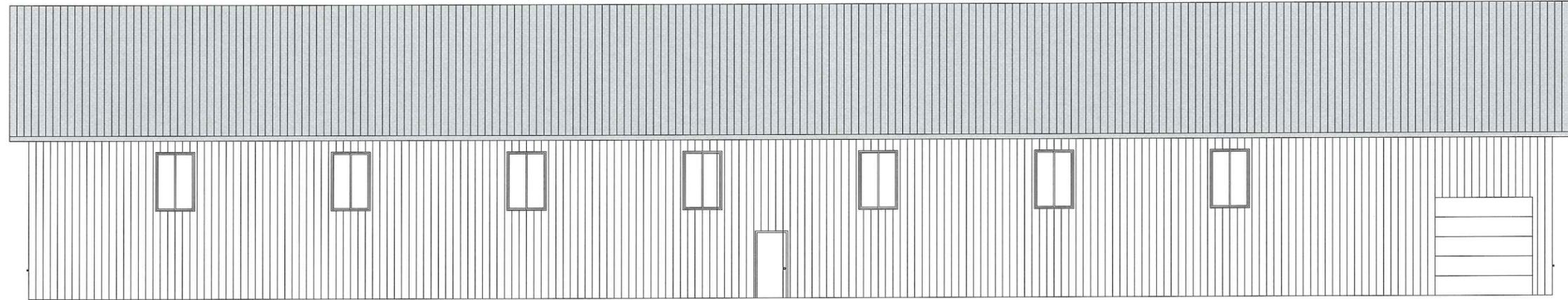
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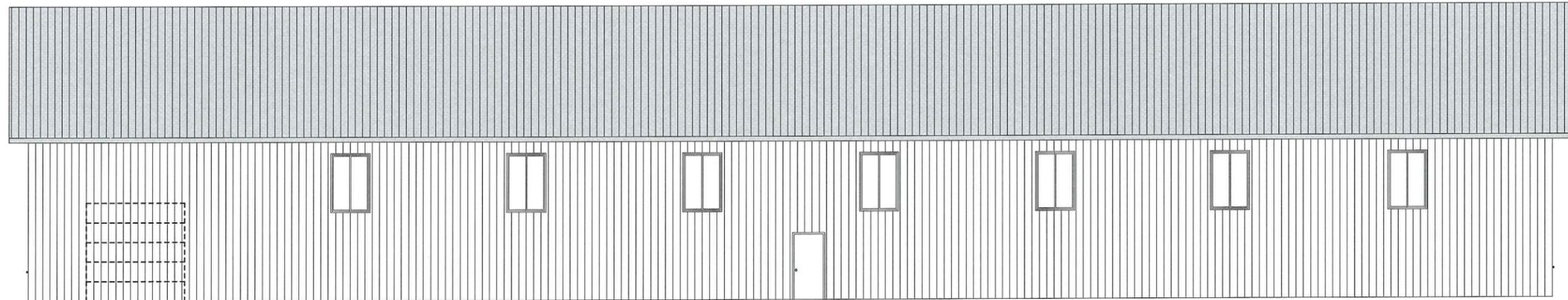
ENDWALL 1



ENDWALL 2



SIDEWALL 1



SIDEWALL 2

DRAWN BY: JEREMY B.

DATE: 7/9/2018

SHEET 2 OF 3

RIVER VALLEY RIDERS  
AFTON, MINNESOTA

PROJECT NAME:  
PROJECT NUMBER: (18-\_\_\_)

BUILDING DESCRIPTION:  
76'-0" X 156'-0" X 16'-0" ARENA

DESIGN NUMBER: P18119

592 Industrial Drive  
P.O. Box 660  
Winsted, Minnesota 55395

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Fax 320-485-3825  
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DRAWN BY: JEREMY B.  
 DATE: 7/9/2018  
 SHEET 3 OF 3

RIVER VALLEY RIDERS  
 AFTON, MINNESOTA

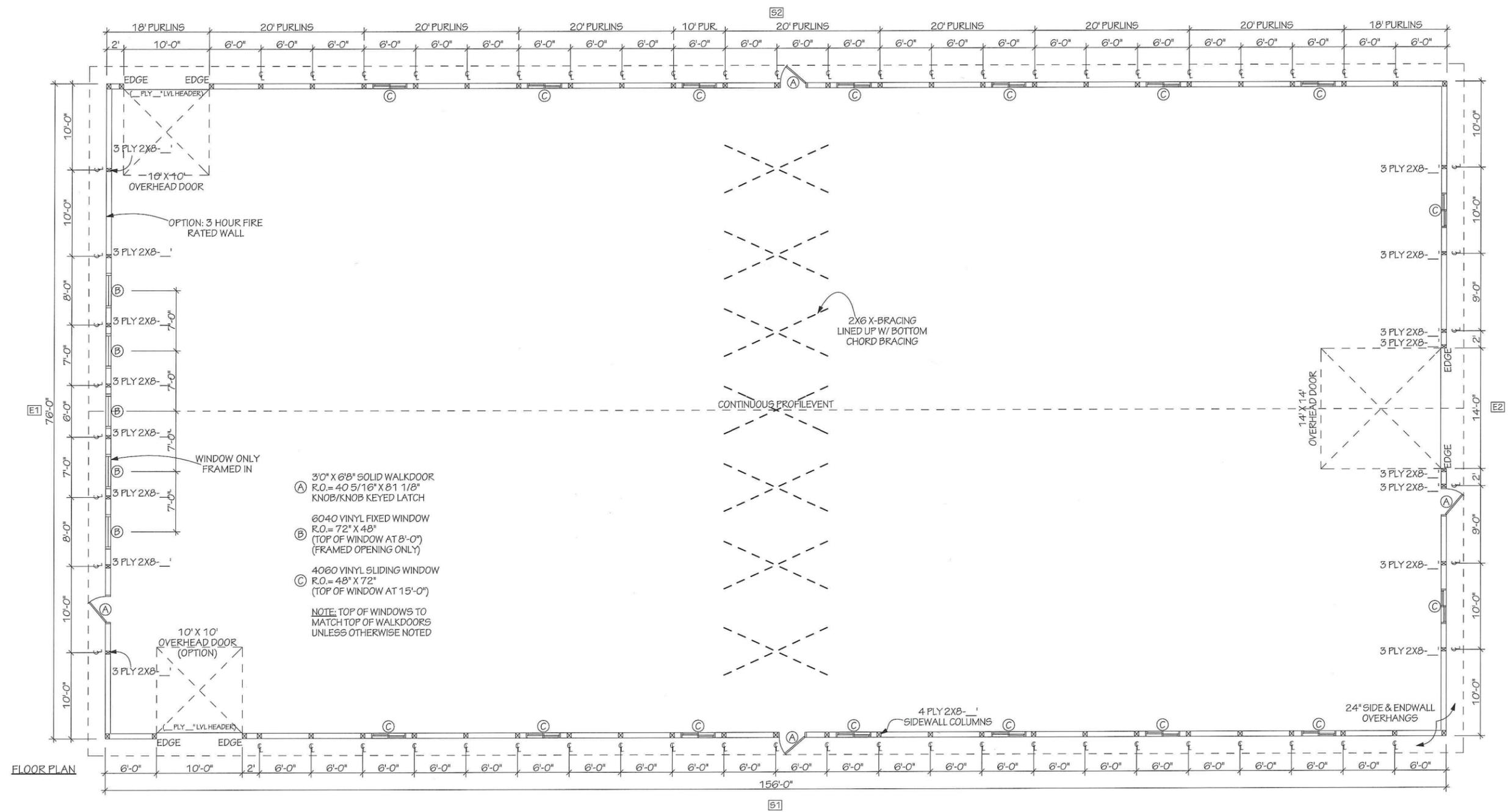
76'-0" X 156'-0" X 16'-0" ARENA

PROJECT NAME:  
 PROJECT NUMBER: (18-\_\_\_)  
 BUILDING DESCRIPTION:  
 DESIGN NUMBER: P18119

592 Industrial Drive  
 P.O. Box 660  
 Winsted, Minnesota 55385  
 320-485-2844 800-710-4726  
 Fax 320-485-3625  
 www.rambuildings.com  
 Contractor License Number BC171976

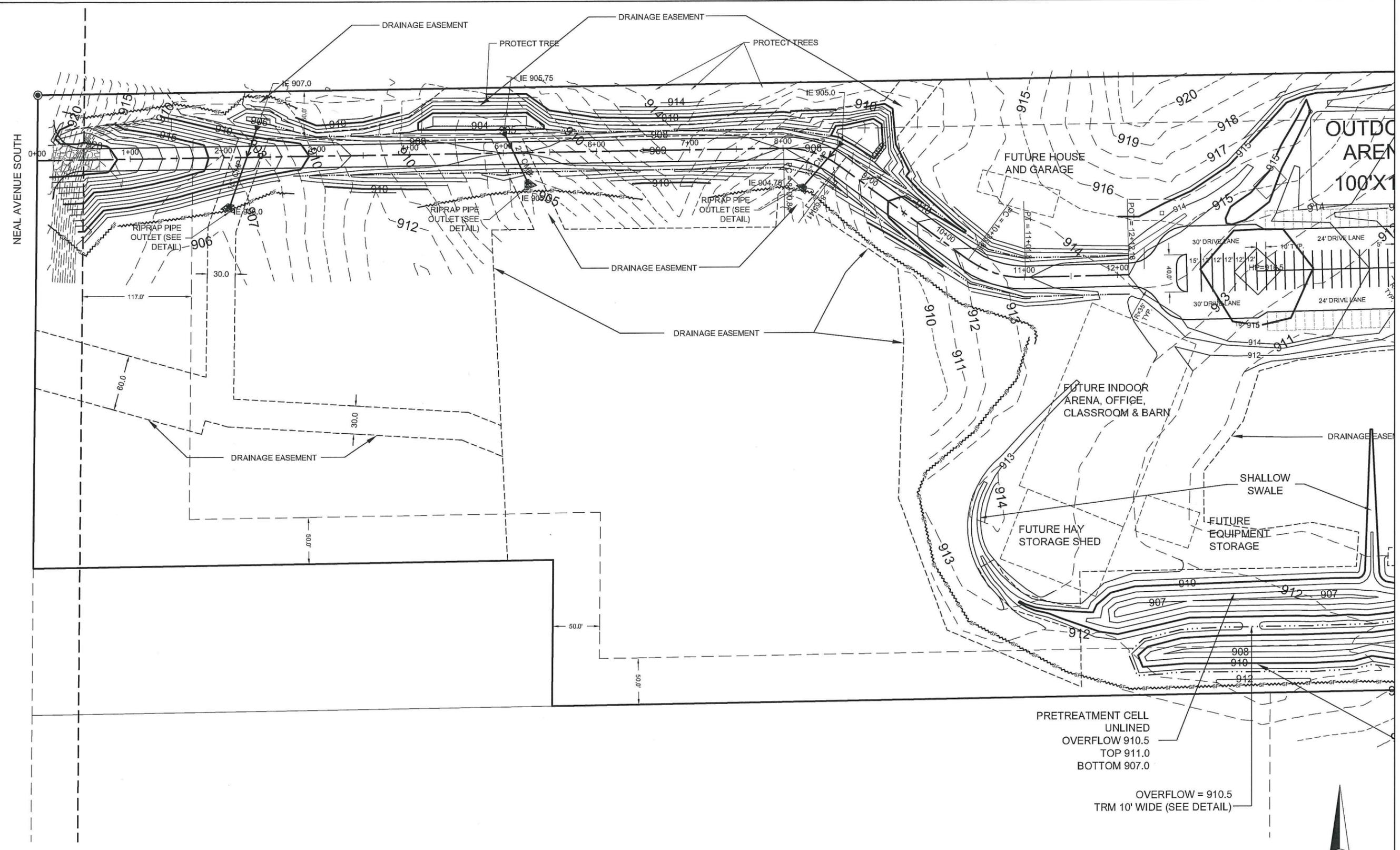


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7/9/2018 3:55 PM

# Drainage Plan



PRETREATMENT CELL  
UNLINED  
OVERFLOW 910.5  
TOP 911.0  
BOTTOM 907.0

OVERFLOW = 910.5  
TRM 10' WIDE (SEE DETAIL)



Plot Date: 05/12/2011  
 Xref: \\sarses2\cpl\CONTOURS\_P\BASE2\_P\BASE2\_P\F\_CONTOURSET\_P\CONTOURSET\_P\CONTOURSET\_P\CONTOURSET\_P.dwg

NO	DATE	BY	REVISION
6			
5			
4	5/12/2011	RR	REVISED POND 4 GRADING AND CULVERT OUTLET ELEVATION
3	5/11/2011	DD	REVISED DRAINAGE EASEMENTS
2	5/09/2011	RR	ADDED RIPRAP AT CULVERT OUTLETS
1	3/28/2011	RR	ADJUSTED CULVERT LENGTHS

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 PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Rich Romness*  
RICH ROMNESS  
DATE: MARCH 15, 2011 LICENSE # 22921

SUBMISSION DATE:  
07/31/2009

DESIGN BY: RWR DRAWN BY: IKR

EOR PROJECT NO.  
00903-0001

**EOR** Emmons & Olivier Resources, Inc.  
651 Hale Avenue North  
Oakdale, MN 55128  
water ecology community  
Tele: 651.770.8448  
www.eorinc.com

**RIVER VALLEY RIDERS**  
260 SOUTH 4TH STREET  
BAYPORT, MN 55003

**THERAPEUTIC RIDING ARENA  
SITE IMPROVEMENTS**  
AFTON, MINNESOTA

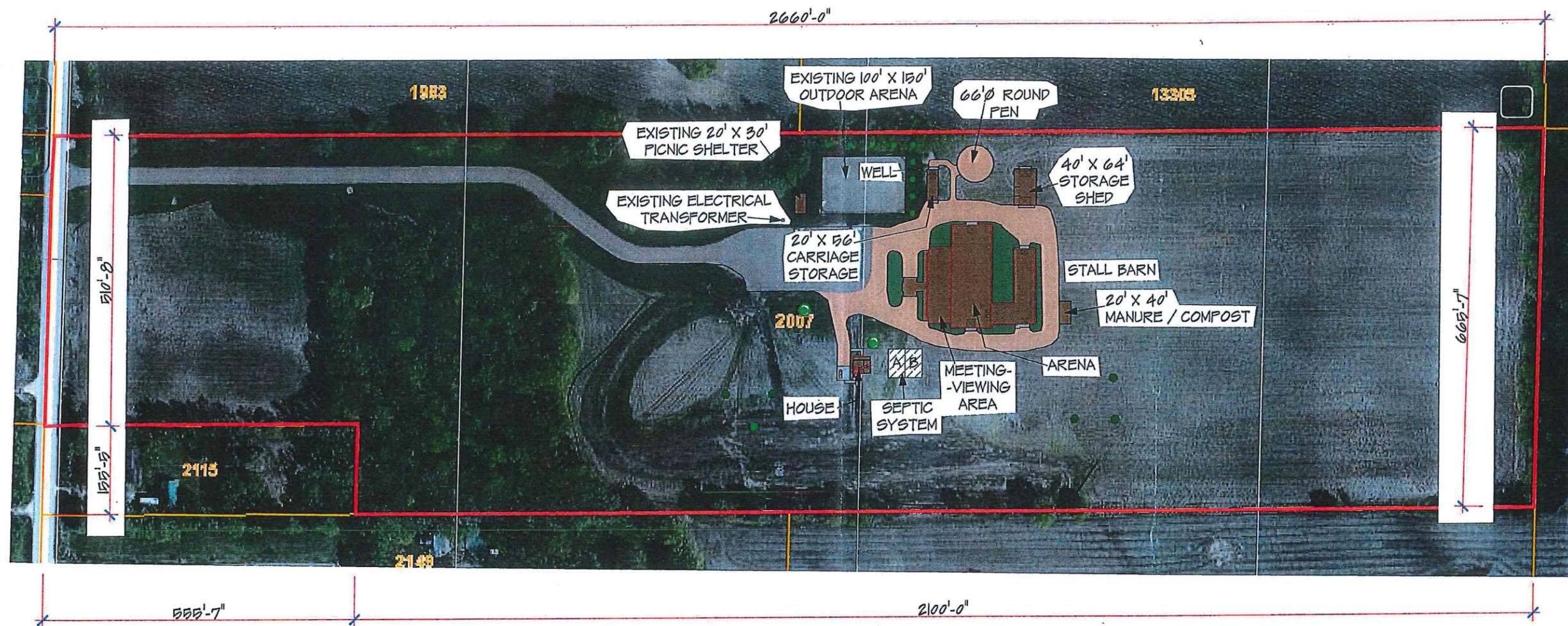
STATE PROJECT NO. --- CITY PROJECT NO. ---

**DRIVEWAY GRADING PLAN**  
SHEET 4 OF 11 SHEETS





Previous  
Master Plan



# SITE PLAN

1" = 100'-0"



BUILDING SQUARE FOOT AREAS	
BUILDING	SQ. FT.
20' X 56' CARRIAGE STORAGE	1,120 SF
40' X 64' STORAGE SHED	2,560 SF
20' X 40' MANURE / COMPOST	800 SF
ARENA	12,060 SF
STALL BARN WITH GROOMING AREA	6,456 SF
VIEWING AREA - LOUNGE	6,024 SF
PORCH	1,774 SF
DRIVE-THRU DROP OFF AREA	912 SF
CARETAKER HOUSE	864 SF
HOUSE PORCH	108 SF

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PROJECT NAME: **RIVER VALLEY RIDERS**

PROJECT NUMBER: \_\_\_\_\_

BUILDING DESCRIPTION: **PERSPECTIVE, SITE, BUILDINGS**

DESIGN NUMBER: **F14-025**

---

DRAWN BY: **R.S.**

DATE: **2-27-15**

SHEET: **2 OF 3**

592 Industrial Drive  
P.O. Box 660  
Winsted, Minnesota 55395

320-485-2844 800-710-4726  
Fax 320-485-3625  
www.rambuildings.com

Contractor License Number 20171976

**City of Afton**  
**3033 St. Croix Trl, P.O. Box 219**  
**Afton, MN 55001**

# Planning Commission Memo

## Meeting: August 6, 2018

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: July 31, 2018

Re: Steve and Jennifer Knuth/Nathan Landucci, Landucci Homes Variance Application at the Property with Property Identification Numbers 17.028.20.24.0001 and 17.028.20.24.0002— **Public Hearing**

Steve and Jennifer Knuth/Nathan Landucci, Landucci Homes have applied for a variance to allow the 40-acre property on the north side of Valley Creek Trail, approximately 1300 feet east of Neal Avenue, with Property Identification Numbers 17.028.20.24.0001 and 17.028.20.24.0002, to be accessed via a driveway from Neal Avenue through a private easement across an adjacent parcel to the north to serve a proposed house on the property. Nathan Landucci, Landucci Homes, currently owns 120 acres of land in several adjacent parcels north of Valley Creek Trail and East of Neal Avenue, including the two subject parcels totaling 40 acres. Steve and Jennifer Knuth are interested in purchasing the two parcels totaling 40 acres on the north side of Valley Creek Trail, approximately 1300 feet east of Neal Avenue, for a home site. Due to steep topography and the location of a tributary to Valley Creek on the parcels, the southern portions of the parcels are not buildable. The Knuth's would like to build a house on the north side of the tributary. They propose to access the property from Neal Avenue via a driveway constructed on a private easement through an adjacent parcel to the north. The length of the driveway would be approximately 2,800 feet. The property would be given a Neal Avenue address to facilitate public safety access.

Sec. 12-84 of the Zoning Code requires that "All lots or parcels shall have **direct adequate physical access** for emergency or public safety vehicles **along the frontage of the lot** or parcel **from either an existing improved city street** or an existing private road approved by the City. **In addition** to the required direct physical access, **a lot or parcel may have a private easement access driveway to the lot over adjacent lots or parcels.** (highlighting added by staff). (Note: Private roads are no longer allowed). The purpose of this language is to enable emergency or public safety vehicles to readily access a property by referencing the address on a public road.

### Variance

The Knuth's and Mr. Landucci are requesting a variance to allow a private easement access driveway to serve the property without also having direct physical access along the frontage of the property from an improved public street. As indicated above, due to steep topography and the location of a tributary to Valley Creek in the southern portion of the parcels, the southern portion of the parcels are not buildable and the northern portions of the parcels are not accessible from Valley Creek Trail.

The City's general policy is not to facilitate development on property that does not have direct access from a public road to avoid increasing the density of development on the property. In this case, the proposed development is one house on 40 acres, which is well below the City's one lot per 10-acre density limit. As indicated above, the driveway to serve the proposed house would come from Neal Avenue through a parcel owned by Mr. Landucci/Landucci Homes.

Mr. Landucci is planning a Preservation and Land Conservation Development (PLCD) subdivision that would include this parcel and parcels to the east totaling 80 acres. The area on which the proposed driveway for the Knuth house would be located would become a public road to serve both the PLCD subdivision and the Knuth property. The public road would enable the Knuth property to meet the requirement of direct physical access along the frontage of the lot.

#### Findings

The following is a recommended set of findings. The Planning Commission may revise the findings as desired.

1. The proposed variance application involves two parcels zoned Ag.
2. The surrounding land is zoned Ag.
3. The proposal would allow one house on 40 acres of property.
4. The area of the proposed driveway easement is planned to become a public road to serve a future PLCD subdivision.
5. Due to steep topography and the location of a tributary to Valley Creek in the southern portion of the parcels, the southern portion of the parcels are not buildable and the northern portions of the parcels are not accessible from Valley Creek Trail.
6. The proposed driveway would be approximately 2,800 feet in length.

#### Conditions

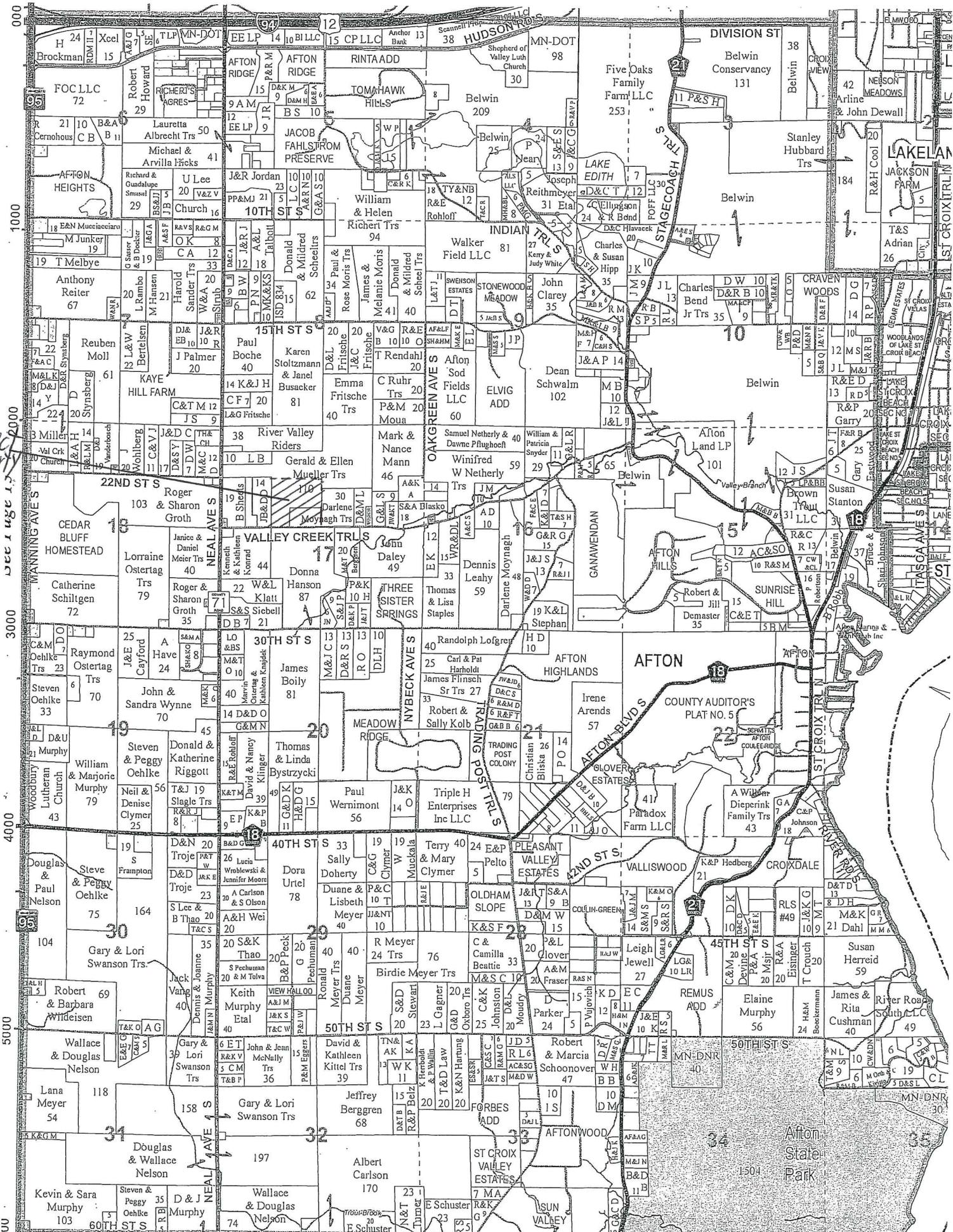
If the Planning Commission decides to make a recommendation for approval, the following is a recommended set of conditions of approval. The Planning Commission may revise the conditions as desired.

1. The subject parcel shall be given a Neal Avenue address to facilitate public safety access
2. A turnaround, meeting the requirements of Sec. 12-84. E., shall be provided at the end of the driveway to enable public safety vehicles to turn around to exit the property
3. the two subject parcels, totaling 40 acres, shall be combined
4. A driveway permit is required and the driveway shall meet all driveway standards and shall be subject to review and approval by the City.

#### **Planning Commission Recommendation Requested:**

Motion regarding a recommendation concerning the Steve and Jennifer Knuth/Nathan Landucci, Landucci Homes application for a variance to allow the 40-acre property on the north side of Valley Creek Trail, with Property Identification Numbers 17.028.20.24.0001 and 17.028.20.24.0002, to be accessed via a driveway from Neal Avenue through a private easement across an adjacent parcel to the north to serve a proposed house on the property, rather than having direct access along the frontage of the lot from an existing improved public street, with findings, and conditions if applicable.

SUBJECT PROPERTY



JUU

# Knuth Driveway Easement

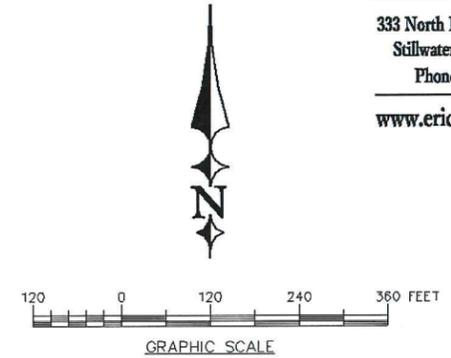
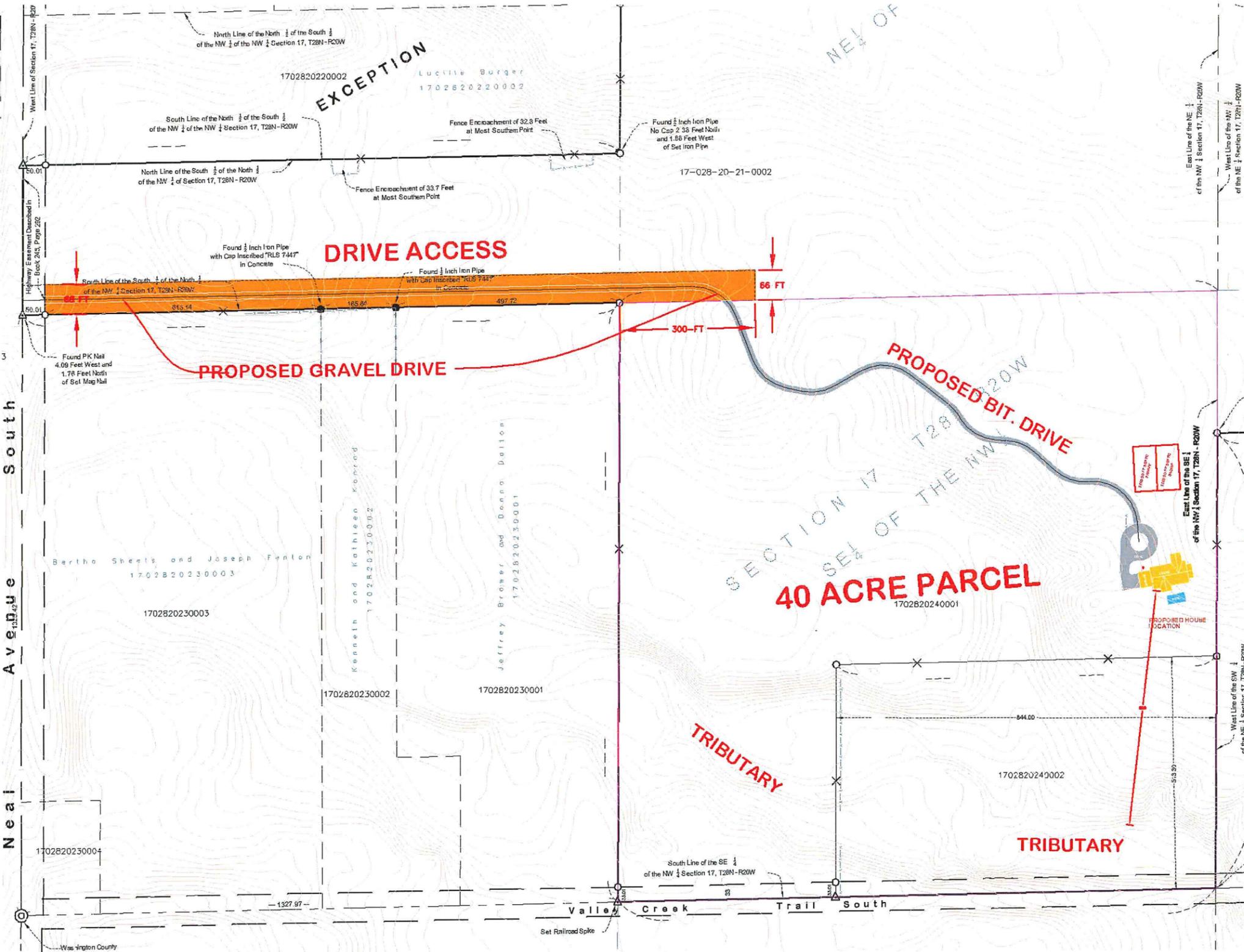
## 66-ft Wide Access Easement Depiction - Variance Request

AFTON, MINNESOTA

**ERICKSON CIVIL**

333 North Main Street, Suite 201  
Stillwater, Minnesota 55082  
Phone (612) 309-3804

www.ericksoncivilsite.com



### LEGEND

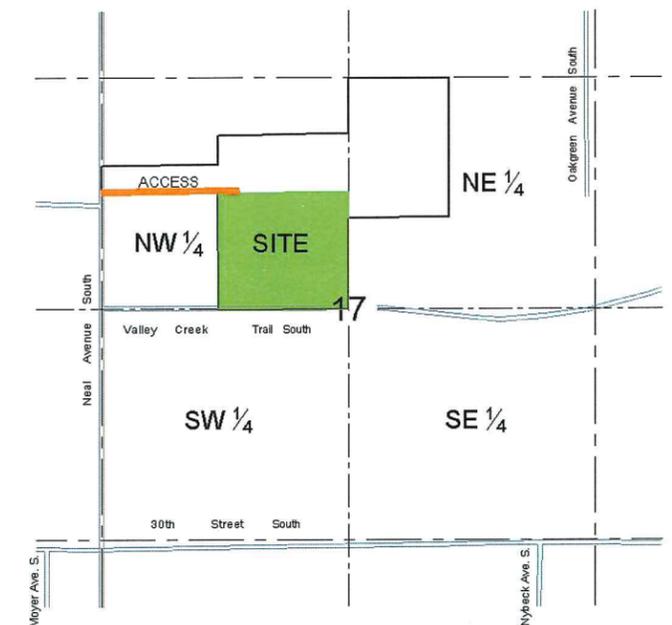
- DENOTES FOUND 1/2 INCH DIA. BY 18 INCH IRON PIPE MONUMENT MARKED WITH A PLASTIC CAP INSCRIBED "FREEMAN LS 16989", UNLESS SHOWN OTHERWISE
- DENOTES FOUND MONUMENT, SIZE AND MARKINGS AS INDICATED
- ▲ DENOTES FOUND 1 INCH MAG NAIL WITH 1/2 INCH DISC INSCRIBED "FREEMAN LS 16989", UNLESS SHOWN OTHERWISE
- × DENOTES FOUND 5 FEET IN LENGTH FENCE POST ON PROPERTY LINE
- DENOTES EXISTING BARBED WIRE FENCING
- DENOTES PROPOSED 66 FOOT WIDE ACCESS EASEMENT
- DENOTES PROPOSED 40 ACRE PARCEL BOUNDARY
- DENOTES EXISTING 2-FOOT CONTOUR INTERVAL

### NOTES

- 1) ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE NORTH LINE OF SECTION 17, T28N - R20W BETWEEN THE N 1/4 AND THE NE 1/4 BEARING N 89°00'09" E
- 2) PARCEL BOUNDARY PROVIDED FROM SURVEY BY FOLZ, FREEMAN, ERICKSON, INC.

### Location Map

Section 17, T28N - R20W  
Washington County, Minnesota





Applicant(s): Steve and Jennifer Knuth  
Phone: 612-313-2620  
Mailing Address: 887 Highlander Trail, Hudson, WI 54016  
Property Address for variance: 133XX Valley Creek Trail South

Variance request description:

**The 40 Acre parcel the Knuth family wishes to purchase has legal frontage on Valley Creek Road but due to recent court action and City ordinances concerning trout tributaries eliminated the ability to access to buildable land for home site. Owner (Landucci) is willing to grant an alternate 66-foot wide easement access that will allow for a private driveway to be installed to the property from Neil Avenue South. In the future this same 66-foot wide access easement would be platted as right of way if/when a planned future subdivision of the property, which Landucci will reserve the right to do. At that time a city standard street would be extended to the remaining overall parcel owned by Landucci and the driveway access from the 40 acre parcel would then have frontage on the new road right of way. This variance application will be accompanied with a driveway access permit. A watershed permit will also be applied for, defining the grading and drainage and storm water requirements for the project.**

City Ordinance Section number(s), that variance is requested for: **12-84 & 12-81**

Answer the following questions to the best of your ability - based on the criteria found in section 12-77 of Afton's Code (Land Use, Appeals and Variances). Completing this questionnaire will help the Planning Commission and the City of Afton evaluate your application in light of the requirements of Afton's Variance Ordinance. It does not guarantee that your variance request will be approved. If needed use a separate page.

Background: This questionnaire is designed to help you and the City of Afton determine whether a variance should be granted. Please consult with the City Administrator who can help you with your variance application and explain the Variance Ordinance to you. The City Administrator will work with you to ensure that the variance you request is the minimum variance required to provide the same rights commonly enjoyed by other properties in the same zoning district. Because of special provisions for certain types of construction, the City Administrator will also determine whether the property is in the Flood Plain District. There are also special provisions for earth-sheltered construction.

**Criteria #1** *The requested use, must be a reasonable use in order to receive a variance. Applicant*  
- Please explain why the proposed use which requires a variance is a reasonable use for this property?

**Access to the site's buildable acreage from the legal frontage of Valley Creek Road is not feasible due to existence of a trout stream contributory channel. The 40 acre parcel in question has buildable property accessible only from the north side of the property on the north side of the tributary. Access is restricted to the buildable acreage due to the difficulty of crossing the tributary due to regulations and ordinances in place to protect the tributary from such a crossing. The proposed easement will allow for permanent access from the north side of the parcel with no disturbance to the protected tributary and allow for the construction and access to a single family residence.**

**Criteria #2** *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size, shape, topography, or other circumstances over which the property owner, since enactment of this Ordinance, have had no control.* **Applicant** - What exceptional or extraordinary circumstances related to the property do not apply generally to other properties in the same zone or vicinity? Extraordinary circumstances would include lot size, irregular lot shape or topography. Are there other circumstances over which you, as the property owner, have no control?

Explain:

**The existence of the tributary is a unique circumstance for this parcel that does not allow crossing of the tributary and limits the use of the parcel that can be granted access by variance from a different platted right of way. This trout stream tributary is an existing topographical feature that was not created by the land owner.**

**The owner wishes to protect the tributary and at the same time utilize the 40 acre parcel for a single home site. The watershed permitting process will also create additional measures to protect and preserve the tributary with the requirement of easements and additional restrictions.**

**Criteria #3** *That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

**Applicant** - How does the literal interpretation of the provisions of the Afton ordinance (from which you are requesting a variance) deprive you of rights commonly enjoyed by other properties in the same zoning district? Explain:

**The original plan was to access the building site with the use of a bridge crossing of the tributary at the narrowest location, allowing free flow of water through the existing channel. This type of crossing was deemed favorable by the DNR however City staff informed the applicant that this was not allowed due to setback restrictions to the tributary. A bridge structure was deemed a building and would not be allowed in the setback, nor would a driveway. The only useable buildable area of this parcel is on the north side of the tributary north of Valley Creek Trail South. This buildable area can only be accessed from the north side of the lot.**

**Any other lot in this zoning district that does not have a trout stream tributary would be able to access the buildable acreage of their property from the frontage that is available to this parcel. This is a unique circumstance and is a limiting factor to the use of this parcel.**

**Criteria #4** *The special conditions or circumstances do not result from actions of the applicant.*

**Applicant** - How did these exceptional circumstances related to the property come about? Did actions by you create these circumstances? Explain:

Landucci Homes is the seller of the 40 acre parcel to the Knuth family and also owns the land north of the 40 acre parcel in question. Landucci Homes is willing to grant an easement for the Knuth Family to gain access to the 40 acre parcel. The existence of the tributary is a unique circumstance for this parcel that does not allow crossing of the tributary and limits the use of the parcel that can be granted access by variance from a different platted right of way. This tributary is an existing topographical feature that was not created by the land owner.

**Criteria #5** *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.*

**Applicant** - Will the granting of the requested variance confer on you, the applicant, any special privilege that is denied by this ordinance to owners of other lands, structures, or buildings in the same zoning district? Explain:

**Granting the variance request only strengthens the existing ordinances in place to protect such a circumstance surrounding a trout stream tributary. This also shows the willingness of the City to work with applicants on finding a viable lasting solution to a circumstance that is out of their control, while preserving the natural resources of the City.**

**Criteria #6** *The variance requested is the minimum variance which would alleviate the hardship.*

**Applicant** - Is the variance you are requesting the minimum variance which would alleviate the practical difficulty or hardship for your property? Explain:

**Granting the variance request as proposed is the minimum solution to the circumstance of providing access to the parcel. There are no other options to allow access to the parcel. This is the only solution.**

**Criteria #7** *The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.*

**Applicant (Optional)** - Will the variance be materially detrimental to the purposes of this Ordinance, or to property in the same zone? How would the use of the property, if allowed by the variance, affect other properties in the vicinity?

Explain:

**This is a single driveway that will access a 40 acre parcel for a single home site location. The location of the proposed driveway is situated on an existing farm entrance road and access road. The proposed driveway will not alter the current situation or use of the existing driveway. There is no material detrimental effect of this proposal and is currently common in this district to access home sites with this length of driveway.**

**Future subdivision of the Landucci parcel is allowed in this zoning district and any future subdivision will utilize the same routing of the proposed driveway if in the future Landucci Homes chooses to subdivide the remaining land. Subdivision of the remaining parcel and the construction of a roadway is in harmony with the existing ordinances and parcels in this zoning district. The location of the proposed driveway onto Neal also aligns with 22<sup>nd</sup> Street South.**

**Criteria #8** *Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.* **Applicant -** Is the requested variance for economic reasons?

Explain:

**This is by no way driven by economic circumstance. The only driving factor is to gain access to the buildable acreage of the parcel without harming the trout stream tributary and respecting the ordinances that are currently in place that are meant to protect it.**

**Criteria #9** *In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.* **Applicant (optional), PC -** Is the property in a Flood Plain District?  Yes  No

**The tributary has its own floodplain which traverses through the 40-acre parcel. The proposed driveway and home site are beyond this floodplain and the proposed improvement do not interfere with the floodplain.**

**Criteria #10** *Variances shall be granted for earth-sheltered construction by state statutes when in harmony with this Ordinance.* **Applicant -** Is the variance for earth-sheltered construction?  Yes  No

***ADDITIONAL CRITERIA THAT MAY BE CONSIDERED BY THE PLANNING COMMISSION (PC) AND/OR CITY COUNCIL(CC)- Applicant responses to criteria #11 and criteria #12 are optional.***

**Criteria #11** *Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance.* **Applicant (Optional), PC** - Is the requested variance in harmony with the Afton ordinances and code? How will this variance if granted (and the proposed use of the property allowed) affect the essential character of the area?

Explain:

**The view from Valley Creek Trail South will remain unchanged and the setback to the tributary will remain as it exists today providing the restrictions and protections that the ordinance created by the City was meant to do. This proposal is in total harmony with this ordinance.**

**Criteria #12** *Variances shall only be permitted when they are in harmony with the general purposes and intent of the Afton Comprehensive Plan.* **Applicant (Optional), PC** - Is the requested variance in harmony with the Afton comprehensive plan?

Explain:

**The comp plan does allow for subdivision and the use of residential lots in this zoning district. The creation of a single home site on 40 acres is more restrictive and less dense that what would be allowed in this zoning district and is the best way to protect this portion of the tributary.**

**The family also understands the sensitive nature of this parcel and is planning on taking the existing farmed portions of the parcel out of farm production and provide for natural grasslands and forestation of the areas that protect the tributary.**

# Variance Factor Test

## Knuth Driveway Request

Afton, Minnesota

7-12-2018

**ERICKSON**  
**CIVIL**

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333 North Main Street, Suite 201  
Stillwater, Minnesota 55082  
Phone (612) 309-3804

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land planning / surveying / engineering

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[www.ericksoncivilsite.com](http://www.ericksoncivilsite.com)

1. Reasonableness: The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

**Access to the site's buildable acreage from the legal frontage of Valley Creek Road is not feasible due to existence of a trout stream tributary channel. The 40 acre parcel in question has buildable property accessible only from the north side of the property on the other side of the tributary. Access is restricted to the buildable acreage due to the difficulty of crossing the tributary due to regulations and ordinances in place to protect the tributary from such a crossing. The proposed easement will allow for permanent access from the north side of the parcel with no disturbance to the protected tributary.**

2. Uniqueness: The plight of the landowners is due to circumstances unique to the property not created by the landowner.

**The existence of the tributary is a unique circumstance for this parcel that does not allow crossing of the tributary and limits the use of the parcel that can be granted access from a different platted right of way. This tributary is an existing topographical feature that was not created by the land owner.**

3. Essential Character: The variance, if granted, will not alter the essential character of the locality.

**Granting the variance will allow for a single home site to be created on a single 40 acre parcel which is the best way to preserve this area for now and for the future due to the limitation this will create for future subdivision of the parcel. This family understands the sensitive nature of this site and has a great vision for this property and looks forward to being good stewards of the land with a plan for tree plantings and restoration of fields into natural grasslands which will reduce the overall impact to the tributary and creek.**

RECEIVED

JUL 12 2018

CITY OF AFTON

218-19

CITY OF AFTON  
VARIANCE APPLICATION

(Reference Sections: 12-55, 12-77, 12-328 12-835, 12-1020, 12-1266, 12-1955, 12-2228)

Nathan Landucci, Landucci Homes 20<sup>th</sup> Street Court North Stillwater MN 55082 651-894-2582  
Owner Address City State Zip Phone

Steve and Jennifer Knuth 887 Highlander Trail Hudson WI 54016 612-313-2620  
Applicant Address City State Zip Phone  
(if different than owner)

133xx Valley Creek Trail South, Afton, MN 55001  
Project Address

Ag and Ag Preserve Vacant / Farming 17.028.20.24.0001 &17.028.20.24.0002  
Zoning Classification Existing Use of Property PID# or Legal Description

Legal Description: The Southeast Quarter of the Northwest Quarter (SE of Nw ) of Section Seventeen (17), Township Twenty-eight (28) North, Range Twenty (20) West, except a highway easement to Washington County and described in Book 245 of Deeds, page 292, subject to an easement for roadway purposes over the South 33 feet thereof.

Subject to existing easements and highways.

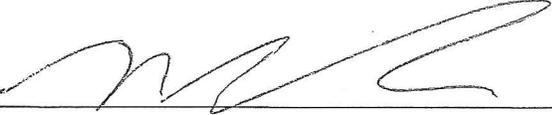
12-84 Driveways, 12-81

Please list the section(s) of the code from which the variance(s) are requested.

Description of Request:

The 40 Acre parcel the Knuth family wishes to purchase has legal frontage on Valley Creek Road but due to recent court action concerning trout tributaries eliminated the ability to access to buildable land for a home site. Owner (Landucci) is willing to grant an alternate 66-foot wide easement access that will allow for a private driveway to be installed to the property from Neil Avenue South. In the future this same 66-foot wide access easement would be platted as right of way if/when a planned future subdivision of the property were to proceed, At that time a city standard street would be extended to the remaining overall parcel owned by Landucci and the driveway access from the 40 acre parcel would then have frontage on the new road right of way. This variance application will be accompanied with a driveway access permit. A watershed permit will also be applied for, defining the grading and drainage and storm water requirements for the project. We understand that this undertaking will also require a watershed permit and it will be a condition for this request.

By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.

  
Signature of Owner Nathan Landucci ; Landucci Homes, Inc.

7/12/18  
Date

  
Signature of Applicant Jennifer Knuth

7/12/18  
Date

Make checks payable to: **City of Afton**

If multiple variances are necessary from the applicant only **one** fee is required. However, the deposit fee must be multiplied by the number of variances sought.

<u>FEES:</u>		<u>ESCROWS:</u>		
Variance	\$250	\$600	TOTAL:	<u>\$850</u>
Renewal/Extension	\$250	\$350	DATE PAID:	<u>7-12-18</u>
			CHECK #:	<u>5204</u>
			RECVD BY:	<u>rym</u>

**ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION**

RECEIVED

JUL 12 2010

CITY OF AFTON

218-20

CITY OF AFTON  
DRIVEWAY PERMIT APPLICATION

Nathan Landucci, Landucci Homes 20<sup>th</sup> Street Court North Stillwater MN 55082 651-894-2582  
Owner Address City State Zip Phone

Steve and Jennifer Knuth 887 Highlander Trail Hudson WI 54016 612-313-2620  
Applicant Address City State Zip Phone  
(if different than owner)

133xx Valley Creek Trail South, Afton, MN 55001  
Project Address

Ag and Ag Preserve Vacant / Farming 17.028.20.24.0001 & 17.028.20.24.0002  
Zoning Classification Existing Use of Property PID# or Legal Description

Legal Description: The Southeast Quarter of the Northwest Quarter (SE of Nw ) of Section Seventeen (17), Township Twenty-eight (28) North, Range Twenty (20) West, except a highway easement to Washington County and described in Book 245 of Deeds, page 292, subject to an easement for roadway purposes over the South 33 feet thereof.

Subject to existing easements and highways.

12-84 Driveways, 12-81

Please list the section(s) of the code from which the variance(s) are requested.

Description of Request:

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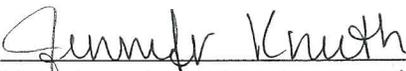
By signing this application, the applicant agrees to pay all expenses incurred by the City of Afton. In connection with this request, your signature constitutes permission for a representative of the City of Afton to enter your property, during business hours, to evaluate this request. This may involve minor excavating or soil borings. If you would like to be present during this evaluation, please contact the City.



Signature of Owner *Nathan Lundrocci; Lundrocci Homes, Inc.*

*7/12/18*

Date



Signature of Applicant *Jennifer Knuth*

*7/12/18*

Date

Make checks payable to: **City of Afton**

If multiple variances are necessary from the applicant only one fee is required. However, the deposit fee must be multiplied by the number of variances sought.

**FEES:**

**ESCROWS:**

Variance                      \$250                      Driveway \$1,500

TOTAL: \$1750.00

DATE PAID: 7-12-18

CHECK #: 5203

Make checks payable to: City of Afton

RECVD BY: ngm

**ATTACH COPY OF DEED OR PROOF OF OWNERSHIP TO APPLICATION**

I understand and hereby agree that the work for which the permit is issued shall be performed according to the following: (1) the conditions of the permit, (2) the approved plans and specifications, (3) the applicable city approvals, ordinances and codes, and (4) the state building code.

I understand that the permit will expire if work is not started within 180 days, or if work is suspended or abandoned for a period of 180 days anytime after work has commenced. I understand that I am responsible for ensuring that all required inspections are requested at least 24 hours in advance and in conformance with the state building code.

City of Afton  
3033 St. Croix Trl, P.O. Box 219  
Afton, MN 55001

# Planning Commission Memo

## Meeting: August 6, 2018

To: Chair Kopitzke and members of the Planning Commission

From: Ron Moorse, City Administrator

Date: July 31, 2018

Re: Ordinance Amendment to Allow a Swimming Pool Auto Cover to be Used as an Alternative to the Current Requirement of Fencing to Completely Enclose Swimming Pools - **Public Hearing**

---

The City Code currently requires a fence enclosing a pool to prevent entry to the pool accidentally or without proper supervision. Several residents have recently inquired about using an auto cover as an alternative to a fence enclosure. While aesthetics and the difficulty of working a fence into existing patio and backyard layouts are some primary reasons, the quality auto covers also provide a high level of safety and security.

An auto cover is attached to the pool to fully cover the pool to prevent entry. Auto covers are not rigid, but can support the weight of several adults. The proposed ordinance language requires the auto cover to be able to support a minimum of 500 pounds. Auto covers can open and close electronically, and can be connected to a key pad so that they can only be opened with a code. The ordinance language also requires the auto cover to meet the American Society for Testing and Materials (ASTM) Standard F1346-91 for auto covers and to be UL listed.

Approximately 60 cities and counties in the metro area now allow auto covers as an alternative to fence enclosures for pools. The list of cities and counties is attached.

Because the fence requirement for pools is in the zoning code, a change to allow auto covers requires an ordinance amendment with a public hearing. The Council has referred an ordinance amendment regarding pool auto covers to the Planning Commission for a public hearing and a recommendation. The ordinance amendment is attached. Also attached are ordinances from the Cities of Scandia and Inver Grove Heights that allow pool auto covers as an alternative to fence enclosures for swimming pools.

**Planning Commission Recommendation Requested:**

**Motion regarding a recommendation concerning an ordinance amendment to allow a pool auto cover to be used as an alternative to the current requirement of fencing to completely enclose swimming pools.**





# ORDINANCE 03-2018

## COUNTY OF WASHINGTON CITY OF AFTON

### AN ORDINANCE AMENDING CHAPTER 12 REGARDING AUTO COVERS FOR SWIMMING POOLS

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by adding the **bold and underlined** language and deleting the ~~strike-through~~ language.

Sec. 12-219. Swimming pools.

A. A pool is defined as any swimming pool, outdoor hot tub, or other pool of any type with a capacity of over 3,000 gallons or with a depth of over 3½ feet of water.

B. In all zoning districts where single- and two-family dwelling units are permitted uses, the following standards apply:

1. An Administrative Permit shall be required for any pool.
2. Any swimming pool requiring an Administrative Permit shall also be required to obtain a building permit.
3. An application for an Administrative Permit shall include a site plan showing:
  - a. The type and size of pool;
  - b. Location of pool;
  - c. Location of house, garage, fencing and other improvements on the lot;
  - d. Location of structures on all adjacent lots;
  - e. Location of filter unit, pump and writing indicating the type of such units;
  - f. Location of back-flush and drainage outlets;
  - g. Grading plan, finished elevations and final treatment (decking, landscaping, etc.,) around the pool;
  - h. Location of existing overhead and underground wiring, utility easements, trees and similar features; and location of any water heating unit.
4. Pools shall not be located within 20 feet of any septic tank, drainfield or line nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front, side or rear yards.
5. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
6. Pools shall not be located within any private or public utility, walkway, drainage or other easement.

## ORDINANCE 03-2018

7. The necessary precautions shall be taken during construction to:
  - a. Avoid damage, hazards or inconvenience to adjacent or nearby property; and
  - b. Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.
8. All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
9. To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land.
10. The filter unit, pump, heating unit and any other noise making mechanical equipment shall be located at least 50 feet from any neighboring residential structure and not closer than ten feet to any lot line.
11. Lighting for the pool shall be directed toward the pool and not toward adjacent property.
12. ~~Fencing at least five feet in height shall completely enclose all pools.~~ **A safety fence of a non-climbable type at least five (5) feet in height, with a self-closing and latching gate, shall completely enclose the pool, or a pool auto cover approved by the City shall be an acceptable enclosure so long as the degree of protection afforded by the pool auto cover is not less than the protection afforded by the enclosure, gate and latch described above for fences; the pool auto cover complies with the American Society for Testing and Materials (ASTM) Standard F1346-91 (2003) or most recent ASTM standard and is UL listed; and is sufficient to support the weight of 500 pounds minimum and completely covers or encloses the pool. The applicant shall submit documentation verifying that the proposed cover meets the required standard. The substitution with such a pool auto cover shall be done by the issuance of a Building Permit.**
13. Required structure or fencing shall be completely installed within three weeks following the installation of the pool and before any water is allowed in the pool. A financial guarantee shall be required to assure erection of the structure or fence.
14. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the appointed health officer.
15. All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.
16. Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

**ORDINANCE 03-2018**

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS \_\_\_\_ DAY OF \_\_\_\_, 2018.**

**SIGNED:**

---

Richard Bend, Mayor

**ATTEST:**

---

Ronald J. Moorse, City Administrator

Motion by:

Second by:

Palmquist:

Richter:

Ross:

Nelson:

Bend:

**List of communities and townships that will allow an Auto-Cover in Lieu of a fence.**

Bayport R-2 , Belgrade, Buffalo, Blaine, Cedar Lake, Credit River, Corcoran, Dahlgren Township, Deephaven, Dover, Elk River, Elko, Empire Township, Elko New Market, Faribault, Foley, Empire, Gillman, Grant, Greenfield, Hanover, Holdingford, Independence, Inver Grove Heights, Jackson Township, Laketown Township, Linwood Township, Louisville, May, Medina, Minnetonka Beach, Minnetrista, New Market Township, Northfield, Orono, Randolph, Rice, Rockford, Rochester, Rockford, Rogers, Royalton, Sartell, Scandia, Spring Lake Township, St. Augusta, St. Croix Falls, St. Lawrence Township , Stillwater Township , West Lakeland Township Scott County Sherburne County

City of Inver Grove Heights

**10-15-22: PRIVATE SWIMMING POOLS, HOT TUBS AND SPAS:**  

Private swimming pools, hot tubs, spas, and inflatable pools are permitted accessory uses in all residential districts under the following conditions:

A. Definition: For purposes of this section, a "swimming pool" means any structure intended for swimming or recreational bathing that contains water over thirty inches (30") deep or with a capacity of over one thousand (1,000) gallons. This includes inground, aboveground, and onground swimming pools, hot tubs and spas<sup>3</sup>.

B. Permit Requirements: The applicant for a building permit for swimming pools, hot tubs, spas, and inflatable pools shall submit all information as deemed necessary by the building official.

**C. Fencing:**

1. A minimum four foot (4') nonclimbable fence, restricting access, shall be erected around outdoor swimming pools, hot tubs, spas, and inflatable pools or around the tract of land where said pool, hot tub, spa, or inflatable pool is located. **The exceptions to this requirement are:**
  - a. Hot tubs and spas equipped with latching covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Hot Tubs And Spas<sup>4</sup>".
  - b. Inflatable pools with a surface area of fourteen (14) or less feet in diameter, and less than thirty inches (30") in depth from the deepest point to the spill level, and erected between Memorial Day and Labor Day.
  - c. **Pool covers conforming to ASTM F 1346-91, "Standard Performance Specifications For Safety Covers And Labeling Requirements For All Covers For Swimming Pools, Spas, And Hot Tubs".**
2. The building official shall approve the plans and specifications for said fence prior to construction. If said fence is equipped with doors or gates, then the doors or gates shall be self-closing, latching and childproof.
3. Where a suitable railing or other approved barrier restricting access to the pool is constructed, the above requirement for a fence may be waived by the building official, provided the building official determines compliance with approved ordinances and standards.
4. In instances where the hot tub or spa contains a latching cover or the pool contains a cover or the fence has a door or gate, then the property owner must keep the cover closed and the door and gate closed unless a resident of the property is present outdoors and within twenty five feet (25') of the hot tub, spa or pool.

City of Scandia

A structure or safety fence of a non-climbable type at least 4 feet in height, with a self-closing and latching gate shall completely enclose the pool, but shall not be located within any required yard areas; or **A pool cover or other protective device approved by the City shall be an acceptable enclosure so long as the degree of protection afforded by the substituted device or structures is not less than the protection afforded by the enclosure, gate and latch described above for fences; the device complies with the American Society for Testing and Materials (ASTM) Standard F1346-91 (2003) or most recent ASTM standard; and is sufficient to support the weight of 500 pounds minimum and completely covers or encloses the pool. The applicant shall submit documentation verifying that the proposed cover meets the required standard. The substitution with such a pool cover or other protective device shall be done by the issuance of a Building Permit.**

Council Highlights  
July 17, 2018 Regular Council Meeting

- The Council continued action on the Ruth Friedlander application for minor subdivision, variance and rezoning at 2900 Stagecoach Trail, due to unresolved concerns regarding the requirement of scenic easements on the property.
- The Council approved a request for a determination that the 19.7 acre parcel at 12916 15<sup>th</sup> Street is a nominal 20 acre parcel for the purpose of allowing an agricultural building larger than 2,500 sq. ft. on the parcel.
- The Council agreed to meet with the Design Review/Heritage Preservation Commission to discuss an ordinance to address vacant storefronts proposed by the Commission
- The Council approved an agreement with Mn/DOT regarding the use of its property at 14523 Hudson Road for a solar array. Mn/DOT had asserted its exemption from the City's zoning regulations regarding the use of its property for a use that supported its transportation infrastructure. The City approved the agreement to avoid litigation and to place conditions on the use.
- The Council denied a request to refer the language in the PLCD ordinance regarding the length of cul de sacs to the Planning Commission for an interpretation regarding whether the allowance for additional cul de sac length also allowed a proportional increase in the number of lots along the cul de sac. The Council believed there are a number of items in the PLCD ordinance that should be reviewed together, rather than reviewing one item at a time.
- The Council agreed to obtain feedback from the Parks Committee regarding a proposal from the Natural Resources and Groundwater Committee (NRGC) that the NRGC be merged with the Parks Committee. The proposal is due to the NRGC having only 4 members and having difficulty getting a quorum for its meetings.
- The Council referred an ordinance amendment regarding auto covers for pools as an alternative to fencing to the Planning Commission.
- The Council discussed a possible ordinance to ban plastic straws as well as plastic utensils and plastic bags. The Council directed staff to obtain examples of ordinances from other cities.