

# **SUPPLEMENTAL PACKET**

**To:** Chad Lockwood, Associate  
**From:** Nicole Zappetillo, Senior Environmental Analyst  
**Date:** February 10, 2016  
**Subject:** Masjid Project – Islamic Society of Woodbury / East Metro

## **Masjid Project Wetland Review**

### **Introduction**

This memo documents wetland assessment efforts for the Masjid Project, located at 12585 Hudson Road in Afton, Minnesota (see Figures 1 and 2, attached). The project as proposed would construct a 10,800 square foot multi-purpose building with associated parking improvements and septic/well systems.

### **Methodology**

SRF Consulting Group, Inc., on behalf of the Islamic Society of Woodbury / East Metro, reviewed off-site data sources including the National Wetland Inventory (NWI), Minnesota Department of Natural Resources (MnDNR) Public Waters Inventory (PWI), Natural Resource Conservation Service (NRCS) soil mapping and hydric soils list, light detection and ranging (LiDAR) two-foot contour data, U.S. Geological Survey (USGS) topographic maps, and recent aerial photography of the project area, prior to completing an off-site Level 1 wetland delineation to document any existing wetlands within the proposed project area.

### **Results**

The off-site data review found one natural wetland (Wetland W-1) and one potential natural wetland (Wetland W-2) within the wetland delineation limits for the proposed project area (see Figure 3, attached). The wetlands are not located in mapped hydric soils; however, Wetland W-1 does overlap an NWI wetland area. Wetland W-2 is located in a swale that is marked with a blue line on the USGS topographic map. No MnDNR Public Waters or Watercourses are located within the wetland delineation limits.

The delineated potential wetland boundaries are based primarily on a combination of aerial interpretation, NWI mapping, and contours (see Figure 4, attached). The elevation of the Wetland W-1 boundary varies from approximately 883 to 886 feet, and follows the relatively abrupt transition from wetland vegetation to upland vegetation (this also reflects the NWI wetland boundary on the east side). In addition, the fence to the east and the farm field to the west do not appear to extend below an elevation of approximately 883 feet, most likely because the soils below that elevation (in

the wetland) are too saturated to farm or use for pasture. The elevation of the Wetland W-2 boundary varies from approximately 881 to 883 feet, and follows a swale that extends from a culvert under Hudson Road toward the southeast and beyond the delineation boundary. As noted previously, the swale is marked with a blue line on the USGS topographic map, indicating that it is some type of tributary. It is difficult to determine from off-site sources whether this area is in fact a wetland; however, the vegetation in the swale appears darker than the surrounding vegetation on aerial imagery. This could be due to a better water supply and/or more nutrients (vegetation thrives better in the swale) or because different plant species are present in the swale (possible wetland vegetation).

### **Conclusions and Recommendations**

It appears that Wetland W-1 is outside of the potential construction limits and Wetland W-2 is within the potential construction limits. It is anticipated that the project will be designed to avoid impacts to wetlands and best management practices (BMPs) will be implemented during project construction. However, SRF recommends agency coordination prior to any construction activity to confirm that a Level 2 delineation is not necessary.

Attached:

- Figure 1: Project Location Map
- Figure 2: Project Area Map
- Figure 3: Potential Wetland Areas
- Figure 4: Potential Wetland Areas and LiDAR 2-foot Contours

# Planning Commission Memo

## Meeting: April 4, 2016

To: Chair Ronningen and members of the Planning Commission

From: Ron Moorese, City Administrator

Date: April 4, 2016

Re: Islamic Society of Woodbury/East Metro Application for a Conditional Use Permit for a Place of Worship at 12585 Hudson Road – **Supplemental**

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Attached are three items of supplemental information. The items are as follows:

1. The Planning Commission agenda packet did not include the second page of the applicant's engineer's wetland report. Both pages of the report are attached.
2. The City's review regarding the conditional use permit application is subject to general standards regarding conditional use permits, as well as a federal statute called the Religious Land Use and Institutionalized Persons Act (RLUIPA). An outline regarding these review standards is provided below. The City Attorney will attend the April 4 Planning Commission meeting to provide information regarding the conditional use permit review process and the RLUIPA.
3. On Friday, staff emailed to the Planning Commission information regarding a request from the applicant related to man-made steep slopes and scenic easements. That information is also attached.

### Conditional Use Permit Review Process

#### League of Minnesota Cities Summary

The following is a summary regarding conditional use permits obtained from the League of Minnesota Cities.

A conditional use is a land use designated in a zoning ordinance that is specifically allowed in a zoning district so long as certain standards are met. The zoning ordinance typically details both general standards that apply to all conditional uses, as well as specific standards that apply to a particular conditional use in a given zoning district. A use is typically designated in a zoning ordinance as conditional because of hazards inherent in the use itself or because of special problems that its proposed location may present. For example, uses that generate traffic such as family childcare, service stations, convenience stores, or drive-throughs are often designated as conditional uses.

A conditional use permit is a document a city issues to grant a conditional use when the general and specific ordinance standards have been met by the applicant. The use is allowed by permit only if the special concerns are addressed as set forth in the zoning ordinance. Conditional use permits are authorized under state law.

A zoning ordinance will typically detail general standards that apply to all conditional uses. For example, some zoning ordinances provide that all conditional uses must conform to the comprehensive land use plan of the community, be compatible with the adjoining properties, and be served by adequate roads and public utilities. The conditional use review process is limited to evaluating the proposed use against the City's standards.

#### City of Afton Summary

The following is language from the City's Zoning Code regarding Conditional Use Permits.

Sec. 12-78. Conditional Use Permits.

A. Purpose. The purpose of a conditional use permit is to provide the City of Afton with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises or on any adjoining roads, and all other factors the City shall deem a prerequisite of consideration in determining the effect of the general welfare, public health and safety. Conditional Use permits may be granted in accordance with this subdivision for any use or purpose listed as a conditional use for the zoning districts per Section 12-134 of the *Zoning Ordinance*.

Planning Commission Action

1. The Planning Commission shall consider possible adverse effects of the proposed conditional use permit. Its judgment shall be based upon (but not limited to) the following factors:
  - a. The proposed action has been considered in relation to the specific policies and provision of and has been found to be consistent with the official City Comprehensive Plan
  - b. The proposed use is or will be compatible with present and future land uses of the surrounding area
  - c. The proposed use will not seriously depreciate surrounding property values or scenic views
  - d. The proposed use conforms with all performance standards contained herein.
  
2. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relations to all pertinent sections of the Ordinance.
  
3. The Planning Commission shall make a recommendation for either denial or approval with conditions as they deem necessary to carry out the intent and purpose of this Ordinance.

**Federal Religious Land Use and Institutionalized Persons Act (RLUIPA)**

League of Minnesota Cities Summary

The following is a brief summary of the federal RLUIPA obtained from the League of Minnesota Cities.

The federal RLUIPA protects religious institutions from unduly burdensome or discriminatory land use regulations. This law was passed unanimously by Congress in 2000, after congressional hearings revealed that religious organizations were disproportionately affected by local land use decisions. Among a number of restrictions on local land use actions, the RLUIPA includes the following two restrictions.

Discrimination among religions: RLUIPA bars discrimination “against any assembly or institution on the basis of religion or religious denomination.”

Unreasonable limits on houses of worship “No government shall impose or implement a land use regulation that unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.”

## Ron Moore

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**From:** Ron Moore  
**Sent:** Friday, April 01, 2016 5:22 PM  
**To:** 'bjronningen'; 'jlangan.pol@dyn-eng.com'; 'judy.milna@gmail.com'; 'kkopitzke@earthlink.net'; 'Scott Patten'; 'sally@littlefootfarm.com'; 'Lucia and Jen'; 'Mark Nelson'; ward3; mayor  
**Cc:** 'Irfan Ali'; 'Chad Lockwood'  
**Subject:** FW: ISWEM - Zoning Code Exemption Request  
**Attachments:** 160401 Ltr-PC Request-Zoning Code Exemption .pdf

All,

The recommended conditions of an approval of the Islamic Society CUP application include placing all areas with slope 18% or greater in a scenic easement to protect them from future disturbance. The Engineer and surveyor of the Islamic Society have both indicated that the steep slopes on their property that relate to the large drainage ditch along Hudson Road, and that are on either side of the existing driveway serving the property, are all man-made steep slopes. They are questioning whether it is the intent of the City's ordinances to protect these man-made steep slopes from future disturbance. I am forwarding the attached letter requesting these steep slopes be exempted from the scenic easement requirement. I will also forward an email from the Islamic society's surveyor regarding these steep slopes. Because this request requires a clarification of the policy intent related to the ordinance requirements regarding the protection of steep slopes, it will require consideration by the City Council, but it is also important that the Planning Commission has an opportunity to provide input regarding this issue. I am not necessarily expecting the Planning Commission to make a recommendation about this on Monday evening, but if the Commission is comfortable discussing this issue and potentially providing feedback to the Council regarding this issue, that would be helpful. Otherwise, because the Commission's consideration of the Islamic Society's CUP request can move forward without a clarification of this issue at this time, this issue can be discussed at a later time.

Ron

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**From:** Chad Lockwood [mailto:CLockwood@srfconsulting.com]  
**Sent:** Friday, April 01, 2016 3:58 PM  
**To:** Ron Moore <rmoore@ci.afton.mn.us>  
**Subject:** ISWEM - Zoning Code Exemption Request

Ron,

Please find attached a letter requesting an exemption from the zoning code requirements pertaining to scenic easements for consideration at Mondays Planning Commission meeting.

Let me know if there are any questions.



**Chad Lockwood, PE (MN), LEED AP**

Associate

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main: 763.475.0010 | mobile: 612.747.4655

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



ENGINEERS  
PLANNERS  
DESIGNERS

April 1, 2016

Mr. Ronald J. Moorse  
City Administrator  
City of Afton  
3033 St. Croix Trail S  
P.O. Box 219  
Afton, MN 55001  
rmoorse@ci.afton.mn.us

**RE: ISWEM Islamic Center Project  
12585 Hudson Road, Afton, MN  
Request of Planning Commission – Zoning Code Exemption**

Dear Mr. Moorse:

On behalf of the Islamic Society of Woodbury/East Metro (ISWEM), SRF is requesting an exemption from the requirements pertaining to scenic easements set forth in the City Zoning Code, as the existing slopes greater than 18 percent are manmade and not naturally occurring.

The City of Afton Zoning Code Sec. 12-215, paragraph D.1, states “No slopes of 18% or greater shall be disturbed”. Zoning Code Sec. 12-1384, paragraph E, states “Scenic easements shall be required on slopes of 18 percent and greater, wetlands, drainageways, and other lands and soils judged to be fragile by the soil conservation service. As defined in the City of Afton Zoning Code Sec. 12-55 Scenic easement means an interest in land, less than fee title, that limits the use of the land for the purpose of protecting the scenic, recreational and natural characteristics. It appears that the intent of the Zoning Code is to protect natural occurring topographic features exceeding 18%, such as bluffs, not features resulting from construction activities.

The proposed Islamic center site has existing slopes of 18 percent and greater along Hudson Road (see Existing Steep Slopes Exhibit). Site aerial photographs taken in 1938, 1947, 1957, 1964, 1992 and 2015 are attached that show how the site and the area surrounding the site has developed over the years. Based on this information the existing slopes of 18 percent and greater appear to have been created by the construction of Hudson Road. Therefore, these portions of the site are not naturally occurring and do not meet the criteria for a requiring a scenic easement.

Please do not hesitate to contact me (763-249-6791, [clockwood@srfconsulting.com](mailto:clockwood@srfconsulting.com)) with any questions or if additional information is needed.

Sincerely,

**SRF CONSULTING GROUP, INC.**



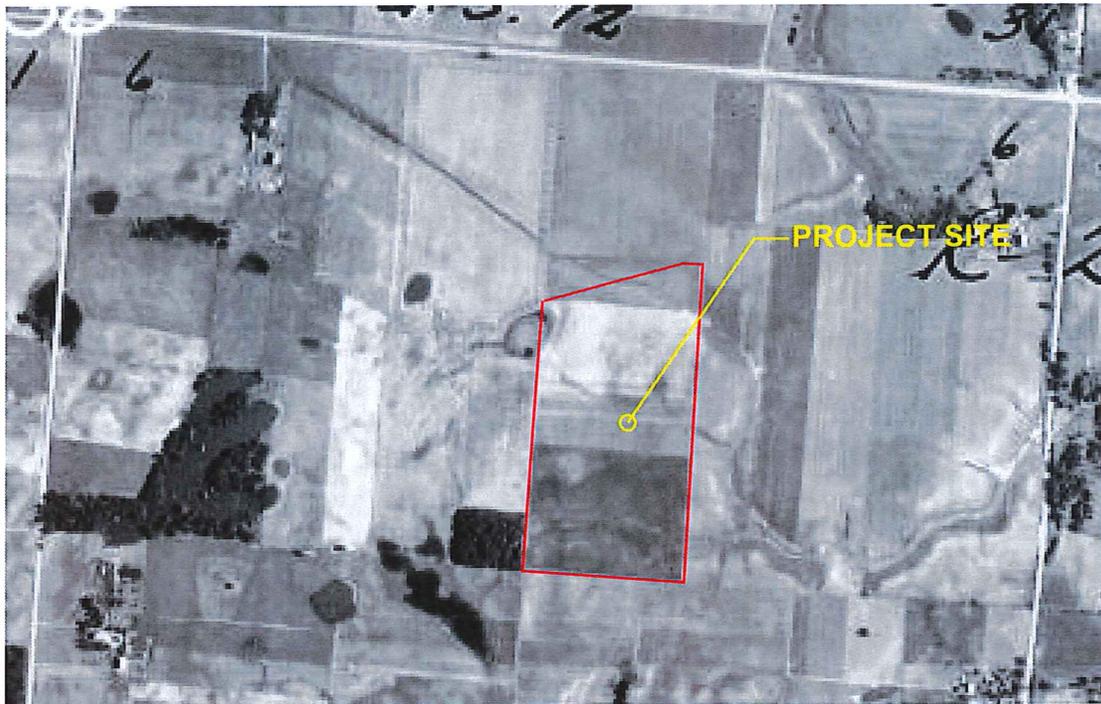
Chad Lockwood, P.E., LEED AP  
Associate

Attachment(s)

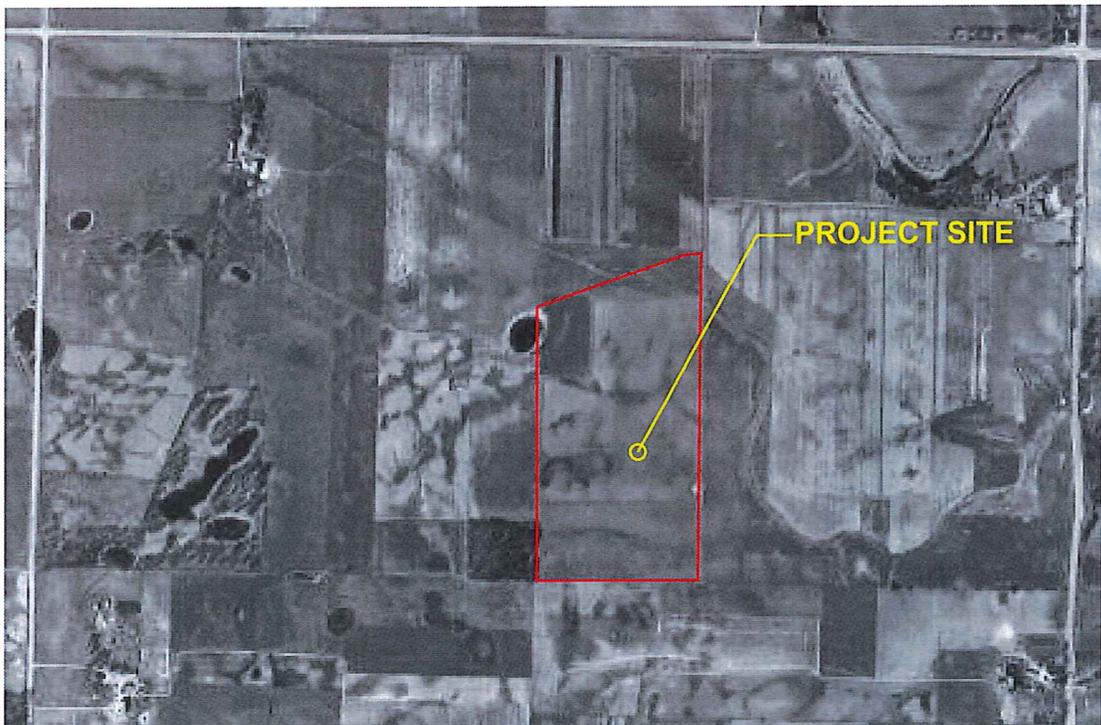
Existing Steep Slopes Exhibit  
Site Aerial Photos

cc: Waseem Khan, Islamic Society of Woodbury/East Metro, [wkhan675@yahoo.com](mailto:wkhan675@yahoo.com)  
Irfan Ali, Islamic Society of Woodbury/East Metro, [iali@yahoo.com](mailto:iali@yahoo.com)  
Fayaz Suleman, Islamic Society of Woodbury/East Metro, [fayaz@usabilitywiz.com](mailto:fayaz@usabilitywiz.com)  
Christopher McCoy, McCoy Architects LLC, [chris@mccoyarchitects.com](mailto:chris@mccoyarchitects.com)





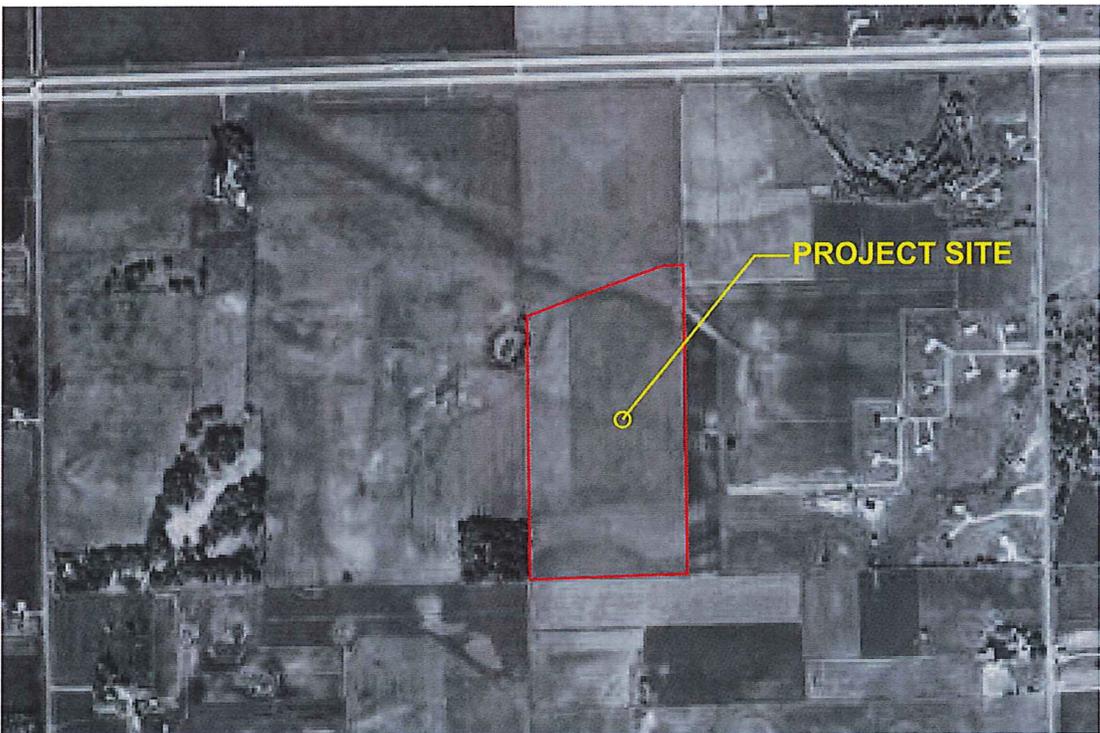
1938 Site Aerial, courtesy of MN Historical Aerial Photos



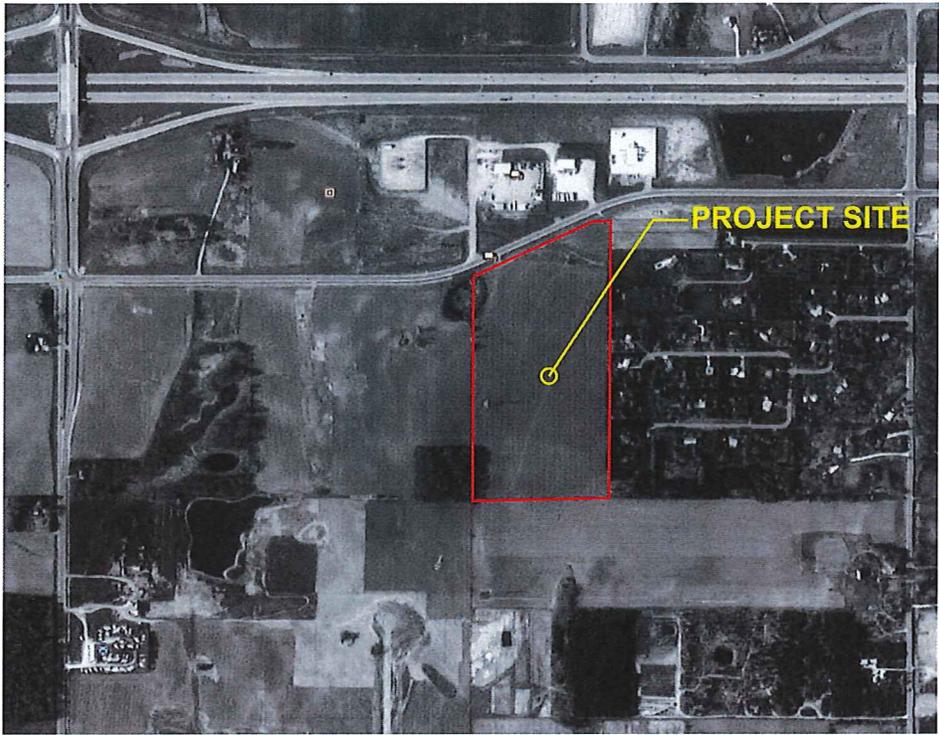
1947 Site Aerial, courtesy of MN Historical Aerial Photos



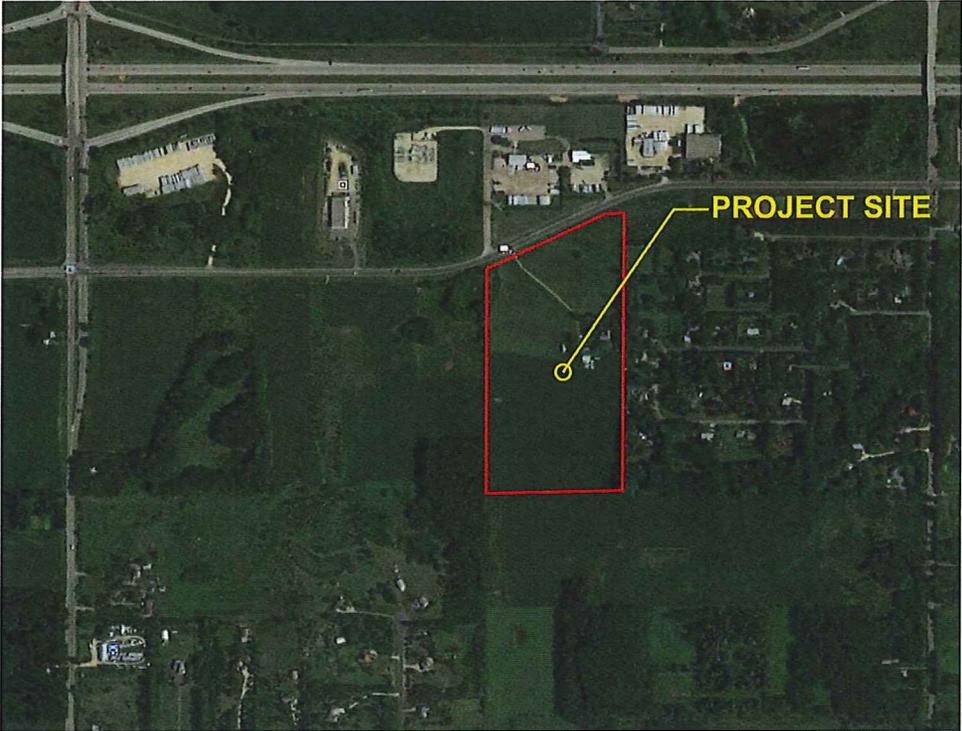
*1957 Site Aerial, courtesy of MN Historical Aerial Photos*



*1964 Site Aerial, courtesy of MN Historical Aerial Photos*



1992 Site Aerial, courtesy of Google Earth Pro



2015 Site Aerial, courtesy of Google Earth Pro

## Ron Moorse

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**From:** Ron Moorse  
**Sent:** Friday, April 01, 2016 5:23 PM  
**To:** 'bjronningen'; 'jlangan.pol@dyn-eng.com'; 'judy.milna@gmail.com'; 'kkopitzke@earthlink.net'; 'Scott Patten'; 'Lucia and Jen'; 'Mark Nelson'; 'sally@littlefootfarm.com'; ward3; mayor  
**Cc:** 'Irfan Ali'; 'Chad Lockwood'  
**Subject:** FW: Fwd: ISWEM: Civil Engineering Services

Here is the email regarding the man-made steep slopes.  
Ron

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**From:** Irfan Ali [mailto:[iali@yahoo.com](mailto:iali@yahoo.com)]  
**Sent:** Thursday, March 31, 2016 7:08 PM  
**To:** Ron Moorse <[rmoorse@ci.afton.mn.us](mailto:rmoorse@ci.afton.mn.us)>  
**Subject:** Fw: Fwd: ISWEM: Civil Engineering Services

Hi Ron,

We reached out to Advanced Surveying who did the certified survey regarding the 18% slopes along the current drive way and along Hudson Rd (same attachment is referred to that was sent to you earlier). There responses are below. Please specially note that they specifically state that the ditches which result in the slopes are man made. If needed we will be willing to have another surveyor also go through the slope percentage determination to ensure it is accurate. If this can be shared with Planning Commission that would be great.

Thank you.

Irfan Ali

**To:** Irfan Ali <[iali@yahoo.com](mailto:iali@yahoo.com)>  
**Sent:** Thursday, March 31, 2016 4:40 PM  
**Subject:** Fwd: ISWEM: Civil Engineering Services - Request for Quote

See info below...

----- Forwarded message -----

**From:** Tom Bloom <[tom@advsur.com](mailto:tom@advsur.com)>  
**Date:** Thu, Mar 31, 2016 at 4:31 PM  
**Subject:** RE: ISWEM: Civil Engineering Services - Request for Quote

In response to your questions:

1) We wanted to know if these slopes are precise (Red Slopes on the document) or if taking a closer look might provide some different data. – I believe these to be accurate.

2) Are these man made slopes which resulted from the construction of existing gravel driveway and MN-DOT road development, and not natural. – These are ditches created by the construction of Hudson Road and the gravel drive to control water.

I am not sure if this answers your questions or not.

Tom Bloom L.S.  
Advance Surveying and Engineering Co.