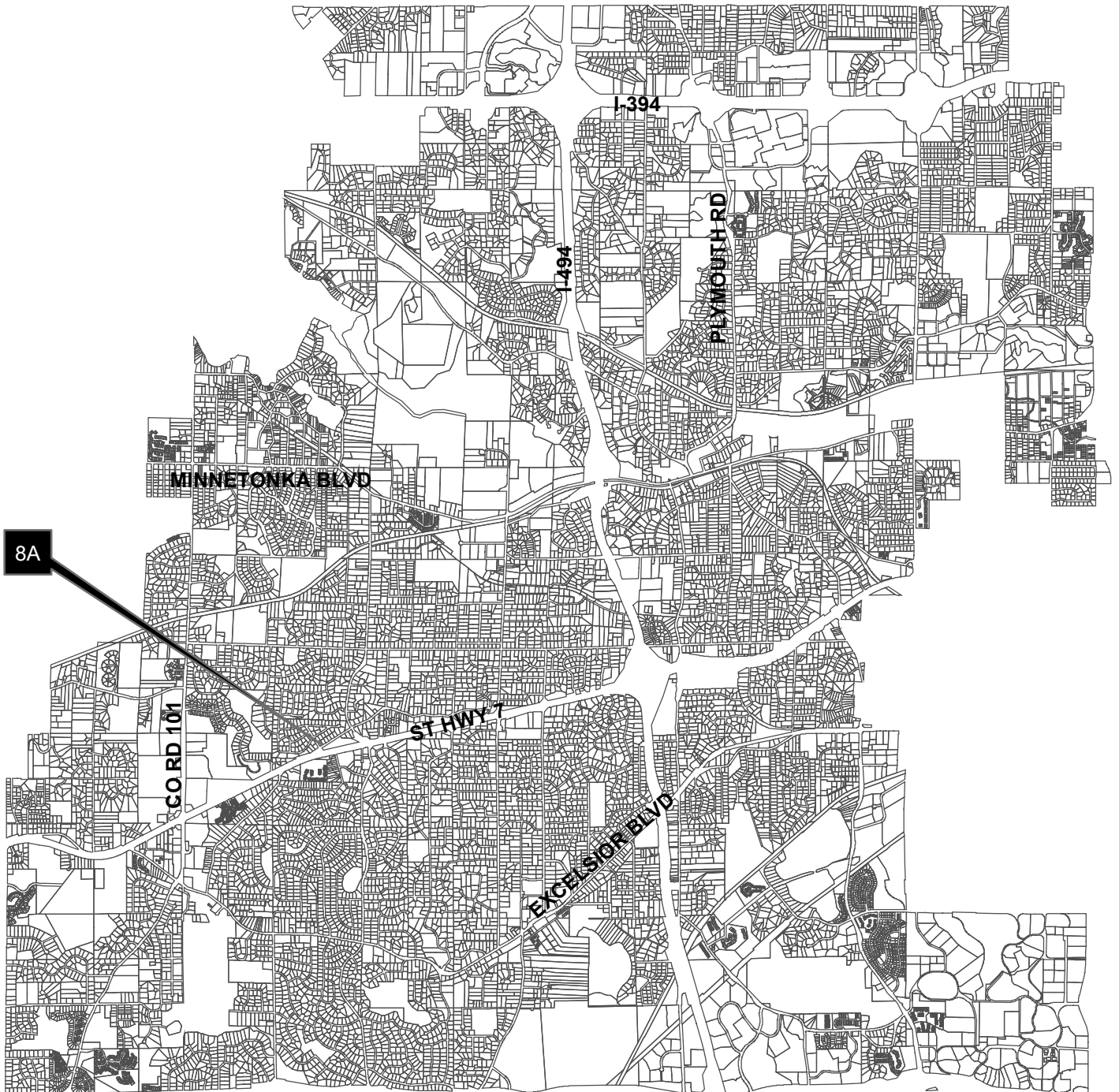




CITY OF
MINNETONKA

CITY OF MINNETONKA
PLANNING COMMISSION
JAN. 3, 2019

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Planning Commission Agenda

Jan. 3, 2019 – 6:30 P.M.

City Council Chambers – Minnetonka Community Center

1. Call to Order

2. Roll Call

3. Approval of Agenda

4. Approval of Minutes: Dec. 6, 2018

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda

None

8. Public Hearings: Non-Consent Agenda Items

A. Resolution denying a front yard setback variance for a porch addition at 16324 Highwood Dr.

Recommendation: Adopt the resolution (4 votes)

- Final approval subject to appeal
- Project Planner: Drew Ingvalson

9. Adjournment

Planning Commission Agenda

Jan. 3, 2019

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Notices

1. Please call the planning division at (952) 939-8290 to confirm meeting dates as they are tentative and subject to change.
2. Applications and items scheduled for the Jan. 17, 2019 planning commission meeting:

Project Description	Williston Heights, a four-lot subdivision
Project Address	4716/4724 Williston Rd
Project No.	18034.18a
Assigned Staff	Drew Ingvalson
Ward Councilmember	Tom Bergstedt, Ward 4

Project Description	Inverness Estates, a two-lot subdivision
Project Address	13321 Inverness Road
Project No.	18040.18a
Assigned Staff	Susan Thomas
Ward Councilmember	Bob Ellingson, Ward 1

Project Description	Oakland Estates, a four-lot subdivision
Project Address	1922 Oakland Rd
Project No.	18041.18a
Assigned Staff	Ashley Cauley
Ward Councilmember	Rebecca Schack, Ward 2

Project Description	Niemoeller Residence, a shoreland setback variance
Project Address	5414 Highland Road
Project No.	14010.18a
Assigned Staff	Susan Thomas
Ward Councilmember	Tim Bergstedt, Ward 4

Project Description	Public Safety Facility
Project Address	14500/14600 Minnetonka Blvd
Project No.	18036.18a
Assigned Staff	Loren Gordon
Ward Councilmember	Mike Happe, 3

Project Description	Housekeeping Ordinance
Project Address	city-wide
Project No.	N/A
Assigned Staff	Ashley Cauley
Ward Councilmember	city-wide

WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

This outline has been prepared to help you understand the public meeting process. The review of an item usually takes the following form:

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.
2. Staff presents their report on the item.
3. The commission will then ask city staff questions about the proposal.
4. The chairperson will then ask if the applicant wishes to comment.
5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.
6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.
7. At larger public hearings, the chair will encourage speakers, including the applicant, to limit their time at the podium to about 8 minutes so everyone has time to speak at least once. Neighborhood representatives will be given more time. Once everyone has spoken, the chair may allow speakers to return for additional comments.
8. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.
9. The commission will then discuss the proposal. No further public comments are allowed.
10. The commission will then make its recommendation or decision.
11. Final decisions by the planning commission may be appealed to the city council. Appeals must be written and filed with the planning department within 10 days of the planning commission meeting.

It is possible that a quorum of members of the city council may be present. However, no meeting of the city council will be convened and no action will be taken by the city council.

Minnetonka Planning Commission Meeting
Jan. 3, 2019

Agenda Item 4

Previous Meeting Minutes

**Unapproved
Minnetonka Planning Commission
Minutes**

Dec. 6, 2018

1. Call to Order

Chair Kirk called the meeting to order at 6:30 p.m.

2. Roll Call

Commissioners Knight, Luke, Powers, Sewall, and Kirk were present. Henry and Hanson were absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley, Planner Drew Ingvalson, and Natural Resource Manager Jo Colleran.

3. Approval of Agenda

Powers moved, second by Knight, to approve the agenda with modifications listed in the change memo dated Dec. 6, 2018.

Knight, Luke, Powers, Sewall, and Kirk were present. Henry and Hanson were absent. Motion carried.

4. Approval of Minutes: Nov. 15, 2018

Powers moved, second by Luke, to approve the Nov. 15, 2018 meeting minutes as submitted.

Knight, Luke, Powers, Sewall, and Kirk were present. Henry and Hanson were absent. Motion carried.

5. Report from Staff

Gordon stated that the next regular planning commission meeting is scheduled for Jan. 3, 2018.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Sewall moved, second by Powers, to approve the item listed on the consent agenda as recommended in the staff report as follows:

A. Resolution approving an expansion permit for the construction of a second story living addition with cantilevers and a front entry porch at 5536 Glenavon Ave.

Adopt the resolution approving an expansion permit for the construction of a second-story living addition with cantilevers and a front entry porch at 5536 Glenavon Avenue.

Knight, Luke, Powers, Sewall, and Kirk voted yes. Henry and Hanson were absent. Motion carried and the item on the consent agenda was approved as submitted.

Chair Kirk stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

8. Public Hearings

A. Resolution approving a preliminary plat with variances for a two-lot subdivision at 5524 Nantucket Road.

Chair Kirk introduced the proposal and called for the staff report.

Ingvalson reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Kirk asked what floor area ratio (FAR) a house would need to be fit in the neighborhood. Ingvalson answered that the highest FAR for houses in the area is .18 which would be a house with 3,114 square feet on the proposed lot. The lot would be able to be subdivided and meet all ordinance requirements, but the proposal with the area variance creates a better subdivision.

Catie Dorn, 5524 Nantucket Road, stated that:

- She and her husband have lived in the house 32 years and raised seven children there. The neighborhood is great and she loves her home.
- She provided handouts comparing the square footage of her lot with the neighboring properties.
- Ingvalson and the city planners have been great to work with. She learned a lot about the trees. She has done her best to do what staff recommends.
- She was available for questions.
- When she purchased the lot, it was treated as two separate lots.
- She worked with staff to design the addition built in 2000 to meet setback requirements and allow the property to be legally divided in the future.

The public hearing was opened.

Angela Moreira, 5554 Nantucket Place, stated that:

- She opposed the subdivision and variance because it would adversely impact the appearance and character of the neighborhood. She was worried a new house would be an unimaginative eyesore.
- She likes the barn and large lot.
- The neighborhood has large lots and modest houses.
- The steep slope provides screening.
- She was concerned with tree removal.
- She favored a conservation easement to increase the setback to at least 60 feet to save trees.
- She did not like the shared driveway.

Eric Moreira, 5554 Nantucket Place, stated that:

- He requested denial of the variance.
- One house would have a new house behind their lot.
- He did not see how it mattered that the new lot would exceed the size requirement for a lot.
- The proposed house could be an eyesore, but that is not yet known.
- Trees have been cut down on other lots in the neighborhood.
- He does not think it is a burden to sell houses in Minnetonka.
- The current house looks fine.
- There is nothing to allow subdividing a lot for economic reasons.
- The proposed subdivision and a large house would change the character of the neighborhood.
- The mcmansion policy should be enforced.
- He asked for what the park dedication fee could be used.

Carl Nelson, 5541 Nantucket Place, stated that:

- The six lots on Nantucket Road average .63 acres in size. The proposed lot would be .4 acres. The front width would be 144 feet. The other six lots average fronts 200 feet wide.
- The proposal would alter the essential character of the neighborhood, be detrimental to the neighborhood and detract from the natural beauty.
- He opposed the variance.

Jonas Hans, 5561 Nantucket Place, stated that:

- He was concerned with keeping his privacy.
- He was concerned the current retaining wall would collapse.

Paul Giguere, 5538 Nantucket Place, stated that:

- He agrees with the comments already made.
- He did not see a need for the variance.
- The mcmansion policy should be applied.
- He did not agree with staff's report or recommendation.
- He wanted to maintain the unique character of the neighborhood.

No additional testimony was submitted and the hearing was closed.

In response to Chair Kirk's request, Ingvalson reiterated that staff recommends waiving the mcmansion policy because the proposed variance would not change the size of the buildable area. Thomas reviewed the staff report which illustrates that the property could be subdivided without a variance and, therefore, the mcmansion policy would not apply.

Chair Kirk confirmed that the two lots of the proposal would meet all ordinance requirements if the "tail" portion of the property would be part of the proposed south property. Staff recommends keeping the "tail" with the north property to create cleaner lot lines and could be done with approval of a variance.

Wischnack clarified that the applicant can subdivide the property without a variance which would eliminate the subjective review process and the mcmansion policy would not apply.

Chair Kirk noted that the city code does not regulate views of residential single-family properties.

Ingvalson explained how FAR is calculated.

Wischnack explained that park dedication fees go into the park fund and can only be used for park improvements.

Sewall confirmed with Ingvalson that the reason for the subdivision may be economic, but the reason for the variance is not economic because the subdivision could be done without the variance. The variance was a suggestion from staff to create a better layout of the property lines.

Sewall supported keeping the mcmansion policy requirement, but acknowledged that it would not dramatically change the size of the house that could be built on the lot.

Powers said that the homeowner is accommodating staff's request to create cleaner lot lines. He sympathized with the neighbors. He understood the loss of view. The number of houses doubled along his street. He favored staff's recommendation because staff is creating the burden for the homeowner. There is no economic gain from creating a better lot-line configuration. He supports waiving the mcmansion policy because the applicant is only following staff's request. He supports staff's recommendation.

In response to Knight's question, Ms. Dorn explained that she worked with staff when the addition was added to the house to ensure that the property could be subdivided and meet all ordinance requirements.

Knight confirmed with Ingvalson that nothing would prevent the homeowner from tearing down the barn.

Luke understood that the property owner could subdivide the property into two parcels and create a lot with an unusual shape. She would like the mcmansion policy applied to help a potential future house fit in the neighborhood.

Knight noted that enforcing the mcmansion policy could prompt the homeowner to create the subdivision with irregular shaped lots that would not be restricted by the mcmansion policy.

Sewall felt that in order to preserve the neighborhood feel as much as possible and create standard property lines, he supports waiving the mcmansion policy.

Powers moved, second by Sewall, to recommend that the city council adopt the resolution approving the preliminary plat with variance for Dorn Estates.

Knight, Luke, Powers, Sewall, and Kirk voted yes. Henry and Hanson were absent. Motion carried.

B. Resolution approving a comprehensive guide plan amendment from commercial to mixed use at 14317 Excelsior Blvd.

Chair Kirk introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

The public hearing was opened.

Anne Hossfeld, 14616 Glendale Street, stated that:

- She found an error in the staff report that refers to the site being surrounded by Office Warehouse.
- The letters in the change memo object to a development the size of the expected application.
- She questioned what would happen if the expected application would not be approved and if a mixed use designation would prevent houses or townhouses from being built. She questioned if approving a comprehensive guide plan amendment signals that the city would approve an anticipated proposal.
- She was concerned with a big development.

Thomas apologized for the reference to Office Warehouse. She explained that a mixed use designation is the most flexible of land use designations. It would not restrict the site to a multiple-unit building. The land could be used for single-family houses, townhouses, commercial, and high-density and medium-density residential uses. Mixed use allows for a variety of uses whether the variety is within the same building or area. The current guide plan designation is straight commercial which would allow for retail, restaurant, and coffee shop uses. The mixed use designation does not have a density requirement.

No additional testimony was submitted and the hearing was closed.

Powers moved, second by Luke, to recommend that the city council adopt the resolution approving a comprehensive guide plan amendment from commercial to mixed use at 14317 Excelsior Blvd.

Knights, Luke, Powers, Sewall, and Kirk voted yes. Henry and Hanson were absent. Motion carried.

Chair Kirk stated that this item is scheduled to be reviewed by the city council on Dec. 17, 2018.

C. Items concerning Marsh Run redevelopment at 11706 Wayzata Blvd.: comprehensive guide plan amendment, rezoning, master development plan, final site and building plans, easement vacation, and preliminary and final plats.

Chair Kirk introduced the proposal and called for the staff report.

Cauley reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Ann Barens, Chief Operating Officer of Doran Companies, applicant, stated that:

- The proposal would have 175 units. Parking would be contained within the building with two levels of parking. It would be a luxury apartment building. Eighty percent of the proposal would be market-rate units and 20 percent affordable units with the income level set at 50 percent of area median income.
- The site has three different uses for neighbors. The challenge was designing a project to meet the goals of the city, fit contextually, be responsive to existing uses, and addresses the expected growth in the city.
- The building was redesigned to better fit the neighborhood architecturally. Warm wood features and stone, brick, and plank siding were added. The balconies were made to look more residential. The natural berm helped blend the elements of a lot of different styles that exist near the building. It would provide a cohesive, classic look.

- The entrance for residents on Fairfield was eliminated, so all traffic would access the site from Wayzata Blvd. The circle drive feature would provide a natural feature with birch and evergreen trees and an area for deliveries and short-term parking.
- The pedestrian environment has been enhanced along Fairfield Road. The design would provide a buffer for the sidewalk.
- There would be a number of green features used. There is currently no stormwater management system. The proposal would add a stormwater management system including an underground containment system that would filtrate rainwater and discharge it into the stormwater system. It would provide a significant improvement to water quality.
- The proposal would participate in a community solar garden program.
- There would be electric car charging stations.
- There would be sensor lights, individually programmable thermostats, energy-efficient appliances, full insulation, and be located on a transit corridor.
- The building would not have an impact on any potential road expansion project.
- She provided an illustration with a photo of the existing building imposed with a rendering of the proposed building.
- The site is designated as a regional area in the comprehensive guide plan which supports mixed uses and high-density residential communities. The proposal fits the comprehensive guide plan.
- The proposal would be a Class A building with an affordable component which would make it the only one in Minnetonka. The Island, The Luxe, and the 1700 building at the Highland Bank site are all Class A buildings, but none have an affordable component.

Tony Kuechle, with Doran Companies, stated that:

- Cauley did a great job of summarizing his presentation.
- The site needs to be redeveloped and high-density residential is an appropriate use.
- The survey shows the site to be 2.67 acres in size. Further research shows that a portion of the site is owned by the city. He anticipated the applicant purchasing the .17 acres as outlined in the staff report. Using the site size of 2.5 acres, the density would be 70 units per acre and FAR 1.6. Using 2.67 acres as the size of the site, the density would be 66 units per acre and an FAR of 1.49.
- He reviewed the proposed landscape plan. There are now 77 trees on the site. Twenty two along the berm would be preserved. Six trees would be mitigated. An additional 88 trees would be added to the site for a total of 94 trees.
- He reviewed the site plan. Parking on the north was eliminated. Trees were added to screen the building all year. The setback was increased

from 44 feet to 54 feet. The west setback was increased from 10 feet to 43 feet. The east setback was increased from 10 feet to 20 feet.

- The outdoor amenity area was reduced in size to address noise concerns.
- A “move in” area, tree grove, and circular access drive were added.
- The townhomes were reduced from six stories to three stories.
- The number of decks were reduced from 45 to 17.
- Reducing the height and increasing the setback would mitigate the view from the neighbors on the north.
- The traffic study found that there would be no significant increase to the traffic volume.
- Stormwater management features would be added to a site that currently has none.

Powers asked where visitors would park. Mr. Kuechle stated that there would be six visitor stalls in the front and an additional 35 stalls in the building with an access system that would allow the resident to let the visitor into the interior parking area.

Knight asked if the affordable units would have the same amenities as the market rate. Mr. Kuechle answered that there would be no difference.

Ms. Barens explained that there would be a fenced-in dog run and pet spa area in the building. Every dog would provide a DNA sample and rules would be strictly enforced.

Powers confirmed with Ms. Barens that there would not be a solar garden on the proposal site, but it would purchase power from a solar source.

Ms. Barens stated that a neighbor offered their parking lot for special events that would require additional parking stalls.

The public hearing was opened.

John Ferrier, with CSM Corporation, stated that:

- CSM Corporation supports the proposal and a walkable, livable, accessible community within walking distance of groceries, restaurants, and transit. The proposed apartment building would fit the vision.
- Higher density housing would benefit the West Ridge Market area. It is a walkable community with an extensive trail system. An agreement has been agreed upon to allow Marsh Run residents to utilize the trails as well.
- Existing tenants of the center have expressed support of the project including Shane, Co. and Schmidt Music.
- There is no better team than the Doran team to develop, design, and construct the project. CSM Corporation is currently partnering with Doran

Co. on two multi-family, residential projects.

Andrew Jackson, 1012 Fairfield Spur, stated that:

- He represented the board of directors for the Gables of West Ridge Townhome Association.
- The project would be too big and dense for the site. It would be too close to a residential neighborhood.
- It would not mesh with the neighborhood. It would stand out.
- He was concerned with traffic and dogs.
- He provided examples of other sites with similar density and surrounding uses.
- He was not pleased with the aesthetics of the building compared to the townhouses. The design would not be cohesive.
- The proposed building would make the Staples building appear small.
- He disagreed that the traffic would be accommodated. The Hopkins Crossroads and Wayzata Boulevard intersection during peak hours is rated a "C" and the proposal would make it a "D" which would be one step away from an intersection that exceeds capacity. It is already difficult to make a left turn, so he turns right and takes a left on Fairfield Road.
- He was concerned with parking. He just learned that the building across the street would share its parking. Fairfield Road has no room for parking. He wants the parking ordinance to be followed.
- The dog run is a concern. It would only be 10-feet wide. Dogs would walk on the sidewalks and onto the property. He did not want to deal with what the dogs could leave behind.

Bob Uhlhorn, 907 Fairfield Way, stated that:

- People cross Wayzata Blvd. to catch the bus across from the proposal's entrance. There is a bus stop around the corner on Fairfield Road. The bus occupies a lane of traffic.
- There are no sidewalks or bike lanes.
- The road cannot handle that much traffic.
- He would see a lot of dogs.

Pam Lewis, 980 Fairfield Court, stated that:

- She invited commissioners to drive around the site. She did not have faith in the traffic report. It did not include the private roads.
- She showed photos of Fairfield Court that looks narrow and curvy. There is no way to widen the side streets.
- She likes the turnaround included in the revised proposal.
- She was concerned with safety for children playing in the street.
- She did not think there would be sufficient parking. Thirty-five guest spots

- would be absurd. Six stalls would not be enough for deliveries.
- She is overwhelmed by the size of the proposal. There would not be room to add more parking.
- She was concerned with losing mature trees.
- This is the wrong developer for the location.
- The use would be inappropriate and impact her safety and quality of life.

Louann Carpenter, St. Louis Park resident, stated that:

- She described her neighborhood in St. Louis Park. A developer proposed building a five-story, 198-unit apartment building on the corner of France Ave. and Excelsior Blvd. The neighborhood was opposed and she had many concerns at the time.
- Many of the neighbors' views regarding renters turned out to be wrong. The renters are made up of every age. Property values have increased. Local business are thriving and new ones have been added. She has made friends with residents of the building. The neighborhood has become stronger and more vibrant because of the apartment building. It feels safer in the park and on the trails around the neighborhood because there is more activity.
- She requested good ideas and good development be dismissed by fear of what might happen. A proposal such as this enhances neighbors. She has lived through it.

Ann Kay, 5120 Lee Way resident and co-owner of the proposed site, stated that:

- She loves Minnetonka and has benefitted from its excellent leadership and management.
- This site is tired and needs to be redeveloped.
- Residential would be the best use of the property. It would complete a residential corridor.
- Doran builders have an excellent reputation, build beautiful buildings, and would own and operate the building. The drawing is beautiful. She was really pleased. The neighbors were taken seriously. The number of units was reduced from 235 to 175. The building was modified, landscaping was added, and tons of trees would be added to the site.
- She was really pleased with the 20 percent affordable housing units. She looks forward to living in a building similar to the one proposed in the future.
- The proposed project would enhance the city and neighborhood.

Pat Martin, co-owner of the building on the north, stated that:

- The existing building is the type that is no longer in demand. A third of the building has been vacant for 12 years.

- He was stunned that Doran would commit to an affordable housing component. It would provide 35 families with a stable environment.

Greg Brink, 982 Fairfield Court, stated that:

- He thought the noise would distract the wildlife and the people in the community.
- He did not think the proposal was reduced significantly enough.

No additional testimony was submitted and the hearing was closed.

Cauley explained that an intersection rating changing from a “C” to a “D” equals an increase in the delay time of three seconds. That is still considered an acceptable level. Realignment of the Hopkins Crossroads and Wayzata Blvd. intersection is being considered. Wischnack noted that the city is aware of the traffic congestion in the area and, at some point, it will be included in the capital improvement plan for improvements.

Chair Kirk noted that the proposal would have many one-bedroom apartments and asked about parking. Cauley explained how insufficient parking would be handled. West Ridge Market has unused parking space and Doran stated that one of the adjacent property owners has expressed a parking opportunity there as well.

Powers asked the applicant where additional parking would be available on the site if it would become apparent that there was insufficient parking. Mr. Kuechle stated that Doran has 2,000 apartment units within its portfolio and another 1,400 under construction. Doran studies parking needs a lot. There is a margin of error built into the indoor garage. No stalls would be compact. Additional stalls could be added by restriping for compact stalls. A unit would not be rentable if it did not have parking available, so the developer would not risk not having enough parking. It is not uncommon for residents of affordable units to not have the expenditure of having a vehicle. The location of the bus stop and transit center make the site ideal. He would be willing to work with MTC to make accessing the bus stop as safe as possible.

Mr. Kuechle stated that:

- Onsite management would be onsite from 7 a.m. to 1 a.m.
- He assumed that a few stalls would be signed for 15, 30, and 60 minute parking.
- Renters are allowed to have one dog weighing up to 80 pounds or two dogs weighing a total of 80 pounds. The exact dog run operates successfully at a building in Hopkins with 239 units.
- New residents receive information from management on the best ways to access the site.
- Renters of affordable units would be restricted to an annual income of \$48,000 for a one-person household to meet affordable housing

guidelines.

- The parking calculation is one parking stall per bedroom, plus additional visitor parking stalls. This proposal would be a little over parked. Typically there would be 20 interior visitor parking stalls. This proposal would have 35. Compact stalls could be added. He has been doing this for 22 years and every year the need for parking decreases. Sometimes single people rent a two-bedroom apartment, some renters do not own a car, and some couples rent a one-bedroom unit. A second parking stall would be an additional charge.

Colleran reviewed the trees that would be removed. Grading would not impact the trees on the Fairfield Spur property and the trees on the north property line on the site property would also be saved. The evergreens on the Staples property would remain. Six trees on the southeast corner of the Staples property may be impacted. Trees within the main part of the site would be removed.

Luke was impressed with the outreach Doran has done and the beneficial input that the neighbors have had. The property is unique in its placement of being surrounded by commercial and residential uses. She would have loved to live in an apartment like the proposal 20 years ago. Apartment dwellers would become accustomed to the best way to navigate traffic. The area is an important one to the city. High density makes people nervous, but it would add a lot of value to the city and the area.

Knight thought the Doran Company has done a nice job of scaling the proposal back. The apartment buildings on the north side of Interstate 394 in St. Louis Park are very large. This proposal is not very large. The traffic issues are problems now and residents would become familiar with the area and how to navigate. More high-density residential is needed in Minnetonka and he liked the location. If this building had been built first, then it would have been accepted. He supports staff's recommendation.

Powers did not think the development in St. Louis Park is a fair comparison. He likes Doran Company. He was concerned with the density not providing a margin for error. He did not want to be influenced too much by the benefit of affordable housing. He did not support the project yet, but Doran is going in the right direction. It would possibly be the first of its kind continuing west along the corridor.

Sewall likes the design. The building is very attractive. He loved the changes from the first concept plan. That was quite unrealistic with the shadows extending over units for months of the time. He felt a lot of attention was paid to the neighbors on Fairfield Spur. Removing the parking lot and sidewalk and increasing the setbacks were meaningful changes. Traffic would be inconvenienced, but that intersection is terrible now. He hoped improvements would be done to that intersection soon. There is no doubt that the proposal would be dense, but he was not sure of the perfect number.

Chair Kirk noted that affordable housing comes at a cost. Doran pushed the density from the north to the south and east. He questioned at what point the trip counts per unit

would impact traffic. Wayzata Blvd. needs to be realigned with the exit to Interstate 394. That is a problem that is bigger than this proposal. The entrance and move-in area was moved to Wayzata Blvd. The dog run was moved to the east side. He is leaning toward supporting staff's recommendation. The city council is scheduled to review this item Dec. 17, 2018. The design standards are in character with what he would expect a new building in Minnetonka to look like.

Knight moved, second by Luke, to recommend that the city council adopt the following items related to the Marsh Run redevelopment at 11650 and 11706 Wayzata Blvd.:

- 1) ***Ordinance rezoning the property from PID, planned I-394 district, to PUD, planned unit development, and adopting a master development plan.***
- 2) ***Resolution approving the comprehensive guide plan amendment from service commercial to missed use.***
- 3) ***Resolution approving the site and building plans.***
- 4) ***Resolution approving preliminary and final plats.***

Knight, Luke, Sewall, and Kirk voted yes. Powers voted no. Henry and Hanson were absent. Motion carried.

9. Adjournment

Powers moved, second by Sewall, to adjourn the meeting at 10:50 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting
Jan. 3, 2019

Agenda Item 7

Public Hearing: Consent Agenda

NONE

Minnetonka Planning Commission Meeting
Jan. 3, 2019

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
Jan. 3, 2019

Brief Description Front yard setback variance to construct a covered porch at 16324 Highwood Dr.

Recommendation Adopt the resolution denying the request

Proposal The applicant, Austin Gomes, is proposing to build an open, covered porch on the front of the existing home at 16324 Highwood Dr. The covered porch would extend 9.5 feet out from the existing home. (See attached.) This proposal requires a front yard setback variance.

	Required	Existing	Proposal
Front Yard (covered porch)	30 ft.	34.3 ft.	24.5 ft.*

* requires variance

Primary Questions and Analysis

A land use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the request and staff's findings.

- **Is the request reasonable?**

The request to build an open, covered porch on the front of the home is reasonable. City code permits covered porches, without walls, to encroach 5 feet into the required front yard setback. Based on the location of the existing home, the applicant would be permitted to add a 4.3-foot deep covered porch to the home without a variance. Alternatively, the applicant's request to add a covered porch that encroaches farther into the front yard setback is not reasonable, as there is an option to cover individuals visiting the home or sitting outside the home while still meeting city code.

- **Is the practical difficulty created by the landowner?**

Yes. The non-conforming principle structure is a unique circumstance, but this unique circumstance does not create a practical difficulty for the property owner. The applicant would be permitted by city code to construct a covered porch that extends 4.3 feet from the house, without the need for a variance. Due to this available alternative, the applicant's design wishes have created the need for the variance.

- **Would the proposed covered porch addition have setbacks consistent with those of surrounding homes?**

No. The subject neighborhood is largely characterized by having homes with nonconforming front yard setbacks due to: (1) the early platting of the land and homes being built prior to the adoption of city ordinance; and/or (2) homes being located on a corner lot (which are permitted lesser setbacks for one side). However, very few of these homes have as small of a front yard setback as the proposed open porch.

Of the 28 homes within 400 feet of the subject property, and north of Hwy 7, there are:

- 12 homes with a front yard setback of 34.9 to 30 feet (43%);
and
- 1 home with a front yard setback of less than 30 feet (4%).

Of the 36 homes that are located within 1,000 feet of the applicant's home on the same street, there are:

- 17 homes with a front yard setback of 34.9 to 30 feet (47%);
and
- 3 homes with a front yard setback of less than 30 feet (8%).

While several homes within this area have non-conforming front yard setbacks, it is rare for them to be located closer than 30 feet from the front property line. The proposed structure would extend within 24.5 feet of the front property line. The proposed porch would not be consistent with the front building line of the majority of the homes within the area and would alter the essential character of the neighborhood. (See attached.)

Staff Recommendation

Adopt the resolution denying a variance to construct an open, covered porch addition on to the single-family home at 16324 Highwood Dr.

Originator: Drew Ingvalson, Planner
Through: Loren Gordon, AICP, City Planner

Supporting Information

Project No.	18044.18a
Property	16324 Highwood Dr.
Applicant	Austin Gomes
Surrounding Land Uses	All of the properties to the north, east, and west are zoned R-1, single family residential, and guided for low density residential. To south is a commercial out lot and State Highway 7 just beyond it.
Planning	Guide Plan designation: Low Density Residential Zoning: R-1 Single Family Residential
Property	The subject property is within the Somerset Knolls Subdivision. This subdivision was completed in 1955, prior to the adoption of the city ordinance. The property is undersized (15,000 square feet in area) and has non-conforming width at setback (100 feet). However, the property has conforming frontage, lot depth, and buildable area.
Existing Home	<p>The subject two-story home was originally constructed in 1959, prior to the adoption of city ordinance. The home is improved with a two stall, attached garage. The gross building area of the home is 1,600 square feet.</p> <p>The subject home is set back 34.3 feet from the front property line, which is nonconforming with the required 35-foot front yard setback. However, the subject home has legal nonconforming status as it was constructed prior to the adoption of city ordinance. The home meets all other setback requirements.</p>
Front Yard Setback	<p>Principle structures located on properties adjacent to neighborhood streets have a 35-foot setback requirement from front property lines, which is also generally the road right-of-way. However, city code permits a 5-foot exemption from any front, side or rear yard setbacks for:</p> <ul style="list-style-type: none">• Decks;• Heating, air conditioning, and ventilation equipment;• Open terraces;• Canopies, swimming pool aprons and pool equipment;• Fire places; and• Architectural features. <p>As a principle structure, the subject home must meet the 35-foot front yard setback. However, a proposed deck or open, non-enclosed, porch (as requested) would be permitted 5-foot exemption, or a 30-foot setback.</p>

Given the home's existing setback, the applicant would be permitted to construct an open, covered porch that extends 4.3 feet out from the house, without the need for a variance.

Corner Lot Setbacks

Corner lot homes are permitted to have one of their front yard setbacks to be reduced by 10 feet. For homes located on neighborhood streets, the front yard setback on one side could be reduced from 35 feet to 25 feet. This exemption may cause some corner lot homes to appear nonconforming. However, they may be permitted in their location by city code. While the subject home is not located on a corner, there are several homes nearby that qualify for this exemption and are located closer than 35 feet from one of their two front property lines.

Measuring Setbacks

Principle Structures: The City of Minnetonka measures front yard setbacks from front property line/road right-of-way to the structure foundation for principle structures, such as homes or enclosed home additions.

Structures with 5-foot Exemption: The City measures front yard setbacks from the front property line/road right-of-way to nearest point of the structure for porches, decks, canopies, and other structures permitted a 5-foot setback exemption. The closest portion for many of these structures, specifically open porches, is the roof overhang.

Exempt Structures: Means of access structures (such as stairs), sidewalks, patios and driveways are permitted to encroach within the front yard setback.

Right-of-Way and Boulevard Area

As noted previously, front yard setbacks are measured from front property line/road rights-of-way. The distance between private property and road pavement – sometimes called the boulevard area – can vary quite a bit from one plat to another and even from one side of a street to another. The subject property has approximately 22 feet of boulevard area between curb of the road and their front property line. (See attached.) This distance is larger than several areas of the city. However, it is consistent with all of the homes along Highwood Dr. between Tonkawood Rd. and Oxford Pl. In other words, visually, all of the homes along Highwood Dr. appear to be setback a uniform distance from the curb of the road due to having a similar distance between their private properties to the curb of the road.

Construction without a Permit

The applicant began construction of the covered porch, without a permit, in the late summer/early fall of 2018. City staff became aware of the structure's construction while investigating a nuisance complaint in mid-September 2018. The applicant applied for a building permit shortly after staff became aware of the unauthorized construction. During the building permit review process, staff informed the applicant that a variance would be required for the structure in its proposed location because it did not meet the front yard setback

requirement for open, covered porches. The applicant submitted a variance application on November 19, 2018.

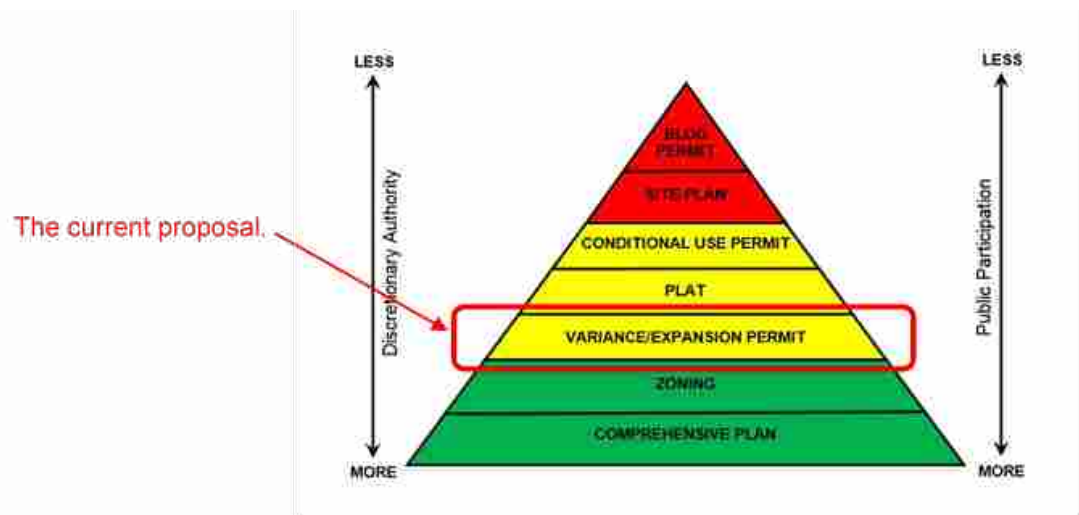
Variance Standard

A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

Neighborhood Comments

The city sent notices to 36 area property owners and received four comments in support of the request.

Pyramid of Discretion



Motion Options

The planning commission has three options:

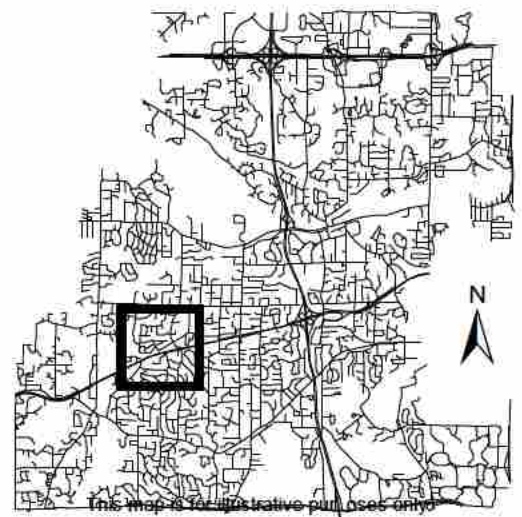
1. Concur with the staff recommendation for denial. In this case, a motion should be made to adopt the resolution denying the variance request.
2. Disagree with staff's recommendation and approve the applicant's variance request. In this case, a motion should be made directing staff to prepare a resolution approving the applicant's proposal. This motion must include findings for approval.
3. Table the proposal. In this case, a motion should be made to table the item. The motion should include a statement as to why the proposal is being tabled with direction to staff, the applicant, or both.

- Voting Requirement** The planning commission action on the applicant's request is final subject to appeal. Approval of a variance requires the affirmative vote of five commissioners.
- Appeals** Any person aggrieved by the planning commission's decision about the requested variance may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.
- Deadline for** Mar. 18, 2019

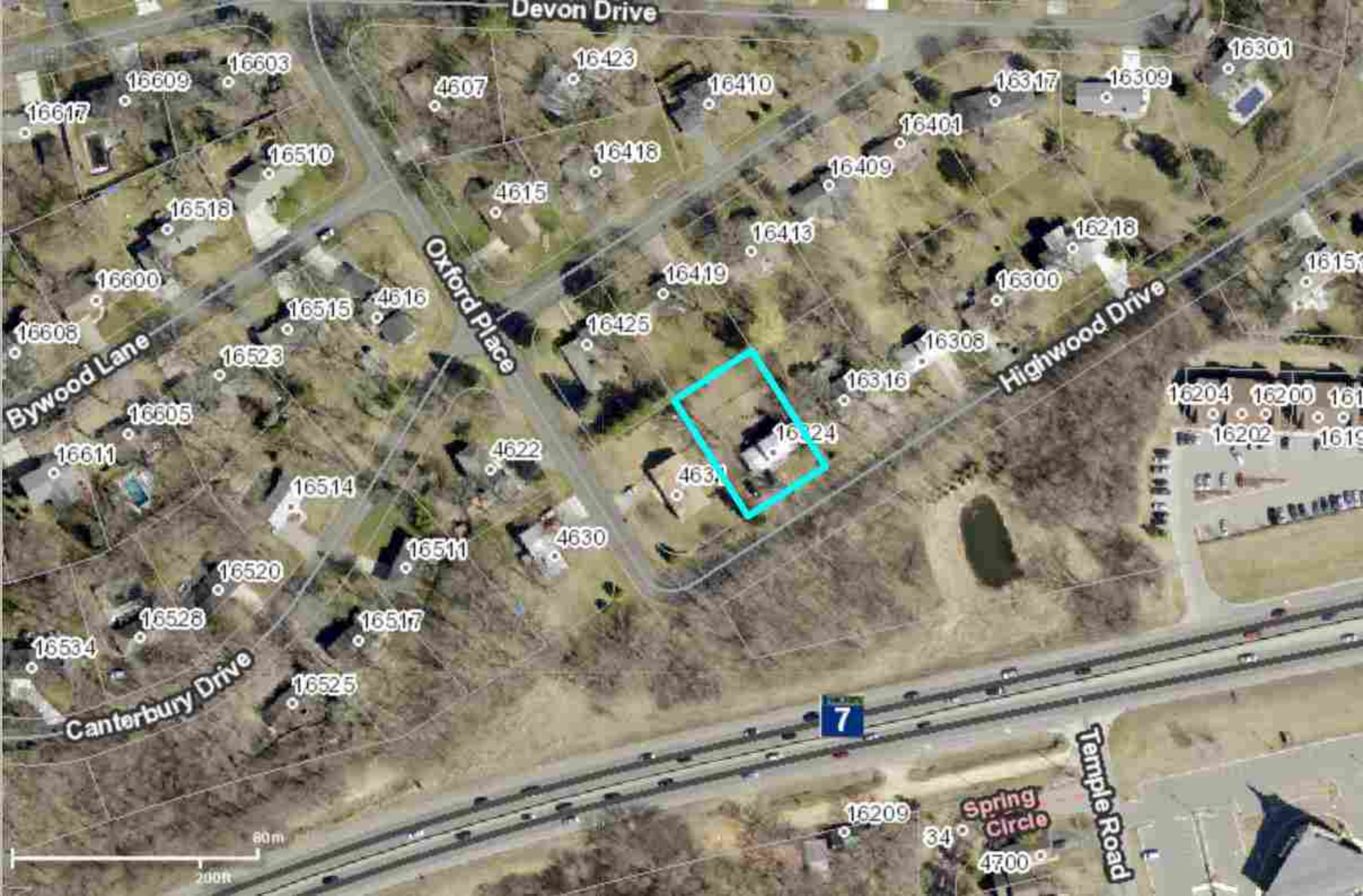


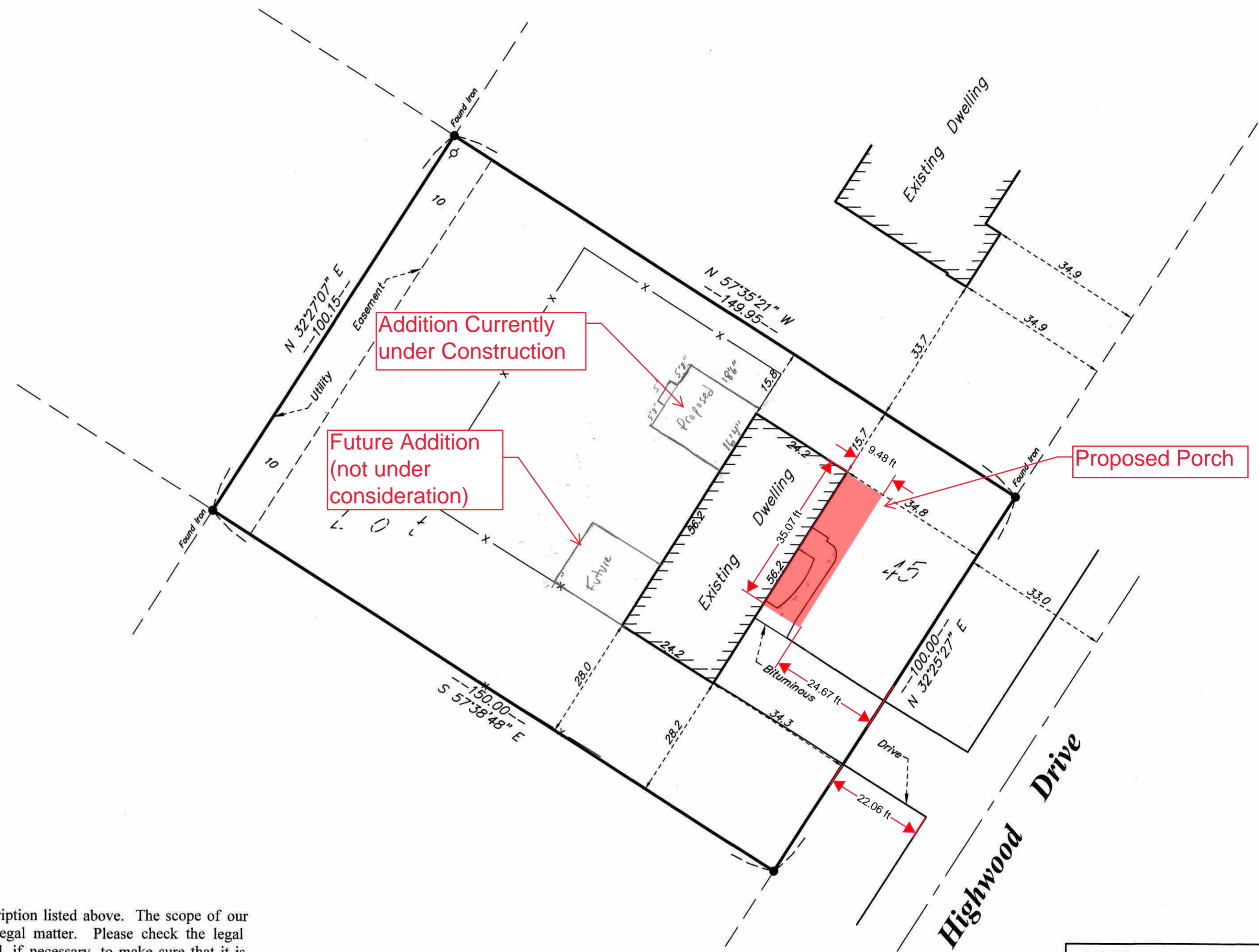
Location Map

Project: Gomes Residence
 Address: 16324 Highwood Dr



This map is for illustrative purposes only.





LEGAL DESCRIPTION:

Lot 45, Block 1, SOMMERSET KNOLLS, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

1. Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
2. Showing the location of observed existing improvements we deem necessary for the survey.
3. Setting survey markers or verifying existing survey markers to establish the corners of the property.
4. Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, set, unless otherwise noted.

LEGEND	
	CATCH BASIN
	FIRE HYDRANT
	POWER POLE
	MANHOLE
	TELEPHONE PED.
	ELEC. TRANSFORMER
	WELL
	GATE VALVE
	LIGHT POLE
	TREE
	FENCE LINE
	SANITARY SEWER LINE
	WATER LINE
	GAS LINE
	STORM DRAIN LINE
	OVERHEAD UTILITY LINE
	CONCRETE SURFACE

DATE	REVISION DESCRIPTION

DRAWING ORIENTATION & SCALE
SCALE - 1" = 20'

CLIENT NAME / JOB ADDRESS
AUSTIN & LAUREN GOMES
16324 HIGHWOOD DRIVE
MINNETONKA, MN

Advance
Surveying & Engineering, Co.
17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
Thomas M. Bloom
42379
LICENSE NO.
JUNE 26, 2017
DATE

DATE SURVEYED: JUNE 26, 2017
DATE DRAFTED: JUNE 26, 2017

SHEET TITLE
EXISTING CONDITIONS SURVEY
DRAWING NUMBER
170579 TB

SHEET SIZE 17 X 22
SHEET NO.
S1
SHEET 1 OF 1

Front Elevation

Original roof line



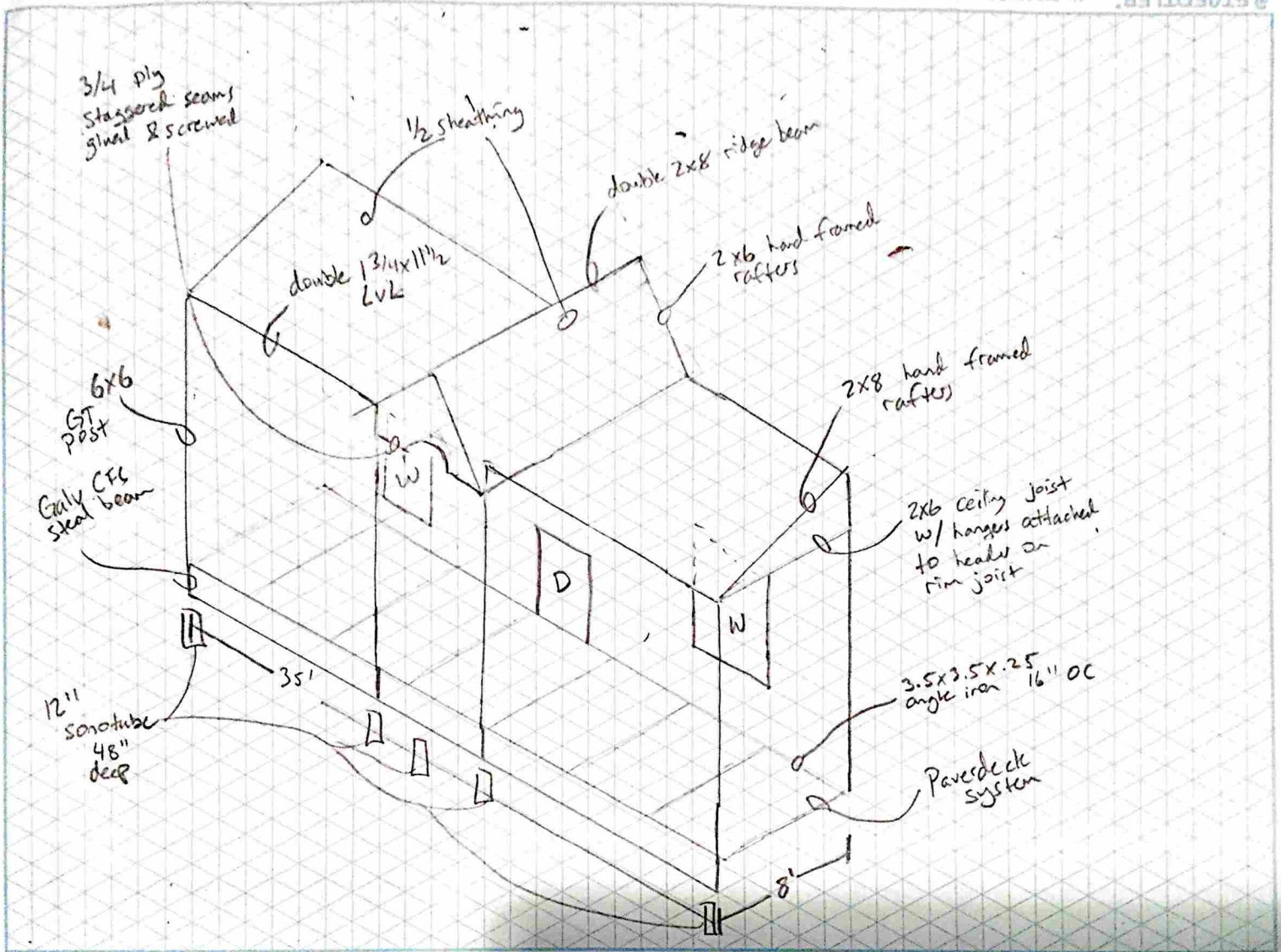
3'

6'

12'

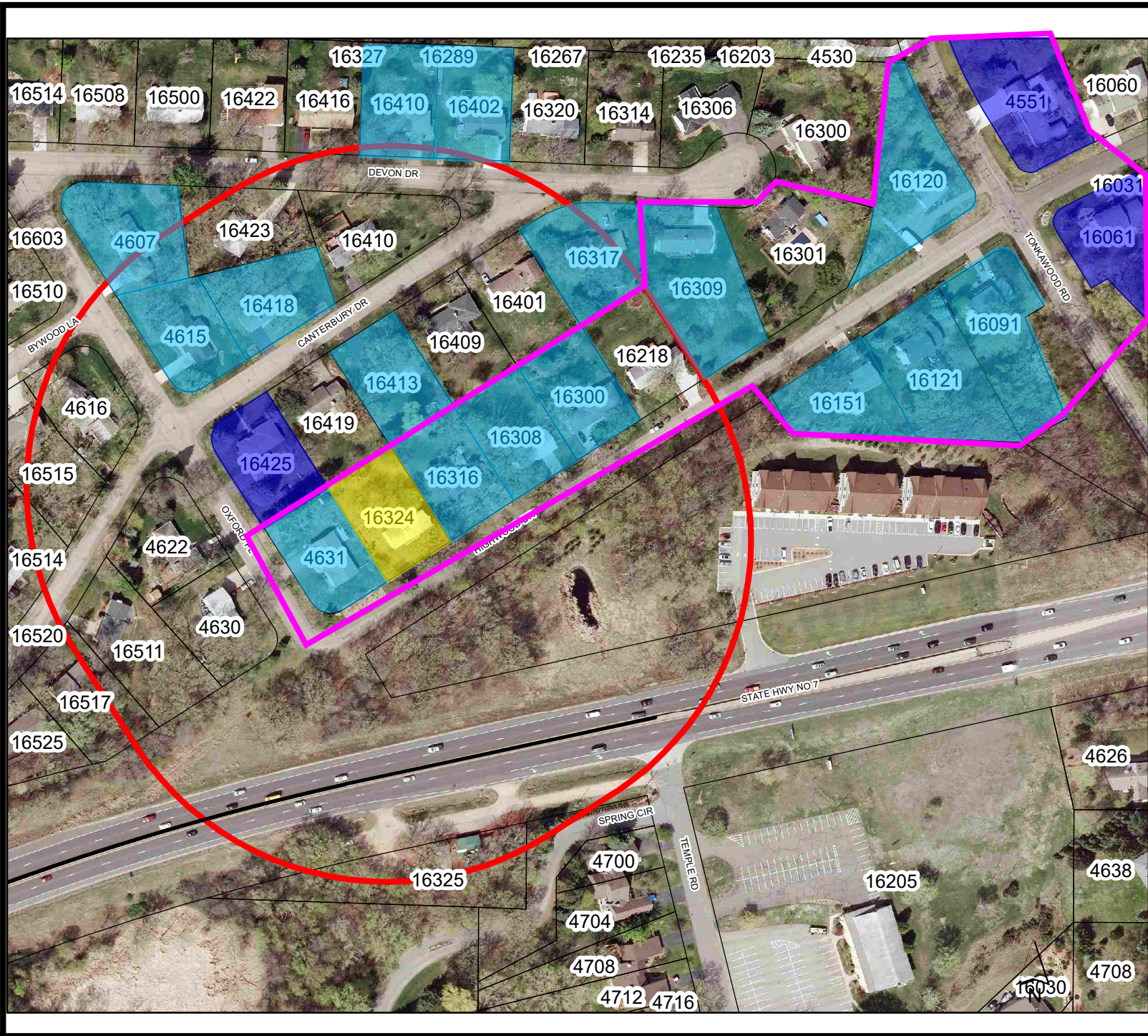
10'

Grade









Legend

- Subject Property
- Home with 30'-34.9' Front Yard Setback
- Home with < 30' Front Yard Setback
- Property within 400' of Subject Lot
- Property within 1,000' on same Road

0 45 90 180 Feet

**Not a Survey.
Not to Scale**

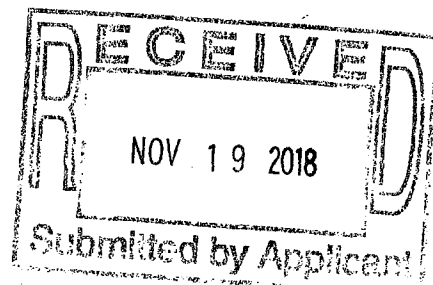
Map prepared by:
City of Minnetonka

Practical Difficulties Worksheet

1. I am hoping to have a front porch that is functionally sized so that our family can use the outside space to be social and enjoy our neighbors and neighborhood. A large part of the appeal of this home and the neighborhood is the quiet tree lined streets and we are trying to enjoy this with this porch.

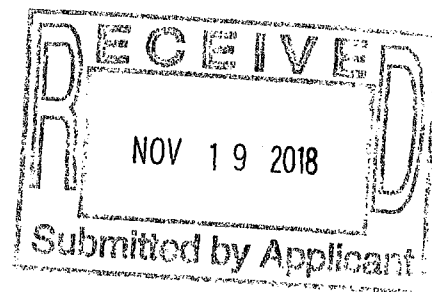
2. I believe that the property is unique in two ways. Highwood west of Tonkawood seems to be the only road in the neighborhood that has the houses set so far back from the road and also with a large right of way. This portion of Highwood used to connect back to HWY 7, and so when it was built was a much more commonly used through-way rather than just the quiet entry to the neighborhood to the north/ west that it is today. On Oxford, Canterbury and Devon the majority of the homes are closer than my proposed porch addition.
 - a. Also at a recent city event, I believe it was the police and fire house open house, I had a discussion with the two of the city planners about the future plans for sidewalks and new work in our area. At that time I was informed that there are currently no plans for any work to be done.
 - b. As with any home improvement it would hopefully add to the property value, but that is definitely not the main goal with this project. My family and I moved to Minnetonka with young children for the excellent schools and plan on staying.

3. Many of the homes in the neighborhood have front porches. Throughout this process I have been walking my dog around paying much closer attention to other homes front entryways than I normally would have. I have noticed several of the features I would like to have in these other homes and feel like it would fit in very well as well as make my home more attractive. It seems that any home that has been remodeled has a newer entryway as part of the improvements.



We love living in Minnetonka, both our neighborhood and this school district. We are invested in meeting our neighbors, and building community here. We want our small 1950's home to function well for our growing family. The front porch we designed is the adequate size to make the space functional. We want it to fit a couple of rocking chairs, a small table and a porch swing. This charming front porch will be a nice place to enjoy as a family and a perfect spot to invite neighbors up for tea as they walk by. A smaller porch would not allow for the space to do these things listed, as a smaller porch would only be for curb appeal and that is not our sole intention of this additional space. Thank you for your consideration. Feel free to come by next summer for some iced tea!

-Lauren



From: [Susan Thomas](#)
To: [Drew Ingvalson](#)
Subject: FW: 16324 Highwood Drive Variance Request
Date: Thursday, December 20, 2018 8:44:25 AM

Susan Thomas | Assistant City Planner
City of Minnetonka | eminnetonka.com
Office: 952-939-8292

From: Erica Hway <[REDACTED]>
Sent: Wednesday, December 19, 2018 10:56 PM
To: Susan Thomas <stthomas@eminnetonka.com>; Mike Happe <mhappe@eminnetonka.com>
Subject: 16324 Highwood Drive Variance Request

Dear Staff and Members of the Council,

We received the public hearing notice regarding the variance request for a front yard setback at 16324 Highwood Drive. While we may not be able to attend the meeting, as neighbors, we would like to make our support for the variance approval known. The addition of a front porch seems to be a very reasonable request and a welcome addition to the streetscape. From our perspective, front porches add aesthetic interest to façades and positively enhance the built environment of our neighborhoods. Being that the home does not currently have a front porch and is situated so closely to the front yard setback, it seems that a usable porch would not be possible without a variance.

Furthermore, in reviewing the zoning code, we would be curious to know if the ordinances' general intent is to discourage front porch additions and were surprised that there is no provision to allow them to be added to existing homes. We would be in support of encouraging front porches and allowing single-story open porches as permitted encroachments or exceptions to the front yard setback in single-family residential zoning districts.

Thank you,

Erica & Josh Hway
16316 Highwood Drive
Minnetonka, MN 55345

From: [Susan Thomas](#)
To: [Drew Ingvalson](#)
Subject: FW: Re:16324 Highwood Dr.
Date: Thursday, December 20, 2018 1:19:54 PM

Susan Thomas | Assistant City Planner
City of Minnetonka | eminnetonka.com
Office: 952-939-8292

-----Original Message-----

From: pat seeger <[REDACTED]>
Sent: Thursday, December 20, 2018 1:20 PM
To: Susan Thomas <stthomas@eminnetonka.com>
Subject: Re:16324 Highwood Dr.

I will not be able to attend the Planning Commission Public Hearing on January 3. However, I would like to register our opinions that we are in favor of allowing the variance. There are houses in the neighborhood which are less than 30 feet and maybe in 27 feet.

Please allow our opinion to be considered.

Pat Seeger
16419 Canterbury Dr.

Susan Thomas

From: Maggie Schmitt
Sent: Saturday, December 22, 2018 7:44 AM
To: Mike Happe; Susan Thomas
Subject: Re: public hearing notice regarding gomes residence , 16324 highwood road minnetonka

On Sat, Dec 22, 2018 at 7:41 AM Maggie Schmitt

wrote:

Hello Susan and Mike,

My name is Maggie Schmitt and my husband Corey Schmitt are neighbors of the Gomes and we received the notice in the mail about their front porch expansion. We are emailing to support the value they are adding to their home and our neighborhood with their home improvements and we support their front porch expansion. Thank you for your time.

Maggie and Corey Schmitt

Susan Thomas

From: Mary
Sent: Wednesday, December 26, 2018 11:59 AM
To: Susan Thomas
Cc: Mike Happe
Subject: Gomes variance

December 24, 2018

Re : Gomes setback variance

We are responding our neighbors requested variance on the 16324 Highwood Drive.

We have no concerns about their request and are asking you grant this setback variance on their property. Lauren and Austin have done significant improvements that have dramatically improved their property. They are a wonderful family and we are so pleased to have them as our neighbors.

Sincerely

Tom and Mary Owen

Sent from my iPad
Sent from my iPhone

Planning Commission Resolution No. 2019-

**Resolution denying a variance for construction of an open, covered porch at
16324 Highwood Dr.**

Be it resolved by the Planning Commission of the City of Minnetonka, Minnesota, as follows:

Section 1. Background

1.01 The subject property is located at 16324 Highwood Dr. It is legally described as:

Lot 45, Block 1, Somerset Knolls, Hennepin County, Minnesota.

1.02 The subject home has a legal non-conforming front yard setback of 34.3 feet.

1.03 The applicant, Austin Gomes, has submitted a proposal to construct an open, covered porch within the required front yard setback. As proposed, the covered porch would extend 9.5 feet from the home.

	Required Setback	Proposed Setback
Front Yard (open porch)	30 ft.	24.5 ft.*

* requires variance

1.04 On Jan. 3, 2019, the planning commission held a hearing on the application. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments and the staff report, which are incorporated by reference into this resolution.

Section 2. Standards

2.01 Minnesota Statute §462.357 Subd.1(e)(b) allows a municipality, by ordinance, to permit an expansion of nonconformities.

2.02 City Code §300.29 Subd.3(g) allows expansion of a nonconformity only by variance or expansion permit.

2.03 By City Code §300.07 Subd.1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not

solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings

3.01 The requested variance would not meet the variance standard as outlined in City Code §300.07 Subd. 1.

1. **INTENT OF THE ORDINANCE:** The proposal is not in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for consistent building lines within a neighborhood and to provide for adequate separation between homes and roadways. Of the several homes within 400 feet of the subject property and north of Hwy 7, there is just one home that encroaches closer than 30 feet from the front property line. Of the many homes that are within 1,000 feet of the subject property and on the same street, there are just two additional homes that are closer than 30 feet from the front property line. The proposed covered porch addition would not keep a consistent building line with these structures as it would encroach closer to the front property line than the majority of the homes within the area.
2. **CONSISTENT WITH COMPREHENSIVE PLAN.** The proposed variance would not be consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. While the subject request would enhance the subject property, it would also establish a front yard setback that is less than homes in the area.
3. **REASONABLENESS:** The request to build a covered, open porch on the front of the home is generally reasonable. In fact, city code permits covered porches, without walls, to encroach 5 feet into the front yard setback, creating a required 30-foot front yard setback for such structures. Based on the location of the existing home, the applicant would be allowed to add a 4.3-foot deep covered porch to the home without a variance. Alternatively, the applicant's request to add a covered porch that encroaches farther into the front yard setback is not reasonable, as there is an option to cover individuals visiting the home or sitting outside the home while still meeting city code.
4. **CIRCUMSTANCE UNIQUE TO THE PROPERTY:** The non-conforming principle structure is a unique circumstance, but this unique circumstance does not create a practical difficulty for the property owner. The applicant would be permitted by city code to construct a covered porch that extends 4.3 feet from the house without the need for a variance. Due to this available alternative, the applicant's design wishes have created the need for the variance.
5. **NEIGHBORHOOD CHARACTER:** Several homes within the area of the subject property have non-conforming front yard setbacks. However, it is

rare for these homes to be located closer than 30 feet from the front property line. The proposed structure would extend within 24.5 feet of the front property line. The proposed porch would not be consistent with the front building line of the majority of the homes within the area and would alter the essential character of the neighborhood.

Section 4. Planning Commission Action

4.01 The above-described variance is hereby denied based on the findings outlined in section 3.01 of this resolution.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on Jan. 3, 2019.

Brian Kirk, Chairperson

Attest:

Karen Telega, Deputy City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent: Knight

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on Jan. 3, 2019.

Karen Telega, Deputy City Clerk