

**ROSEVILLE**  
**REQUEST FOR COUNCIL ACTION**

DATE: 6/23/2014  
ITEM NO: 13.e

Department Approval



City Manager Approval

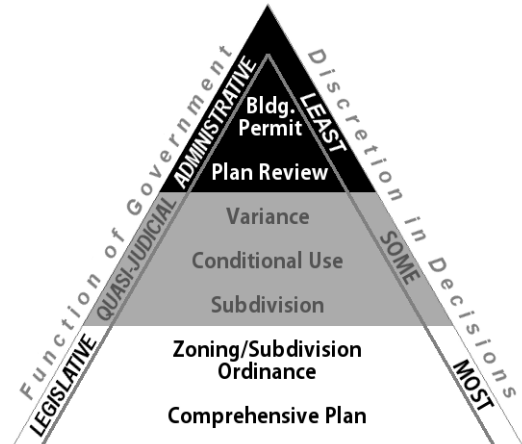


Item Description: Request by Arthur Mueller, owner of the residential property at 2201 Acorn Road, for approval of a preliminary plat of the property into 4 lots

**Application Review Details**

- Public hearing: June 4, 2014
- RCA prepared: June 19, 2014
- City Council action: June 23, 2014
- City Code action deadline: July 19, 2014

Action taken on a plat proposal is **quasi-judicial**; the City's role is to determine the facts associated with the request, and apply those facts to the legal standards contained in State Statute and City Code.



- 1 **1.0 REQUESTED ACTION**
- 2 Arthur Mueller proposes to plat his residential parcel at 2201 Acorn Road to
- 3 accommodate 4 one-family residential lots around a short cul-de-sac street.
- 4 **2.0 SUMMARY OF RECOMMENDATION**
- 5 The Planning Division recommends approval of the proposed PRELIMINARY PLAT; see
- 6 Section 7 of this report for the detailed recommendation.

### 3.0 BACKGROUND

3.1 The subject property, located in Planning District 12, has a Comprehensive Plan Land Use Designation of Low-Density Residential (LR) and a zoning classification of Low-Density Residential-1 (LDR-1) District. The PRELIMINARY PLAT application does not seek to change the zoning classification of the property, and so the lot size and residential density requirements will remain the same for the proposed subdivision as for the surrounding neighborhood. The present proposal is essentially the same as the plat that was approved on August 27, 2007 but never filed at Ramsey County; the only differences in the proposal are the result of storm water and drainage-related plans which have been redesigned to meet current standards.

3.2 When exercising the so-called “quasi-judicial” authority on a PLAT request, the role of the City is to determine the facts associated with a particular request and apply those facts to the legal standards contained in the ordinance and relevant state law. In general, if the facts indicate the applicant meets the relevant legal standard, then they are likely entitled to the approval, although the City is able to add conditions to a plat approval to ensure that the likely impacts to roads, storm sewers, and other public infrastructure on and around the subject property are adequately addressed.

### 4.0 PRELIMINARY PLAT ANALYSIS

4.1 Plat proposals are reviewed primarily for the purpose of ensuring that all proposed lots meet the minimum size requirements of the zoning code, that adequate streets and other public infrastructure are in place or identified and constructed, and that storm water is addressed to prevent problems either on nearby property or within the storm water system.

4.2 As a PRELIMINARY PLAT of a residential subdivision, the proposal is subject to the minimum lot sizes and roadway design standards of the subdivision code, established in Chapter 1103 (Design Standards). The proposed PRELIMINARY PLAT is included with this report as Attachment C, and the applicable standards are reviewed below.

**a. City Code §1103.02 (Streets)-§1103.021 (Minimum Roadway Standards):** Right-of-way for a local street as proposed is required to be at least 60 feet wide and right-of-way for a circular turnaround on a cul-de-sac street must have a radius of at least 60 feet. The proposed right-of-way does not adhere to these standards; rather, because the proposed street is so short and so limited in the amount of traffic it will need to handle, the Public Works Department is working with the applicant on a design with reduced pavement width in a smaller-than-standard right-of-way under a provision which allows for the specific review and approval of such an alternative design. The proposed street right-of-way is the same as was approved in 2007 and similar to several others around the community. A public improvement contract pertaining to the construction of the proposed cul-de-sac street, biofiltration facilities designed to treat storm water generated by the public street, and sewer and water infrastructure will be necessary and should be required as a condition of PRELIMINARY PLAT approval.

**b. City Code §1103.04 (Easements):** Drainage and utility easements 12 feet in width, centered on side and rear property lines are required; the easements shown on the preliminary plat drawing meet these requirements. Additional easement area is shown coinciding with the proposed storm water retention/infiltration areas, known as “best management practices” or BMPs. The storm water plan exceeds the performance

requirements for the proposed improvements, the minimum requirements don't fully reflect current best practices pertaining to regulation and maintenance of the BMPs, and the City Engineer would like to continue working with the applicant to address these concerns prior to final plat approval.

**c. City Code §1103.06 (Lot Standards):** Corner lots must be at least 100 feet in width and depth and comprise at least 12,500 square feet of area, and interior lots must be at least 85 feet wide, 110 feet deep and comprise at least 11,000 square feet in area. All of the proposed lots exceed the applicable minimum standards.

4.3 Roseville's Public Works Department staff have been working with the applicant to address the requirements related to grading and drainage, cul-de-sac and street design, and the public utilities that will be required within the new right-of-way. While these details are essential parts of a PRELIMINARY PLAT application, the City Council is not asked to review and digest such engineering-related plans; instead, actions by the Planning Commission and the City Council typically include conditions that such plans must ultimately meet the approval of Public Works staff.

4.4 City Code §1011.04 (Tree Preservation) specifies that an approved tree preservation plan is a necessary prerequisite for approval of a PRELIMINARY PLAT. A tree survey has been provided which identifies the trees on the property as well as the trees which are likely to be removed, based on the current grading plan and generalized locations houses and driveways. While the essential information has been provided, the final tree preservation plan depends upon the final grading plan, which may not be finalized until the final plat; for this reason, it is prudent to proceed with review and possible approval of the PRELIMINARY PLAT with the condition that a final tree preservation be approved concurrent with the final plat.

4.5 At its meeting of June 4, 2013 Roseville's Parks and Recreation Commission reviewed the proposed PRELIMINARY PLAT against the park dedication requirements of §1103.07 of the City Code and recommended a dedication of cash in lieu of land. Since the existing, undeveloped parcel comprises one residential unit, the proposed four-lot plat would create three new building sites. The 2014 Fee Schedule establishes a park dedication amount of \$3,500 per residential unit; for the three, newly-created residential lots the total park dedication would be \$10,500, to be collected prior to recording an approved plat at Ramsey County.

4.6 An applicant seeking approval of a subdivision creating more than three lots is required to hold an open house meeting to inform the surrounding property owners and other interested individuals of the proposal, to answer questions, and to solicit feedback. The open house for this application was held on February 18, 2014; the brief summary of the open house meeting provided by the applicant is included with this staff report as Attachment D.

## **5.0 PUBLIC COMMENT**

5.1 The duly-noticed public hearing for this application was held by the Planning Commission on June 4, 2014; draft minutes of the public hearing are included with this RCA as Attachment E. After reviewing the application and hearing the comments offered by the public, the Planning Commission voted unanimously (6 – 0) to recommend approval of the proposed PRELIMINARY PLAT.

5.2 Among the main themes of concerns raised at the public hearing was the storm water plan. As explained generally by City Engineer, Marc Culver, the BMPs are required to collect and retain water from storm events equivalent to seven inches of rain over a 24-hour period (i.e., the “100-year flood” event). Up to that level of rainfall, the BMPs will reduce the runoff onto adjacent properties; once that level of rainfall has been exceeded, the BMPs are designed to allow the storm water to flow onto neighboring properties, consistent with the existing drainage patterns.

5.3 The additional traffic generated by the proposed three additional residential lots was also a topic of broad concern, especially given that Acorn Road is narrower than most streets. Public Works Department staff performed a traffic study on Acorn Road from Wednesday June 11th to Monday June 16, 2014. Data was collected using road tubes laid across the roadway. Traffic counts from the study showed an average of about 77 vehicles per day on weekdays and about 62 on the weekend. Mr. Culver notes that the volumes on this roadway are likely highly variable from a percentage standpoint given the low volumes, but with three new homes collectively generating approximately 30 additional daily vehicle trips, the average volume would be roughly 100 vehicles per day. From a volume capacity perspective, Acorn Road is very narrow, and therefore volumes well under 1000 vehicles per day would be expected; anything approaching or exceeding that volume would be considered undesirable on this roadway. Data from the study showed the speed at the 85<sup>th</sup> percentile to be about 24 miles per hour.

5.4 In addition to the comments reflected in the public hearing minutes, which reprise the contents of a phone conversation prior to the public hearing, Planning Division staff has received two email communications from the public about the proposed development; they are included with this report as Attachment F.

## 6.0 RECOMMENDED COUNCIL ACTIONS

**Pass a motion approving the proposed preliminary plat for the property at 2201 Acorn Road.** Based on the comments and findings outlined in Sections 3 – 5 of this report, the Planning Division concurs with the recommendations of the Planning Commission to approve the proposed PRELIMINARY PLAT, pursuant to Title 11 of the Roseville City Code, with the following conditions:

a. The applicant shall satisfy Public Works Department pertaining to easements, rights-of-way, grading and drainage, and public utility requirements, and other public infrastructure as necessary;

b. The applicant shall enter into a Public Improvement Contract pertaining to the construction of the proposed cul-de-sac street, biofiltration facilities, sewer and water infrastructure, grading and erosion, park dedication, and other essential items upon approval of the FINAL PLAT by the City Council; and

c. Permits for site improvements shall not be issued without approval of a final tree preservation plan, accounting for any impacts not yet anticipated, by the Community Development Department.

## 7.0 ALTERNATIVE COUNCIL ACTIONS

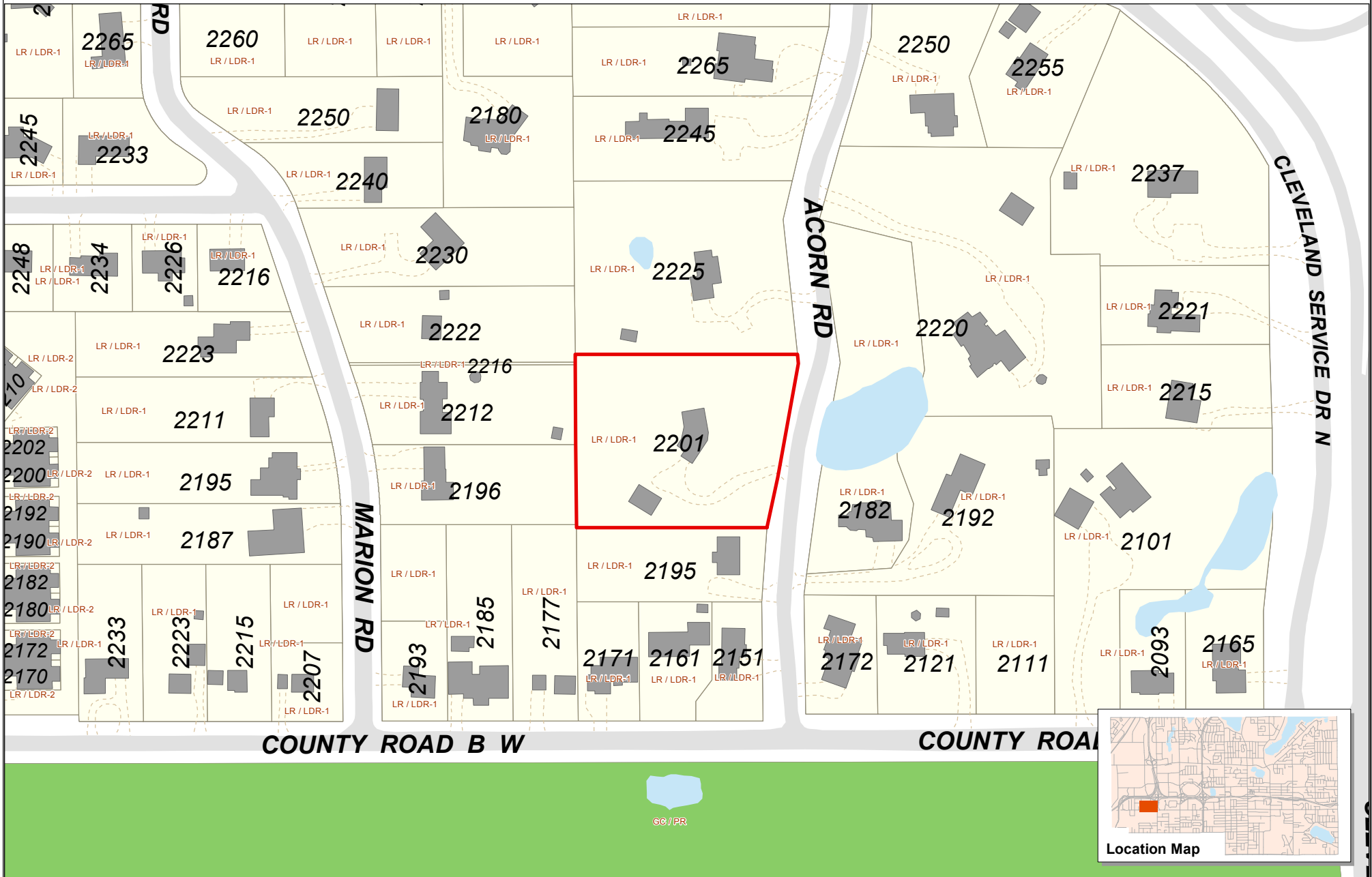
7.1 **Pass a motion to table one or more of the items for future action.** Tabling beyond July 19, 2014 may require extension of the 60-day action deadline established in §1102.01E of the City Code.

140 7.2 **Adopt a resolution to deny the requested approval.** Denial should be supported by  
141 specific findings of fact based on the City Council's review of the application, applicable  
142 zoning or subdivision regulations, and the public record.

**Prepared by:** Associate Planner Bryan Lloyd  
651-792-7073 | [bryan.lloyd@ci.roseville.mn.us](mailto:bryan.lloyd@ci.roseville.mn.us)

Attachments: A: Area map D: Open house summary  
B: Aerial photo E: Draft 6/4/2014 public hearing minutes  
C: Preliminary plat F: Public comment

# Attachment A for Planning File 07-039



Prepared by:  
Community Development Department  
Printed: May 23, 2014



## Site Location

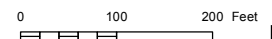
LR / LDR-1 Comp Plan / Zoning Designations

## Data Sources

\* Ramsey County GIS Base Map (4/30/2014)  
For further information regarding the contents of this map contact:  
City of Roseville, Community Development Department,  
2660 Civic Center Drive, Roseville MN

## Disclaimer

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



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Attachment B for Planning File 07-039



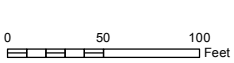
Prepared by:  
Community Development Department  
Printed: May 23, 2014



Site Location

**Data Sources**  
\* Ramsey County GIS Base Map (4/30/2014)  
\* Aerial Data: MnGeo (4/2012)  
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Preliminary Plat  
of  
OAK ACRES  
for  
Art Mueller

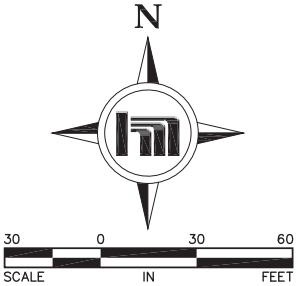
|                     |                                                                                                                          |                               |                                                                                       |
|---------------------|--------------------------------------------------------------------------------------------------------------------------|-------------------------------|---------------------------------------------------------------------------------------|
| Municipality:       | City of Roseville                                                                                                        | Building Setbacks Proposed:   |                                                                                       |
| Existing Zoning:    | R-1 Single Family Residential                                                                                            | Front yard:                   | 30 feet                                                                               |
| Proposed Zoning:    | R-1 Single Family Residential                                                                                            | Rear yard:                    | 30 feet                                                                               |
| Proposed Use:       | Residential                                                                                                              | Side yard (House):            | 10 feet                                                                               |
| Watershed District: | Rice Creek Watershed District                                                                                            | Attached Garage:              | 10 feet                                                                               |
| Road Mileage:       | 157 LF or 0.03 Miles                                                                                                     | Lot Summary:                  |                                                                                       |
| Street Lighting     | as required                                                                                                              | Number of Lots:               | 4 Residential                                                                         |
| Proposed Utilities: | Sewer: Municipal (available)<br>Water: Municipal (available)                                                             | Largest Residential Lot:      | 0.443 acres                                                                           |
|                     |                                                                                                                          | Smallest Residential Lot:     | 0.319 acres                                                                           |
|                     |                                                                                                                          | Average Residential Lot Area: | 17,549 sq.ft.                                                                         |
|                     |                                                                                                                          | Residential Lot Density:      | 2.5 Lots per Acre                                                                     |
| Plat Area:          | Total Area: 82,879 sq. ft. = 1.90 acres<br>Proposed ROW: 12,677 sq.ft. = 0.29 acres<br>Park Area: 0 sq. ft. = 0.00 acres | Owner/Subdivider              | Arthur G. Mueller<br>2201 Acorn Road<br>Roseville, MN                                 |
|                     |                                                                                                                          | Designer/Surveyor             | Hakanson Anderson Assoc.<br>3601 Thurston Avenue<br>Anoka, MN 55303<br>(763) 427-5860 |

- NOTES:
- The professional surveyor has made no investigation or independent search for easements of record, encumbrance, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
  - All existing improvements are as per preliminary plat prepared by Comstock & Davis, Inc. dated August 10, 2006.
  - The underground utilities shown are per preliminary plat prepared by others. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from information available. The surveyor has not physically located the underground utilities. Prior to any excavation, contact Gopher State One Call for an on-site location (612-454-0002).
  - Elevations shown are based on City of Roseville datum.
  - Bearings shown are based on an assumed datum.

DESCRIPTION OF PROPERTY

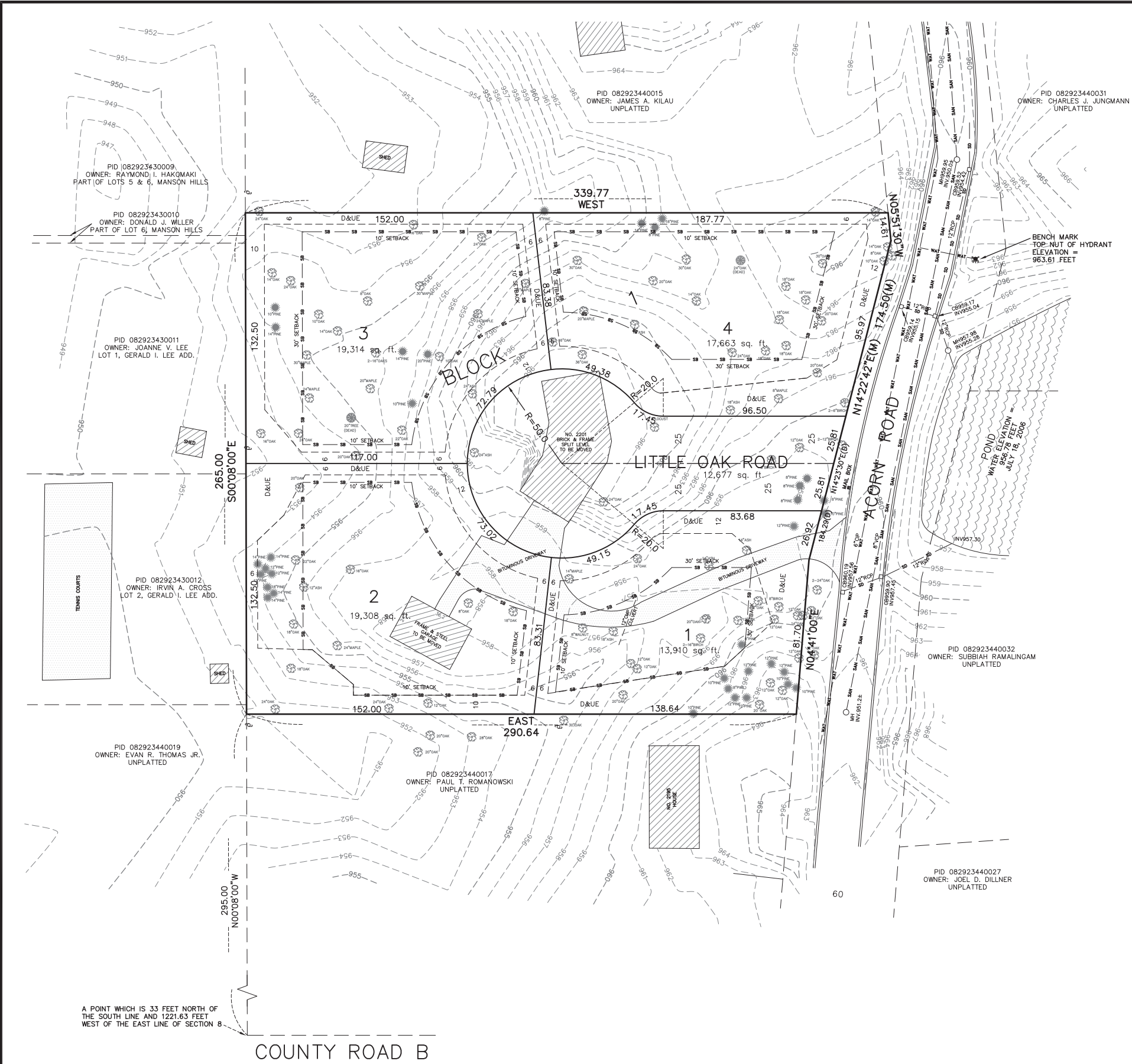
That part of the Southeast Quarter of the Southeast Quarter of Section 8, Township 29, Range 23, according to government survey, described as follows (all bearings in this description being based on the South line of said Southeast Quarter as an East and West line):

Commencing at a point 33 feet North of the South line and 1221.63 feet West of the East line of said Section 8; thence North 0 degrees 08 minutes West 295 feet to the point of beginning of the tract being described; thence East 290.64 feet; thence North 4 degrees 41 minutes East 81.70 feet; thence North 14 degrees 23 minutes 30 seconds East 184.29 feet; thence North 5 degrees 51 minutes 30 seconds West 14.61 feet; thence West 339.77 feet; thence South 0 degrees 08 minutes East 265 feet to point of beginning, Ramsey County, Minnesota.



LEGEND

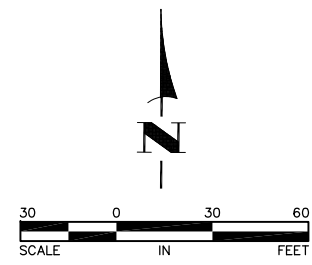
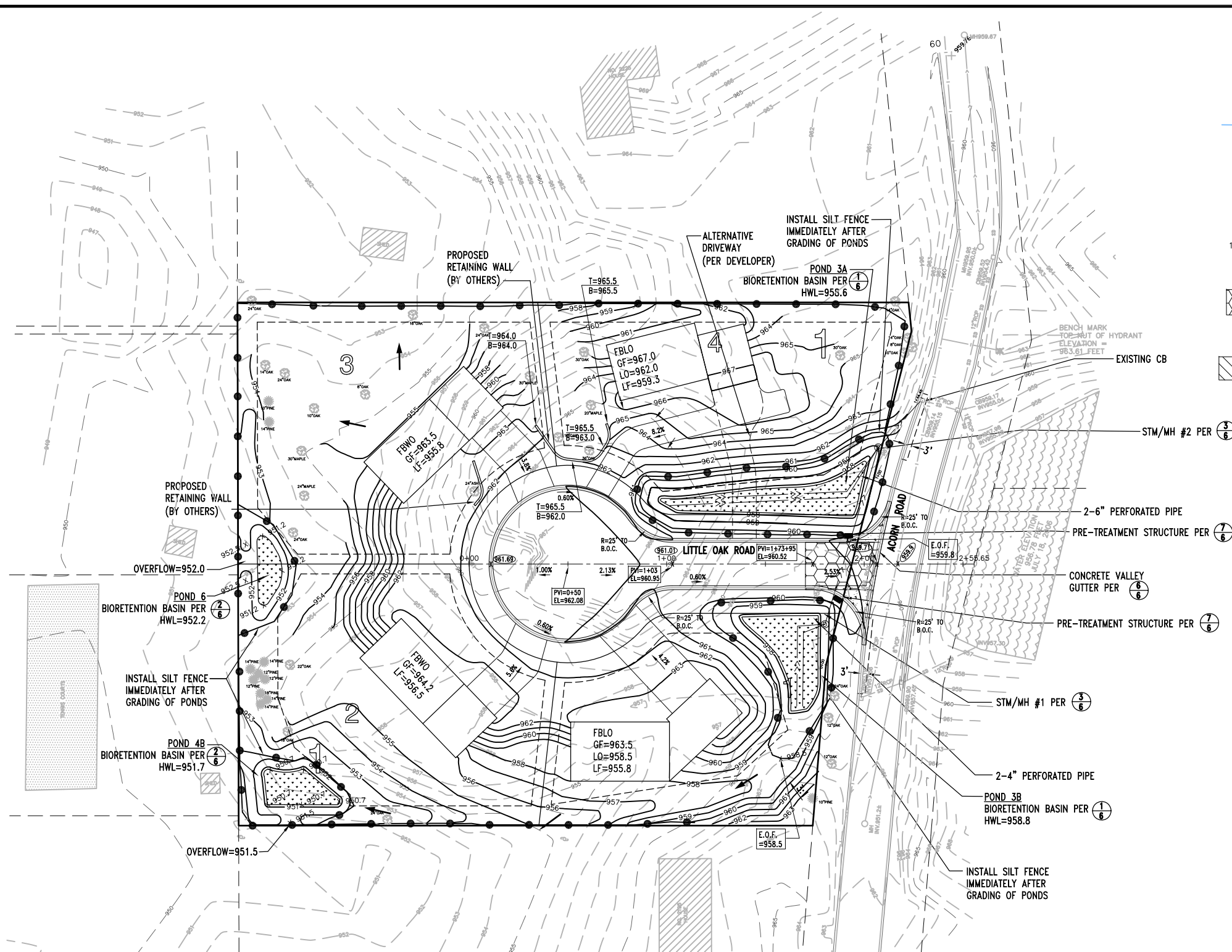
|              |                    |     |                |
|--------------|--------------------|-----|----------------|
| CB           | CATCH BASIN        | SB  | SETBACK LINE   |
| (D)          | DEED DIMENSION     | SAN | SANITARY SEWER |
| D&UE         | DRAINAGE & UTILITY | SD  | STORM SEWER    |
| EASEMENT     |                    | WAT | WATER LINE     |
| HYDRANT      |                    |     |                |
| MH           | MAN HOLE           |     |                |
| (M)          | MEASURED DIMENSION |     |                |
| UTILITY POLE |                    |     |                |

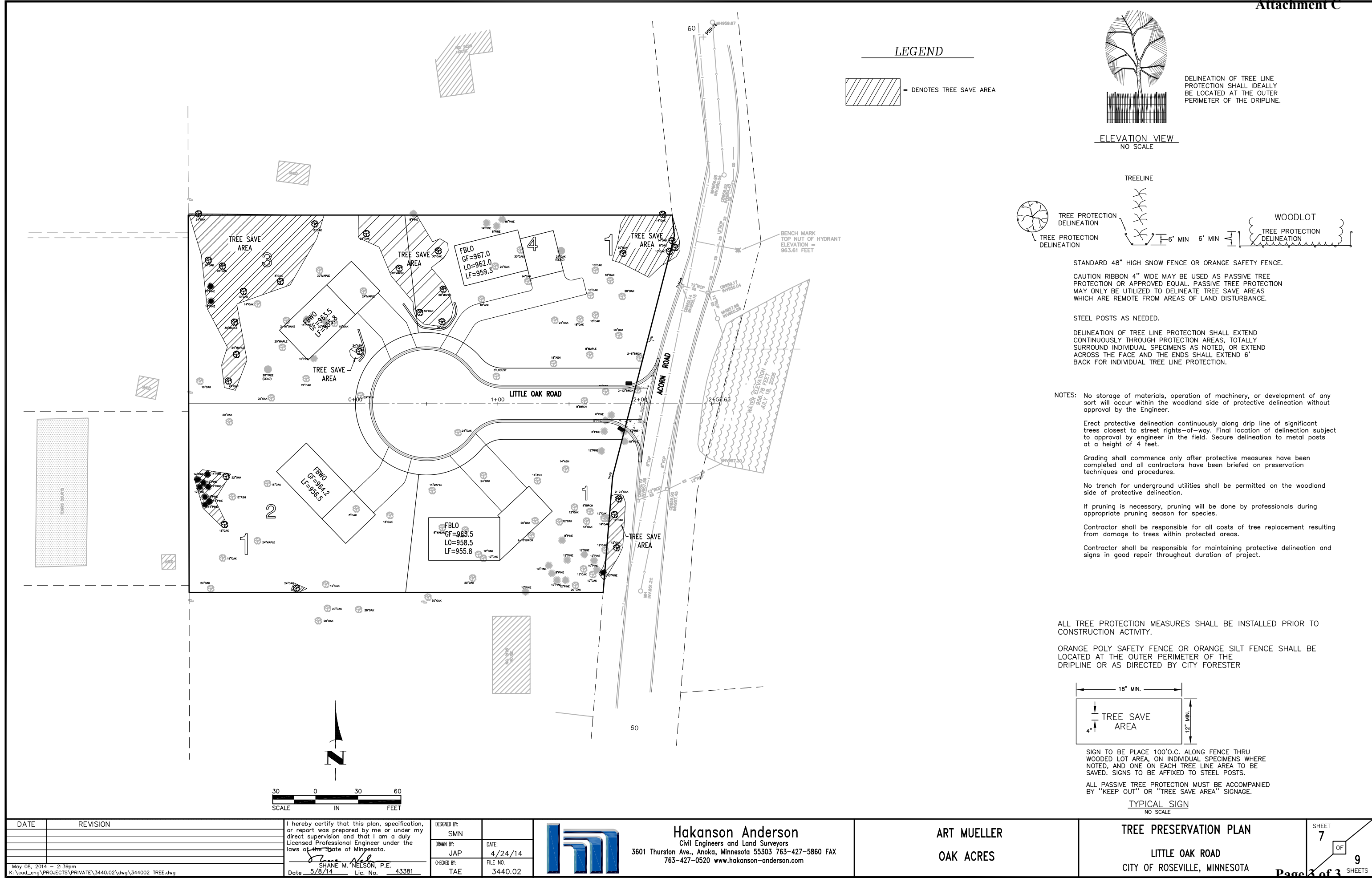


|      |          |                                                                                                                                                                                                                                                                                                              |                     |  |                                                                                                                                                                     |                          |                                                  |                                 |
|------|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------|---------------------------------|
| DATE | REVISION | I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Professional Licensed Land Surveyor under the laws of the State of Minnesota.<br><i>Charles R. Christopherson</i><br>Charles R. Christopherson, MN License No. 18420<br>5/7/14 Date | DESIGNED BY:<br>CRC |  | Hakanson Anderson<br>Civil Engineers and Land Surveyors<br>3601 Thurston Ave., Anoka, Minnesota 55303<br>763-427-5860 FAX 763-427-0520<br>www.hakanson-anderson.com | ART MUELLER<br>OAK ACRES | PRELIMINARY PLAT<br>CITY OF ROSEVILLE, MINNESOTA | SHEET<br>1<br>OF<br>1<br>SHEETS |
|      |          | Drawn By:<br>SMM                                                                                                                                                                                                                                                                                             | DATE:<br>5/7/14     |  |                                                                                                                                                                     |                          |                                                  |                                 |
|      |          | Checked By:<br>CRC                                                                                                                                                                                                                                                                                           | FILE NO.<br>3440.02 |  |                                                                                                                                                                     |                          |                                                  |                                 |
|      |          |                                                                                                                                                                                                                                                                                                              |                     |  |                                                                                                                                                                     |                          |                                                  |                                 |

LEGEND

- = DENOTES PROPOSED STORM SEWER
- = DENOTES PROPOSED STORM SEWER STRUCTURE
- = DENOTES PROPOSED SANITARY SEWER STRUCTURE
- = DENOTES PROPOSED SANITARY SEWER LINE
- = DENOTES PROPOSED SANITARY SEWER SERVICE
- = DENOTES PROPOSED WATERMAIN SERVICE
- ELEV = DENOTES ELEVATION
- = DENOTES PROPOSED DRAINAGE FLOW
- = PROPOSED RIPRAP
- X 898.8 = PROPOSED GROUND SPOT ELEV
- 892.44 = PROPOSED STREET CENTERLINE ELEV OR PROPERTY CORNER ELEV
- 1.2% → = PROPOSED STREET/DRIVEWAY GRADE
- FBWO = FULL BASEMENT WALKOUT
- GF=895.0 = GARAGE FLOOR ELEVATION
- LF=887.3 = LOWEST FLOOR ELEVATION
- = PROPOSED ROCK CONSTRUCTION ENTRANCE
- T=965.0 = PROPOSED TOP ELEVATION OF WALL
- B=962.0 = PROPOSED GROUND ELEVATION AT BASE OF WALL
- = INFILTRATION POND
- = EXISTING UTILITY POLE GUYWIRE
- = EXISTING SOIL BORING
- = EXISTING GATE VALVE
- I- = EXISTING WATER LINE
- = EXISTING SANITARY SEWER LINE
- = EXISTING STORM SEWER LINE
- = EXISTING MAILBOX
- X---X--- = EXISTING FENCE
- = WOODED AREA
- = DRAINAGE AND UTILITY EASEMENT
- = SETBACK LINE
- = EXISTING TREES
- T- = EXISTING OVERHEAD TELEPHONE LINE
- GAS- = EXISTING GAS MAIN
- = EXISTING SANITARY SEWER MANHOLE
- = EXISTING HYDRANT
- = EXISTING STORM SEWER MANHOLE
- = EXISTING CATCHBASIN
- = EXISTING POWER POLE
- = DENOTES EXISTING CONTOURS
- X 855.62 = EXISTING SPOT ELEV
- 880 --- = DENOTES PROPOSED CONTOURS
- = DENOTES SITE TRIANGLE LINE
- = DENOTES DRAINAGE AND UTILITY EASEMENT
- = DENOTES PROPOSED SILT FENCE
- E.O.F. =895.0 = DENOTES EMERGENCY OVERFLOW ELEVATION





| DATE                                                    | REVISION |
|---------------------------------------------------------|----------|
| May 08, 2014 - 2:39pm                                   |          |
| K:\cad_eng\PROJECTS\PRIVATE\3440.02\dwg\344002 TREE.dwg |          |

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.

SHANE M. NELSON, P.E.  
Date 5/8/14 Lic. No. 43381

|              |         |
|--------------|---------|
| DESIGNED BY: | SMN     |
| DRAWN BY:    | JAP     |
| CHECKED BY:  | TAE     |
| DATE:        | 4/24/14 |
| FILE NO.     | 3440.02 |



**Hakanson Anderson**  
Civil Engineers and Land Surveyors  
3601 Thurston Ave., Anoka, Minnesota 55303 763-427-5860 FAX  
763-427-0520 www.hakanson-anderson.com

ART MUELLER  
OAK ACRES

**TREE PRESERVATION PLAN**

LITTLE OAK ROAD  
CITY OF ROSEVILLE, MINNESOTA

SHEET 7 OF 9

Page 3 of 3 SHEETS

2/19/14

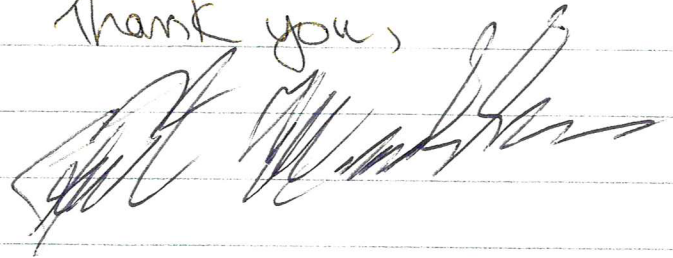
Dear Tom,

I had the open house on 2/18/14, as requested, 101 invitations, were sent out, and 8 showed up. Five were for the project and 3 had questions.

1. water discharge
2. traffic
3. did not want change in the neighborhood

Should you have any questions, give me a call. [REDACTED]

Thank you,

A handwritten signature in black ink, appearing to be "J. M. [unclear]", written in a cursive style.

1 **PLANNING FILE 07-039**

2 **Request by Arthur Mueller, owner of the residential property at 2201 Acorn Road, for approval of a**  
 3 **PRELIMINARY PLAT of the property into four (4) lots**

4 Chair Gisselquist opened the Public Hearing for Planning File 14-009 at 6:35 p.m.

5 Senior Planner Bryan Lloyd reviewed the request of the applicant for approval of a PRELIMINARY PLAT,  
 6 platting the residential parcel at 2201 Acorn Road to accommodate four, single-family residential lots  
 7 around a short cul-de-sac street, as detailed in the staff report dated June 4, 2014.

8 Mr. Lloyd highlighted several sections of the staff report, including Section 4.1 that noted that this plat was  
 9 the same one presented and approved August 27, 2007, but never filed with Ramsey County, and  
 10 therefore expired. Mr. Lloyd advised that the only differences in this proposal were a result of regulatory  
 11 changes for stormwater management and the applicant's submittal of drainage-related plans redesigned  
 12 to meet those current standards. Mr. Lloyd clarified that City Council approval of the plat allows the City to  
 13 apply conditions to ensure that the likely impacts to roads, storm sewers and public infrastructure on and  
 14 around the subject property are adequately addressed. As noted in the conditions recommended in  
 15 Section 7 of the staff report, the applicant will continue to work with the City's Public Works/Engineering  
 16 Department to address stormwater and infrastructure requirements as the projects goes through the  
 17 permitting process.

18 Mr. Lloyd also briefly reviewed Section 5.4 of the staff report related to City Code Section 1011.04 (tree  
 19 preservation), advising that a tree survey had been provided, but was still under review by staff and final  
 20 approval was also a conditional as part of the final plat.

21 Mr. Lloyd advised that, since the staff report distributed, staff had received one e-mail in support of the  
 22 proposal which is provided for the public in the back of the room, ***attached hereto and made a part***  
 23 ***hereof***. Mr. Lloyd further noted that he had received a phone call earlier today from a neighboring  
 24 property concerned with the potential negative impact of the subdivision being approved, and introduction  
 25 of another road that could erode property values nearby and negative impact and exacerbate the existing  
 26 drainage problems in the area due to additional impervious surfaces (e.g. roads, rooftops).

27 Relative to drainage and stormwater concerns, Mr. Lloyd noted that current regulations of the City and  
 28 Watershed District require a stormwater plan that addresses those requirements; and the development  
 29 would not be allowed to increase existing drainage problems; but it would neither be required to solve the  
 30 area drainage problems other than what did or did not leave the subject site, or in other words a neutral  
 31 effect.

32 Stormwater plan addresses requirements without technical training – offer that development not allowed  
 33 to make drainage problems worse – not solve regional stormwater problems, but leaving site same as site  
 34 before development - neutral

35 Mr. Lloyd advised that, after staff's analysis, they recommended approval of the request, as conditioned.

36 **Discussion**

37 Member Boguszewski questioned why the plat approved in 2007 had not been filed, since it was the  
 38 same applicant and essentially the same preliminary plat.

39 Other than to explain that staff was aware of a lawsuit having been brought against the project of  
 40 applicant following that approval that took time to resolve, after which the residential housing market  
 41 dropped significantly and may have been an additional factor in impacting development, Mr. Lloyd  
 42 deferred to the applicant to respond to that when he was recognized by the Chair.

43 At the request of Member Boguszewski, Mr. Lloyd briefly reviewed park dedication requirements and/or  
 44 cash-in-lieu of land, as detailed in Section 5.5 of the staff report, in accordance with subdivision code  
 45 requirements. Mr. Lloyd advised that typically, new building sites created in excess of one acre

anticipated impacts to nearby parks, triggering a park dedication fee/land process built into code to acquire additional land from a new development for park land as appropriate. In this case, Mr. Lloyd noted that the Parks & Recreation Commission recommended cash in lieu of land for dedication to make additional capital improvements to nearby parks. Mr. Lloyd clarified that this action was recommended to the City Council in their role, and would become part of the City Council's resolution of approval of a final plan when the project proceeded to that step.

At the request of Member Boguszewski, Mr. Paschke and Mr. Lloyd advised that, at the development's tree preservation plan would be reviewed as the process proceeded based on current code.

Member Daire asked the proposed price point of the new homes in this subdivision, which Mr. Lloyd deferred to the applicant when called upon later by Chair Gisselquist.

Member Daire stated that the purpose of his question was to determine if the properties and structures would be similar to the average estimated market value of surrounding properties – in other words, enhance those values, or diminish values as alleged by public comment to-date, and ultimately raising property taxes for those existing homes.

Mr. Lloyd stated that it was a general concept, that new construction typically provided a positive principle on existing properties. In a phone call he'd received related to this project, Mr. Lloyd advised that the caller referenced a recent listing of a neighboring home significantly less than the apparent asking price based on online research of approximately one month ago by this same caller. Mr. Lloyd opined that neither of those reference sources may be aware of the 2250 Acorn Road property which had been the subject of another recent approval for a subdivision approved in the mid-1990's but never recorded, and also recently re-approved; and indicating a lower listing price based on one home and ½ parcel and 1 vacant lot at the time of appraisal versus when fully developed; advising that therefore, the caller's perception may not be up-to-date or accurate.

Member Stellmach questioned the minimum roadway standards now and in 2007 when the plat was original approved, with Mr. Lloyd confirming that the same standard requirements of 60' remained.

Member Stellmach further asked for examples of similar width cul-de-sacs of 50' width in Roseville and how they functioned.

Mr. Lloyd advised that last summer, a similar roadway width was approved for Josephine Heights Plat on Millwood Avenue, creating another short cul-de-sac with limited rights-of-way. Mr. Lloyd advised that this requirement had been in place for some time, and while he couldn't speak to how often it had been used, there appeared to be no correlation between reduced right-of-way standards and the operation of those roadways.

Mr. Paschke concurred, noting that it was typical for infill development to have a similarly reduced radius design, with a number of them in place throughout the City of Roseville.

#### **Applicant Art Mueller, 2201 Acorn Road**

At the invitation of Chair Gisselquist, Mr. Mueller advised that he had nothing to comment on beyond the staff report and noted that he was not asking for any variances, and had designed the plat in accordance with all requests and requirements of the City to-date.

At the request of Member Boguszewski, Mr. Mueller advised that he had not completed filing the project in 2007 due to the lawsuit filed by neighbors and subsequent 1.5 year delay; along with his wife becoming sick with Alzheimer's disease, and since having passed away.

Member Daire complimented Mr. Mueller on the professional assistance he had sought in laying out the preliminary plat and completeness of the presentation.

Mr. Mueller thanked Member Daire for his comments, opining that the engineers had done a good job on the plat.

At the request of Member Cunningham, Mr. Mueller advised that he had won the lawsuit, which was just filed as a nuisance, and therefore the way had once again been cleared to proceed with the development.

### Public Comment

#### **Vivian Ramalingam, 2182 Acorn Road**

Ms. Ramalingam stated that, when the project was first mentioned in 2007, with Mr. Mueller seeking a petition of support from the neighborhood, he proposed dividing the current property into two for an additional home to care for his wife, which the neighborhoods agreed to – dividing the property into two. However, by the time the project came before the Planning Commission, it had grown into a project dividing the property into four parcels, creating a considerable amount more density than supported by the neighborhood. Ms. Ramalingam noted that the neighborhood currently supported spacious lots, and it was the concern of the neighbors that by dividing the property into four parcels would detract from properties across the street, three of which were on very spacious lots, in addition to the negative impacts and cramped proportions of squeezing four homes onto this parcel.

Noting that Mr. Mueller had already removed a considerable number of trees on his property almost immediately after meeting with the Planning Commission in 2007, Ms. Ramalingam questioned the tree preservation aspect in that context and what kind of tree restoration was intended.

Chair Gisselquist reminded residents that, even if there was no proposal or development underway, a private property owner could clear-cut their lot if they so chose to do so; however, as part of a redevelopment proposal, the City could recommend tree preservation and replanting accordingly.

Mr. Paschke concurred, noting that with the City's current tree preservation and/or replacement ordinance, there was an allowance for certain trees to be removed off the top, based on a certain percentage regardless of their species and typically located in soon-to-be public rights-of-way or easement areas, or within areas where home sites will be located. Mr. Paschke clarified that the City's tree ordinance dictated trees by inches for removal, preservation and/or replacement; and if more existing trees were removed than allowable under the ordinance, the property owner/developer would be required to replace those trees. While there may have been some trees already removed, Mr. Paschke advised that, as part of the permitting, inspection and final plat process, staff would specifically review the site and the developer's proposed tree plan and inventory appropriately; and upon its completion, will be required to replace the inches of trees and replant accordingly.

In context, Mr. Lloyd noted that a few of the trees around the site were dead, as noted in the applicant's tree preservation plan as presented, and some removals involved those; however, he concurred that staff would be verifying the actual tree inventory on site during the process.

At the request of Member Boguszewski, Mr. Paschke confirmed that if a property owner chose to remove all the trees on his single-family residential lot, he could do so; and that the tree preservation ordinance would only be triggered by improvements (e.g. major home addition or installation of a new driveway) and the need to understand what if any impact there would be on existing trees, and if necessary provide fencing to protect those existing trees or develop a modified tree preservation plan for redevelopment, with a full-fledged plan provided.

At the request of Member Cunningham, Mr. Paschke clarified that staff would assess trees, including those recently cut down as much as possible.

Off microphone from the audience, Mr. Mueller advised that other trees were replanted to replace those already removed.

#### **George LeTendre, 2121 County Road B West**

Mr. LeTendre opined that, according to the preliminary plat the cul-de-sac was shown as 60', yet on the sewer drawings, it showed as 40'.

136 Mr. Paschke advised that there were two drawings: one for the right-of-way and one for the street itself,  
137 both requirements of the applicant.

138 Mr. LeTendre questioned the radius of the paved surface; with Mr. Mueller responding off microphone  
139 from the audience that it was 80' across.

140 Mr. Paschke advised that, as previously indicated by Mr. Lloyd, City Code required a greater radius for  
141 street width, but it also gave the Public Works Director flexibility to approve something less than that,  
142 which had already been done on a number of occasions (e.g. Millwood Plat in 2013 among others); and  
143 what was shown in the drawings – and approved in 2007 for this particular plat as well – is the radius and  
144 right-of-way substandard to typical requirements spelled out in code, but met within the exception clause  
145 approved by the Public Works Director.

146 Mr. LeTendre asked if it was 60' per code; with Mr. Lloyd displaying Section 1003.02 of City Code related  
147 to street width, and minimums approved by the Public Works Director for street widths, and Section  
148 1103.021 for the range of alternatives. Mr. Lloyd advised that the actual construction plan provided for a  
149 40' radius for the turnaround area, which was below standard, but supported by the Public Works Director  
150 and previously by the City Council in their approval in 2007.

151 At the request of Mr. LeTendre, Mr. Lloyd confirmed that this would be a public street, with the City  
152 responsible for its future maintenance

153 Mr. LeTendre also asked the price point for these proposed lots, as requested previously by Member  
154 Daire.

155 Member Daire clarified that he had sought information on the price point of the proposed structures, not  
156 the land itself; opining that the land undergirding the structure may be the same as that of surrounding  
157 properties; and that the difference may occur in actual sale price of the proposed new residential  
158 structures as opposed to the existing structures.

159 Mr. LeTendre stated that he was interested in that information as well. Mr. LeTendre also noted ponds # 6  
160 and 4.b show that they would overflow onto neighboring properties; and questioned if the Commission  
161 had addressed that or not with the City Council; however, he opined that such a design or circumstance  
162 would not be upheld in court. If the Commission approved this proposal, Mr. LeTendre asked that they  
163 make it a contingency that no water from the development's ponding overflows onto neighboring  
164 properties.

165 Mr. Paschke advised Chair Gisselquist that the City Engineer could comment on the preliminary plan at  
166 the discretion of the Chair.

167 Member Boguszewski suggested staff comments and/or responses be held until after citizen comment  
168 was heard.

169 Mr. LeTendre further noted several areas shown on the plat "restraining walls by others" and wondered  
170 what that meant, whether the developers would still pay for them, or what the intent was.

171 Mr. Paschke advised that the applicant could respond to that question; but assumed it was a by-product  
172 of the lot itself and development of final home designs, typically a responsibility of the builder to install  
173 them consistent with the plan, and approved by the City.

174 Mr. LeTendre noted the notation "alternative driveway by developer," but noted that none was actually  
175 shown, and questioned that intent.

176 Member Daire noted that the alternative driveway shown on the plat cut south across the retention pond  
177 area.

178 Recognizing that, Mr. LeTendre asked how the Planning Commission would address that, and if the  
179 developer uses the pond, would the alternative go away.

Mr. Paschke clarified that it was actually the other way around; the pond was the controlling mechanism as to where the house would/could be located, and would need to be designed for a driveway further to the north, and not across the pond.

At the request of Chair Gisselquist, City Engineer and Assistant Public Works Director Marc Culver responded to questions of the public and Commission.

**Marc Culver**

In respect to the question related to overflow of two infiltration basins on the west side of the property, Mr. Culver noted that it did show potential overflows onto adjacent parcels. While unable to address what would be held up in court, from his standpoint, Mr. Culver advised that overflow basins were designed to withhold water for certain 100 year rainfall events – 7 inches over a 24-hour period, in excess of that, they would overflow into existing drainage patterns existing today. Mr. Culver advised that staff contends that the plan shown provides a reduction in overall drainage to the area, in essence capturing more stormwater than today; and as indicated by Mr. Lloyd, improved previous requirements slightly.

At the request of Member Boguszewski, Mr. Culver confirmed that the proposed development would be an improvement on the current situation in terms of runoff in the neighborhood.

Member Murphy concurred, noting that at the end of the day, the runoff from the proposed development cannot be greater than today; with Mr. Culver responding affirmatively. Member Murphy noted that, while there may be significant runoff today, with this plan, tomorrow there may be less. Mr. Culver agreed, noting that it was difficult to predict future excessive rainfall events versus typical events.

With recognition by Chair Gisselquist, **Mr. Mueller** came forward and clarified that a neighbor directly behind his property (Irv Cross) experienced repeated flowing of his backyard, with the last excessive rainfall finding water standing in their tennis court. When the south side pond was originally installed half way between his lot line and the road behind it, Mr. Mueller advised that it was intended to drain all of that property. However, Mr. Mueller opined that its location should have actually been dropped another six inches, as it does flood across Mr. Cross's property; and if dropped, Mr. Cross's land would be okay. Mr. Mueller further noted that, a creek from Midland Grove through the lot next to his and south, then west out to the street had originally been available to help drainage, but neighbors had filled it in, with the City subsequently putting in a drain halfway through it to catch excess runoff.

Regarding the projected sales price of homes and/o lots, Mr. Mueller responded that they would be equal or above existing homes in the neighborhood.

**Gary Boryczka, 2250 Acorn Road**

Mr. Boryczka state that, the previous time this proposal was brought up in 2007, the neighbors had many concerns about drainage of water; and as the plan is drawn up right now, and even though the Engineer stated there would be no changes, from his perspective, runoff would increase on the south side by the hill, if the hill was removed, and the overflow of the pond will run and add water to the south side directly onto the neighbor's property. Based on his experience in the excavating business for forty-seven years, Mr. Boryczka opined that this whole plan is a pipe dream to get lots in there; and his main concern was that there was no place to drain water. Mr. Boryczka noted that he just had his lot split, and even though it had nothing to do with water, the question was brought up for that minimal  $\frac{3}{4}$  acre parcel, even though no variances were required, and he had provided a place for his water to go prior to it even being brought up by staff.

Mr. Boryczka stated that the major easement to the main culvert draining the whole area goes directly through this property, and with Mr. Mueller's attempt now to make the roadway radius smaller, it was basically so Mr. Mueller could destroy the neighborhood. Mr. Boryczka asked if anyone had looked at some of the larger homes in that neighborhood, opining that no way could anyone built a \$1 million home on these tiny lots, further opining that Mr. Mueller would take his \$400,000 home and demolish it and expect to develop and sell lots. Mr. Boryczka stated "good luck."

Mr. Boryczka stated his other concerns included his rationale for not filing his plat previously, opining that it was in going back originally to the 1960's when water and sewer was installed, and taxes or assessments were deferred for the lot split, he was the second one in. Since no assessments were paid yet, and to him there were excessive, Mr. Boryczka stated that he was waiting to file his plat; until the City made a deal with another Roseville property owner to change the assessments to connection charges, which were then never paid. Since he had three title insurance policies, Mr. Boryczka stated that the first would have covered all this they way it was, but the second he informed the City about it, they changed it and took him to court, with the City stating that all the developer had to do was look at the book on the counter. Therefore, Mr. Boryczka stated that he ended up paying out the money and it took five years to do so, and that was the reason he never filed his plat; which was similar to Mr. Mueller and his problems. Mr. Boryczka opined that the neighbors won the case, at which time the City went back and reworted things, and then the project went ahead; however, by that time, the bottom had fallen out of the market. Mr. Boryczka concluded that this was the story from his perspective.

Mr. Boryczka opined that his main concern was with the water, and whether it should drain to the northwest with no retention to avoid draining onto someone else's land, to the south to the middle, with nothing changed, including the grades; with one future house actually shown in the ditch.

#### **Paul Romanowski, 2195 Acorn Road**

For the record, Mr. Romanowski submitted a formal petition to the Planning Commission, ***attached hereto and made a part hereof***, and entitled, "Petition of neighbors opposed to the development of 2201 Acorn Road." Mr. Romanowski advised that, upon request by neighbors on Acorn Road and the surrounding area to put together a petition, he had done so, and in making his calls had found no one on Acorn Road in support of the project, but all against it, as well as in the surrounding area.

Mr. Romanowski opined that this development would not increase the value of homes in the neighborhood, and if their property value were going to be lowered, then their taxes should be lowered accordingly. Mr. Romanowski noted that the street currently looks like a park, and people from within and outside the neighborhood walk it by the dozens with their dogs and to appreciate the view. Mr. Romanowski opined that everyone likes the area and its beauty, and to him, if Mr. Mueller's project got going, it would be like building a house in the middle of a park; and further opined that the majority of people felt the same way.

#### **Joel Cheney, 2172 Acorn Road**

Mr. Cheney opined that he got all the traffic from Acorn Road, and there was already sufficient traffic for the street width, without adding three more homes and that proportional amount of traffic. While not clear on the regulations and standards with this situation, Mr. Cheney concurred with the park-like atmosphere of the street and walkers with children and/or pets from other neighborhoods using it as well. However, Mr. Cheney noted that this also required some ducking and dodging of those pedestrians as cars come around the corner off County Road B, often making it hazardous, especially at the end of his driveway. If a substandard street and cul-de-sac were brought into the picture, Mr. Cheney opined that it would only exacerbate the situation.

Mr. Cheney also concurred that water was a big issue in this neighborhood, and questioned if the City Engineer had taken into consideration the water flow and additional impervious surfaces (e.g. driveways, roofs, and garages) proposed for the development, and changes it would make in runoff and potential direction. Mr. Cheney questioned if that was taken into consideration when engineering the ponds. Regarding the ponds themselves, Mr. Cheney advised that he'd tried to control water with ponds, and most of it ended up in his basement. If they were intended to address 7 inches of rain in 24-hours, Mr. Cheney opined that they would need to be 8'- 10' deep to hold water, and further opined that he couldn't fathom that those things had been factored in to accommodate a sufficient volume of water. As an example, Mr. Cheney stated that he'd installed a rain garden and after eight years, it no longer existed as it was filled with vegetation; and if the proposed pond volume was also impacted like that, he questioned

if adequate today, would it remain adequate four years from now after significant leaf and acorn drops. If the ponds were to remain viable over time, Mr. Cheney questioned who would be responsible for their oversight when located on private property; when the whole drainage picture could change radically in 5-6 years if the ponds were seen as the solution versus drainage by water channel to another location.

Mr. Cheney sought assurance that these things were being taken into consideration by the Planning Commission.

At the request of Chair Gisselquist, City Engineer Culver responded to the public's questions.

#### Ponds

Mr. Culver advised that any stormwater management mitigation was based on best management practices (BMP's); and in this case indicated an infiltration basis, not simply traditional ponds that would retain water over a long period of time, but in fact designed to accept water and drain it, with what didn't drain, going into pipes underneath the pond to overflow to the two on the west. On the east side basins, Mr. Culver noted that the catch basins that drain overflow into the existing stormwater system would flow north into the overall systems. Mr. Culver assured the public and Commission that the mechanisms were designed from that drainage perspective.

While not having committee the entire drainage report to memory, Mr. Culver advised that City staff and Watershed District staff were tasked with review of drainage reports as well as oversight and their provided requirements to be met as a project and/or development was permitted by both those jurisdictions, including a Maintenance Agreement signed by the developer with the Watershed District.

For the purposes of a public road, Mr. Culver stated that staff would like all the water to drain into one of those facilities; and had a blanket agreement with the Watershed District that would include any future homeowners association in lieu of the developer for that agreement to address other basins accepting private water. Mr. Culver noted that there were already a number of such agreements across the City – both large and small – with those property owners having to install similar stormwater devices to deal with the requirements of the City and Watershed District. Mr. Culver advised that the City maintained an inventory of all of those private best management practices, and will be tasked with monitoring and inspecting them, as well as a recurring permit for those private BMP's for recertification as well.

At the request of Mr. Cheney, Mr. Culver advised that, at this time, there was no proscribed mandatory inspection schedule to ensure maintenance is being met, but advised that staff's goal was to have recertification or inspections occur on a minimum five year basis.

Mr. Cheney suggested that the inspections would most likely be complaint-based, with Mr. Culver admitting that essentially that could also occur, but assured all that staff was attempting to be more proactive than reactive; and as more private BMP's came on line, there would be added staff to work with Watershed Districts to maintain recertification and inspection routines.

Mr. Cheney questioned if in fact the intent of the ponds was to slow drainage versus holding it, with Mr. Culver stating that the ponds captured a significant amount of water during big events; and held some while some overflowed. However, Mr. Culver reiterated that it was difficult to predict future events and design for those events; even though the basins were designed with permeable materials (e.g. engineered soil). Mr. Culver noted that the effective depth of the device is often more than observed, based on engineered soil to allow water to flow into it and ultimately down to further soil layers and/or drain tile.

At the request of Mr. Cheney, Mr. Culver confirmed that if the soils were clay, typically clay tile would be installed underneath for draining.

At the request of Mr. Cheney, Mr. Culver confirmed that City and Watershed District staff dictated the technical aspects of ponds, not the developer; and any lack of maintenance by a property owner or

homeowner association requiring the City to access and perform that maintenance would in turn be charged back to the property owner based on the signed maintenance agreements.

At the request of Member Murphy, Mr. Culver addressed current traffic counts versus projected additional traffic from the addition of three homes, which he opined would be negligent based on his experience with traffic patterns during peak hours. Under typical PM peak hours, Mr. Culver estimated an additional 3 – 4 cars for this class of street, based on a range of 200-300 vehicle trips daily and considering density and an average of ten trips per day for each single-family home. Mr. Culver noted that there may be some traffic using the street as a cut-through, which was an existing issue as well, but the addition of 3-4 additional homes would not create any great fluctuation based on averages. Mr. Culver noted that while there were exceptions, it was surprising how consistent reality was with those models used for traffic studies.

At the request of Member Murphy, Mr. Culver confirmed that no flags had been raised related to additional traffic; with collector streets typically having 1500 vehicles or more per day; and anything below that was considered to be not problematic.

At the request of Member Murphy, who opined that traffic counts on County Road B had significantly changed before and after the I-35W bridge collapse; Mr. Culver concurred, further noting that, with discussions related to the County Road B Pathway installation later this summer, a dramatic drop in traffic volumes was noted, with his recollection of current volumes around the 2,000 range.

Specific to home values, Mr. Cheney noted that at the open house held by Mr. Mueller, Mr. Mueller indicated that the lots would sell for about \$350,000 or more each; and questioned if that was still accurate.

Off microphone from the audience, Mr. Mueller questioned the validity of that statement and/or understanding.

Mr. Cheney opined that \$250,000 was the maximum anyone had ever received before the real estate bubble collapsed; and if the basis for this development was based on those kinds of numbers, he questioned what would happen if they were not achievable and what would happen to the subdivision; or if the lots were completed, the ponds installed, but no houses built, or the development essentially bankrupted. If the property potentially went into bankruptcy, or was sold to the lowest bidder, Mr. Cheney opined that it would not be good for the neighborhood. Mr. Cheney referenced a home that recently sold on the corner across from his property that was purchased for \$250,000, even though it was put on the market at \$800,000 before the crash. Mr. Cheney questioned if the neighborhood could support \$1 million houses in general, other than one rather exceptional one, but expressed concern if the Planning Commission granted approval and while everyone remained well-intentioned to build up the City's tax base and build houses, if it didn't work, who would be left with the debt, not the City or Commission, but the neighborhood. Mr. Cheney asked that the Commission take that into consideration, as the financial aspect of the project is important.

Member Daire advised that this was his rationale in asking about price points, but noted that he had heard that they would be offered at as much or more than current properties.

Chair Gisselquist clarified that the land owner assumes the risk; and noted that, there were several instances around the community for subdivisions and infill development, which had all seemed quite successful. While no one essentially knew what was going to happen, and life was risky, Chair Gisselquist opined that from the Planning Commission's point of view, they were looking at the plat, not financial aspects and economy, which was outside their realm. However, Chair Gisselquist opined, from his perspective, it may prove to be a successful endeavor.

Mr. Cheney noted that, as always, he wished everyone well in their endeavors.

**Nicholas Amlie, 2265 Acorn Road**

Mr. Amlie noted the severe drainage problems in this area, and opined that he was very skeptical as to the engineer's assessment as to how drainage problems will be alleviated. In his conversation with Mr. Lloyd earlier today, Mr. Amlie advised that he had asked about the metrics of the proposed drainage alleviation, opining that if they were the same ones who had approved the drainage situation for his home. Mr. Amlie advised that it was going to cost him thousands of dollars or more to fix it due to the thick clay soil, and water not assimilating. Mr. Amlie noted that he had seen Planning Commissioners driving through the neighborhood, and asked that they do so after a significant rain to observe the stream of drainage going through his property. While it may not have anything to do with the Mueller property, Mr. Amlie opined that once the Commission gave its go-ahead, and his situation only became worse; he questioned what his recourse would then be.

Mr. Amlie opined that the neighborhood unanimously opposed this project, as they understood it to be detrimental to their property values; and further opined that therefore, it would be irresponsible for the Commission to approve it if only on that basis. Mr. Amlie noted previous comments about the property being successful, and questioned for whom, Mr. Mueller or the neighborhood. Mr. Amlie stated that he walked the area daily, and opined that the number of people driving down the street far exceeded the engineer's estimate; and with no sidewalk, there was no other place to walk safely. Mr. Amlie encouraged the Commission to reject this proposal.

Chair Gisselquist closed Public Hearing at 7:50 p.m.; no one else spoke for or against.

**MOTION**

**Member Murphy moved, seconded by Member Boguszewski to recommend to the City Council APPROVAL of the proposed OAKE ACRES PRELIMINARY PLAT; based on the comments and findings of Sections 4 – 6 and the recommendation of Section 7 of the staff report dated June 4, 2014.**

**Commission Discussion**

**Chair Gisselquist** recognized the opposition from the neighborhood, represented by their formal petition to that affect. However, in the end, Chair Gisselquist opined that in approving the plat, as a property owner, Mr. Mueller had a right to do a lot of things, and had come forward with a plat to reorganize his lot to sell and dispose of a portion of the property. Since it seems that the plat met the legalities of current City Code, even with a substandard road that was supported by the City Engineer, Chair Gisselquist opined that the plat appeared large enough to handle four, single-family homes in that area, and he deferred to the Public Works Department and Planning staff's expertise in making their recommendations.

While ponding solutions are always challenging, Chair Gisselquist, living on the other side of Cleveland Avenue in an area with similar drainage issues, stated that he was very familiar with how ponds worked and drained. Chair Gisselquist noted that water was dealt with differently as the years went by, and further noted that Mr. Mueller had noted the creek was filled in by neighbors in the past which would no longer occur with current Watershed District rules. Chair Gisselquist observed that the new plat allowed for four ponds located in a way to best mitigate drainage; and while the goal was not to solve the existing neighborhood water problems, it could not make them worse than they are.

Chair Gisselquist agreed with staff's analysis and felt it would meet the needs of the development and neighborhood and not prove overly-burdensome in additional traffic in the neighborhood, and therefore, he spoke in support of the motion.

**Member Boguszewski** stated that he agreed with most of Chair Gisselquist's comments, with a few additional thoughts. In his review of the written petition and the five points raised, Member Boguszewski opined that the engineering solution should work to address drainage concerns; and expressed his need to accept the testimony of the City Engineer on soils and increased quality of retention and control in the future.

412 Specific to the petition's concerns with tree removal from the property, Member Boguszewski stated that  
413 those issues had been previously addressed tonight, and an inventory would be taken in accordance with  
414 tree preservation plans.

415 Regarding density of homes and their contrast with the present community standard of large lots, Member  
416 Boguszewski opined that, while that may be true for a certain section of the community, it was not true for  
417 all, including some of the lots across Acorn (e.g. 2282 or 2182) on the other side of the ponds. While it  
418 may be denser, Member Boguszewski opined that to him, density was something that needed to be  
419 protected in some of those areas.

420 As far as traffic flow, Member Boguszewski noted that this had also been addressed tonight; and the  
421 proposed road construction met standards in place.

422 Requiring the developer to post a bond to assure neighbors of completion of the project, Member  
423 Boguszewski opined that completion of the infrastructure, as part of the proposal, was already assured.

424 Therefore, Member Boguszewski opined that all issues listed in the petition had been addressed from his  
425 perspective and to his satisfaction; and other items the Commission did not have any control over as  
426 already pointed out by Chair Gisselquist. Member Boguszewski opined that it was the right of any  
427 property owner, within the law and code standards in place, to develop their property; and therefore, he  
428 advised that he would support the motion.

429 **Member Murphy** concurred with the two previous speakers. As a Planning Commissioner, Member  
430 Murphy opined that the applicant was not requesting any variances to develop this property as proposed;  
431 and therefore was meeting all appropriate city codes in place. While initially having some traffic concerns,  
432 Member Murphy opined that he didn't believe three additional homes, which he found minimal, would  
433 have any great impact on current traffic patterns and volumes, especially with the closure of 280 at  
434 County Road B, which had caused a significant decrease in traffic in this area already. Since he found the  
435 traffic from these three additional homes not to be significant from his perspective, or create additional  
436 burdens in the area, Member Murphy spoke in favor of the proposal.

437 **Member Stellmach** expressed appreciation for the public comments, noted that he understood their  
438 concerns, and sympathized with the issues they'd raised. Member Stellmach stated that from his  
439 perspective, a preliminary plat came down to whether or not the proposed development was compliance  
440 with City Code, and opined that staff had shown that it was; and noted the amount of time and effort  
441 expended to ensure drainage was adequate and would not exacerbate existing drainage problems, with  
442 changes made to improve the drainage even more since originally approved in 2007. Member Stellmach  
443 spoke in support of the proposal.

444 **Member Cunningham** expressed her appreciation for the public comment as well and concerns  
445 expressed. However, Member Cunningham opined that the Commission's hands were tied based on their  
446 jurisdiction in plat review and approval versus home values and current neighborhood standards. Member  
447 Cunningham advised that she would support the motion; and expressed her respect for staff and their  
448 expertise in addressing tree preservation and drainage issues in accordance with code. Member  
449 Cunningham encouraged the public to continue bringing their concerns to the City Council; but advised  
450 that she would be voting in favor of the proposal.

451 **Member Daire**, in his review of the plat provided to the Commission by City Planners, advised that he  
452 immediately noticed to the north of 2201, lot 2225 on the petition that belongs to James Killum and asked  
453 if he was present, which he was not. Visually, Member Daire noted that it appears that his lot size was the  
454 same as 2201, and looking at his proposed lot in the petition, he would hold that question accordingly;  
455 and offered no further comment at this time.

456 **Ayes: 6**  
457 **Nays: 0**  
458 **Motion carried.**

**PETITION OF NEIGHBORS OPPOSED TO THE DEVELOPMENT OF 2201 ACORN ROAD, ROSEVILLE, MN**

We, the undersigned, oppose the proposed development of the property located at 2201 Acorn Road, Roseville, MN 55113. Our concerns include the following:

1. Drainage/ponding issues for the proposed development have not been addressed. The developer should be required to provide full and complete drawings showing how storm water will be retained on the property.
2. Many of the trees located on the property will be removed. As part of the approval process, the Developer should be required to replace, on a one for one basis, the trees that will be removed during development.
3. The density of homes created by the proposed development will contrast with the present community standard of large lots.
4. When Acorn Road was most recently improved, the City permitted variances from the standard road construction. The width of Acorn Road is narrower, and lacks curbs, compared to a typical City street. These variances were at the request of the property owners abutting Acorn Road, including the Developer of 2201 Acorn Road. The property owners wished Acorn Road to remain a "neighborhood" street, without development of the large lots.
5. If the development is approved, the Developer should be required to post a bond to assure the neighbors, and the City, that the road into the development, the ponding, and other infrastructure, will be completed.

GEORGE A. LETENDRE

Print name



Signature

2121 CTY. RD. B WEST

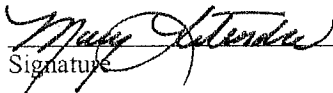
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8/18/2013

Date

Mary Letendre

Print name



Signature

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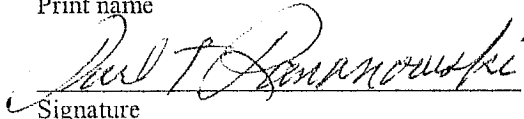
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8/18/13

Date

PAUL T. ROMANOWSKI

Print name



Signature

2195 ACORN Rd

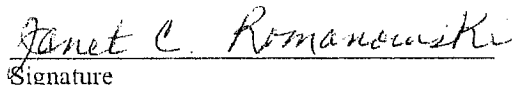
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8/20/13

Date

JANET C. ROMANOWSKI

Print name



Signature

2195 ACORN Rd

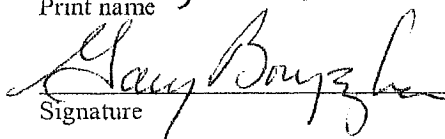
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8/20/13

Date

GARY BORYCZKA

Print name



Signature

2250 ACORN Rd

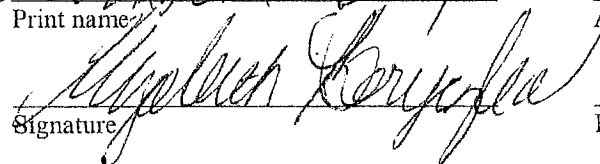
Address

8-23-13

Date

ELIZABETH BORYCZKA

Print name



Signature

2250 ACORN Rd.

Address

Rossmore8/24/13

Date

2

JAMES KILAU

Print name



Signature

2225 ACORN Rd

Address

8-26-13

Date

LOU GARDNER

Print name



Signature

2151 W. County Rd B

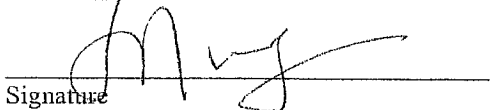
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8/26/13

Date

SUBBIAH RAMMALINGAM 2182 ACORN ROAD

Print name



Signature

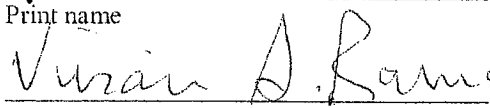
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8/26/13

Date

VIVIAN RAMALINGAM 2182 ACORN ROAD

Print name



Signature

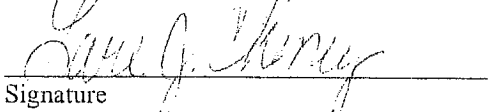
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8/26/13

Date

Lori Cheney

Print name



Signature

2172 Acorn Road

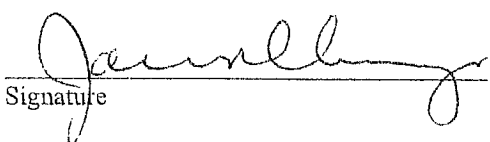
Address

8/27/13

Date

Joel Cheney

Print name



Signature

2172 Acorn Rd

Address

8/27/13

Date

3

Elaine Ashbaugh  
Print name

Elaine Ashbaugh  
Signature

2265 Acorn Rd, Roseville, MN 55113  
Address

8-27-13  
Date

Brandt N Ambie  
Print name

Brandt N Ambie  
Signature

2265 Acorn Rd, Roseville MN 55111  
Address

8-27-13  
Date

Gina Sapia  
Print name

Gina Sapia  
Signature

2151 County Rd B West Roseville MN 55113  
Address

8/28/13  
Date

Theresa Greville  
Print name

Theresa Greville  
Signature

2242 Acorn Road Roseville MN 55113  
Address

8/28/13  
Date

Camie George  
Print name

Camie George  
Signature

2192 Acorn Road Roseville MN 55113  
Address

8/29/2013  
Date

Lisa Forsell  
Print name

Lisa Forsell  
Signature

2271 Acorn Rd  
Address

08/28/2013  
Date

4  
Ned T. Wesenberg  
Print name

Ned T. Wesenberg  
Signature

2220 Acorn Rd,  
Address

8-30-13  
Date

THESA HINRICH  
Print name

THESA HINRICH  
Signature

2221 CLEVELAND AVE N  
Address

08-30-13  
Date

RICH HINRICH  
Print name

RICH HINRICH  
Signature

2221 CLEVELAND AVE N  
Address

8-30-13  
Date

JASON FORSELL  
Print name

JASON FORSELL  
Signature

2271 ACORN RD,  
Address

8-30-13  
Date

RICK BERGMAN  
Print name

RICK BERGMAN  
Signature

2245 Acorn Road  
Address

9/5/13  
Date

X LIZ CROSS  
Print name

LIZ CROSS  
Signature

2196 Marion Road  
Address

9/16/13  
Date

5  
NANCY BERGMAN  
Print name

Nancy Bergman  
Signature

7245 ACORN RD  
Address

9/17/2013  
Date

Print name

Address

Signature

Date

Print name

Address

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Print name

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Date

To: Roseville City Councilmembers  
From: Trudi and Jeff Martinco  
Re: Art Mueller's Proposed Development

Dear Council members:

We live at 2255 Cleveland Ave. Prior to purchasing our house in 1994 our lot abutted Acorn.

My husband and I would like to voice our support of Art's proposed development. We have a large amount to say and in respect to your time, I've attempted to lay out our thoughts and reasoning as clearly and simply to read as possible..

The Mpls. StarTribune has written several articles on the impacts of Urban Infill. I've included with this email an excellent editorial they wrote on the subject. Below is one key sentence in the editorial that I think sums up opposition to Art's development perfectly.

*"It's (Urban Infill) a change that's not often welcomed by deep-rooted **homeowners who have long assumed that their surroundings were somehow locked in.**"*

In our opinion, drainage, tree loss, traffic, declined property values is all a put up smoke screen to hide the real feeling behind their opposition. They simply don't want to see any kind of change in their neighborhood. Every argument made in the past, present, or future to the council, or to the planning commission, or in court documents made against this development comes down to one simple reality. These **"homeowners assume their neighborhood is immune from change."** We too live in the same neighborhood, yet we realize we are not immune from change, and most time it's for the positive. Or at least we try to figure out how make it work for the positive.

### **Why we support the proposed development**

Acorn does not so much have a park like feel as it does arboretum feel. Parks have children playing and are full of life. Acorn and the surrounding area between Cty Rd B and Cleveland do not. There is only one family with children. There are only 20 houses in 1,074,000 sq. feet. The massive lots, the layout of the neighborhood do not lend itself to a community feeling. In fact, it doesn't feel like a neighborhood. It feels like an area. I would be thrilled to see young families purchase the lots in the Acorn development. It would be great to see kids riding bikes, running back and forth, or skating on the ponds in the winter.

To us this is also a matter of property owner's rights. In this regards, our key argument is:

- Neighbors should not be able to dictate to to their neighbor to keep their large lot intact when city rules allow for it. Imagine the flip side—activists demanding people with large

lots in urban areas split them up (And after reading comments in the Mnpst, sadly, there are many people that feel that way.) In either way, activists or neighbors are telling property owners what is best for the property owner to do with their property. That never seems right to me.

- What's the purpose of local government that establishes zoning rules and city regulations if each neighborhood within the city decides those rules don't apply to them and they know what is best for their neighborhood? Do we want to live in a world where every decision we make has to be voted on by neighbors versus city rules or city council?
- Do we want hundreds of little neighborhood fiefdoms within each city municipality?
- Roseville has quality city staff to make determinations and we elect our local leaders to approve and disapprove of those determinations. Given the desirability to live in Roseville combined with its large commercial and retail; I would say this system has been very successful for our city.
- Government rules and considerations must be granted and followed with same consistency through-out each neighborhood. No neighborhood should seem like it getting special considerations.

#### **Public remarks made during the planning commission**

There were three remarks that struck us most during the public forum. The first two are: "It will ruin the neighborhood," followed by "Art won't answer the price he's asking for the lots." Allow me to comment on these remarks:

Our young adult son was sitting with us when he heard these remarks. His reaction is what surprised me. Keep in mind this is a twenty something young man paying back student loans and along with his girlfriend is searching to purchase a \$150,000 house. He took the question regarding Art's lot prices to mean the neighbors were concerned Art's development would bring in middle to lower income residents that would "ruin the neighborhood." And as I think about it, the question could give that impression.

There is little doubt the value of one's home is directly tied in with demographics and social economic status of the person living there and typically the neighborhood in general. It's not a leap to think that someone asking about home price of a neighboring new development wants to make sure that the people of their same social economic status or demographics live next to them. I do not believe this was anyone's motive for asking the question, but in doing so it could easily be misconstrued by the public as to "what type of people are going to move in next to us?"

It also begs the question, is it really anyone's business what Art is asking for his lots. There are no building covenants in our area. For the sake of argument if Art wanted to sell his lots for \$100K and people came in and built basic middle class housing; wouldn't that be perfectly within Art's rights? All this is why (in my opinion) when a neighbor demands to know the cost

of homes or what Art intends to ask for his lots, it should be a topic that is simply out of bounds for discussion when determining if this development should be approved.

Allow me to move on. I also need to share our reaction with you to a very troubling comment we heard during the public forum from a neighboring attorney, which was “That won’t hold up in court.”

We found this frankly obnoxious, seemingly bordering on extortion, and quite frightening that an attorney would abuse the power of his profession to try and bully the planning commission with a not so veiled threat of suing the city. We believe if a person goes on public record with threats to sue the city, then he should go on public record as what merit he feels he has to sue the city on. Or is this threat simply made knowing that litigation is costly to the city regardless of how meritless the complaint may be? Is this a strategy to use the taxpayers of Roseville’s money and clog up the courts to try and stall the development on Acorn realizing time is against Art?

### **Challenging the arguments that oppose the Acorn development**

The arguments made by the citizens against the Acorn development seem to be summed up as follows:

- Decreased home values
- Old growth tree loss
- Increased traffic/unsafe to take walks
- Lose its park like feel
- Drainage

We believe none of this to the case. In fact we believe Art’s development will increase the values of the home in the neighborhood. I’ve divided each of the above separately with our thoughts on why we disagree with these concerns:

### **Increased Home Value**

- The trend is to locate in urban areas, looking for small lots to build large energy efficient and environmentally friendly homes.
- Edina, Linden Hills, Crocus Hill, Highland Park are examples of areas influenced by this trend. Roseville is feeling the effects of the trend and is becoming a sought out area for builders and developers looking for infill spots.
- New homes typically range from 600K to 1.5 in the above mentioned areas.
- Recently Crocus Hill had a 2 acre parcel divided into 13 lots. They sold almost immediately for a cost of \$270k to \$380K. When a couple lots came back on the market a year later they were snatched up at 20% more.

- Millwood—Out of 6 lots 4 houses have sold or are pending. Original homes came on the market at >\$600. New homes are coming on the market at >\$700. This is an area of homes where the average market value is \$310.

In the Acorn Area:

- There are million dollar homes surrounding the development
- A house on County Road B sold for 260K. It was tore down and replaced with a new Prairie style home.
- A large lot with a mid-century estate home was purchased in 2005 for >500K. The mid-century estate rambler was tore down and replaced with a large stately home.

The above points are to show that there is little supply and high demand to live in a unique urban area. It also indicates the lots could move quickly and the lots and/or houses will demand a high market price- which in the end increases the value of all the homes next to it.

**Even with tree loss the neighborhood can maintain its park like feeling with a good tree preservation plan.**

- Most the woods of Acorn consists of old oaks, pines, spruce, and lots of buckthorn.
- There is no guarantee the large trees won't get hit by decease and need to be cut down regardless of development or building. Ash bore...Dutch Elm?
- Oak especially is decease prone to oak wilt
- Blue Spruce gets needle drop and unsightly after about 10 years.
- Much of the vegetation on Acorn and surrounding areas is buckthorn. Buckthorn is invasive. It kills the vegetation around it. It prevents new oak seedlings from growing. It affects the soils conditions and causes erosion.

To keep the park like feel, the preservation plan should include:

- New hybrid trees that are beautiful and grow relatively fast.
- Plant trees of varying species.
- Buckthorn should be cut and destroyed and replaced with native Minnesota plants.
- Plant trees for how they'll appear 15 years from now. No blue spruce. It only looks good for about 10 years. It is not a native tree and it is not adapting to our conditions.

Which I'm sure all of this something Art plans to do as part of the preservation plan.

My husband and I have vast knowledge on tree loss and maintaining the natural look of your property. We have lost almost 50 trees (most of them mature oaks) from oak wilt since we purchased our property. Thanks to constant replanting and putting together a plan to remove the buckthorn and replace with all native shrubs, our property has maintained the park like feeling. It may be completely different then the park like feeling when we purchased it, but it is still

beautiful. If Art follows a proper tree preservation plan, I have no doubts his development will look beautiful in a new way as well.

**Traffic is not an issue:**

I've passed maybe one car once when I walk on Acorn. We live on Cleveland Drive, which by all accounts would be much busier. I would guess no more than a 100 cars a day even pass on Cleveland Drive.

I do find it somewhat ironic that a couple of the people bringing up traffic purchased or built their homes before Cty Road B was closed off at 280. Prior to that closing, walking on Cty Road B was dangerous with all the traffic and trucks passing by. And I don't think either knew at the time that it would be closed off. Why is traffic an issue for them now?

**Park like feeling**

I can appreciate that if you own a smaller lot next to a larger parcel of acreage, you are going to enjoy the vastness of the neighbor's lot filled with trees. Art's lot is filled with trees. He has told us, many of them he planted himself. His lot is quite beautiful. But it's Art's lot. Even though the neighbors may enjoy the trees, the vastness of the lot; they don't pay the taxes. They don't have his upkeep. It may look like a park. It's not a park. It's a private citizen's property. There are several very large lots in our area that account for the park like feeling. Why should the owners of these lots be forced to keep them as is, so the people on the smaller lots can enjoy them? While some of these residents with large lots may oppose Art's development now, I believe somewhere in time if Art's development gets denied, these very same people will regret that it did should they decide to split their lots.

I have observed though, that the people that are voicing their opposition are people with smaller or unsplittable lots. That would be with the exception of Borczyk's who just did a lot split.

**Drainage**

Mr. Romanowski's lot is on a flat surface below Art's large hill. Since water flows downhill, I would imagine it gets a lot of runoff from the hill right now. I don't understand the concern about drainage when the development is adding storm sewers and holding ponds that could in fact more than account for the run off from the new houses and actually may help reduce drainage. It simply doesn't make sense that **the residents are asking the city to ensure the development eliminates their current drainage problems.**

In irony, the person that brought up the concern of impervious surfaces adding more runoff -has very large house on a smaller lot. His house his beautiful and is tucked away perfectly in the neighborhood. However, if his main concern is impervious surface adding more issues to his drainage problems, then why would he have such a big house on a smaller lot? It just seems hypocritical. Also, I don't believe water ever flows up hill and I'm curious why the people

across the street from Art's proposed development have any concern about increased runoff on their lots.

### **Conclusion**

To summarize, we urge the counsel to vote to approve the proposed Acorn development. I think it will actually make our neighborhood feel more like a community than an area. I think it will add value to surrounding homes. It will be good for the city. I believe I read the City of Edina receives more in tax revenue from new housing than Southdale. New developments bring in young families which is always good for a community. Most important it allows people with large lots the right to split or develop their lots in compliance with city codes, standards and environment impact.

I have included links to a couple articles that you might find interesting about urban infill if you have not read them already. I have also included a link from an EPA study and the effects of urban infill.

Thank you for time.

Jeff and Trudi Martinco

<http://www.startribune.com/opinion/editorials/210648861.html>

<http://www.startribune.com/housing/205332191.html>

[http://www.epa.gov/smartgrowth/pdf/residential\\_construction\\_trends.pdf](http://www.epa.gov/smartgrowth/pdf/residential_construction_trends.pdf)

**Bryan Lloyd**

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**From:** [REDACTED]  
**Sent:** Wednesday, June 04, 2014 11:20 AM  
**To:** Bryan Lloyd  
**Cc:** [REDACTED]  
**Subject:** Planning commission meeting for Art Mueller--From Jeff and Trudi Martinco 2255 Cleveland Ave North

We will be unable to attend tonight's meeting to speak on Art's split. In lieu of, below are our comments to share with the Planning Commission in support of Art's split.

RE: Proposed Development on 2201 Acorn Road – Public Hearing 6/4/2014

From: Jeff and Trudi Martinco  
2255 Cleveland Ave North  
Roseville, MN 55113

Unfortunately we are unable to attend the public hearing regarding the above, but this memo serves as a voice to show our support for Art Mueller's development on Acorn Road. We live on the corner of Cleveland Drive and Acorn Road.

Few could argue that the area we live in is one of the nicest parts of Roseville. When we purchased our home in 1994 it was nestled in an area of large beautiful oaks, ponds and wetlands that sat amongst other midcentury estate ramblers on large private parcels. Even back then we were fully aware that the large lots would not last forever. We were one of the first to move in on a split lot. When we purchased our lot it was part of a 2 acre estate that Neil Wood had split into 2-1 acre lots. We purchased the 1950s estate Rambler. Gary and Betsy Byczorka later purchased the split off lot.

Since that time we have witnessed old houses go down and be replaced with large estate homes. Smaller lots were split into 3. Acorn has 6 new homes since we moved in. Every new home seems to fit into the topography of the neighborhood. Pride of ownership and respect to its surroundings is apparent in old homes and new homes. We've been fortunate in this respect. Unfortunately, we've seen developers in Roseville come in and clear cut practically every tree and completely change the feeling of the neighborhood.

Art is the original resident of the area. He grew up in the area. I have no doubt that he will ensure that the development maintains the feeling and respects the topography of our little spot. This is why we should be glad it is Art that is developing his lot and not some unknown developer. It's not a question of if Art's lot will get developed, but only a matter of when and who.

Let me remind those who oppose this, that the residents of Roseville that fought the Costco going in on County Road C had a short lived victory when they learned that a new city council approved a giant Walmart in the same spot. I can say I would much rather have a Costco in that area and I feel most of them probably feel the same way. I point this out not bring up this commercial development, but to point out that things change. It is rarely a matter of if, and mostly a matter of when.

Nothing stays the same. Old homes become outdated and have a life span. Beautiful oak trees can be disease prone and die. We've witnessed both. We've lost 50 oak trees to oak wilt. Yet with replanting we've maintained the feeling of the area. Again, not to discuss the problem of oak wilt, but to use as an example that you can bring in new things that are just as-if not more beautiful than the old things they are replacing.

In the event that Gary or some others bring up the issue of drainage, we'd like to comment on it. We can only comment in regards to Gary's lot. We only bring this up since Gary seems to be the leader in playing the drainage issue as the neighborhood trump card to stop any new growth.

We purchased our house before Gary and Betsy purchased and built on the adjoining lot. Gary's lot was low when he purchased it. He brought in tons of fill to position his house when he built it. From everything we can witness, it would almost be impossible for Gary's house to have drainage issues. However, the lower part of his lot has had drainage issues since we purchased our house in 1994 and it certainly had the same drainage issues when Gary purchased the lot shortly after they built and moved in. Most of the drainage on Gary's lower lot comes from Scoggin's hill off of Cleveland and Gary's hill made with the fill he brought in. From there the drainage runs into a culvert under Hwy 36.

We'd like to finish by saying new development typically brings in expensive homes with high income earners or affluent retirees. It brings the overall median income of Roseville up. It brings in a large tax base. It brings in young families that help support the school district that ultimately makes for a better school district. A good school district means higher desirability for young families and means higher property values. Or to simplify new development means a stronger, healthier, and more vibrant community.

Jeffrey A Martinco

Trudi S. Martinco