

City Council Agenda Item #14A
Meeting of June 13, 2005

Brief Description: Preliminary plat, with variances, for a two-lot subdivision at 3848 Haven Road for Lorraine J. Sorenson.

Recommended Action: Deny the preliminary plat, with variances.

Introduction

Lorraine J. Sorenson, is proposing to subdivide her lot at 3848 Haven Road into two lots. The current lot has 43,670 square feet; however, 25 feet of right-of-way would be required to expand the width of the Haven Road right-of-way from 25 to 50 feet. This reduces the lot sizes of the proposed lots. The existing home would be torn down and two new homes built. Two separate driveways are proposed off Haven Road for access to each lot. The applicant revised the original plans to save the trees along the west lot line. (See the attached narrative and plans on pages A4–A6.)

This proposal requires preliminary approval of a plat, with several variances:

1. two lot size variances from 22,000 square feet to 19,510 and 20,910 square feet; and,
2. a lot width at the right-of-way variance from 80 feet to 20 feet for Parcel A.

Primary Issues

- **Does the proposal meet the variance standards?**

No. As demonstrated below, staff believes the proposal does not meet the variance standards. A variance application should be judged against three tests:

1) *Are there practical difficulties that prevent a reasonable use from complying with ordinance requirements?*

The courts have found that reasonable use does not mean that the applicant must show the land cannot be put to any reasonable use without the variance. Rather, the applicant must show that there are practical difficulties in complying with the Code and that the proposed use is reasonable. “Practical difficulties” may include functional and aesthetic concerns.

Staff does not believe there is a hardship to justify the variance. There is not adequate area on the lot to construct a public street and get the second lot. In

addition, there is not adequate lot area to simply divide the property to get two lots that meet minimum lot area requirements. The lot area variances total nearly 4,000 square feet to divide the property without a public street.

If the city denies the variance, reasonable use of the property would not be denied. The existing home could remain, and would be considered reasonable use of the property.

2) *Are there circumstances that are unique to the property, not common to every similarly zoned property, and that are not self-created?*

Yes. The lot is oversized at 43,670 square feet. As demonstrated on page A8, it is larger than most lots in the area. The lots that are larger are encumbered by wetlands, and could not be further subdivided. (See pages A8 and A9.) Several lots in the area have been subdivided with no frontage on a public street. (See page A8.)

3) *Would the variance alter the essential character of the neighborhood?*

Yes. A new home would be built in the perceived back yard of the front home from Haven Road; therefore, the character of the neighborhood along the Haven Road cul-de-sac area south of the subject site would be altered. This area includes homes all built with access to a public street. (See page A9.)

The existing homes to the north and east of the subject property that do not have frontage on a public street are well screened by mature trees. The proposed second home on this lot would be very visible off the cul-de-sac. (See page A9.)

Summary Comments

There are arguments that can be made both pro and con regarding the development of this property. The following outlines arguments for each:

Pros for the lot split:

1. The lot appears to be dividable compared to others in the area.
2. Two 20,000-square-foot lots fit better in the neighborhood than one 40,000-square-foot lot.
3. There are lots without frontage on a public street to the north and east of the subject property. (See page A8.)
4. Additional 25 feet of right-of-way would be gained for future widening of Haven Road. (See page A6.)

5. The lot split is similar to the lot to the east that was divided in 1980. A 3,000-square-foot right-of-way dedication was required that reduced the size of the front lot to 18,391 square feet. (See page A8, and the minutes on pages A16–A17.)

Cons against the lot split:

1. The large variances requested. The size of the combined variances is 3,580 square feet.
2. The lots to the north that were divided all exceed 22,000 square feet.
3. The home would appear to be located in the rear yard of the front home, and appear out of character with the homes on the cul-de-sac that all have frontage on a public street.

Staff is recommending denial based on the size of the lot area variances needed to divide the property, and its belief that the proposal does not fit the character of the neighborhood south of the property. However, should the council believe that division of the property is reasonable, staff would recommend changes to the plat as shown on page A7. These changes ensure specific setbacks to save trees and protect views of Spring Lake for the home to the north. Staff would further recommend referring the plans back to staff to work out the details with the applicant.

Planning Commission Recommendation

On May 12, 2005, the planning commission considered this application. A vote to deny failed on a three to three vote. One commissioner was absent. (See the minutes on pages A19–A23.)

Staff Recommendation

Recommend that the city council deny preliminary approval to the plat, with variances. This denial is based on the following findings:

- 1) The proposal is not consistent with neighborhood character.
- 2) There is not adequate area on the lot to divide the property without variances.
- 3) Reasonable use of the property would not be denied by denying the variance. There is an existing single-family home on the site.

Submitted through:

John Gunyou, City Manager

Geoff Olson, Planning Director

Originated by:

Cary Teague, Principal Planner

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SUPPORTING INFORMATION

Surrounding Land Uses

Surrounding land uses on all sides of the subject property are single-family residential homes.

Planning

Guide Plan designation: Low-density residential

Zoning: R-1, low-density residential

Area Lot-Behind-Lots

In 1980, the city council gave preliminary and final plat approval to divide the 43,659-square-foot property to the east of the subject property into 2 lots. One lot did not have frontage on Haven Road. The plat required a dedication of 3,000-square-feet of right-of-way, which reduced the lot size of the front lot to 18,391 square feet. (See minutes on pages A16–A17 and the lots on page A8.)

On June 13, 1994, the city council granted preliminary and final plat approval to divide the 46,555-square-foot property to the north into two lots. One lot did not have frontage on Haven Road. (See minutes on page A18.)

Lot Dimensions

The proposed plat would result in the following properties:

	Lot Area	Buildable Area	Lot Depth	Lot Width at R-O-W	Lot Width at setback
Ordinance	22,000 s.f.	3,500 s.f.	125 feet	80 feet	110 feet
Parcel A	19,510 s.f.	5,000+ s.f.	130 feet	20 feet*	116 feet
Parcel B	20,910 s.f.	5,000+ s.f.	190 feet	110 feet*	110 feet

*variance required

Setbacks

A new home on the back lot would be required to meet the 25-foot setback requirement on all sides. If the planning commission believes the lot should be subdivided, staff would recommend setback requirements as shown on page A7.

Grading and Drainage

The natural drainage flow is from the high point on the site in the rear yard of the existing home to the north and to the east. (See page A6.) The drainage would generally remain the same. No additional drainage would be directed to adjacent properties. Individual grading plans would be reviewed at the time of a building permit to ensure no negative impact on adjacent properties.

Utilities

There are two sets of utility services for this lot, available from Haven Road. The existing home or front lot would be required to connect to the northerly service.

Variance – Lot Width at Right-Of-Way

Section 300.10, Subdivision 5(h)(2)(b) of City Code states that: “Variances to permit lots with reduced frontage on public right-of-way, neck lots or lots with no frontage on public right-of-way which access by permanently recorded easements will be considered, but not necessarily granted, only upon evidence that one of the following standards are met:

- 1) One of the following conditions exists:
 - a) An extension of roadway is not physically feasible as determined by the city. If the city determines that there is the need for a roadway extension, this section shall not apply, and the right-of-way shall be provided by easement or dedication, whichever is appropriate;
 - b) Severe grades make it infeasible according to the city to construct a public street to minimum city standards;
 - c) The city determines that a right-of-way extension would adversely impact natural amenities including wetlands or stands of significant trees;
 - d) There is no feasible present or future means of extending right-of-way from other directions;

A public street could be constructed on the property, however, in doing so, the lot sizes would be reduced to even further below the minimum lot size requirement. Therefore, the applicant is not entitled to two lots on this property.

- 2) The number of lots to share a common private access drive does not exceed three;
- 3) Covenants that assign driveway installation and future maintenance responsibility are submitted and recorded with the titles of the parcels that are benefited;

- 4) The neck portion of a neck or flag lot must have a minimum width of 14 feet plus the actual driveway width required by the fire marshal pursuant to the uniform fire code. If an easement is used to provide access, the easement must have a minimum width equal to the width required for a neck, plus an additional ten feet.
- 5) When a lot has no access to a public street and receives access across a private driveway, the private driveway must meet the following standards:
 - a) If the driveway provides access to more than one lot, a private driveway maintenance agreement must be recorded for the lots.
 - b) The driveway must meet minimum requirements established by the engineering department and fire marshal.

Should the application be approved, the above conditions 2-5 would be met, or required as a condition of approval.

Standards

City Code states the following criteria for approval of a variance (Section 300.07): “A variance may be granted from the literal provisions of this ordinance in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration and when it is demonstrated that such actions would be consistent with the spirit and intent of this ordinance. Undue hardship means the property in question cannot be put to a reasonable use if used under conditions allowed by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the neighborhood. Economic consideration alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of this ordinance.”

Neighborhood Comments

We surveyed the property owners within 400 feet of this site. We received 17 replies as follows:

<i>0</i> Strongly Support	<i>2</i> Somewhat Support	<i>2</i> Neutral	<i>4</i> Somewhat Oppose	<i>9</i> Strongly Oppose
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In favor:

“I believe in the owner’s property rights and don’t think this would have any detrimental impact on the neighborhood.” (No address given)

“My only concern with the project is that the map clearly shows two separate driveways and the word description provided to neighbors describes a shared driveway. I like the shared driveway idea and would be against having two separate driveways, as there are too many driveways in that small area already. I like the fact that the new lot is not next to Haven Road where it would detract from the character of the neighborhood of homes (except one) that are set back from the roadway. It is important to point out that the cul-de-sac at the end of Haven Road was once one lot. It is now five. The result is homes crammed up against property lines. I would hate to see the Sorenson’s lose out on dividing because the city allowed a single lot to become five.” (No address given)

Opposed:

“When our neighborhood was established, it was the law that lots were to be no less than a half acre. Let it remain that way. If we wanted homes built on top of each other, we could live in St. Louis Park, etc. It is my understanding that many trees will be cut down, which will reduce the habitat of the wild life we are so fortunate to have here. If Minnetonka believes “Quality is Our Nature” please keep the Sorenson lot as is and keep the high quality of nature that already exists.” (14213 Woodhaven Road)

“The area is too crowded as it is. We don’t need any more mini-mansions on a postage stamp.” (No address given)

“We strongly oppose this proposed variances for the following reasons: (1) Fairness. We built our home on the adjacent lot in 1997. The lot has an odd shape causing us to request variances on our property which were denied by the planning department in 1997. Our architect and builder then placed our home site so that the north windows faced the trees in the west portion of the 3848 Haven Road lot. In our planning we relied on the existing information that the neighboring lot would only be allowed to have a single building. Even though we did expect a larger house to be built on the 3848 property eventually our views would still avoid the structure. If the variance is allowed our north views will be directly into the new proposed home site. It doesn't seem fair that we were denied variances only seven years ago and made decisions based on existing codes, and now they are being changed to our disadvantage; (2) Property values. If two smaller homes are placed on that lot the property value of our larger home is potentially diminished. Again, we object to someone else gaining value at our expense because of a variance. The planning department shouldn't allow one owner to profit by obtaining a variance when the other neighbors relied on the department's rules when building their homes. We purchased our property and built our home relying on the planning department to maintain only a single home on the adjacent property; (3) Traffic. The driveway entrance of 3848 Haven Road empties directly into the corner of Haven Road's dogleg. This corner directly serves ten homes and it is partially obstructed by a large spruce tree on our property. Adding more traffic to this corner is dangerous; (4) passed opportunity. Lorraine Sorenson had the opportunity to purchase a right-of-way or purchase the adjacent lot for three years from 1994 to 1997. It is my understanding that the adjacent lot (our existing property) was on the market for three years until our purchase in 1997. Mrs. Sorenson already had the legitimate opportunity to

expand or develop her property; and, (5) Proposed driveway. The proposed driveway variance increases water run off into our property. Our landscaping had to be adjusted already because of run off issues. The driveway will increase water flow that is currently checked by the trees and grass in the 3848 Haven property. Additionally, the views will necessitate construction of a privacy fence that will be extremely close to the driveway.” (3918 Haven Road)

“We have chosen to live in this neighborhood for 31 years because of our large lots and mature trees. Several years ago, on Haven Road, two large homes were put on a divided lot in spite of our opposition. They also share a driveway. This has been a detriment to the enjoyment of our property, giving us a closed in feeling, blocking sunlight, restricting views, etc. We see this situation repeating itself in this proposed division. We want this type of development stopped.” (No address given)

“The proposed plans for the Sorenson property will create an uncharacteristic (for Minnetonka) cluster of (urban) homes in a relatively small area. The builder/designer seems to have up to three large homes in mind for the long, narrow lot. Large homes edging the lot lines are obtrusive to the neighbors who treasure their space and privacy as originally intended. The new untypical lot shape in the proposed plan, with the spur extending south, creates two/three lots with boundaries on the west. If you take out the square feet for this spur it significantly reduces the total square feet of the actual area where the house, in the plan, is to be located. The shared driveway could create problems for emergency vehicles, especially in winter (snow time). Who will be responsible for keeping this access open? The natural beauty of the area will be damaged with tree removal. Again, creating a very urban, not suburban outlook.” (No address given)

“I feel that crowding an additional structure on to what appears to be the rear third of the original lot is not something I can support. The privacy of our backyard, and the neighboring backyard will essentially be eliminated. As the major portion of a stand of trees must be removed. It also looks as though the buildable area in the proposed parcel A seems to have a footprint larger than the existing house on a lot that is much bigger. One of the reasons we chose this house, on this lot, in Minnetonka was the large backyard with a back drop of trees and shrubs offering some separation between the houses in our development and those that border our back yard. This proposal will put them in jeopardy.” (14201 Woodhaven Road)

“Our main concern would be the noise and additional dust during construction. With the current 494 expansion, we already have additional noise, dust, and inconvenience. Haven Road is a small street and there isn't much room for construction crews, vehicles, etc. Additionally, the lot division doesn't make sense. To build a new home in back of the existing home, it would make sense to have it be proportional in size to the homes in the cul-de-sac or newer homes on Haven Road. This does not seem possible given the area the new home is proposed. It seems like it would be squished into a small area. We would prefer to discourage any new development on Haven Road.” (No address given)

“There is a reason for the 22,000 square foot lot size. How many more houses are we going to squeeze into marginal locations? You just have to say no sometime. People have the moxie to ask, but it does not mean we have to go along.” (3807 Haven Road)

“While we would like to remain anonymous, we are residents of Haven Road. We have had to tolerate the 494 expansions and bridge closing, which have been noisy, messy, inconvenient, and has created additional construction and crew traffic along Orchard. We enjoy the location of Haven Road and are concerned with the additional noise the freeway expansion will bring. A lot division would most likely bring additional construction crews in the near future (2005 weather permitting) which would continue through the end of the year with the construction of the new home. We may be only speculating, but it also seems likely that the original home at 3848 Haven Road will eventually be torn down with a new one being built. We do not want continual construction on our peaceful street. Give us a break after the 494/Orchard bridge is complete.” (No address given)

“We moved to our neighborhood because of the large lots. We are opposed to putting more than one house on a lot and sharing driveways. Our back view is already obstructed by the massive house which looms over us, which is the result of two homes on one lot. We do not want to see this continue. We could all be putting in requests for variances to put another house in our backyard.” (No address given)

“Our objections are economic, aesthetic and related to long-term planning. On a personal level we take no issue with Ms. Sorenson’s request. From an economic standpoint, the proposed variance would result in significantly reduced value (and tax revenue) to the remaining properties on Haven Road. It is obvious that to place another homestead on the existing lot at 3848 Haven Road would require an eventual tear-down of the existing home now occupied by the Sorensons’. In order to fit into the site, the two subsequently constructed homes would be small and of potentially inferior grade. Even if the Sorenson home is not removed, the lot is not of sufficient size to accommodate two homes. We who live on Haven Road take pride in the intrinsic beauty inherent to the unique cul-de-sac. To subdivide the lot it would require the removal of many mature trees, and cause additional congestion on the narrow street. Another consequence of additional construction on the lot would be the loss of valuable sight lines to the lake. It is not practical or advisable to squeeze another home onto the lot. The more appropriate plan of action is to sell the lot intact as a potential tear-town and future construction of one home. The best long term use of the lot is as a single home property. If the goal of the city is to maintain the integrity of the existing neighborhood while maximizing future tax revenue, the only logical conclusion is to deny the requested variance. We appreciate the Sorenson’s goal of maximizing their financial interest in the lot, but to do so by subdividing and receiving zoning variances, at the detriment of the remaining landowners on Haven Road, is not prudent and does not make the best use of the property.” (No address given)

“If we were to ask Sorenson’s contractor to extend his road/long driveway into our back yard, we could offer him another parcel of land on which to build. We have three quarters of an acre to make money on. Other property owners on Woodhaven could

creatively make multiple use plans for their large lots. If the Minnetonka council okays Sorenson's plan, then they could not turn down our proposal or the proposal of any owner on Woodhaven to split their lots and build more homes. We think the long term plats in Minnetonka were well done. We bought our home 40 years ago because of the spaciousness evident in our neighborhoods. What is the Minnetonka council's view for the future of the city of Minnetonka, to become another St. Louis Park? We don't object to Sorenson's selling their property and the building of a new home. We do object to crowding the lot lines adding to maintenance and fire department obligations because of building a road to give access to facilitate dividing the property for multiple uses not originally intended. It's the crowding and populating of the neighborhood. (14127 Woodhaven Road)

See the attached letters on pages A14–A15 (3405 Annapolis Lane North in Plymouth or Fifth Street in Minneapolis), and A15a-A15b (multiple residents).

We live at adjacent to the property proposed for division under Project 04076.04a. I have lived in this community nearly all my life (41 years). We strongly disagree with the project and oppose any plan for dividing the existing lot for the following reasons:

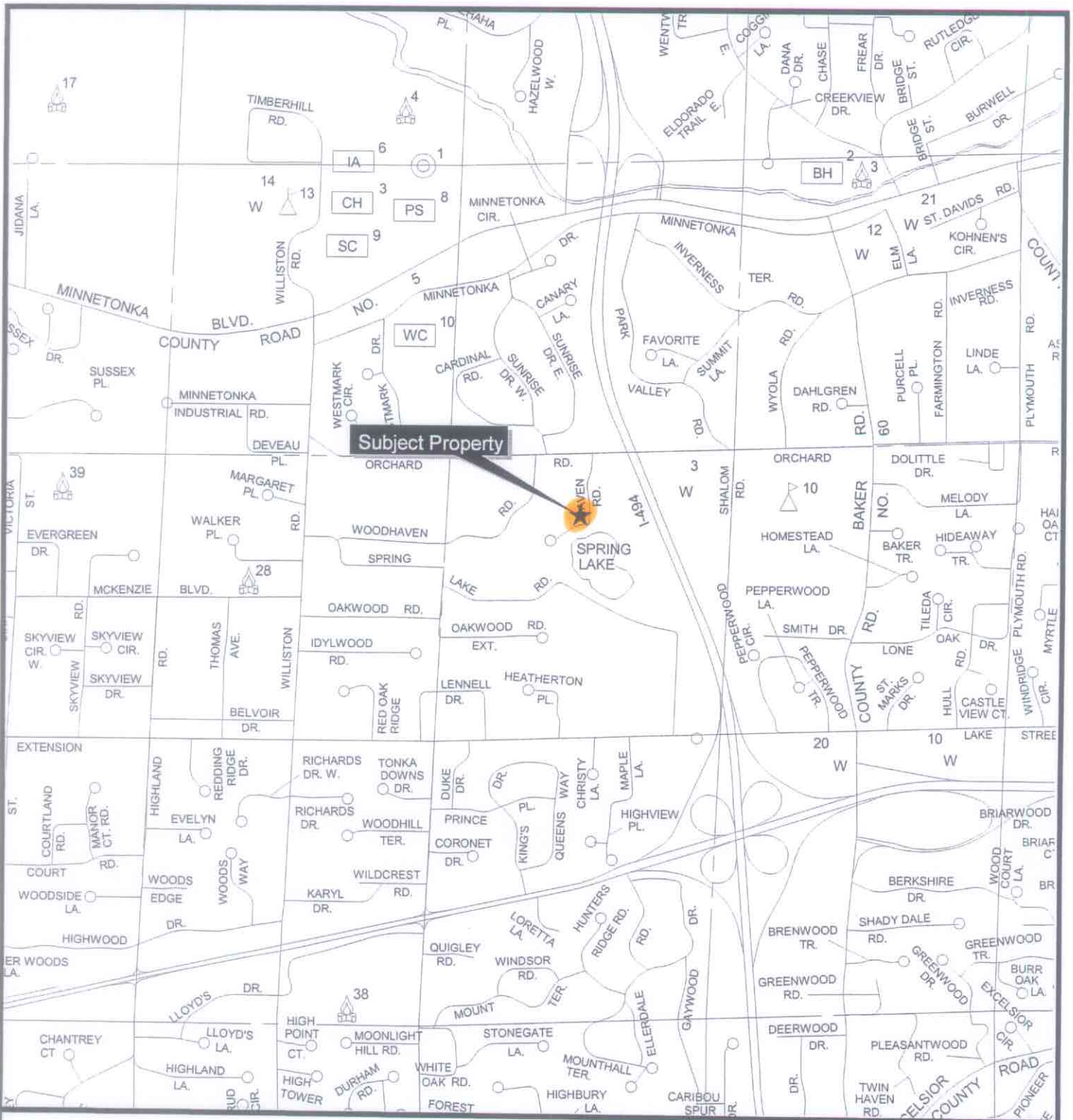
- Drainage issues already exist with the Sorenson property. It sits above our property and runs off on to our yard. This plan would greatly accentuate the run off issue.
- Too many driveways (five) already converge at the blind intersection at the Westerly bend of Haven. This is a real safety hazard already that will only get worse with more homes.
- In Minnetonka, all of our citizens are concerned with the elimination of green spaces in our community. This proposal raises those concerns.
- This over size lot is not legal to divide based upon the current size and should not be considered now.
- This lot is set against several odd shaped lots and allows the neighborhood to work well given the challenges with the existing space. Two larger homes will make previous lot lines look odd, crowded and not in keeping with the community.
- This plan would over crowd our neighborhood with too many homes for existing space.
- The plan would interfere with our view to Spring Lake after the existing home was removed for a new dwelling.
- Need for right-of-way is crucial for home values and appearance for this neighborhood. We have examples all over our community where the back houses of these easements do not keep up with the needs of the landscaping and maintenance and bring the values of all the homes in the neighborhood down.

Please consider these points when making your decision and reject this proposal.” (3830 Haven Road)

General comments:

“We have no objections. One house will not impact us in any way, except it will likely be an expensive home and our taxes will probably be affected. The value of our home should also rise too.”

Deadline for a city decision: The applicant has waived the 120-day review period.



AREA MAP

Project & Applicant: Lorraine J. Sorenson

Address: 3848 Haven Road

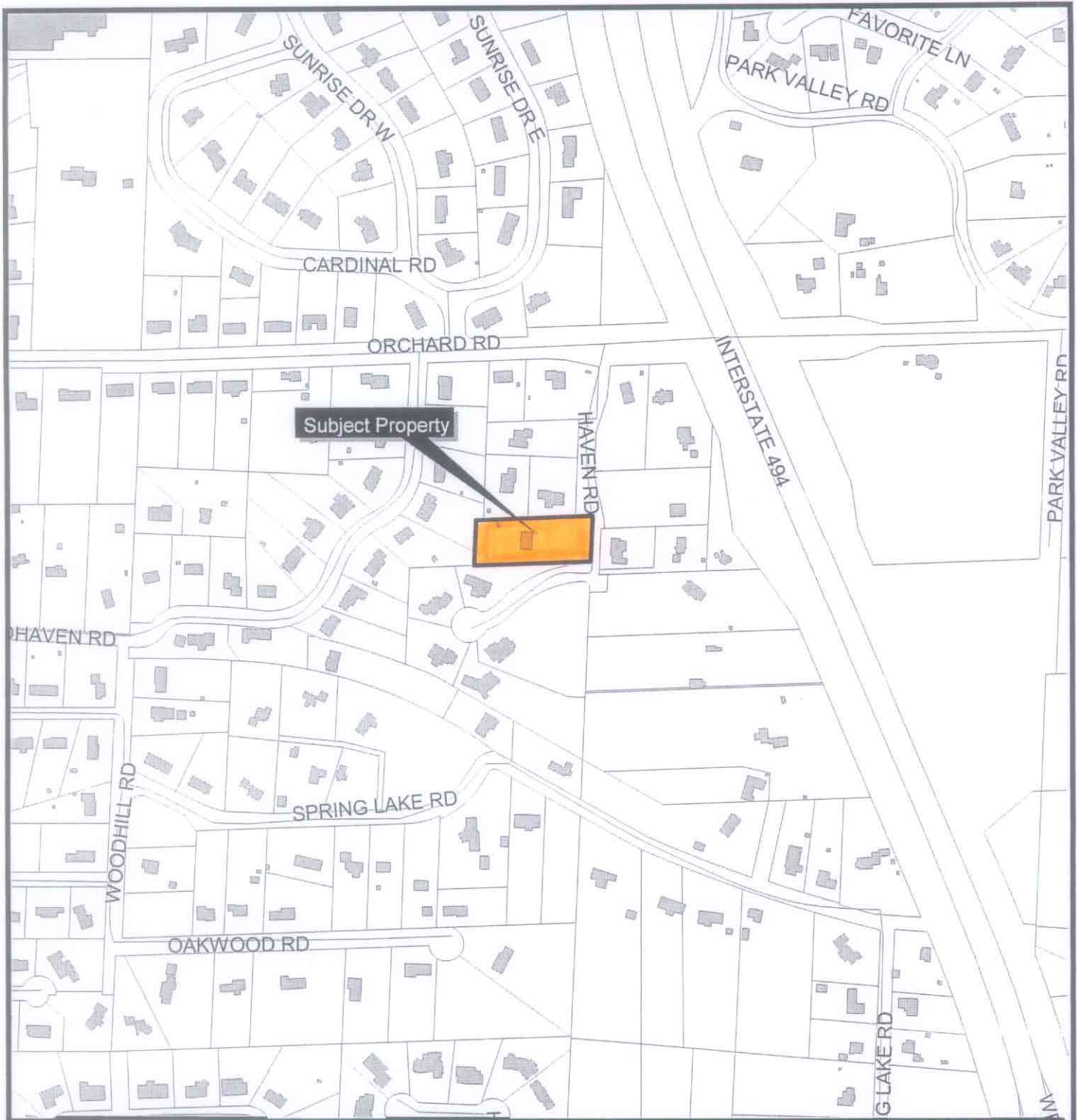
PID: 22-117-22-22-0013

City of
minnetonka

04076.04a

AI





LOCATION MAP

Project & Applicant: Lorraine J. Sorenson

Address: 3848 Haven Road

PID: 22-117-22-22-0013

A2

City of
minnetonka

04076.04a





PLOTTED BY: bhendricks
 PATH: 3848_haven_rd.dgn

DISCLAIMER

This drawing is not a legally recorded plat or an accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People who use this drawing do so at their own risk. The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.

City of
minnetonka
 14900 MTKA BLVD, MTKA, MN. 55345 PH: 952-939-8200

SCALE:
 1" = 100'
 DATE:
 10/25/2004

A3

3848 HAVEN ROAD

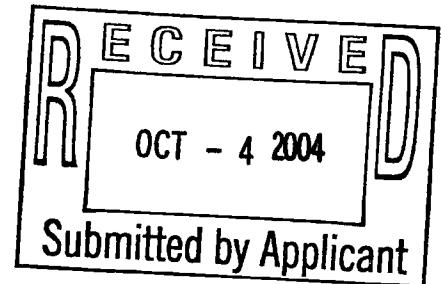
APPLICANT NARRATIVE

9-21-04

The intended use is to sell the
property to create a new residence.

My request should be approved
to help maximize the use of the
property.

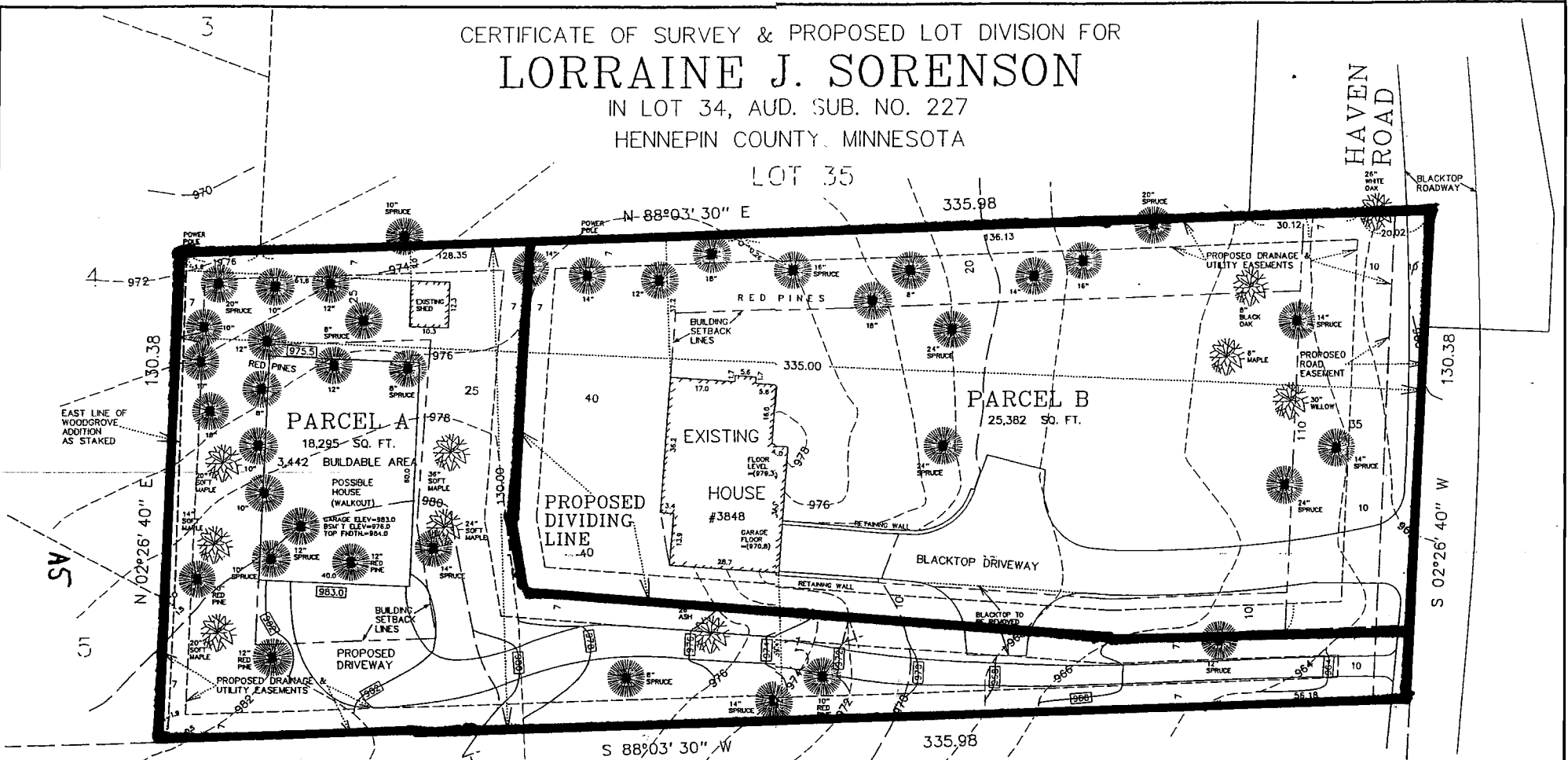
Lorraine J. Aronson



RECEIVED
OCT 4 2004

CERTIFICATE OF SURVEY & PROPOSED LOT DIVISION FOR
LORRAINE J. SORENSON
 IN LOT 34, AUD. SUB. NO. 227
 HENNEPIN COUNTY, MINNESOTA

LOT 35



**ORIGINAL
 PROPOSAL**

LEGAL DESCRIPTION OF PREMISES

The North 130.00 feet of the East 335.00 feet of Lot 34, Auditor's Subdivision No. 227.

- o : denotes iron marker set
- o : denotes iron marker found
- (908.3) : denotes existing spot elevation, mean sea level datum
- [910.8] : denotes proposed spot elevation, mean sea level datum
- - - 917 - - - : denotes existing contour line, mean sea level datum
- - - [904] - - - : denotes proposed contour line, mean sea level datum

Bearings shown are based upon an assumed datum.

This survey shows the boundaries of the above described property, the location of an existing house, shed, driveway, and retaining walls, and the proposed location of a proposed dividing line thereon. It does not purport to show any other improvements or encroachments.

DESIGNED	REVISION	DATE	DESCRIPTION
DRAWN ECD			
CHECKED MSG			



GRONBERG & ASSOCIATES, INC.
 CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS
 445 NORTH WILLOW DRIVE, LONG LAKE, MN. 55356
 952-473-4141

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 AND LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

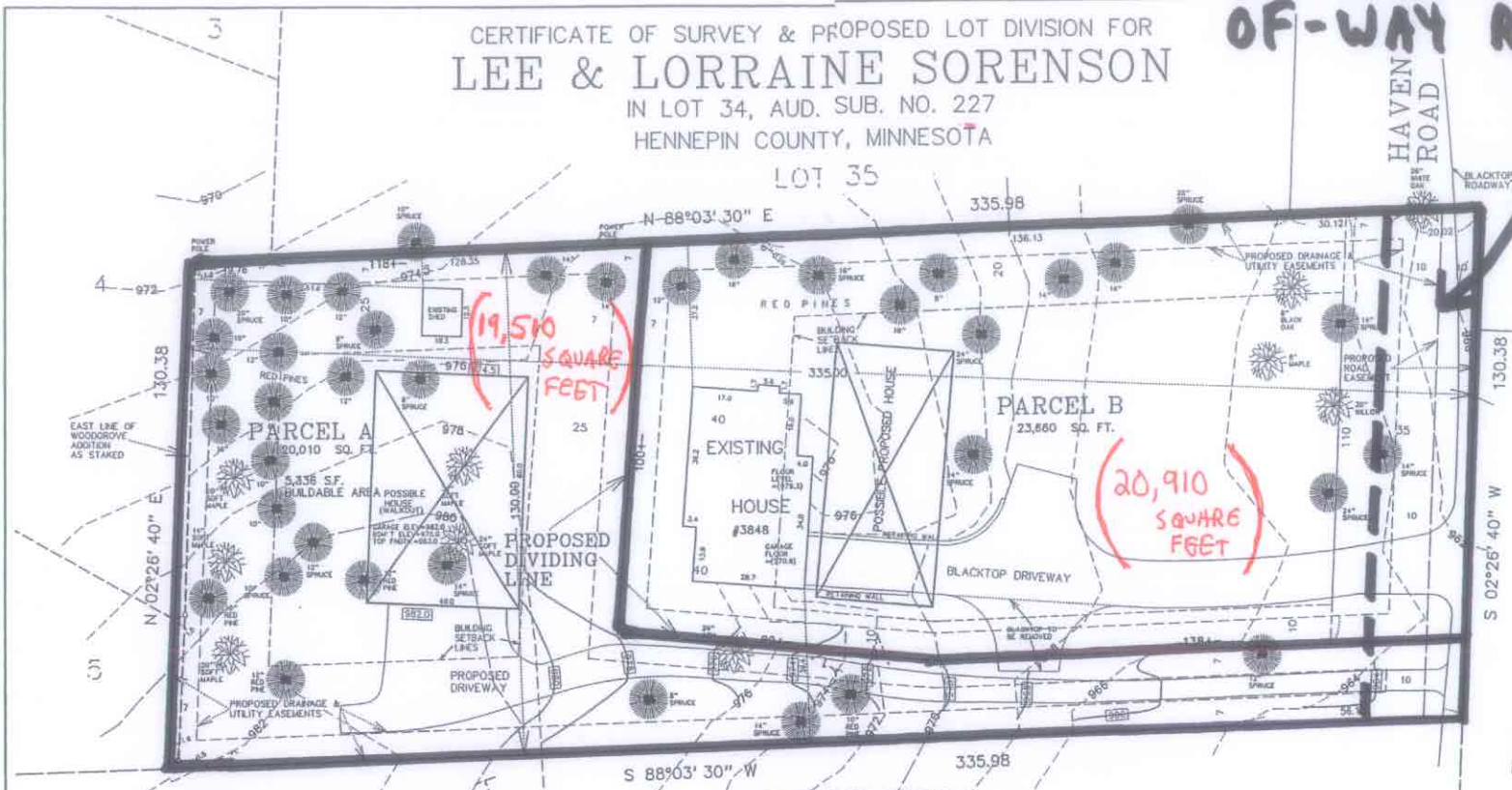
Thad A. Gronberg
 DATE 9-17-04 MN LICENSE NUMBER 12751

SCALE
 1"=20'
 DATE
 9-17-04
 JOB NO.
 04-373

ADDITIONAL RIGHT OF-WAY REQUIRED

CERTIFICATE OF SURVEY & PROPOSED LOT DIVISION FOR
LEE & LORRAINE SORENSON
 IN LOT 34, AUD. SUB. NO. 227
 HENNEPIN COUNTY, MINNESOTA

LOT 35

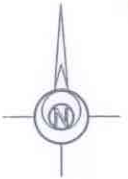


A6

(19,510 SQUARE FEET)

(20,910 SQUARE FEET)

PRELIMINARY PLAT



LEGAL DESCRIPTION OF PREMISES
 The North 130.00 feet of the East 335.00 feet of Lot 34, Auditor's Subdivision No. 227.

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DESIGNED	REVISION	DATE	DESCRIPTION
	1	11/23/04	REVISED LOT LINES, SETBACKS, EASEMENTS
DRAWN			
ECD			
CHECKED			
MSG			



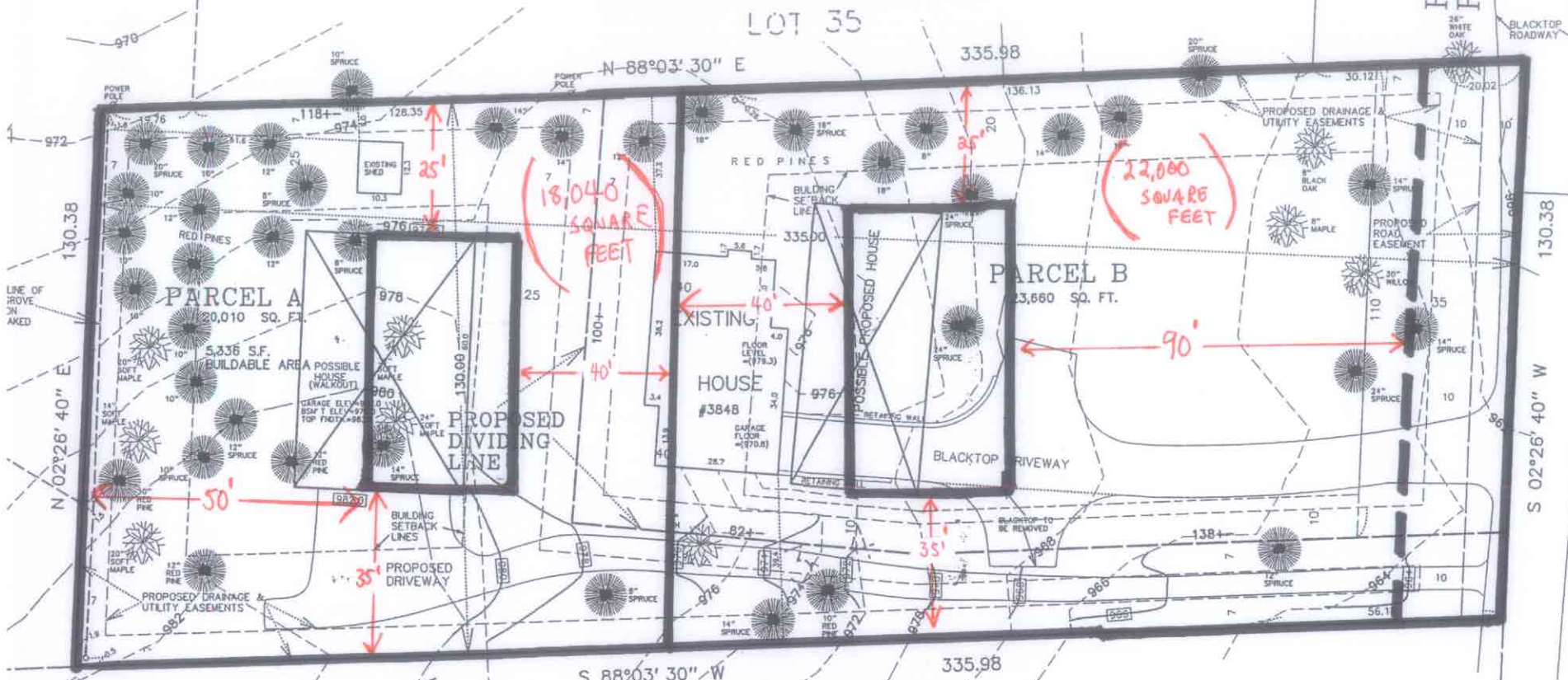
GRONBERG & ASSOCIATES, INC.
 CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS
 445 NORTH WILLOW DRIVE, LONG LAKE, MN. 55356
 952-473-4141

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 AND LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
Mark H. Gronberg
 DATE 11-23-04 MN LICENSE NUMBER 12255

SCALE	1"=20'
DATE	9-17-04
JOB NO.	04-373

CERTIFICATE OF SURVEY & PROPOSED LOT DIVISION FOR
LEE & LORRAINE SORENSON
 IN LOT 34, AUD. SUB. NO. 227
 HENNEPIN COUNTY, MINNESOTA

LOT 35



STAFF RECOMMENDED REVISIONS

LEGAL DESCRIPTION OF PREMISES

The North 130.00 feet of the East 335.00 feet of Lot 34, Auditor's Subdivision No. 227.

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REVISION	DATE	DESCRIPTION
1	11/23/04	REVISED LOT LINES, SETBACKS, EASEMENTS



GRONBERG & ASSOCIATES, INC.

CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS
 445 NORTH WILLOW DRIVE, LONG LAKE, MN. 55356
 952-473-4141

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 AND LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Maul S. Gronberg
 DATE 11-23-04 MN LICENSE NUMBER 12755

SCALE
 1"=20'
 DATE
 9-17-04
 JOB NO.
 04-373



SUBJECT SITE



LOTS WITHOUT STREET FRONTAGE



A8



A9



SPRING LAKE

A10



HOME TO THE NORTH

A-11

EXISTING HOME



AIR



A13

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WRITER'S DIRECT DIAL NUMBER

November 3, 2004

Ms. Cary Teague
Reviewing Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

**Re: Variance Request
Project # 04076.04a**

Dear Ms. Teague,

We write to express our strong opposition to the request by Ms. Lorraine J. Sorenson for a variance from City code which would result in her subdividing the existing lot at 3848 Haven Road into two lots. Our objections are economic, aesthetic and related to long-term planning; on a personal level, we take no issue with Ms. Sorenson's request.

Economic: From an economic standpoint, the proposed variance would result in significantly reduced value (and tax revenue) to the remaining properties on Haven Road. It is obvious that to place another homestead on the existing lot at 3848 Haven Road would require an eventual tear-down of the existing home now occupied by the Sorenson's. In order to fit into the site, the two subsequently constructed homes will be small and of potentially inferior grade. Even if the Sorenson home is not removed, the lot is not of sufficient size to accommodate two homes.

Aesthetics: We who live on Haven Road take pride in the intrinsic beauty inherent to the unique cul de sac. To subdivide the lot at 3848 would require the removal of many mature trees, and cause additional congestion on the narrow street. Another consequence of additional construction on the lot would be the loss of valuable sight-lines to the lake. It is not practical or advisable to squeeze another home onto the lot. The more appropriate plan of action is to sell the lot intact as a potential tear-down and future construction of one home.

A14

Ms. Cary Teague
November 3, 2004
Page 2

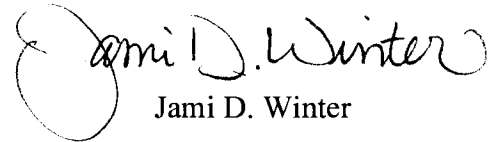
Long-Range Planning: The best long-term use of the lot located at **3848** Haven Road is as a single home property. If the goal of the City is to maintain the integrity of the existing neighborhood while maximizing future tax revenue, the only logical conclusion is to deny the requested variance.

We appreciate the Sorenson's goal of maximizing their financial interest in the lot; but to do so by subdividing and receiving zoning variances, at the detriment of the remaining landowners on Haven Road, is not prudent and does not make the best use of the property

Sincerely yours,



William A. Winter



Jami D. Winter

June 8, 2005

Mayor Karen Anderson
14600 Minnetonka Boulevard
Minnetonka, MN 55345

**Re: Variance Request
Project # 04076.04a**

Dear Mayor Anderson,

I live at 3930 Haven Road and write on behalf of my wife, myself and other Haven Road residents who have endorsed this letter below, to express our strong opposition to the request by Ms. Lorraine J. Sorenson for variances from City Ordinance which would result in her subdividing the existing lot at 3848 Haven Road into two lots. The significant lot size and right-of-way variances are contrary to law and allowing the variances would result in permanent and irreparable harm to the unique character of Haven Road.

The proposal seeks to create two small, oddly shaped lots requiring lot size variances of 3,580 square feet and a right-of-way variance from 80 feet to 20 feet. The city ordinance requires that each lot must be 22,000 square feet. The proposal would result in lots of 19,510 and 20,910 square feet. The previous lot division to the north of the subject property created lots each in excess of 22,000 square feet and did not alter the character of the neighborhood. Those lots are not located on the cul de sac and the rear home is not even visible from the road.

The Sorenson variance proposal creates a house-behind-house layout with no street frontage for the rear home, which is drastically out of character with the rest of the cul de sac and would "shoe-horn" the two houses very close together. The right-of-way proposal would require the creation of a driveway cutting right through the middle of the focal point of the cul de sac, permanently ruining the pristine and open area.

Many residents on Haven Road have declared they purchased here, over larger upper bracket Minnetonka developments particularly because of the quaintness provided by the "rural" nature of Haven Road as an entree to this small development, with arching, established trees that hang over the road. This brings true uniqueness and value to our small cul de sac. To subdivide the lot at 3848 would require the removal of many mature oak and evergreen trees, cause additional congestion, the loss of

A. 15a

June 8, 2005

Page 2

valuable sight-lines to the lake and result in required widening of the street (with assessment fees to remaining residents), loss of additional lot footage and removal of the canopy of trees over the road.

There has been no requisite showing of hardship by the petitioners, who are able to make use of the property in its present form or sell at a tremendous gain. Seeking to increase that financial gain through variances is not reasonable. The only hardship present here is to all neighbors on the street should the variance requests be allowed and the law ignored.

There simply is not enough land to place two homes on the lot or to account for the required street expansion attendant to such a subdivision. The more appropriate plan of action is to sell the lot intact as a tear-down and future construction of one home, consistent with the homes already located on the cul de sac. The Sorenson's enjoyed the beauty of our block for over 40 years, they should not be allowed to avoid the city ordinances in order to reap an additional financial windfall, while leaving us to live in a less pleasant situation.

The city ordinances are in place to preserve the Minnetonka character; Minnetonka stands for half-acre lots. We moved here relying on the ordinances to ensure that the beauty and tranquility of our neighborhood not be compromised by future subdivision plans like the one proposed by the Sorenson's. Please follow that mandate by denying the petitioner's request for variances.

Sincerely yours,

William and Jami Winter, 3930 Haven Road

The following residents of Haven Road endorse this letter:

Howard and Elaine Rubin, 3939 Haven Road

Kris and Lee Newcomer, 3918 Haven Road

Sue and Jerry Miller, 3826 Haven Road

Paul and Jennifer St. Clair, 3830 Haven Road

Kathy Amundson, 3942 Haven Road

A156

OTHER BUSINESS (Continued)

22. PRELIMINARY APPROVAL OF PLAT NO. 1275 (W/VARIANCES) SUBDIVISION FOR ANTHONY NICKLOW AT 3918 HAVEN ROAD IN THE NORTHWEST 1/4 OF SECTION 22

Jim Miller presented the Item to Council. Richard Bloom gave the Staff report saying this is a 4-lot subdivision proposed by Mr. Nicklow. Bloom reported there is a slight realignment of the right-of-way requested by Mr. Sorenson, the land owner to the north. Nicklow is agreeable to this 7' shift to the south. Hise said he is concerned about Haven Road, and questioned if it is a public street. Mr. Bloom said it is a public street that was obtained when the sewer and water were installed and it is maintained by the City. Radermacher moved, Hanus seconded a motion to grant preliminary approval of Plat No. 1275 (w/variances) subdivision for Anthony Nicklow at 3918 Haven Road in the northwest 1/4 of Section 22. Hanus, Hise, Higuchi, DeGhetto, Radermacher, Gordon and Yager voted "aye." Motion carried.

23. PRELIMINARY APPROVAL OF PLAT NO. 1339 (W/VARIANCES) SUBDIVISION FOR BRIAN CURTIS AT 13929 ORCHARD ROAD IN THE NORTH 1/2 OF SECTION 22

Richard Bloom reported for the Staff, outlining the recommendation that Parcel C be served by a private driveway easement over Parcel B, because of a wetland problem. Radermacher moved, Hanus seconded a motion to grant preliminary approval of Plat No. 1339 (w/variances) subdivision for Brian Curtis at 13929 Orchard Road in the north 1/2 of Section 22. Hanus, Hise, Higuchi, DeGhetto, Radermacher, Gordon and Yager voted "aye." Motion carried.

24. RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF PLAT NO. 1136 (W/VARIANCES) A LOT DIVISION FOR STANLEY LIDEN AT 3901 HAVEN ROAD, PREVIOUSLY CONSIDERED ON JULY 10, 1978 WITH NO ACTION TAKEN (Tabled at the September 15, 1980 Council meeting)

A. MOTION TO REMOVE FROM TABLED STATUS

Hanus moved, Radermacher seconded a motion to remove from tabled status. Hanus, Hise, Higuchi, DeGhetto, Radermacher, Gordon and Yager voted "aye." Motion carried.

B. MOTION TO ADOPT RESOLUTION

Mr. Bloom clarified the size of the lots for Council, which are Parcel A - 20,939 square feet, and Parcel B - 22,594 square feet, and a dedication of 3,000 sq. ft. of right-of-way to the City for Haven Road. Mr. Hanus raised a question concerning the flow of run-off on Parcel A, and wondered if there would be any disturbance there. Bloom reported there will be a dedication of a 15' drainage easement over the existing swale on Parcel A. Lee Sorenson, 3848 Haven Road, questioned the process on lot divisions which gives preliminary and final approval at one time. Council outlined that this is a standard procedure and said it is only when property is platted that it comes before them on two separate occasions.

Lorraine Sorenson, 3848 Haven Road, addressed Council regarding the lot sizes on the lot divisions, previously heard by Council this evening for Anthony Nicklow and Brian Curtis. Mrs. Sorenson said these divisions create scattered single family homes on large lots, setback a considerable distance from Haven Road; however, the proposed Liden division is not characteristic of the neighborhood and requested that the Council enforce the City's R-1 Ordinance and Subdivision Ordinance for lots areas of 22,000 sq. ft. Mrs. Sorenson requested that the proposed Liden request be denied.

The Mayor responded to Mrs. Sorenson, saying that he agreed there would be substantial change in the neighborhood, however, Council has little flexibility legally to deny this request, because it basically meets our Ordinances with the exception of the one lot which is slightly below the standard. Radermacher said that because Liden is dedicating 3,000 sq. ft. of right-of-way to the City for Haven Road at our request, it reduces the footage on this lot and it is on this basis that Council would approve the sub-standard lot sizes; also the drainage problem will be supervised by the City's engineering department.

A16

OTHER BUSINESS (Continued)

24. RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF PLAT NO. 1136 (W/VARIANCES) A LOT DIVISION FOR STANLEY LIDEN AT 3901 HAVEN ROAD, PREVIOUSLY CONSIDERED ON JULY 10, 1978 WITH NO ACTION TAKEN

B. MOTION TO ADOPT RESOLUTION (Continued)

Jay Haire, 3919 Haven Road, stated there was a slight error in the area of the wetlands where the water is actually contained; there is 5' or 10' of weeds and wildlife. Stanley Liden, 3901 Haven Road, said he has lived in the area over 7½ years, and has never seen water going through the swale in that time. Radermacher moved, Hanus seconded a motion to adopt Resolution No. 80-6397 granting preliminary and final approval of Plat No. 1136 (w/variances) a lot division for Stanley Liden at 3901 Haven Road, previously considered on July 10, 1978 with no action taken. Hanus, Hise, Higuchi, DeChetto, Radermacher, Yager voted "aye." Gordon voted "no." Motion carried. Sorenson said they believe Council has taken the wrong action but commended them for their work on this item. Mr. Liden thanked the Council for their action tonight.

25. CONCEPTUAL APPROVAL RESOLUTION FOR REZONING PETITION NO. 295 FROM R-1 (SINGLE FAMILY RESIDENCE DISTRICT) TO R-4 PURD (MULTIPLE FAMILY PLANNED UNIT RESIDENTIAL DEVELOPMENT) AND CONCEPT PLAN FOR BLOSSOM MESHBESHER, LOCATED NORTH OF CLEAR SPRINGS ROAD, SOUTH OF HIGHWAY #7, IN THE NORTHEAST 1/4 OF SECTION 29

Richard Bloom reported that this was before the Planning Commission on two occasions (two hearings were held) and several neighborhood meetings have been held. This is the second concept plan from the applicant, and they are requesting conceptual approval for a development that would provide for 118 residential dwellings, consisting of two apartments and 18 townhouses. Councilwoman Gordon reported she has a conflict of interest in this matter because of her husband's professional association with Mrs. Meshbesher in his capacity as a Certified Public Accountant, and she asked to be excused from the proceedings.

Mr. Al Michals, representing Mrs. Meshbesher, reported the original request was for 140 units based on the City's proposed guideplan, and after the first public hearing, it was suggested that the density be scaled down and that 118 units would be appropriate. Michals said agreement has been reached for a 10' strip as additional buffer along the entire southeast portion of the premises, dedication of the wetlands to the City, extending the cul-de-sac all the way to the lot line, and they are now requesting 118 dwelling units, which is in accordance with the Planning Department's recommendation. Jeanette Wenzel, 4926 Clear Springs Road, said she does not believe this development belongs on this tract of land because there is no transitional buffering from the single family homes.

Because it was approaching the 12 Midnight hour for adjournment, Hise moved, Hanus seconded a motion to extend the hour for adjournment for one-half hour. Hanus, Hise, Higuchi, DeChetto, Radermacher and Yager voted "aye." Gordon was excused. Motion carried.

Mrs. Wenzel asked that Mr. Bloom answer her questions regarding buffering. Ron Berg, 5023 Clear Springs Drive, reported he had submitted a letter to the Mayor and Council members. Berg said the change in the conceptual zoning is only a proposed Guide Plan which has not been adopted by the City and he questioned the use of a proposed Guide Plan being used as the basis for a conceptual rezoning. Secondly, Berg said the site has no buffer, and third, he does not feel an adequate study has been done and would favor more work by the State Planning Department and by the City's traffic engineer with a report submitted to the residents. Berg addressed the matter of planning for pedestrian use, and said there had not been adequate work done, and urged that the problems be dealt with now before rezoning of the property occurs. Berg then requested denial of the rezoning until a suitable developer is found who can alleviate the buffer problem.

Minutes of Council Meeting

June 13, 1994

RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF 94011.8 LOT DIVISION WITH VARIANCES FOR TAMPA, INC., AT 3832 HAVEN ROAD IN SECTION 22.

Allendorf pulled this item to ask if the driveway will be used by both homes and whether the existing home will be demolished or moved. Kim Lindquist, Senior Planner, said under stipulation #6 one driveway will be permitted for both lots. She said the applicants are aware the house is to be demolished.

Allendorf moved, Callison seconded a motion that Resolution No. 94-9732 granting preliminary and final approval of 94011.8 Lot Division for Tampa, Inc. at 3832 Haven Road is hereby adopted with the following

1. 0' Lot width at right-of-way when 80' is required for Parcel B.

subject to the following stipulations:

1. The applicant dedicate the following easements:
 - a. Standard drainage and utility easements.
 - b. Appropriate cross access easements.
 - c. Private utility easement, if necessary.
2. The applicant pay a park dedication fee of \$400.
3. The applicant determine the alignment of the existing utility service prior to issuance of a building permit. Any necessary realignment will be at the applicant's expense.

B. Preliminary plat, with variances, for a two-lot subdivision at 3848 Haven Road for Lorraine J. Sorenson (04076.05a)

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

Teague reported. He recommended denial of the application based on the findings listed in the staff report.

Britain was not a supporter of flag lots, but several already exist in the neighborhood. He asked if the location of the current home prompted staff's recommendation to deny the application or if the size of the lot was a bigger factor. Teague said that the size of the lot, the size of the variance, and the difference in screening from the site and other lots-behind-lots were the primary factors considered. Chair Hart clarified that the existing home would be torn down.

Cheleen asked if the applicant considered purchasing land from the adjacent property owner to construct a driveway from parcel A to the cul-de-sac street. Teague stated that the applicant did contact that property owner, but they were unable to come to an agreement.

Lorraine Sorenson and Rayland Sorenson, 3848 Haven Road, applicants, have lived there for 44 years. Mrs. Sorenson stated that:

- Mr. Sorenson planted 44 trees on the property when they moved in. The trees of concern were planted by them.
- Mr. Sorenson is 90 years old. Mrs. Sorenson is not that old.
- She explained the neighborhood's history from 1961. Three flag lots were created across the street from their property.
- The property at 3835 Haven Road is 18,391 square feet in size. Consideration was given to that lot because 3,000 square feet of right-of-way was dedicated to the city. She and her husband felt that consideration should be given to them because they dedicated 3,250 square feet of right-of-way to the city which reduced the size of their lot.
- The division of her lot would be similar to the one on the north, with a shared driveway, and two houses of equal quality and size. This would conform to the character of the neighborhood on both sides.
- The division of the property is reasonable.
- She has no objection to staff's recommended changes to the plat as shown on page A-7 of the staff report.

- They would appreciate the commission's recommendation for approval.

Britain asked if she opposed the other flag-lots when they were proposed. Mrs. Sorenson did oppose the first proposed flag-lot, because she felt it would change the character of the neighborhood because all of the lots were set back 100 feet or more. At that time, the city council agreed that it would change the character of the neighborhood, but it was approved anyway.

The public hearing was opened.

Mr. Winter, 3939 Haven Road, spoke on behalf of cul-de-sac and some Woodhaven Road property owners who opposed the variance. He stated that:

- The matter is not personal. All the neighbors like the Sorensens.
- He agreed with Teague's comment that there is no hardship. The motivation to subdivide the lot is for economic gain.
- The proposal would change the unique character of the neighborhood. It is different from the previous variance that allowed a lot behind a lot. In that instance, the lots equaled a half acre, had proper setbacks, and were screened by trees. The residences to the east have a buffer. The proposal would have no buffer.
- The street would become less quiet and less safe.
- If the variance was granted, then all of the residences on Woodhaven would seek variances to create lots-behind-lots.
- Sight lines would be lost, trees would be removed, and exacerbation of the existing water runoff problem would be created by the proposal.

Chair Hart stated that most of the surrounding properties average 22,000 square feet and could not be subdivided. Mr. Winter stated that the neighbors did not want the proposed houses to block their sightlines.

Kris Newcomer, 3918 Haven Road, south neighbor of the applicants, stated that:

- Her house was the last house built in the cul-de-sac in 1987. She requested a variance before the construction of her house, but she was told it had to be built in the setback requirements.
- More money had to be spent to create a uniquely shaped house. It would not be fair for her variance to be denied, but the applicant's to be granted.

- She has an aesthetic problem with the proposed location of the driveway. It would run along her property line.
- All five driveways converge at the hairpin turn. It is a safety issue. The street is 25 feet wide.
- She opposed the application due to the issues of fairness, safety, and aesthetics.

Paul St. Clair, 3830 Haven Road, lives north of the proposed division. He has lived in Minnetonka for 42 years. He chose the property because of the view to the lake. The two spruce trees are very old and valuable. The drainage issue needs to be addressed. He already has runoff from other properties draining onto his property. A major torrent occurs in the spring. He appreciated the Sorensons as great neighbors, he understood the position they were in, and if he was in their position he would be doing the same thing.

Jim Fenning, 1551 Hunter Drive, Wayzata, spoke in favor of the variance on behalf of the Sorenson's. The proposal would be consistent with the neighborhood. Staff could improve the water drainage issues at the time the building permits were applied for. A single house would not increase the traffic noticeably.

Mr. Sorenson stated that the drainage and runoff could be corrected at the time of construction. The proposed house location was designed to minimize interference with sight lines to the lake. Mr. Sorenson was willing to discuss relocating the driveway or trading some of their tree property for part of the rear lot. He was told that the spruce trees are so big, they should be harvested. The city council required, as a condition of approval, the applicant for the development across the street to dedicate their property as right-of-way. His variance from the necessary square footage would be minimal except for the subtraction of the property the city dedicated as right-of-way.

Ms. Newcomer explained that her property was on the market for three years before she bought it because of the odd shape of the lot. The Sorensons, from 1994 to 1997, had the opportunity to purchase the entire lot and reconfigure the property.

No additional testimony was submitted and the hearing was closed.

Bonoff asked if Mr. Sorenson was correct in stating that if the 3,000 square feet of right-of-way was not considered right-of-way, then the 4,000 square foot variance would be reasonable. Teague explained that the property is 400 square

feet short of 44,000 square feet. Mr. Sorenson is correct. The variance would be 400 square feet if it was not for the right-of-way dedication.

Dahl appreciated the respect the neighbors showed for each other's points of view. He asked why two sets of utilities were included for the site and if the proposed driveways would be shared. Teague explained that it is common practice for two sets of utilities to be installed for larger lots to plan for future subdividing. The current proposal plans for two separate drives. Staff would prefer one access to Haven Road with a split to the two new homes.

Frisque asked what variances had been approved for neighboring properties. The lots to the north all meet the 22,000 square feet requirement. A variance was given for lack of frontage on a public street. The requirement is 80 feet of width on a public street. The variance was from 80 feet to 0 feet. The lot on the south also received a frontage on a public street variance from 80 feet to approximately 15 feet and a lot size variance for the front lot.

Britain asked when the lot to the east was approved. Teague responded 1980.

Bonoff appreciated the Sorenson's graciousness by showing commissioners the property and appreciated the detailed report. She saw a difference between the proposed site and the other flag lots because of the fact that it is the focal point and the entry to the cul-de-sac. It is wide open and establishes the character of the property. She did not support subdividing the property, unless it was without any variances. A few years from now, a new property owner with new commission members may look at a similar plan. She wondered if there would be any type of protection to prevent it from happening in the future. Teague stated that future applications would be considered at that time. Chair Hart stated that reference to this decision would be provided with the reasons for the decision to future commissioners considering an application for the property.

Olson commented that the trend right now seems to be that the city council discourages lots-behind-lots. Chair Hart agreed. She stated that the property is so exposed, two residences on the property would seem giant. The other lot-behind-a-lot appeared to be standard lots. The city council has been looking at the layout.

Cheleen pointed out that the flag lot is 18,000 square feet. He understood the property's importance as the focal point of the area, but there is a semi-precedent with the lot on the east. He understood that did not have to be dwelt on, but he felt it was a consideration.

Colleran responded to Bonoff's concern by explaining that the applicants could put property in a conservation easement which would limit the potential of future subdivision.

Britain struggled with the proposal. He has opposed most flag lots during his time on the commission, but in this situation, with the precedent established in the neighborhood, he personally felt it was a hard decision. Positioning the back house more toward the lake would be positive. It was hard for him to say this, but he supported the Sorenson's proposal.

Bonoff commented that the flag lots were done in 1980. If the other lot had not given the city 3,000 square feet, it would have met the lot size requirement for one lot and were close on the other lot. When they owned the property, the lots met ordinance requirements.

Frisque confirmed with Teague that with the right-of-way property, the applicants are short 400 square feet. Frisque's concern was that a lot across the street did not meet the lot size requirements as well. A change to the layout of the lot, some orientating of the residence on parcel A so that it faced the cul-de-sac, would be an improvement.

Chair Hart reluctantly agreed with staff. The character of the neighborhood and the appearance of the proposal on the property would be elevated above the cul-de-sac. The aesthetics of it would not be appealing. The property on the east is similar, but the physical layout and the screening make the difference.

Bonoff moved, second by Dahl, to recommend that the city council deny preliminary approval of the plat, with variances.

Bonoff, Dahl, and Hart voted yes. Britain, Cheleen, and Frisque voted no. Allendorf was absent. The vote was split. The motion did not pass.

The city council will review the comments and make the final decision.