



PLANNING COMMISSION AGENDA

JUNE 6, 2002—6:30 P.M.

CITY COUNCIL CHAMBERS—MINNETONKA COMMUNITY CENTER

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Approval of Minutes:** May 16, 2002
5. **Report from Staff**
6. **Report from Planning Commission Members**
7. **Public Hearings: Consent Agenda**

City staff has placed items that they consider routine on the consent agenda. The Planning Commission will hold one public hearing and then approve all such items with one motion. Before voting on the consent agenda, the chair will open the hearing, announce each item and ask if anyone wishes to have a separate discussion or vote on that item. If so, that person should raise their hand. The Commission will then remove that item from the consent agenda and hold a separate hearing on it after voting on the consent agenda items. The chair may allow informational questions without removing an item from the consent agenda. Items approved under the consent agenda are approved subject to the staff recommendations.

- (4 Votes) A. Two-lot subdivision, with lot width and lot area variances, at 5409 Woodland Road for RAM Construction (02024.02a)
- Recommendation to City Council (Tentative Date: June 24, 2002)
 - Project Planner: Susan Thomas

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- (4 Votes) B. Resolution approving a lot division with a lot width at the setback and right-of-way variance, at 14620 Woodhill Circle for April M. Guerin (93004.02a)
- Recommendation to City Council (Tentative Date: June 6, 2002)
 - Project Planner: Cary Teague
- (5 Votes) C. Approve a site and building plan review, and building height variance from 35 feet to 46 feet for an 111,518-square-foot addition to the existing Osmonics manufacturing facility at 5951 Clearwater Drive for Neil Johnson (89072)
- Final Decision Subject to Appeal
 - Project Planner: Cary Teague
- (5 Votes) D. Resolutions approving setback variances to construct a second-story addition above an existing garage at 1824 Essex Road for Richard and Britt Gage (02025.02a)
- Final Decision Subject to Appeal
 - Project Planner: Janice Waataja

8. Public Hearings: Non-Consent Agenda Items

- (4 Votes) A. Items concerning a proposed three-phased senior rental apartment building at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin (02020.02a)
- 1) Ordinance adopting a pid master development plan and approving final site and building plans
 - 2) Preliminary Plat
- Recommendation to City Council (Tentative Date: June 24, 2002)
 - Project Planner: Curt Gutoske

9. Adjournment

Notices

1. Please call the Planning Department at (952) 939-8298 to confirm meeting dates as they are tentative and subject to change.

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2. Application pulled and tentatively rescheduled for the June 20, 2002, Planning Commission meeting:
 - A site and building plan review and a sign plan review for a 6,560 square foot addition to Barnes and Noble bookstore located at 13081 and 13101 Ridgedale Drive for Lutheran Brotherhood (Ridgehaven Mall) (94034.02a)

WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

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

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.
2. Staff presents their report on the item.
3. The Commission will then ask City staff questions about the proposal.
4. The chairperson will then ask if the applicant wishes to comment.
5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.
6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.
7. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.
8. The Commission will then discuss the proposal. No further public comments are allowed.
9. The Commission will then make its recommendation or decision.
10. Final decisions by the Planning Commission may be appealed to the City Council. Appeals must be written and filed with the Planning Department within 10 days of the Planning Commission meeting.

**UNAPPROVED
MINNETONKA PLANNING COMMISSION
MINUTES**

MAY 16, 2002

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Knight, Wagner, Yearwood, Clinton, Egge, and Sodergren were present. Gallop was absent.

Staff Members Present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, and Planning Intern Janice Waataja.

3. APPROVAL OF AGENDA: The agenda was approved as submitted with the addition of a Change Memo dated May 16, 2002.

4. APPROVAL OF MINUTES: May 2, 2002

Egge moved, second by Clinton, to approve the May 2, 2002, meeting minutes with the following changes listed in the May 26, 2002, Change Memo:

Page 5 of the minutes:

- Item 1.b. at the top of the page: The applicants are proposing to use their property in a reasonable manner ~~prohibited by Code~~.
- Item 2.b.: ~~Three homes within the Dunibar Ridge development have front yard setbacks of 20 feet.~~

Knight, Wagner, Yearwood, Clinton, Egge, and Sodergren voted yes. Gallop was absent. Motion carried.

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meetings of May 6 and May 13, 2002:

- Adopted the resolution granting preliminary approval of the Archwood Addition plat at 10707 Crestridge Drive and the vacant lot at the northeast corner of Crestridge Drive and Archwood Road for Archwood Associates.
- Introduced an ordinance amending a master development plan for a three-phased senior rental development called Fairfield Rolling Estates and approving final site and building plans for phase 1 at 801 Sunset Drive and 12701 Fairfield Road West for Myron Kunin.
- On May 6, postponed action of items concerning development of two twin homes at 14800 Margaret Place for Lynmore, LLC, ordinance rezoning from R-1, low density residential, to R-2, low density residential; resolution approving a lot division with a lot width at the setback variance, and lot area variance; building and site plan review and resolution approving a front yard setback variance from 25 feet to 12 feet. The City Council approved the items during a special meeting held May 13, 2002, after the developer addressed the City Council's concerns regarding the proposed structure's façade that would face Williston Road.

Olson introduced Planning Department Intern Janice Waataja. Chair Sodergren welcomed Waataja on behalf of the Commission.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the Consent Agenda for discussion or separate action.

Yearwood moved, second by Wagner, to approve the items listed on the Consent Agenda as recommended in the respective staff reports, and modified by the May 16, 2002 Change Memo, as follows:

A. Resolution approving front yard, side yard, and aggregate side yard setback variances to add a stall to the existing garage at 5102 Belwood Lane for Thatcher and Lisa Ramsden (02021.02a)

Adopt the resolution on pages A1–A3 of the staff report, which approves setback variances at 5012 Belwood Avenue. This resolution is based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to the property:

- a. Hardship is caused by substandard lot width.
 - b. Hardship is additionally caused by an existing, non-conforming front yard setback.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
- a. A two-stall garage is considered a reasonable land use on residentially zoned properties.
 - b. The proposed two-stall garage is consistent with neighborhood character; 90 percent of the homes along Belwood Lane have two-stall garages.
 - c. The proposed setbacks are consistent with setbacks in the Belwood Lane area.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the City issues a building permit.
2. This variance will end on December 31, 2003, unless the City has issued a building permit for the project covered by this variance.
3. Install tree protection and erosion control fencing along the southerly property line. Fencing must be maintained throughout the construction process.

B. Resolution approving a conditional use permit for an outdoor dining area for the Marriott Hotel's restaurant and lounge at 5801 Opus Parkway for IHP Holdings Partnership, L.P. (87049.02a)

Adopt the resolution on pages A1–A4 of the staff report, which approves the proposed conditional use permit. This resolution is based on the following findings:

1. The proposal meets the standards outlined in the city code, Section 300.21.2., regarding general standards for conditional use permits for business zoning districts.
2. The proposal meets the standards outlined in the city code, Section 300.21.4. r., regarding accessory sidewalk cafes and outdoor eating areas.

Approval is subject to the following conditions:

1. Record this resolution with the county within one year from the date of City Council approval.
2. The outdoor eating area must not be open longer than 6:00 a.m. to 1:00 p.m. seven days per week.
3. In order to serve liquor within the outdoor eating area, a liquor license must be obtained.
4. Proper fencing must be installed subject to review and approval of the City Fire Marshal, and per the satisfaction of the conditions of a liquor license.
5. The outdoor eating area must be equipped with refuse containers and periodically patrolled for litter pick-up.
6. Must not have speakers or audio equipment in the outdoor eating area.
7. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
8. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
9. The applicant must agree to the above conditions in writing.

Knight, Wagner, Yearwood, Clinton, Egge, and Sodergren voted yes. Gallop was absent. Motion carried and the items on the Consent Agenda were approved as submitted.

8. PUBLIC HEARINGS

A. Front yard setback variance from 35 feet to 27 feet for a garage addition at 12910 Maywood Lane for Jeff Weiss (02023.02a)

Chair Sodergren 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.

Yearwood asked if the current garage was constructed at the same time as the residence. Teague answered in the affirmative. The front setback was not met because the front was curved. A four-car garage would not be in character with the neighborhood and there are other options available to allow a four-car garage without a variance on the site. Yearwood asked if a variance was issued at the time of its original construction. Teague answered in the

negative.

Jeff and Carla Weiss, 12910 Maywood Lane, applicants, explained the history of the site and stated:

- The current garage was built with the house before the road was paved.
- The proposal is necessary because Ms. Weiss' parents will be living with the applicants.
- The existing garage would house the parents' car and the new garage would be for the applicants' two vehicles.
- An entrance from the garage would be safer for her parents; no ice hazard. Without the variance, the elevation of the house would require the entrance to the garage to be located in the center and the whole length of the garage would be used by the entryway.
- None of the neighborhood residences meet the front setback requirement.

Clinton asked the applicants about moving the garage back. Mr. Weiss noted that as an option, but he maintained that the proposal would create a "cleaner" line in the front and the proposed garage would match-up with the back of the residence. Ms. Weiss stated that that was their second choice.

Chair Sodergren confirmed with the applicants that there are no sloping or wetland issues relating to the location of the proposed garage.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Clinton opposed the variance because the project could be done without a variance.

In response to Knight's question, Teague stated that the proposal would create the appearance of a four-car garage. The neighborhood characteristic is mainly two-car garages.

Knight concurred with Clinton.

Clinton moved, second by Egge, to deny the variance request based on the following findings:

1. The property does not contain any unique physical circumstance to justify a hardship for the variance. There is adequate area on the site to build an addition without the need of a variance.
2. The applicant has reasonable use of the property with the current single-family home and

two-car garage.

3. A four-stall garage would not be in character with the neighborhood.
4. Granting of this variance may set a precedent for similar variances in the neighborhood.

Knight, Wagner, Yearwood, Clinton, Egge, and Sodergren voted yes. Gallop was absent. Motion carried.

Chair Sodergren explained that the Planning Commission's decision was the final action to be taken on the item unless the applicants provided written notice to the Planning Director within 10 days, requesting an appeal be heard by the City Council.

Ms. Weiss asked if the garage could be built without a variance if it was moved back.

Chair Sodergren recommended the applicants work with staff to create a plan that would not require a variance.

9. ADJOURNMENT

Knight moved, second by Wagner, to adjourn the meeting at 6:55 p.m. Motion carried unanimously.

By: _____
Bernadette H. Leaf
Planning Administrative Assistant

Minnetonka Planning Commission Staff Report Meeting of June 6, 2002

Brief Description: Two-lot subdivision, with lot width and lot area variances, at 5409 Woodland Road for RAM Construction (02024.02a)

Recommended Action: Recommend that the City Council adopt the resolution.

Introduction

The applicant is proposing to divide the property at 5409 Woodland Road. The double frontage lot would be divided into two parcels; the existing home site would continue to take access from Woodland Road, while the newly created parcel would access Byscane Lane. The proposal requires three variances: (1) a lot width variance from 110 feet to 100 feet; (2) a lot area variance from 22,000 square feet to 20,200 feet; and (3) a lot area variance from 22,000 square feet to 20,000 square feet. (See the narrative and plans on pages A10–A12.)

Primary Issues

- **Is the proposal consistent with the character of the neighborhood?**

Yes. The proposed lot division represents a natural extension of existing neighborhood characteristics. The division would create two parcels of 20,200 and 20,000 square feet respectively; the parcels, in both size and configuration, would be similar to other properties in the immediate area. (See the diagram on pages A12–A13.)

- **Does the proposal prove hardship, warranting a variance?**

Yes. The applicant is proposing to use the property in a reasonable manner. By definition, undue hardship exists when a property cannot be put to reasonable use if used under the conditions allowed by City ordinance. (City Code 300.07.1) The City Attorney has advised staff that this definition does not mean that the applicant must show that the land cannot be put to any reasonable use without the variance. Rather, the applicant must show that they would like to use the property in a reasonable manner.

Given the size and configuration of surrounding properties, staff believes the proposed lot division represents an extension of neighborhood characteristics and, therefore, a reasonable use of the property. (See the diagram on pages A7, A13.)

- **Does the proposal meet the spirit and intent of the City's ordinance?**

City Code 300.10.5 requires that any property created with the R-1 zoning district have an area of 22,000 square feet and width of 110 feet at building setback. The City's Comprehensive Guide Plan indicates that the intent of low-density residential zoning, and specific regulations associated with it, is to maintain a spacious development pattern. The Guide Plan likewise indicates that resubdivision of large lots may be allowed if the Council determines that the effect will not be detrimental to neighborhood visual character, environmental conditions, traffic safety, or property values.

Staff believes the proposed lot division would not be detrimental to the neighborhood, as it represents a natural extension of existing neighborhood characteristics. Therefore, the proposal meets the spirit and intent of City ordinance. (See the diagram on page A13.)

Staff Recommendation

Recommend that the City Council adopt the resolution on pages A1–A4, which approves the proposed lot division, with lot area and lot width variances. This resolution is based on the following findings:

1. The proposal meets the required standards for a variance, because:
 - a. Strict enforcement would cause undue hardship, as the applicant are proposing to use their property in a reasonable manner.
 - b. The variances would be consistent with the spirit and intent of this ordinance, as the proposed lot division represents an extension of neighborhood characteristics.

Approval is subject to the following conditions:

1. The following items must be submitted to the City before the City releases this resolution:
 - a. The following documents for the City Attorney's approval:
 - (1) A 15-foot drainage and utility easement along the north property line of both Parcels A and B.
 - (2) A drainage and utility easement over the northeastern part of Parcel B. The easement must cover all that part of Parcel B lying within a triangle lying northeasterly of a line drawn from a point on the north property line

of Parcel B, distant 50.00 feet west of the northeast corner of Parcel B to a point on the east line of Parcel B distant 50.00 feet south of the northeast corner of Parcel B.

- (3) A drainage and utility easement on both Parcels A and B below the 947.0 elevation.
 - (4) Except as noted above, a 10-foot-wide drainage and utility easement next to any public street right-of-way and a seven-foot-wide drainage and utility easement along all other lot lines.
- b. A park dedication fee of \$550.00.
 - c. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the lot split resolution.
 - d. Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions below that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the City Attorney.
2. The following must be completed before the City issues a building permit:
 - a. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the City's Environmental Resources Coordinator.
 - b. Provide an outlet, or petition the City to provide an outlet, from created low area to storm sewer system.
 - c. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the City.
 - d. A hook-up fee for sanitary sewer and water.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 3. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 4. Trees must be planted to compensate for significant trees removed. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for

deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.

5. This resolution must be recorded by the county within one year, unless the City Council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

Originator: Susan Thomas, Planner
Through: Geoff Olson, Planning Director

G:\WORD\notify\02024.02A

SUPPORTING INFORMATION

Lot Dimensions

This proposal creates two lots with the following dimensions:

REQUIRED	SIZE	WIDTH	DEPTH	BUILDABLE AREA
	22,000 sq. feet	110 feet	125 feet	3,500 sq. feet
Parcel A	20,200 sq. feet*	100 feet	202 feet	6,840
Parcel B	20,000 sq. feet*	100 feet*	200 feet	5,650

* variance required

Neighborhood Lot Size

There are 49 residential lots within 400 feet of the subject property range. These lots range in size from 14,400 square feet to 40,200 square feet. Twenty properties, or 40 percent of the lots, have areas of less than 20,000 square feet. (See the diagram on page A13.) Average lot size in the Woodland Road/Byscane Lane area is 21,240 square feet.

Previous Lot Divisions

In 1984, the Planning Commission and City Council approved a lot division at 5451 Woodland Road. The division created two properties of 20,100 square feet and required lot area and lot width variances. In their approval of the division, the Commission and Council noted that the proposal was in character with surrounding properties. (See the diagram, staff report and minutes on pages A17–A23.)

Grading and Drainage

There is an existing low area on proposed Parcel B. (See the diagram on page A14.) This natural depression has been incorporated into the City's stormwater management program. It accepts drainage from properties adjacent to both the north and south. There is currently no outlet from this low area into the City's storm sewer system.

The City Engineer has reviewed the proposed lot division and grading plan and has found it to be acceptable. While part of the low area would be filled, a new collection area, with equal holding capacity, would be created and an outlet from it provided. No grading or site change would occur on proposed Parcel A. Given these provisions, the proposed lot division would not negatively affect area drainage.

Required Easements

Several easements would be required over both Parcels A and B:

- A 15-foot drainage and utility easement along the north property line of both Parcels A and B, covering existing storm sewer.
- A drainage and utility easement over the northeastern part of Parcel B, covering existing sanitary sewer. The easement was obtained previously, but was not properly recorded with Hennepin County.
- A drainage and utility easement on both Parcels A and B below the 947.0 elevation, covering the property's existing and proposed low areas.
- Standard drainage and utility easements on all other property lines

Utilities

Proposed Parcel B has access to existing utilities.

Natural Resources

Best management practices, as outlined in the City's Water Resources Management Plan, must be followed during the course of site preparation and construction activities. This would include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing.

Tree Protection

City Code 300.28.19(e) allows significant trees to be destroyed in the course of development. Replacement of these trees is not required, if the trees are removed within: (1) required easements for streets, utilities, and ponding; (2) within 10 feet of driveways; (3) within the footprints of buildings and 20 feet around buildings with frost footings. Trees must be planted to replace any significant tree removed outside of these areas.

The subject property is wooded, containing various trees and other forms of vegetation. Of 45 significant trees identified on proposed Parcel B, 25 are large box elder. As proposed, two significant box elder and one significant hackberry would be removed outside the required ponding easement and 20-foot building perimeter. The trees would have to be replaced. (See the diagram on page A15.)

Tree protection fencing would be required around all trees to be preserved as indicated on the tree inventory plan dated April 22, 2002.

Neighborhood Comments

We surveyed the property owners within 400 feet of this site. Out of 48 properties, we received 13 replies: 5 were in favor, 1 was opposed, 5 had general comments, and 2 had no comment.

In favor:

“I support this proposal but hate to lose trees and green space.” (No address given)

“We think it will be good for the neighborhood and contribute to the tax income for Minnetonka.” (15904 Dawn Drive)

“I have no objections to this as long as it complies with code.” (No address given)

“I do not object to this proposal as presented.” (No address given)

“The request seems well reasoned and fair.” (5451 Woodland Road)

Opposed:

“I do not support this proposal because of the proposed variances. The 5409 Woodland property was built in the 50’s. The Dawn Drive/Byscane properties were built in the 70’s on larger lots. A smaller home squeezed into the proposed lot would stand out differently. The property should be retained as it is today to maintain the wooded environment of the neighborhood. Minnetonka is basically 100% developed. This proposal is asking for variances to exceed the 100% condition.” (No address given)

General comments:

“Please be aware that this area has flooded two to three times in the past twenty years, after heavy rain. The water was several feet in depth.” (15907 Dawn Drive)

“I neither support nor oppose the proposed development but have two major concerns with respect to the variance requested to allow another private home to be built. First, I am concerned about the change in grade and how it will affect those properties contiguous to the lot that will be developed by RAM Construction. Any change in grade could affect my property and the drainage of water that has been in existence since the 1970’s. I don’t want water draining to my property. The second concern I have would be the removal of mature trees and the natural buffer that currently exists between the affected properties. I would hope the city will request most of these trees remain at the proposed building site and not be removed by the contractor.” (15901 Dawn Drive)

“I realize the property is presently zoned for a single-family residence. I am saddened to see more of the natural feel of the neighborhood being destroyed. The wooded environment is what gives it character and a serene feeling. Also, I have concerns about the height of the roof line compared to surrounding homes because this is a fairly narrow lot. Will it be overpowering?” (No address given)

See the attached letters on pages A24–A25.

Surrounding Land Uses

The properties on all sides of this lot are zoned and guided for single-family homes

Planning

Guide Plan designation:	Low-density residential
Zoning:	R-1, low-density residential
Deadline for a City decision:	August 30, 2002

CODE REQUIREMENT

City Code 300.07.01(a) states that 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 the ordinance. Undue hardship means the property in question cannot be put to a reasonable use if used under conditions allowed by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the neighborhood. Economic consideration alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of this ordinance.”

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 may show that they would like to use the property in a reasonable manner that is prohibited by the ordinance. “Practical difficulties” may justify a variance, including functional and aesthetic concerns. The applicant has a heavier burden to establish the need for a variance than conditional use permit because a variance allows something that is otherwise prohibited by the ordinance.

APPEALS

Any person aggrieved by the Planning Commission's decision may appeal such decision to the City Council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

RESOLUTION NO. 2002-

A RESOLUTION APPROVING A TWO-LOT SUBDIVISION, WITH LOT WIDTH AND LOT AREA VARIANCES, AT 5409 WOODLAND ROAD FOR RAM CONSTRUCTION

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 RAM Construction is applying for a two-lot subdivision, with lot width and lot area variances, at 5409 Woodland Road (Project 02024.02a).
- 1.02 Section 420.30, Subdivision 2 of the City Code does not allow the conveyance of this land by metes and bounds description. The ordinance allows the City Council to waive this requirement. The City Council, therefore, waives the foregoing restriction. The Council finds that compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the City's subdivision regulations.
- 1.03 City Code Section 300.10.5 requires a minimum lot size of 22,000 square feet and minimum lot width at building setback of 110 feet.
- 1.04 The applicant is proposing lots of 20,200 and 20,000 square feet. Each parcel would have a width at building setback of 100 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 1105.080 authorizes the Planning Commission to grant variances.

Section 2. STANDARDS

- 2.01 Section 1105.080 of City Code states that the Planning Commission may grant variances from the provisions of the ordinance if:

1. The variance arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property;
2. The variance is not against the public interest, particularly safety, convenience and general welfare;
3. The variance will not adversely affect the right of adjacent property owners or tenants; and
4. The strict application of this ordinance will cause unnecessary hardship on the property owner or tenants.

Section 3. FINDINGS

3.01 The proposal meets the required standards for a variance, because:

1. Strict enforcement would cause undue hardship, as the applicants are proposing to use their property in a reasonable manner.
2. The variances would be consistent with the spirit and intent of this ordinance, as the proposed lot division represents an extension of neighborhood characteristics.

Section 4. APPROVAL.

4.01 The division of the following described parcels is approved:

TRACT A, REGISTERED LAND SURVEY NO. 384, HENNEPIN COUNTY,
MINNESOTA

4.02 Approval is subject to the following conditions:

1. The following must be completed before the City releases the resolution:
 - a. Provide the following documents for the City Attorney's approval:
 - (1) A 15-foot drainage and utility easement along the north property line of both Parcels A and B.
 - (2) A drainage and utility easement over the northeastern part of Parcel B. The easement must cover all that part of Parcel

B lying within a triangle lying northeasterly of a line drawn from a point on the north property line of Parcel B, distant 50.00 feet west of the northeast corner of Parcel B to a point on the east line of Parcel B distant 50.00 feet south of the northeast corner of Parcel B.

- (3) A drainage and utility easement on both Parcels A and B below the 947.0 elevation.
 - (4) Except as noted above, a 10-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines
- b. A park dedication fee of \$550.00
 - c. Title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before release of the lot split resolution.
 - d. Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions below that have not been met as of the release of the resolution. These covenants must first be submitted for the approval of the City Attorney.
2. The following must be completed before the City issues a building permit:
- a. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing must be installed subject to review and approval of the City's Environmental Resources Coordinator.
 - b. Provide an outlet, or petition the City to provide an outlet, from created low area to storm sewer system.
 - c. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the City.
 - d. A hook-up fee for sanitary sewer and water.

- e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 3. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 4. Trees must be planted to compensate for significant trees removed. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 5. This resolution must be recorded by the county within one year, unless the City Council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

Adopted by the Minnetonka City Council on _____, 2002.

Karen J. Anderson, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

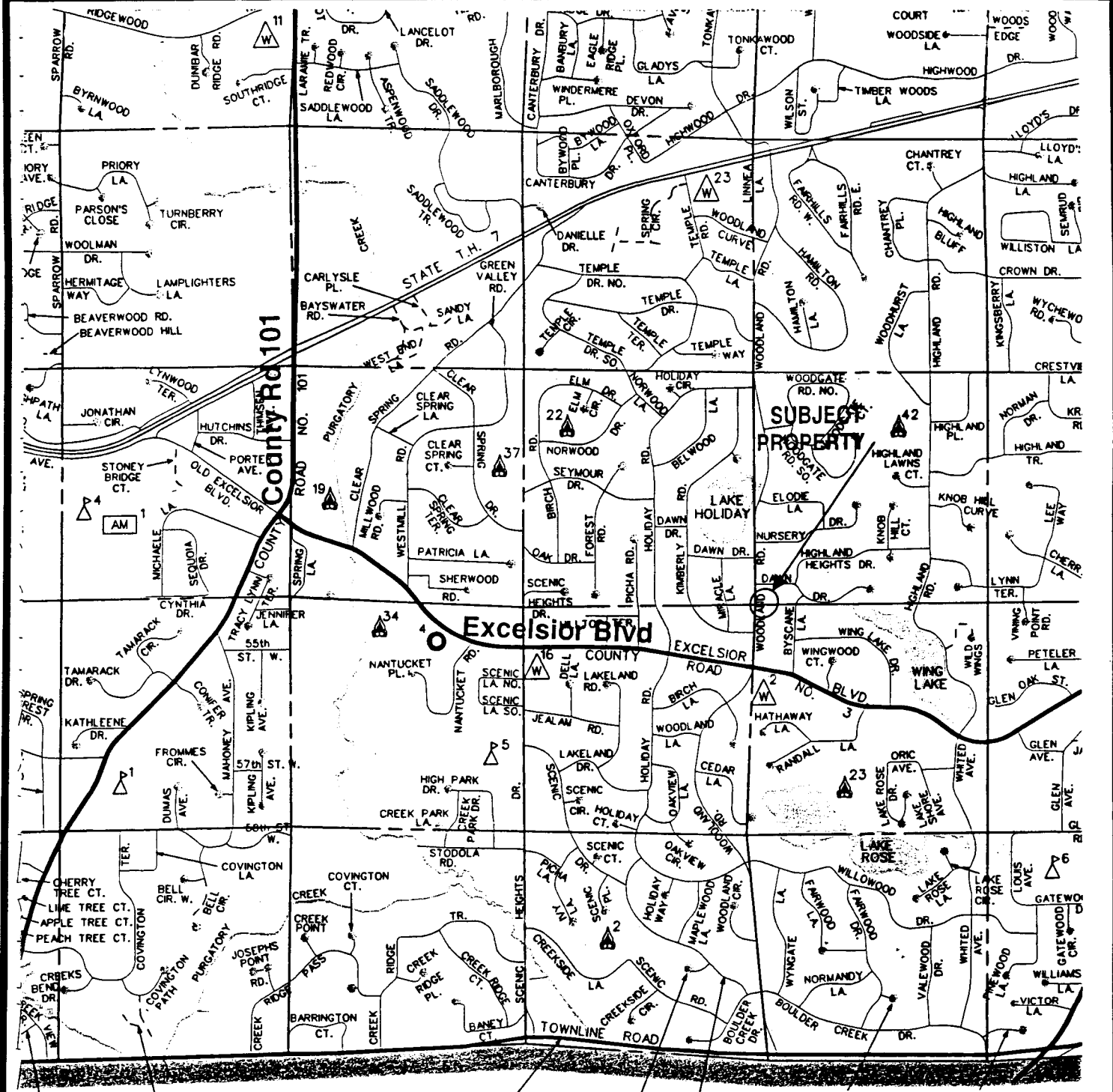
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on _____, 2002.

Kathleen A. Magrew, City Clerk

G:\WORD\Res\02024LOT-VAR.02A.doc

A5



AREA MAP

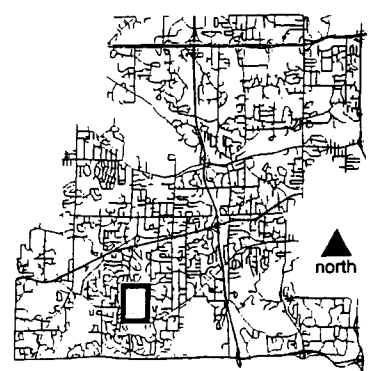
APPLICANT
and PROJECT: Rod Miller, RAM Construction

LOCATION: 5409 Woodland Road

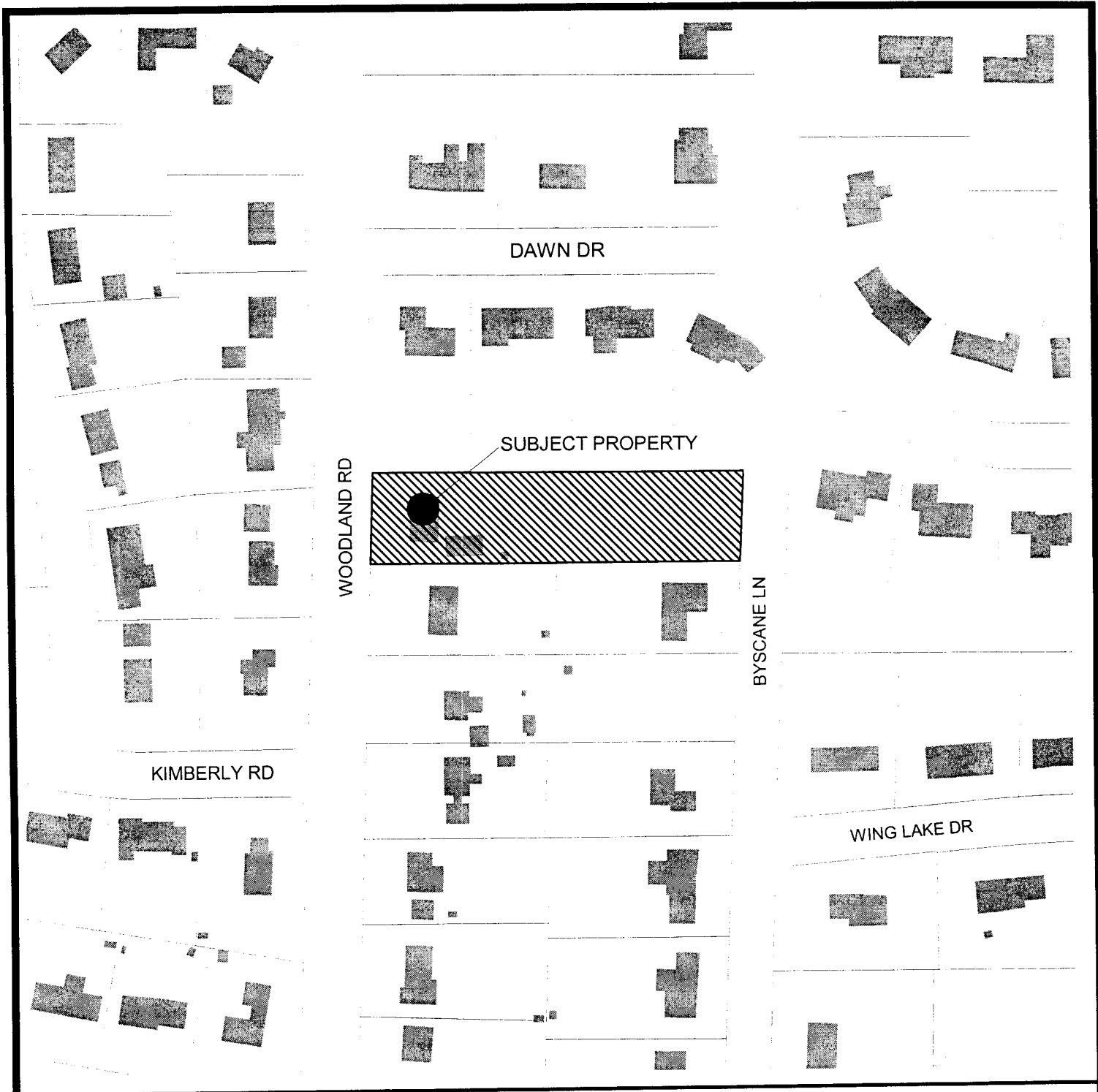
City of
minnetonka

02024.02a

AB



This map is for illustrative purposes only.



LOCATION MAP

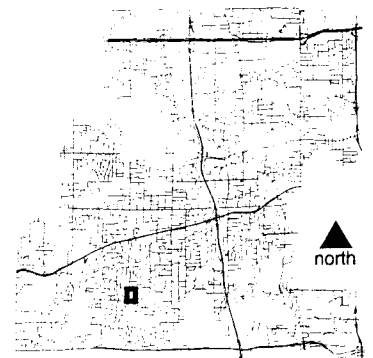
APPLICANT
and PROJECT: Rod Miller, RAM Construction

LOCATION: 5409 Woodland Road

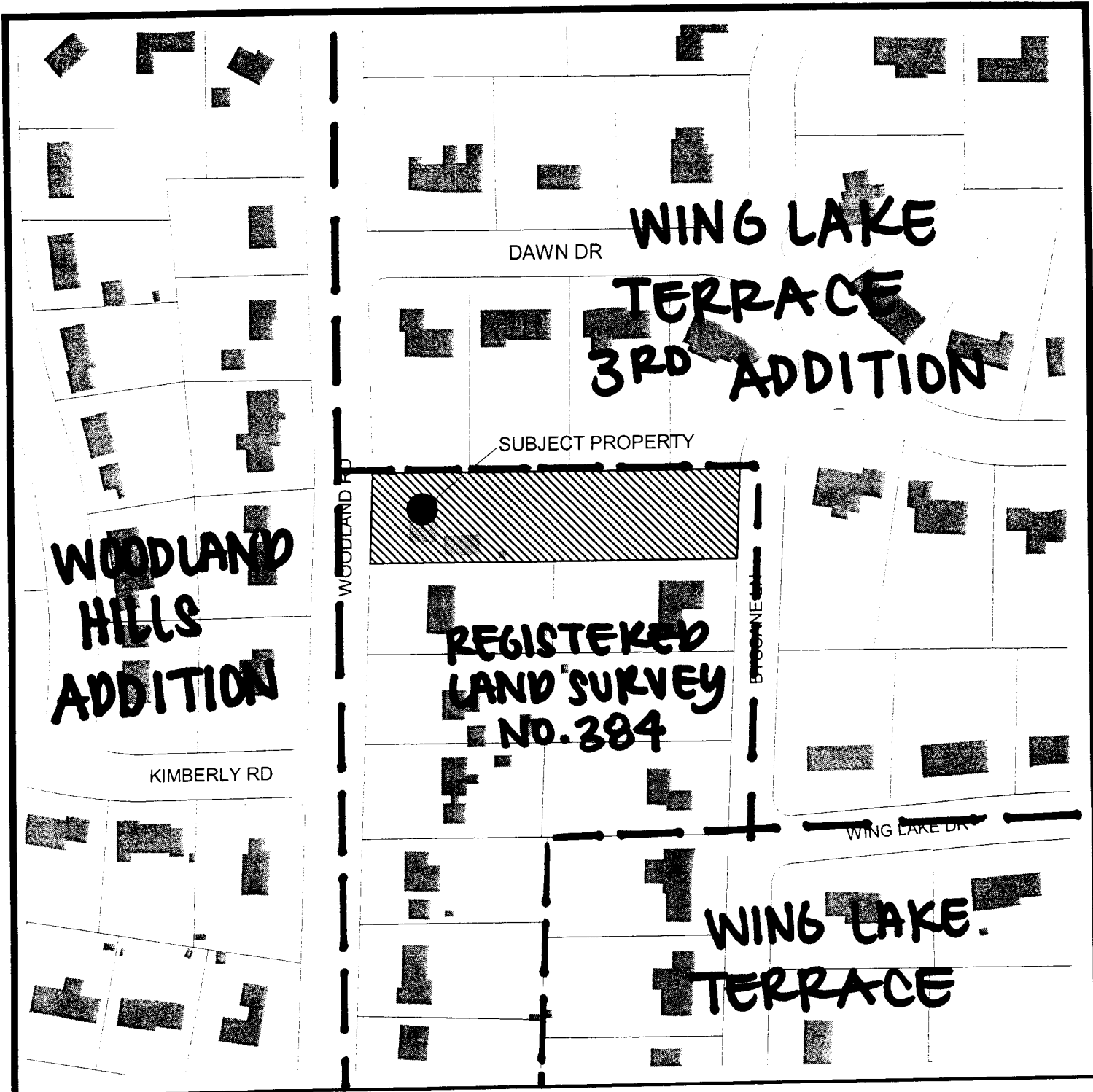
City of
minnetonka

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A7



This map is for illustrative purposes only.



LOCATION MAP

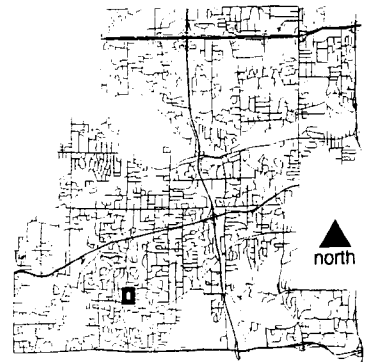
APPLICANT
and PROJECT: Rod Miller, RAM Construction

LOCATION: 5409 Woodland Road

City of
minnetonka

02024.02e

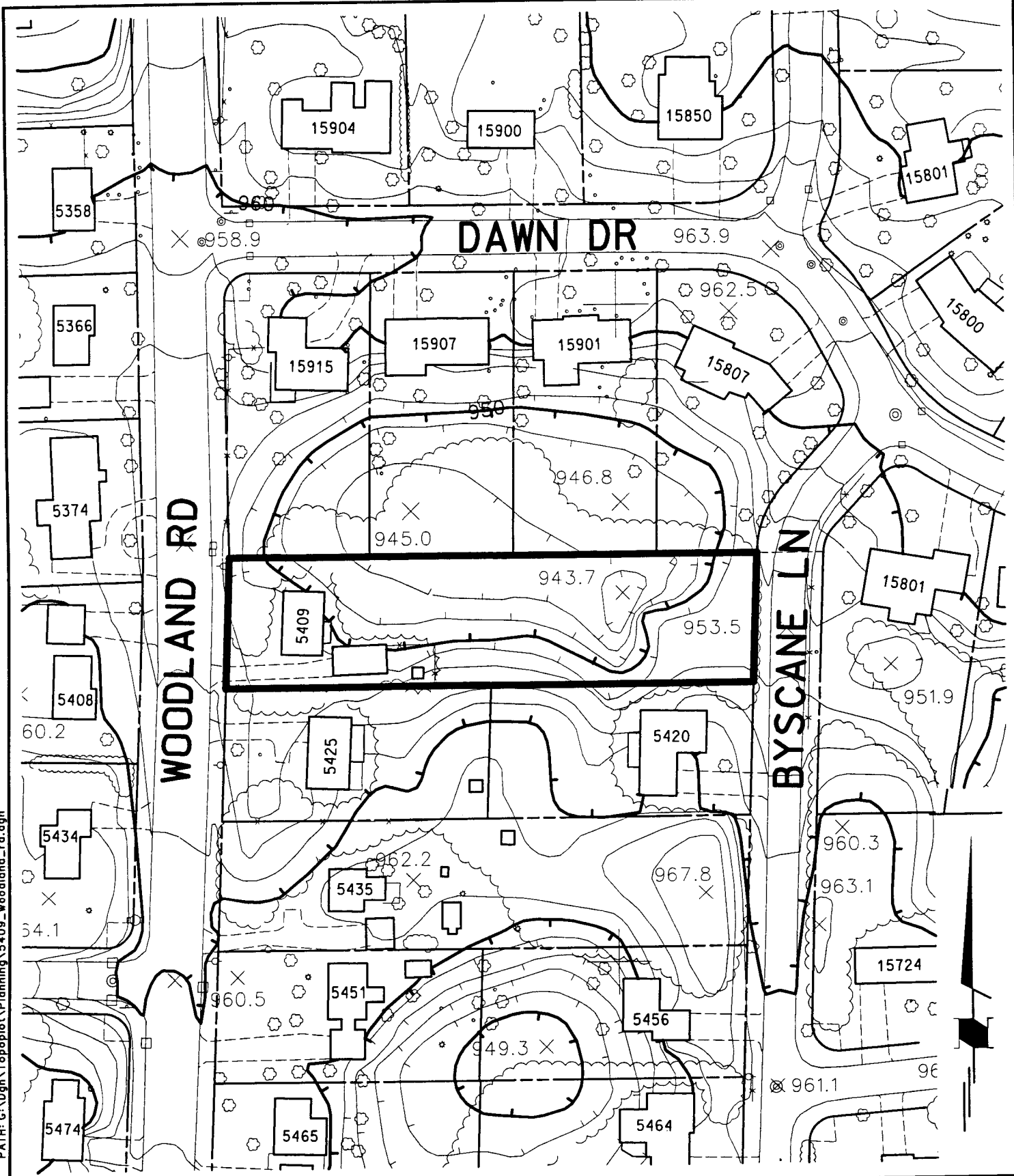
A8



This map is for illustrative purposes only.

PATH: G:\Dgn\Topoplot\Planning\5409_woodland_rd.dgn

PLOTTED BY: bhendricks



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
 14800 MTKA BLVD, MTKA, MN. 55345 PH: 952-839-8200

SCALE:
 1" = 100'
 DATE:
 05/06/2002

A9

5409 WOODLAND RD

RAM Construction
5524 Dickson Rd
Minnetonka MN 55345

April 19, 2002

City of Minnetonka
Planning Department
14600 Minnetonka Boulevard
Minnetonka Mn 55345

Re: 5409 Woodland Road

Dear Sir or Madam:

The following narrative incorporates information pertaining to the proposed lot division and variance requests for the subject parcel.

Lot Division

The intended use of the existing parcel is to maintain the single-family use of the entire site. This is accomplished via splitting the 400+ foot long lot into two 100'x200' lots. The westerly lot will have the existing single family house with the detached garage situated on it. The easterly lot will be used for new home construction of a single family home with attached garage.

The easterly lot is ready for sewer and water connection to the existing service stubs that were installed in the 1970's. Layout of the proposed home meets all setbacks. This use fits with the character of the neighborhood. Many similar divisions have been processed for equal sized parcels to the south.

Variiances

The variance requests are for the minimum lot area and minimum lot width.

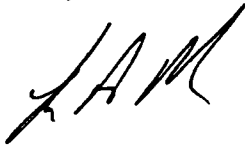
Proposed lot areas for the east and west lot will be 20,000 and 20,260 square feet respectfully. This is small change from the code area of 22,000 square feet. This impact will be unnoticeable on a neighborhood basis. Lot width will be 100 feet. Again, this 10 foot difference is small, and has been approved for similar parcel layouts to the south. The extra depth of 200 feet gives these lots a very open feel.

AID

April 19, 2002
City of Minnetonka
Planning Department
Page 2

These differences from the code would not alter the character of the neighborhood. This is specifically true for the existing home that has been located on Woodland Road since 1958. The spirit and intent of the zoning ordinances would be met by allowing use of the easterly proposed lot. This is identified by the existing utility services that are in place and the compatible use to the houses to the south.

Sincerely,

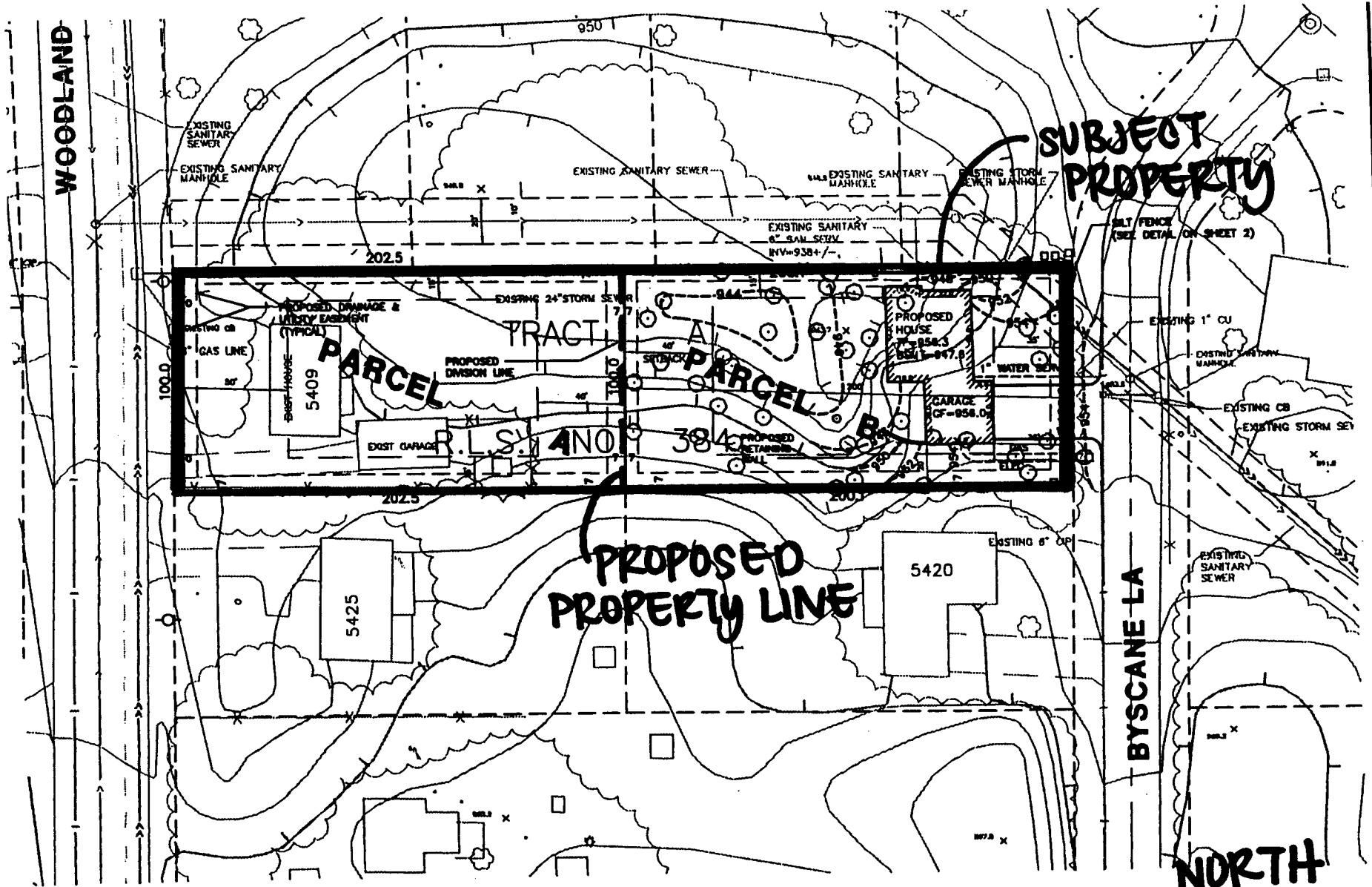
A handwritten signature in black ink, appearing to read 'RAM', written in a cursive style.

Rod Miller

All

A12

WOODLAND



SUBJECT PROPERTY

TRACT
PARCEL A
PARCEL B

PROPOSED PROPERTY LINE

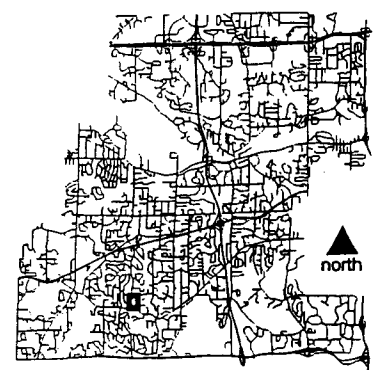
NORTH





PROPERTIES LESS THAN 20,000 SQ. FT.

City of minnetonka



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A13

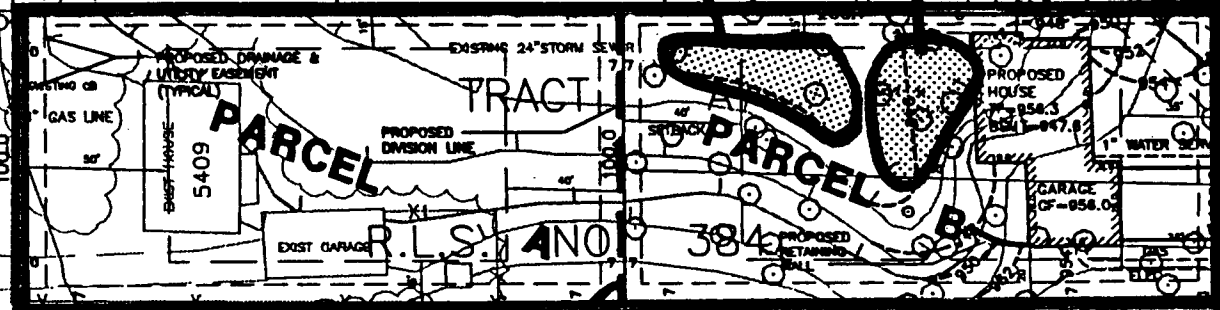
A14

WOODLAND

EXISTING LOW AREA

SUBJECT PROPERTY

PROPOSED LOW AREA



PROPOSED PROPERTY LINE

BYSCANE LA

NORTH



WOODLAI

AIA

EXISTING SANITARY SEWER

EXISTING SANITARY MANHOLE

EXISTING SANITARY SEWER

EXISTING SANITARY MANHOLE

EXISTING STORM SEWER MANHOLE

EXISTING SANITARY 6" SALL CELL INV=938+/-

SILT FE (SEC D)

202.5

200.1

100.0

10

EXISTING CB
6" GAS LINE
50'

PROPOSED DRAINAGE & UTILITY EASEMENT (TYPICAL)

PARCEL 5409

PROPOSED DIVISION LINE

R.L.S. AND

384

202.5

200.1

10

5425

5420

EXISTING 6" GAS

BYSCANE LA

PROPOSED HOUSE
FT=956.3
BSM1=947.6

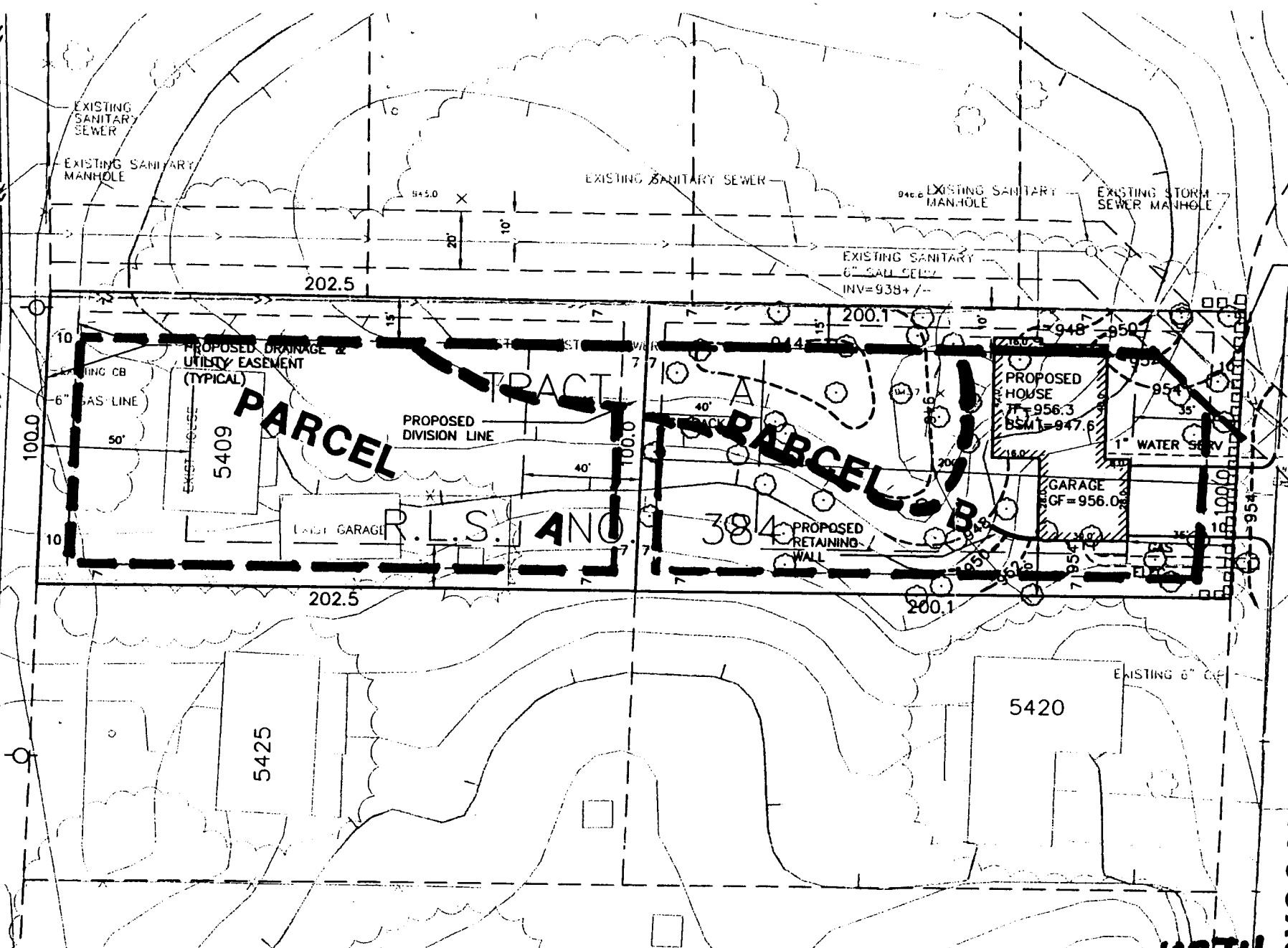
GARAGE
CF=956.0

PROPOSED RETAINING WALL

NORTH



REQUIRED EASEMENTS

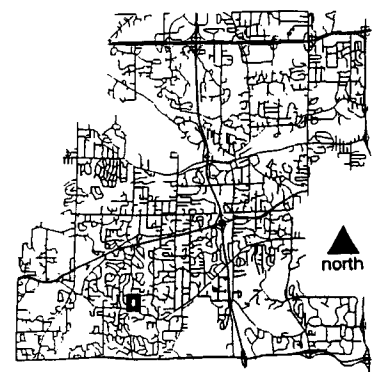




**PREVIOUSLY
DIVIDED PROPERTY**

City of
minnetonka

A17



This map is for illustrative purposes only.

TO : Planning Commission and Members of the City Council
THROUGH : Ann Perry, Director of Planning
FROM : Phil Rosenquist, Senior Planner
DATE OF MEETING: September 6, 1984
SUBJECT : Preliminary Plat No. 1566 - Lot Division
APPLICANT : Robert and Anastasia Galchutt
LOCATION : 5451 Woodland Road, generally located east of Woodland Road,
west of Byscane Lane, and north of Excelsior Boulevard in the
NW 1/4 of Section 33.
PROPOSAL/SUMMARY: The applicants are requesting a lot division to split a 40,200
square foot parcel into two R-1 lots. The existing house
would be located on the west 20,100 square foot lot and the
east 20,100 square foot lot would be created for future
development.

The proposed lot division requires a series of variances from
minimum lot area and width requirements. Staff believes the
variances are minor and that the lot split is consistent with
the surrounding neighborhood. As such, staff is recommending
approval of the lot division subject to stipulations which
include dedication of required easements, erosion control
during any construction on the east lot, and prohibition of
future setback variances for the east lot.

SITE CHARACTERISTICS: The property contains 40,200 square feet or 0.92 acres. The
existing single family house and detached garage now used for
storage purposes are located on the west lot. Both of these
structures have nonconforming side yard setbacks. The property
has double frontage on Woodland Road and Byscane Lane.

The existing house is built at a 960' elevation, similar to
Woodland Road. The east lot has a high elevation of 968'
at the northeast corner. Both lots slope toward a centrally
located drainage area with a 950' bottom elevation. Mature
trees are distributed about the west lot while the east lot
is wooded.

ACCESS : Since the existing property has double street frontages, access
is straightforward. The existing house will continue to access
to Woodland Road while future development on the east lot will
access to Byscane Lane.

A18

GRADING/DRAINAGE: Grading that would result from the proposal is limited to that needed to create a driveway and building pad for the east lot. Because this lot is wooded and of steep slope, sensitivity in preserving the natural character of the property should be used when siting any future development. Appropriate erosion control structures should be installed and maintained during construction to prevent sedimentation in the ponding area.

Both of the proposed lots drain into a centrally located depression. This area is not a designated wetlands but is identified as a ponding area in the Drainage Study. Water storage capacity in the rear of the east lot mandates a minimum basement elevation of 936'. Watershed district approval is not required.

EASEMENTS : Standard drainage and utility easements around the periphery of both lots are required and are indicated on the lot split survey. Sump easements below the 953' ponding requirement should be provided. Also, a 15' drainage easement along the south property line should be dedicated for a potential outlet from the ponding area.

UTILITIES : Municipal utilities are available to the east lot from services installed along Byscane Lane.

CURRENT ZONING : R-1, Single Family Residential District

GUIDE PLAN : Low Density Residential

COMPLIANCE WITH THE ORDINANCE: R-1

	<u>Ordinance</u>	<u>West Tract</u>	<u>East Tract</u>
Lot Area	22,000	20,100 _{v1}	20,100 _{v2}
Lot Width at Row	110'	100' _{v3}	100' _{v4}
Lot Width at Setback	110'	100' _{v5}	100' _{v6}
Lot Depth	125'	201'	201'
Lot Width @ Rear Lot Line	30'	100'	100'
Wetlands	N/A	NO	NO

V₁ & 2 - 1900 sq. ft lot area variance for both lots

V₃ & 4 - 10' lot width at right of way variance for both lots

V₅ & 6 - 10' lot width at building setback variance for both lots

STAFF COMMENT : While the number of variances required to approve the lot division appears substantial, the degree of the variances is not. Four variances relate to lot width with the remaining two for lot area. The variances are within the range of those typically considered for lot splits if the split is consistent with the character of the surrounding neighborhood. Also, the split serves to eliminate the nonconforming double frontage situation.

In this case, properties to the south are all developed with houses fronting on both Woodland Road and Byscane Lane. The properties range in width from 95' to 110'. Average lot size for these properties is slightly less than the 20,100 sq. ft. proposed for the subject lot split. There are three properties of similar 100' x 402' dimensions lying to the north. One of these has been split into two 20,100 sq. ft. lots as is now being proposed. The east lot contains a viable building site that is both consistent with the local development pattern and the spirit and intent of the zoning ordinance.

The only concern to staff regarding the variances is using the somewhat reduced lot area and width as justification for future setback variances. In the opinion of staff, the 100' of lot width contains adequate area for a building site and no future setback variances for the east lot should be considered.

STAFF RECOMMENDATION: Staff recommends final approval of Preliminary Plat No. 1566, lot division for Robert and Anastasia Galchutt with the following variances:

1. 20,100 sq. ft. lot area for both lots whereas 22,000 sq. ft. is required.
2. 100' lot width at right of way for both lots whereas 110' is required.
3. 100' lot width at building setback line whereas 110' is required.

Subject to the following:

1. Dedication of standard drainage and utility easements.
2. Dedication of sump easements to the City for all land located below the 953' contour.
3. Dedication of a 15' drainage easement along the south property line.
4. Minimum basement elevation of 936'.
5. Installation and maintenance of an appropriate erosion control mechanism during construction on the east lot.
6. No future setback variances be granted to the east lot.

AZD

MINUTES
MINNETONKA PLANNING COMMISSION
SEPTEMBER 6, 1984

1. CALL TO ORDER

Chairman Edstrom called the meeting to order at 7:30 p.m.

2. ROLL CALL

Commissioners Broe, Bergstedt, Sundell, Sawyer, Schneider, Witts and Edstrom were present.

3. APPROVAL OF MINUTES

Minutes of August 2, 1984 were not available for approval.

4. REPORT FROM THE DIRECTOR OF PLANNING

On August 27th the City Council approved the Haug Conditional Use Permit and lot division for Larson/Swanson, as well as the Paul Lark lot division per Planning Commission recommendations. The Earl Gilbert C.U.P., the Minnetonka Baptist portable classroom, the Fred Severson lot division, the Naegle development, the Cliffs and Saddlewood were also approved that night. On September 10th Work Session the Council will be reviewing the traffic report on the Smetana Road issue. On September 17th, items from August 16th will be heard, as well as an appeal from Mr. Cooley for the Ridgewood Office Center.

5. REPORT FROM THE ZONING ORDINANCE COMMITTEE

Terry Schneider reported that the committee will meet on 12th of September. They are currently reviewing commercial criteria. They will also be finalizing details of the residential zones.

6. CONSENT AGENDA

A. Preliminary Plat No. 1566 Lot Division for Robert and Anastasia Galchutt at 5451 Woodland Road in the N 1/2 of Section 33.

This item was voted on in the Consent Agenda. Commissioner Sawyer moved, Broe seconded, for approval of Preliminary Plat No. 1566 Lot Division for Robert and Anastasia Galchutt with the following variances:

1. 20,100 sq. ft. lot area for both lots whereas 22,000 sq. ft. is required.
2. 100' lot width at right-of-way for both lots whereas 110' lot is required.
3. 100' lot width at building setback line whereas 110' is required.

Subject to the following:

1. Dedication of standard drainage and utility easements.
2. Dedication of sump easements to the City for all land located below the 953' contour.
3. Dedication of a 15' drainage easement along the south property line.
4. Minimum basement elevation of 956'.
5. Installation and maintenance of an appropriate erosion control mechanism during construction on the east lot.
6. No future setback variances be granted to the east lot.

Commissioners Broe, Bergstedt, Sundell, Sawyer, Schneider, Witts and Edstrom voted "aye". Motion carried.

Mr. Andrs - 5435 Woodland Road - spoke after the motion and said he would like the east lot to be 150' deep, as he intends to divide his property in the future. He informally discussed his future plans with Chairman Edstrom and staff. Chairman Edstrom advised that the biggest influence this lot division would have on his property is the size of the lots. He was advised to contact the Planning Department regarding the division of his land.

B. Preliminary Plat No. 1568 Lot Division for Robert Tollefson at 13415 Jeffrey Way in the SE 1/4 of Section 3.

This item was voted on in the Consent Agenda. Commissioner Sawyer moved, Broe seconded, for final approval of Preliminary Plat No. 1568 Lot Division for Robert Tollefson subject to the following:

1. Dedication of standard drainage and utility easements along the periphery of all lot lines.
2. No future setback variances for the south lot resulting from the 20' side private sewer easement be considered.

Commissioners Broe, Bergstedt, Sundell, Sawyer, Schneider, Witts and Edstrom voted "aye". Motion carried.

C. Preliminary Plat No. 1570 Lot Division for Tower Hill Company at 14525 Highway 7 in the SE 1/4 of Section 21.

This item was voted on in the Consent Agenda. Commissioner Sawyer moved, Broe seconded, for approval of Preliminary Plat No. 1570 Lot Division for Tower Hill Company with a variance from 15' to 0' along the west boundary of the 15' strip subject to the following:

1. The 15' strip be combined with the property to the west.
2. All unnecessary easement vacations and the dedication of new easements be subject to review by the Engineering Department with action taken if necessary by the City Council.
3. The applicant grant cross easements for parking and access across the 15' strip.

Commissioners Broe, Bergstedt, Sundell, Sawyer, Schneider, Witts and Edstrom voted "aye". Motion carried.

D. Site Plan Review No. 254 for Trammell Crow Company/"Control Data - Building 4" at 12501 Whitewind Drive in the W 1/2 of Section 35.

This item was pulled for discussion. Commissioner Schneider wondered how the parking requirement was computed and Mr. Krauss advised that the building was figured to be all office space.

Commissioner Schneider moved, Bergstedt seconded, for approval of Site Plan Review No. 254 with a variance to construct 951 out of 1192 required parking stalls based upon a proof of parking concept, subject to the following stipulations:

1. Provide details of HVAC screening for review and approval by staff prior to building permit issuance.
2. Provide plans of the required sprinkler system for review and approval by staff prior to building permit issuance.
3. Combine all the lots that comprise the Control Data Company campus or provide permanent cross access and parking easements for each building prior to issuance of a Certificate of Occupancy.
4. Project approval by the Nine Mile Creek Watershed District.

Commissioners Broe, Bergstedt, Sundell, Sawyer, Schneider, Witts and Edstrom voted "aye". Motion carried.

E. Conditional Use Permit No. 419 for John Smith Architects for an overhead garage at 14108 Lake Street Extension in the NW 1/4 of Section 22.

This item was rescheduled to the meeting of September 20, 1984.

7. REORDERING OF THE AGENDA

The City Manager reported that Councilmember Hise will be here about 8:30 p.m. and has requested that the Council defer action on Item 17 until the end of the regular agenda, and also in respect to Item 19, the developer has asked the item be pulled from the agenda. Gordon moved, Cotton seconded a motion to approve the agenda as submitted, pulling Item 19, and deferring action on Item 17 until the end of the meeting. Cotton, DeGhetto, Renneke, Gordon, Hanus and Donlin voted "aye." Motion carried.

8. CLAIMS FOR COUNCIL AUTHORIZATION

Cotton moved, Hanus seconded a motion to adopt the Claims List of October 1, 1984, Checks No. 25343 through No. 25382 and Checks No. 062866 through No. 062927 totaling \$1,106,085.78 as presented.

Hanus asked why so many Election Judges were used for the Primary Election; Jim Miller reported that the City Clerk felt it was important for them to work the Primary Election so they will be familiar with the process for the General Election in November. Cotton, DeGhetto, Renneke, Gordon, Hanus (abstained on Check No. 275174) and Donlin voted "aye." Motion carried.

9. PURCHASES: AWARDS AND/OR AUTHORIZATIONS:

- A. AUTHORIZATION FOR THE MAYOR AND CITY MANAGER TO SIGN A QUIT CLAIM DEED TO RELEASE AN EASEMENT TO CLEAR TITLE FOR PROPERTY LOCATED AT 12020 HILLOWAY ROAD

Gordon moved, Hanus seconded a motion that the authorization for the Mayor and City Manager to sign a Quit Claim Deed to clear title for property owned by Irv and Gail Laddin and located at 12020 Hilloway Road, is hereby approved. Cotton, DeGhetto, Renneke, Gordon, Hanus and Donlin voted "aye." Motion carried.

10. ITEMS REQUIRING A MAJORITY VOTE:

- A. RESOLUTION EXECUTING ICMA RETIREMENT TRUST

Gordon moved, Cotton seconded a motion that a Resolution No. 84-7591 entitled "Resolution Executing the ICMA Retirement Trust" is hereby adopted. Cotton, DeGhetto, Renneke, Gordon, Hanus and Donlin voted "aye." Motion carried.

11. ITEMS REQUIRING 5 VOTES:

- A. RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF PLAT NO. 1566, A LOT DIVISION WITH VARIANCES FOR ROBERT AND ANASTASIA GALCHUTT AT 5451 WOODLAND ROAD

Hanus moved, Gordon seconded a motion to adopt Resolution No. 84-7592 granting preliminary and final approval of Plat No. 1566, a lot division of Tract D, Registered Land Survey No. 384, with staff and Planning Commission recommendations. Cotton, DeGhetto, Renneke, Gordon, Hanus and Donlin voted "aye." Motion carried.

- B. RESOLUTION GRANTING PRELIMINARY AND FINAL APPROVAL OF PLAT NO. 1570, A LOT DIVISION WITH VARIANCE FOR TOWER HILL COMPANY AT 14525 HIGHWAY #7

Hanus moved, Gordon seconded a motion that the Resolution No. 84-7593 granting preliminary and final approval of Plat No. 1570 Lot Division and recombination with variance for Tower Hill Company is hereby approved, subject to staff and Planning Commission recommendations. Cotton, DeGhetto, Renneke, Gordon, Hanus and Donlin voted "aye." Motion carried.

PROJECT NO: 02024.02a

If any pile driving has to be done on this lot to support a foundation and dwelling, I would be opposed to suggested proposal, unless I am compensated for any damage to my home and/or foundation should damage occur.

William S. Maclear

William S. Maclear
5420 Byscane Lane
Minnetonka, Mn.

Phone #952-934-4273

May 13, 2002

A24

Kevin R. Boldt
15807 Dawn Drive
Minnetonka, Minnesota 55345
Home Phone (952) 937-8007

MAY 10 2002

May 08, 2002

City of Minnetonka
Planning Department Project 02024.02a
14600 Minnetonka Boulevard
Minnetonka, Minnesota 55345

To Whom It May Concern:

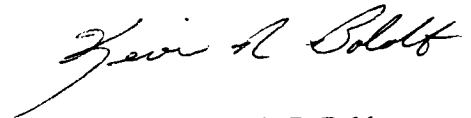
I recently received a letter regarding the lot division, variances, and planned construction to take place on the property associated with 5409 Woodland Road. This property stretches all the way over to Byscane Lane which is where my lot adjoins it. We live on the corner of Dawn Drive and Byscane Lane. Although the privacy of the wooded lot behind us was one of the features that persuaded us to buy the house in 1992, I also knew that someday the luxury would come to an end. This is not a complaint letter, or a letter of approval/disapproval of the proposed construction, but rather an opportunity to go on record with a few concerns if the project should go forward.

Item 1: Downed trees-- After a pretty nasty thunderstorm last summer, with straight line winds and lightning, there were about one-half dozen trees that were blown over and came to rest leaning on my appletree in the southeast corner of my yard. I spoke with Mr. Andrs about it and we looked at the damage together. Mr. Andrs told me at that time, he would get back to me about the removal of the downed trees but never did. It wasn't until a month or so ago, that I learned his health was failing, and that he had been moved into a nursing home. I have, in the meantime, removed a few of the trees myself, but still there are about 3 more that are leaning against my appletree. I would really appreciate it if those could be removed as soon as possible, whether the project goes forward or not.

Item 2: Slope and Drainage-- Since the proposed placement of the house is in a rather low area, the issue of how much fill and the subsequent slope and drainage, is a concern of mine. With my backyard being right where the house is currently mapped out to be, I am concerned about how the slope of the homesite and water run-off from it, will affect my property. This is a current problem I already battle with, and really don't care to have it compounded.

If the Planning Department or Mr. Miller would like to contact me regarding my concerns, please feel free to do so. I can be reached at the phone number above, or I am home most afternoons after 1:30 P.M. Thank You for your time.

Sincerely,



Kevin R. Boldt

A25