

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: VI.A.

From: Cary Teague, Community Development Director

Action

Discussion

Information

Date: October 1, 2013

Subject: PUBLIC HEARING – Resolution No. 2013-82, Preliminary Plat, 6609 Blackfoot Pass;
Great Neighborhood Homes Inc. on behalf of Douglas Johnson.

Action Requested:

Adopt the attached resolution.

Information / Background:

Great Neighborhood Homes Inc. on behalf of Douglas Johnson is proposing to subdivide the property at 6609 Blackfoot Pass into two lots. The existing home would be torn down, and two new homes built on the new lots. (See applicant narrative and plans on pages A4–A16 of the planning commission staff report.) The request heard before the Planning Commission included a front yard setback Variance request for Lot 2. However, the applicant is only requesting action on the Preliminary Plat by the City Council at this time; as proper notice was not given for the Variance hearing. If the Council approves the Preliminary Plat, the applicant would then go back to the Planning Commission at a later date for a variance on a specific house plan.

Within this neighborhood, the median lot area is 27,131 square feet, median lot depth is 183 feet, and the median lot width is 146 feet. The proposed new lots would meet these median width, depth, and lot size requirements. A new home could be built on Lot 2 without the need for a variance, however, in doing so some of the best trees on the site would be removed (large Oak trees); more slopes would be disturbed, and the home would be located much closer to the existing home at 6705 Cheyenne Trail.

Planning Commission Recommendation:

The planning commission recommend denial of the preliminary plat based on the findings that the proposed subdivision would be out of character with the neighborhood, and that it would be inconsistent with the goal of the Comprehensive Plan to preserve neighborhood character. Motion to deny carried on a vote of 6-2.

The Planning Commission's recommendation is based on the following considerations from the Subdivision Ordinance. Please note that these considerations are subjective. The proposed subdivision meets the City's minimum size regulations.

Subd. 1 **Considerations.** The Commission in reviewing proposed plats and subdivisions and in determining its recommendation to the Council, and the Council in determining whether to approve or disapprove of any plat or subdivision, may consider, among other matters, the following:

- A. The impact of the proposed plat or subdivision, and proposed development, on the character and symmetry of the neighborhood as evidenced and indicated by, but not limited to, the following matters:
 - 1. The suitability of the size and shape of the lots in the proposed plat or subdivision relative to the size and shape of lots in the neighborhood; and
 - 2. The compatibility of the size, shape, location and arrangement of the lots in the proposed plat or subdivision with the proposed density and intended use of the site and the density and use of lots in the neighborhood.
- B. The impact of the proposed plat or subdivision, and proposed development, on the environment, including but not limited to, topography, steep slopes, vegetation, naturally occurring lakes, ponds and streams, susceptibility of the site to erosion and sedimentation, susceptibility of the site to flooding and water storage needs on and from the site.
- C. The consistency of the proposed plat or subdivision, and proposed development, and compliance by the proposed plat or subdivision, and the proposed development, with the policies, objectives, and goals of the Comprehensive Plan.
- D. The compliance of the proposed plat or subdivision, and the proposed development with the policies, objectives, goals and requirements of Section 850 of this Code including, without limitation, the lot size provisions and the Floodplain Overlay District provisions of Section 850 of this Code.
- E. The impact of the proposed plat or subdivision, and proposed development on the health, safety and general welfare of the public.
- F. The relationship of the design of the site, or the improvements proposed and the conflict of such design or improvements, with any easements of record or on the ground.
- G. The relationship of lots in the proposed plat or subdivision to existing streets and the adequacy and safety of ingress to and egress from such lots from and to existing streets.
- H. The adequacy of streets in the proposed plat or subdivision, and the conformity with existing and planned streets and highways in surrounding areas. Streets in the proposed plat or subdivision shall be deemed inadequate if designed or located so as to prevent or deny public street access to adjoining properties, it being the policy of the City to avoid landlocked tracts, parcels or lots.

- I. The suitability of street grades in relation to the grades of lots and existing or future extension of the City's water, storm and sanitary sewer systems.
- J. The adequacy and availability of access by police, fire, ambulance and other life safety vehicles to all proposed improvements to be developed on the proposed plat or subdivision.
- K. Whether the physical characteristics of the property, including, without limitation, topography, vegetation, susceptibility to erosion or siltation, susceptibility to flooding, use as a natural recovery and ponding area for storm water, and potential disturbance of slopes with a grade of 18 percent or more, are such that the property is not suitable for the type of development or use proposed.
- L. Whether development within the proposed plat or subdivision will cause the disturbance of more than 25 percent of the total area in such plat or subdivision containing slopes exceeding 18 percent.
- M. Whether the proposed plat or subdivision, or the improvements proposed to be placed thereon are likely to cause substantial environmental damage.

ATTACHMENTS:

- Resolution No. 2013-82
- Draft minutes from the September 11, 2013 Edina Planning Commission meeting
- Planning Commission Staff Report, September 11, 2013
- Letter from Malkerson Gunn Martin LLP



**RESOLUTION NO. 2013-82
APPROVING A PRELIMINARY PLAT
AT 6609 BLACKFOOT PASS**

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

Section 1. BACKGROUND.

- 1.01 Great Neighborhood Homes Inc. on behalf of Douglas Johnson is proposing to subdivide the property at 6609 Blackfoot Pass into two lots. The existing home would be torn down, and two new homes built on the new lots.
- 1.02 The following described tract of land is requested to be divided:

Lot 4, Block 3, Indian Hills, Hennepin County, Minnesota.
- 1.03 The owner of the described land desires to subdivide said tract in to the following described new and separate parcels (herein called "parcels") described as follows:

Lots 1 and 2, Block 1, Great Neighborhood Homes
- 1.04 Within this neighborhood, the median lot area is 27,131 square feet, median lot depth is 183 feet, and the median lot width is 146 feet. The proposed new lots would meet these median width, depth, and lot size requirements.
- 1.05 The proposed subdivision meets all minimum zoning ordinance requirements.
- 1.06 On July 24, 2013, the Planning Commission recommended denial of the Preliminary Plat finding that the resulting lots would out of character with the neighborhood; and that they would be inconsistent with the goal of the Comprehensive Plan to preserve neighborhood character. Motion to deny carried on a vote of 6-2.

Section 2. FINDINGS

- 2.01 Approval is based on the following findings:
 1. The proposed Plat meets all required standards and ordinances for a subdivision.
 2. The subdivision would meet the neighborhood medians for lot width and depth and area.

Section 3. APPROVAL

NOW THEREFORE, it is hereby resolved by the City Council of the City of Edina, approves the Preliminary Plat for the proposed subdivision of 6609 Blackfoot Pass.

Approval is subject to the following Conditions:

1. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
2. Prior to issuance of a building permit, the following items must be submitted:
 - a. If required, submit evidence of Nine Mile Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. A curb-cut permit must be obtained from the Edina Engineering department.
 - c. Utility hook-ups are subject to review of the city engineer.
 - d. Grading and drainage plans specific to any proposed house would be reviewed at the time of building permit, and shall be subject to review and approval of the city engineer. Drainage from any new home, garage or driveway would have to be directed to the street.
 - e. The applicant work with the city forester in regard to tree preservation and removal of Buckthorn.
3. Park dedication fee of \$5,000 must be paid prior to release of the final plat.
4. Drainage for construction of the new homes shall be directed away from adjacent property toward the street to greatest extent possible. Drainage plans for individual homes would subject to review and approval of the city engineer at the time of building permit approval.
5. A 10-foot conservation easement must be established along the lot lines to preserve the vegetation areas along the streets and along the north and south lot lines; and to assist with drainage and runoff from the site.

Adopted this ____ day of _____, 2013.

ATTEST: _____
Debra A. Mangen, City Clerk

James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of _____, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this ____ day of _____, 2013.

City Clerk

P.O.
9/11

opportunity for the property owners to increase the square footage of their home without that approval.

Motion

~~Commissioner Fischer moved variance approval based on staff findings, subject to the staff conditions and noting without the aid of a variance there is no opportunity for the property owner to increase the size of their home. Commissioner Potts seconded the motion. All voted aye; motion carried.~~

B. Preliminary Plat. Scott Busyn. 6609 Blackfoot Pass, Edina, MN

Planner Presentation

Planner Teague informed the Commission Great Neighborhood Homes Inc. on behalf of Douglas Johnson is proposing to subdivide the property at 6609 Blackfoot Pass into two lots. The existing home would be torn down, and two new homes built on the new lots. The new home on Lot 1 would be located generally where the existing home is located. The home on Lot 2, would be located toward the street in an area away from the adjacent home to the south, to avoid large Oak trees and some of the steeper slopes on the site.

To accommodate the request the following is required:

1. A subdivision;
2. Front yard setback variance from 100 feet to 45 feet for proposed Lot 2.

Teague explained that both lots would gain access off Blackfoot Pass. Within this neighborhood, the median lot area is 27,131 square feet, median lot depth is 183 feet, and the median lot width is 146 feet. The new lots would meet the median width, depth, and lot size requirements. A new home could be built on Lot 2 without the need for a variance, however, in doing so some of the best trees on the site would be removed (large Oak trees); more slopes would be disturbed, and the home would be located much closer to the existing home at 6705 Cheyenne Trail.

Planner Teague concluded that staff recommends that the City Council approve the proposed two lot subdivision of 6609 Blackfoot Pass with a Front Yard Setback variance for Lot 2 from 100 feet to 45 feet from Blackfoot Pass and Cheyenne Trail based on the following findings:

1. The proposed Plat meets all required standards and ordinances for a subdivision.

2. The subdivision would meet the neighborhood medians for lot width and depth and area.
3. The proposal meets the required standards for a variance, because:
 - a. The practical difficult unique to the property is caused by the large mature Oak trees and slopes on the east half of Lot 2 where a code compliant building pad would be located. These are natural conditions, not caused by property owner.
 - b. The requested variances are reasonable in the context of the immediate neighborhood. There are two homes with similar front yard setbacks at 6621 and 6624 Cheyenne Trail.
 - c. There is 18-20 feet of green space in the right-of-way of Cheyenne Trail, which would result in a 65-foot setback from the edge of the paved roadway.
 - d. The variance results in the saving of mature Oak trees, protection of slopes, and moves the home further away from the existing home at 6705 Cheyenne Trail.

Approval is also subject to the following conditions:

1. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
2. Prior to issuance of a building permit, the following items must be submitted:
 - a. If required, submit evidence of Nine Mile Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. A curb-cut permit must be obtained from the Edina Engineering department.
 - c. Utility hook-ups are subject to review of the city engineer.
 - d. Grading and drainage plans specific to any proposed house would be reviewed at the time of building permit, and shall be subject to review and approval of the city engineer. Drainage from any new home, garage or driveway would have to be directed to the street.
3. Any new home on Lot 2 would be limited to a ridge line height of 35 feet.
4. A 10-foot conservation easement must be established along the lot lines to preserve the vegetation areas along the streets and along the north and south lot lines.
5. A slope and tree conservation easement must be placed over the large Oak trees and slope areas to be preserved by moving the home toward the street.

Appearing for the Applicant

Scott Busyn, Great Neighborhood Homes

Discussion

Chair Grabel asked if the proposed subdivision conforms to the subdivision ordinance. Planner Teague responded in the affirmative. Commissioner Grabel pointed out the slopes on the property and asked if City ordinance addresses slopes. Planner Teague responded City ordinance addresses slopes in excess of 18%. Teague noted this site contains steep slopes; however, it meets the ordinance pertaining to slopes.

Commissioner Fischer stated he was struck by the diagram indicating the 500-foot neighborhood, adding in his opinion the "500-foot neighborhood" appears to contain two completely different neighborhoods. Fischer stated he struggles with the difference between these two different neighborhoods adding to him this subdivision feels wrong.

Applicant Presentation

Scott Busyn addressed the Commission acknowledging that Indian Hills is a very unique neighborhood. Busyn added he believes what he has presented works best with the sloped topography of the lot. Busyn explained that he sent a letter to all the homeowners within the 500-foot neighborhood informing them of the proposed subdivision and also held a neighborhood meeting at the site on August 8th. Busyn said the neighborhood meeting was attended by a number of the adjacent neighbors. Busyn reported as a result of that meeting he is proposing a 10-foot conservation easement to ensure that the wooded look of the property remains.

Concluding, Busyn said he was open to questions or any ideas the Commission may have on this proposal.

Discussion

Commissioner Forrest asked Mr. Busyn how he plans on implementing the conservation easement. Busyn responded he would work with the City Forrester on identifying the trees that need to be saved within the 10-foot conservation easement. Planner Teague added that the conservation easement could be handled similar to the easement that was placed on the Acres DuBois plat. If approved the easement would be recorded with the plat. Commissioner Forrest noted that this issue was previously tabled and questioned the reason. Mr. Busyn responded that he tabled the subdivision to work out and add the conservation easement to the proposal.

Commissioner Platteter referred to the grove of oak trees on Lot 2 and asked if the conservation easement would be expanded to capture those oaks. Mr. Busyn responded that Planner Teague suggested that the conservation easement includes those trees; however, much depends on final house placement; with or without variance. Neighbors also indicated they would like to retain the stone retaining wall on the south end of Blackfoot Pass and Cheyenne Trail.

Commissioner Scherer noted the Commission is in receipt of letters from neighbors opposing the project and asked Mr. Busyn if during the neighborhood meeting neighbors indicated which building pad location they preferred on Lot 2. Mr. Busyn responded that neighbors indicated they want the site to retain its forested look and maintain privacy. Busyn stated he is open to each option and would do whatever the Commission suggests with regard to Lot 2.

A discussion ensued on the sites steep slopes, grading, retaining walls and drainage with Commissioners acknowledging this site is unique because of the slopes and the natural wooded nature of the area. Commissioners stressed if approved careful attention needs to be paid to drainage to ensure site disruption doesn't negatively impact the site or the surrounding neighbors.

Chair Staunton opened the public hearing.

Public Hearing

The following residents addressed the Commission and spoke in opposition to the request by Great Neighborhood Homes to subdivide 6609 Blackfoot Pass into two (2) single dwelling unit lots.

T. Dev, 6804 Cheyenne Trail, Edina, MN

Charles and Liberta Ledder, 6709 Cheyenne Trail, Edina, MN

Tim Keane, attorney representing residents of Indian Hills

David Evinger, 4 Merilane, Edina, MN

James Schwender, 6700 Cheyenne Trail, Edina, MN

Pat Kreuziger, 6705 Cheyenne Trail, Edina, MN

William Lund, 6308 Indian Hills Road, Edina, MN

David Frauenshuh, 6401 Indian Hills Road, Edina, MN

Mary Swenson, 6617 Cheyenne Trail, Edina, MN

Residents that testified expressed the following:

- Residents indicated they purchased their homes in the Indian Hills neighborhood for the natural wooded nature of the area, its larger lots, winding roads and privacy.
- Residents of the area expressed the opinion that the “500-foot neighborhood” established by ordinance captures two completely different neighborhoods; and does not adhere to the original Indian Hills plat. The smaller residential suburban lots (east of the subject site) were included in the calculations skewing the outcome and negatively impacting the character of the area.
- The Planning Commission has the discretion to deny the preliminary plat based on character.
- The loss of existing vegetation and the disruption of the steep slopes would change the character of the lot and neighborhood even with the variance option on Lot 2.
- Residents acknowledged the two building pad options for Lot 2; one conforming and one requiring a variance, reiterating disruption would occur regardless.
- To provide new building pads there is the potential for construction of high retaining walls and also the potential for drainage problems as a result of building pad placement and grading of the site.
- Vehicle and pedestrian safety is important pointing out the streets in the area are winding and the street also curves along the subject site.
- Driveway placement is a concern; again because of the safety issue.

Chair Staunton asked if anyone else would like to speak to the issue; being none, Commissioner Potts moved to close the public hearing. Commissioner Platteter seconded the motion. All voted aye; motion to close the public hearing approved.

Mr. Busyn addressed the Commission and explained in providing two building pad locations for Lot 2 they felt it would make things better and create a better plat. Busyn said their goal is to pull the building pads away from the lot lines to ensure privacy and accommodate the proposed conservation strip. Continuing, Busyn reported that extensive soil testing was done to ensure that any redevelopment would improve the site not negatively impact it. Concluding, Busyn stated all testing supported the position that the site can accommodate two building pads.

Commissioner Scherer asked Planner Teague to clarify the action for this proposal. Planner Teague responded the Commission can recommend denial or approval, adding if the Commission recommends approval they need to stipulate what option they want for Lot 2; variance or no variance.

Commissioner Potts stated in his opinion due to multiple factors the subject site should remain one lot. Potts agreed with the observation that the Indian Hills neighborhood is different from the neighborhood to its east. Potts noted to redevelop this site too much disruption would occur. Vegetation would be loss and the site would require extensive grading and retaining

walls. Potts concluded as previously mentioned if approved the change to neighborhood character would be dramatic.

Commissioner Grabiell pointed out the project as submitted meets subdivision ordinance requirements. Grabiell said he also understands the property owners desire to maximize the real estate value of his property. With respect to trees it is difficult because at this time the City of Edina doesn't have a tree ordinance. Continuing, Grabiell acknowledged that the character of the 500-foot neighborhood is varied. Concluding, Grabiell said from the plans presented it appears Mr. Busyn attempted to mitigate the issues of drainage, tree loss etc. Grabiell said he also appreciates Mr. Busyn limiting building height to 35-feet.

Commissioner Scherer stated this is a tough issue for the Commission; however, she continues to have concerns about drainage, tree loss, driveway safety, etc. Scherer said taking all things into consideration that she cannot support the request as submitted.

Commissioner Schroeder asked Planner Teague if the City defines neighborhood character. Planner Teague responded City ordinance doesn't define neighborhood character. Continuing, Schroeder said specific factors are unique to Indian Hills and if the Commission recommends approval of this request the essential character of Indian Hills would change.

Commissioner Forrest acknowledged she has been going back and forth with this proposal. She stated she agrees the City doesn't define neighborhood character; however, would the "sense" of place be compromised if approved. Forrest added she agrees that Mr. Busyn has given a lot of thought to this project; adding she could support the proposal with specific conditions. Concluding, Forrest said to would like to see more creativity in building plans.

Commissioner Fischer said when he views this project it appears to him that it's one lot for one structure. Fischer did acknowledge that neighborhood character can be changed one parcel at a time; however, the builder has an excellent reputation and he would hate to take a risk with another builder.

Motion

Commissioner Grabiell moved to recommend preliminary plat approval based on staff findings and subject to staff conditions.

Motion failed for lack of second.

Commissioner Schroeder moved to recommend denial of the preliminary plat based on the findings that if approved the subdivision would render the lot out of character with the neighborhood. Commissioner Scherer seconded the motion. Ayes; Scherer, Schroeder, Potts, Fischer, Platteter, Forrest. Nay, Grabiell, Staunton. Motion to deny carried 6-2.



PLANNING COMMISSION STAFF REPORT

Originator Cary Teague Director of Planning	Meeting Date September 11, 2013	Agenda # VI.B
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INFORMATION & BACKGROUND

Project Description

Great Neighborhood Homes Inc. on behalf of Douglas Johnson is proposing to subdivide the property at 6609 Blackfoot Pass into two lots. (See property location on pages A1–A3.) The existing home would be torn down, and two new homes built on the new lots. (See applicant narrative and plans on pages A4–A16.) The new home on Lot 1 would be located generally where the existing home is located. The home on Lot 2, would be located toward the street in an area away from the adjacent home to the south, to avoid large Oak trees and some of the steeper slopes on the site. (See page A14.)

To accommodate the request the following is required:

1. A subdivision;
2. Front yard setback variance from 100 feet to 45 feet for proposed Lot 2.

Both lots would gain access off Blackfoot Pass. Within this neighborhood, the median lot area is 27,131 square feet, median lot depth is 183 feet, and the median lot width is 146 feet. (See attached median calculations on page A16.) The new lots would meet the median width, depth, and lot size requirements. A new home could be built on Lot 2 without the need for a variance, however, in doing so some of the best trees on the site would be removed (large Oak trees); more slopes would be disturbed, and the home would be located much closer to the existing home at 6705 Cheyenne Trail. (See page A.)

Surrounding Land Uses

The lots on all sides of the subject properties are zoned and guided low-density residential.

Existing Site Features

The existing site contains a single-family home and attached garage. This lot is larger than most in the neighborhood, contains slopes with mature trees. (See pages A1, A2 and A11.)

Planning

Guide Plan designation: Single-dwelling residential
Zoning: R-1, Single-dwelling district

Lot Dimensions

	Area	Lot Width	Depth
REQUIRED	27,131 s.f.	146 feet	183 feet
Lot 1	46,473s.f.	153 feet	268 feet
Lot 2	30,920 s.f.	150 feet	323 feet

As demonstrated above, the proposed subdivision would meet all minimum lot size requirements.

Grading/Drainage and Utilities

Grading and drainage plans specific to any proposed house would be reviewed at the time of building permit. Drainage from any new home, garage or driveway would have to be directed to Blackfoot Pass and Cheyenne Trail. Sewer and water are available to the site. Specific hook-up locations would be reviewed at the time of a building permit for each lot. A Nine Mile Creek Watershed District permit would also be required.

Primary Issue

- **Is the proposed Plat with a front Yard Setback Variance reasonable for this site?**

Yes. Staff believes that the proposed Plat with the front yard setback variance for Lot 2 is reasonable for the site for the following reasons:

1. Both of the proposed lots meet the City of Edina's minimum lot size requirements. (See above table.)

2. Building pads have been located on the site to cause the least amount of impact on the sites mature trees and slopes. (See page A14.)
3. The proposed building pad for Lot 2 would be located further away from the existing home at 6705 Cheyenne Trail, than would a code compliant home. (See pages A14–A15.)
4. The findings for a variance for the building pad for Lot 2 would be met.

Per state law and the Zoning Ordinance, a variance should not be granted unless it is found that the enforcement of the ordinance would cause practical difficulties in complying with the zoning ordinance and that the use is reasonable. As demonstrated below, staff believes the proposal meets the variance standards, when applying the three conditions:

- a) *Will the proposal relieve practical difficulties that prevent a reasonable use from complying with the ordinance requirements?*

Yes. 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.

The practical difficulty is caused by the existing high quality mature Oak trees and slopes located in the area where a code compliant building pad would be. (See pages A14–A15.) In addition, if a home were constructed in the code compliant building pad area, it would be located closer to the home at 6705 Cheyenne Trail. By moving the home on Lot 2 up closer to the street, it would not only preserve the mature Oaks and slopes, but also the vegetation that provides a natural screen between the two properties. (See page A14.) Staff would recommend requiring a conservation easement over the slope and Oak trees that are to be preserved to permanently preserve those resources.

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

The circumstances of the mature trees, slopes and proximity of the adjacent home to the south are not created by the applicant and are generally unique in the R-1 District.

Additionally, there is an extra area of green space within the right-of-way of Cheyenne Trail. This area is between 18-20 feet, which from the street would give the appearance of a greater front yard setback. A typical green space within the right-of-way is between 5-8 feet. Therefore, the home would be set 65 feet back from the edge of the paved roadway. (See page A14.)

c) *Will the variance alter the essential character of the neighborhood?*

No. The proposed building location at 45 feet from Blackfoot Pass and Cheyenne Trail would not alter the character of the neighborhood. The home at 6621 Cheyenne Trail has a front yard setback of 42 feet and 6624 Cheyenne Trail has a front yard setback of 45 feet. (See page A1a and A2.)

The applicant is also agreeable to not construct a home to maximize the height allowed by code. He would limit the total building height to 35 feet, when the code would allow a home to be 40 feet tall to the ridge line of the home.

Staff Recommendation

Recommend that the City Council approve the proposed two lot subdivision of 6609 Blackfoot Pass with a Front Yard Setback variance for Lot 2 from 100 feet to 45 feet from Blackfoot Pass and Cheyenne Trail. Approval is based on the following findings:

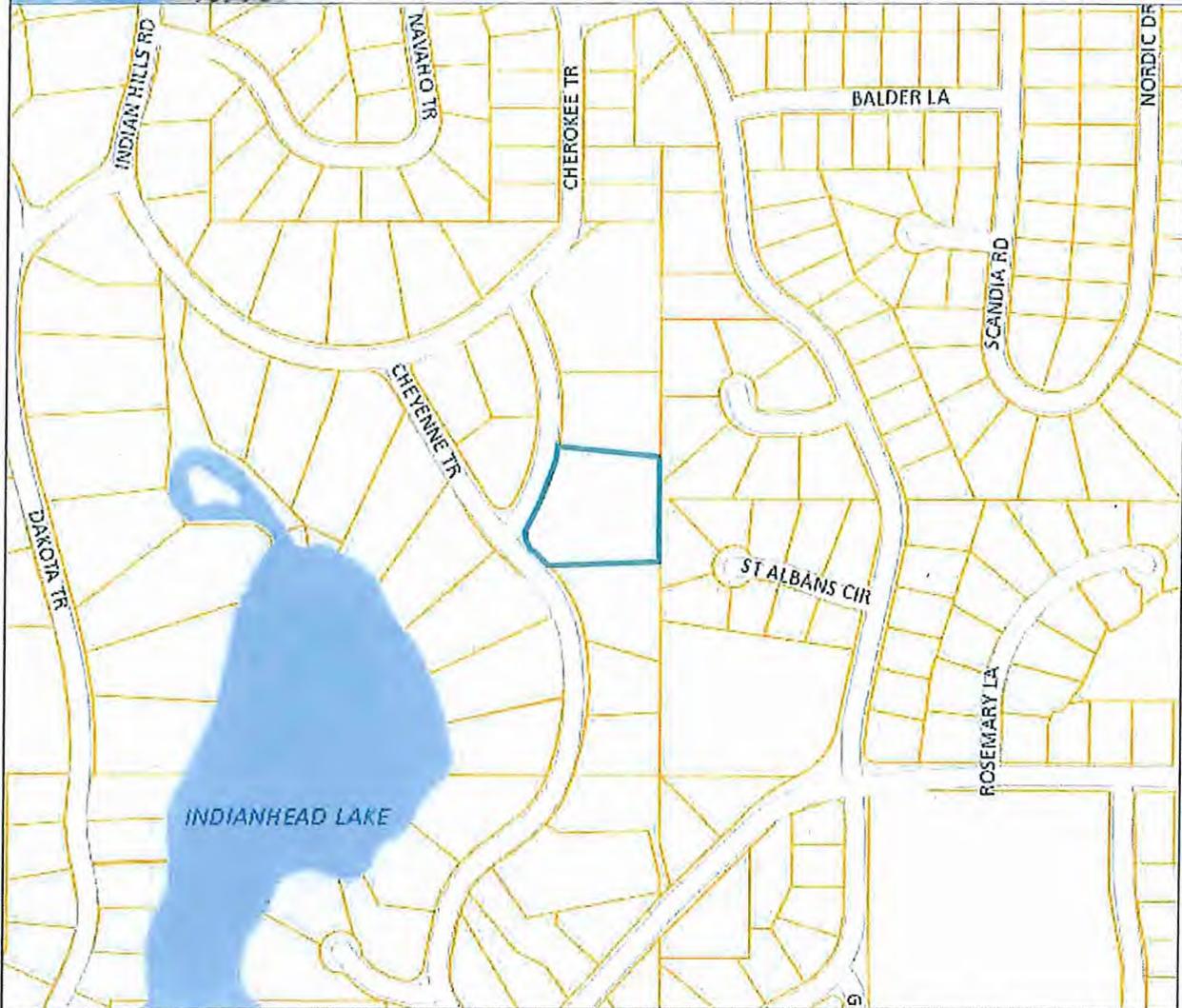
1. The proposed Plat meets all required standards and ordinances for a subdivision.
2. The subdivision would meet the neighborhood medians for lot width and depth and area.
3. The proposal meets the required standards for a variance, because:
 - a. The practical difficult unique to the property is caused by the large mature Oak trees and slopes on the east half of Lot 2 where a code compliant building pad would be located. These are natural conditions, not caused by property owner.
 - b. The requested variances are reasonable in the context of the immediate neighborhood. There are two homes with similar front yard setbacks at 6621 and 6624 Cheyenne Trail.

- c. There is 18-20 feet of green space in the right-of-way of Cheyenne Trail, which would result in a 65-foot setback from the edge of the paved roadway.
- d. The variance results in the saving of mature Oak trees, protection of slopes, and moves the home further away from the existing home at 6705 Cheyenne Trail.

Approval is subject to the following conditions:

1. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
2. Prior to issuance of a building permit, the following items must be submitted:
 - a. If required, submit evidence of Nine Mile Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. A curb-cut permit must be obtained from the Edina Engineering department.
 - c. Utility hook-ups are subject to review of the city engineer.
 - d. Grading and drainage plans specific to any proposed house would be reviewed at the time of building permit, and shall be subject to review and approval of the city engineer. Drainage from any new home, garage or driveway would have to be directed to the street.
3. Any new home on Lot 2 would be limited to a ridge line height of 35 feet.
4. A 10-foot conservation easement must be established along the lot lines to preserve the vegetation areas along the streets and along the north and south lot lines.
5. A slope and tree conservation easement must be placed over the large Oak trees and slope areas to be preserved by moving the home toward the street.

Deadline for a City Decision: November 4, 2013



Parcel ID: 06-116-21-42-0010

Parcel Address: 6609 Blackfoot Pass
Edina, MN 55439

Property Type: Residential

**Home-
stead:** Homestead

Parcel Area: 1.76 acres
76,852 sq ft

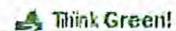
Sale Code:

Map Scale: 1" ≈ 400 ft.
Print Date: 9/5/2013



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Parcel ID: 06-116-21-42-0010

Owner Name: D L Johnson Etal

Parcel Address: 6609 Blackfoot Pass
Edina, MN 55439

Property Type: Residential

**Home-
stead:** Homestead

Parcel Area: 1.76 acres
76,652 sq ft

Map Scale: 1" ≈ 100 ft.
Print Date: 9/5/2013



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Parcel ID: 06-116-21-42-0010

Owner Name: D L Johnson Etal

Parcel Address: 6609 Blackfoot Pass
Edina, MN 55439

Property Type: Residential

**Home-
stead:** Homestead

Parcel Area: 1.76 acres
76,652 sq ft

Map Scale: 1" ≈ 50 ft.

Print Date: 9/5/2013



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APPLICANT
NARRATIVE

From: Scott Busyn – Great Neighborhood Homes

To: Corey Teague
Community Development Director
City of Edina

Subject: Subdivision of 6609 Blackfoot Pass into Two Separate Lots

Date: July 17, 2013, **Revised September 3, 2013**

Please find the attached Subdivision Application for 6609 Blackfoot Pass. Great Neighborhood Homes will be purchasing this property from Mr. Douglas L. Johnson contingent upon obtaining a successful subdivision from the City.

It is our intention to subdivide the parcel into two separate lots, noted as Lot 1 and Lot 2 on the survey. Per the attached 500 foot area study, the subdivided lots will be above the mean lot size, width, and depth of the lots in the neighborhood. Upon obtaining approval, we will be building single family homes on each lot. The survey shows the potential building pads of each home.

The proposed building pad for Lot 1 will be close to the location of the exiting home on the site. We are adjusting the building pad to have a better presence on the lot (entry facing Blackfoot Pass) and to allow for better main floor exposure to the back yard (the current home has the first floor elevation at 927.0 feet and a lower level entry at 918.9 feet). The front setback of the home on Lot 1 is being proposed no closer than 53.5 feet from Blackfoot Pass. This is the average setback of the existing home at 6605 Blackfoot Pass and the proposed home on Lot 2 of 6609 Blackfoot pass. The first level floor height of the Lot 1 home will have a maximum elevation of 928. The proposed home will meet all other zoning requirements.

The proposed building pad for the Lot 2 will have a proposed front yard setback no closer than 45' from Blackfoot Pass and no closer than 45' from Cheyenne Trail. This is in character with other front yard setbacks in the neighborhood, specifically the two other homes at the intersection of Blackfoot Pass and Cheyenne Trail. 6621 Cheyenne Trail has a front yard setback of 42' and 6624 Cheyenne Trail has a front yard setback of 45'. Positioning the Lot 2 building pad in the proposed location will maximize the distance of the home from 6705 Cheyenne Trail, minimize the disruption of the >18% slope, and keep the new home away from the grove of oak trees in the rear of Lot 2. In addition, there is an existing opening on the natural forest where we are locating the driveway entrance (see exhibit A). The proposed home on Lot 2 will have a maximum first floor height of 901. This will allow adequate drainage around the home. The new home will meet all zoning setbacks except for the front setback.

We sent a letter out to all homeowners within 500' and held a neighbor meeting at the site on August 8th. The meeting was attended by the adjacent neighbors at 6605 Blackfoot Pass, 6601 Blackfoot Pass, 6621 Cheyenne Trail, and 6705 Cheyenne Trail. The feedback

from the meeting was that we do what we can to maintain the wooded look of the front and sides of the lot. There is also a stone retaining wall on the south end of the corner of Blackfoot Pass and Cheyenne Trail that the neighbors hoped we did not remove. Based on this feedback, we are proposing a 10' conservation easement to maintain the wooded look of the property from the street (see exhibit B and C). This easement is shown on the survey and will cover the north and south lot lines, as well as the front portions of the lot as shown on the survey. The only exceptions to this easement will be the driveway entrances for Lots 1 and Lots 2.

Please let me know if you have any questions about this application. I can be reached at 952-807-8765 or scott@greatneighborhoodhomes.com.

Thank you for reviewing this application.

PLANNING
SEP 05 2013
CITY OF EDINA

6609 Blackfoot Pass Variance Application
Great Neighborhood Homes

SEP 05 2013
CITY OF EDINA

We are proposing a variance for the front yard setback for the proposed home on Lot 2 of 6609 Blackfoot Pass. As lot 2 is a corner lot, city ordinance requires the home to meet the front setbacks of 6605 Blackfoot Pass (62.0 feet) and 6705 Cheyenne Trail (100.9 feet). We are proposing a front setback of 45 feet from Blackfoot Pass and 45 feet from Cheyenne Trail.

The proposed variance will relieve practical difficulties in complying with the zoning ordinance for front setbacks on corner lots. Meeting the setback of the home at 6705 Cheyenne Trail (100.9 feet) would require the home to be built far back on the lot and into a steep slope (survey shows where position of home would be without a variance). Placing the home in this location would create the following practical difficulties:

1. The home would need to be built into a steep slope, requiring substantial retaining walls to access the rear yard.
2. The home would be built much closer to the neighbor at 6705 Cheyenne Trail. When I toured the site with her she much preferred the home be built further away.
3. Building the home here would be much more disruptive to the virgin forest and require the removal of many more mature oak trees than on the pad closer to the street.
4. The deeper location would require a much longer driveway, increasing the impervious surface on the site.
5. The home would have to be built at a much higher elevation and appear much taller from the street.
6. The home would block the natural drainage flow of the slope on Lot 2.
7. The homeowner would have minimal backyard without building a tall retaining wall.

The use of Lot 2 for building a home is a reasonable use of the property.

The proposed variance will correct the following extraordinary circumstances applicable to this property but not applicable to other properties in the vicinity:

1. Most lots in Indian Hills are not corner lots and thus do not need to meet the zoning requirements of 6609 Blackfoot Pass. In addition, other existing corner lots in Indian Hills do not have adjacent homes built as far back from the street as seen at 6705 Cheyenne Trail (see 6617 Cheyenne Trail, 6621 Cheyenne Trail, 6821 Cheyenne Trail, 6601 Blackfoot Pass, 6600 Blackfoot Pass, 6401 Indian Hills Road), or were built without having to meet the setbacks of both adjacent homes (see 6820 Cheyenne Trail,).
2. Allow for 45 foot front setbacks similar to adjacent properties at 6621 Cheyenne Trail (42 feet) and 6624 Cheyenne Trail (45 feet).

3. Allow for flat front and backyard area as is found on most homes in the area.

The proposed variance will be in harmony and intent of the zoning ordinance as follows:

1. I believe the ordinance for corner lots was written to avoid homes being built that would break up the streetscape on more dense urban, gridded streets. 6609 Blackfoot Pass is a very wooded site and the proposed home will be built almost 100 feet from the next closest home. The existing woods and our proposed conservation easement will prevent the proposed home from breaking up the streetscape.
2. Our proposed conservation easement and positioning of the driveway entrance will maintain the same streetscape that exists today. There is a natural opening in the forest where we are positioning the driveway entrance.

The proposed variance will not alter the essential character of the neighborhood as follows:

1. Our proposed conservation easements will maintain the wooded look of the property from the front streets as well as the adjacent neighbors.
2. As stated above, there are homes near the corner of Blackfoot Pass and Cheyenne Trail that have approximately 45' front setbacks.
3. Indian Hills is Edina's most eclectic neighborhood. There are no two lots that are alike as far as setbacks, position of the homes, etc. This variance is in character with the overall eclecticism of the neighborhood.

The building pad at the 45 foot front setback is a much more optimal location for the home. In addition, I can limit the building height to 35' if we build on this more level location.

PLANNING DEPARTMENT
SEP 04 2013
CITY OF EDINA

Exhibit A
Natural Opening for Driveway

48

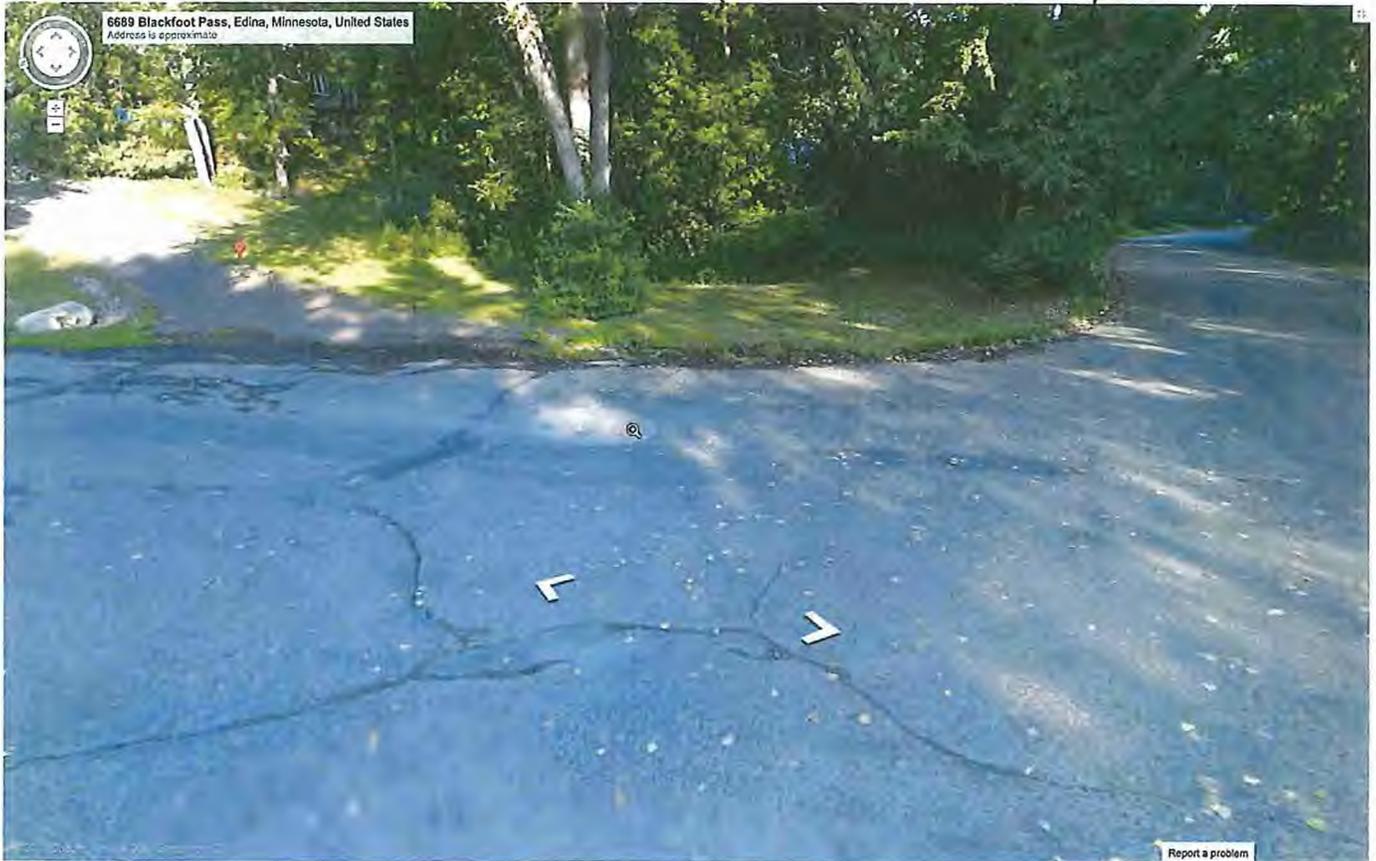


Exhibit B

Looking North From Lot on Blackfoot Pass



A9

Report a problem

Exhibit C

Looking South on Lot on Cheyenne Trail

K10



SITE ADDRESS: 6600 BLACKFOOT PASS
EDINA, MN 55439

126-13 REF: 31-13 128/63

PRELIMINARY PLAT FOR: GREAT NEIGHBORHOOD HOMES

Legend

- Fence
- SAN --- Sanitary Sewer
- o Manhole
- o Light Pole
- o Power Pole
- o Hydrant
- o Deciduous Tree
- Concrete Curb
- Timber Retaining Wall
- Keyhole Retaining Wall
- Proposed Retaining Wall
- Existing Elevation
- Proposed Elevation
- Existing Contour
- Proposed Contour
- FYS Front Yard Setback
- SFS Side Yard Setback
- RYS Rear Yard Setback

- o Double Iron Monument Found
- o Double Gal. 1/2" x 1/4" Iron Pipe w/ Plastic Cap
- o Iron Pipe R.L.S. 19260.

**6600 BLACKFOOT PASS
EXISTING AREAS**

Lot Area = 77,417 SF

INTERIUS SURFACE:

House = 2,347 SF
 Deck Area 150 SF Above = 428 SF
 Concrete Around Pool = 715 SF
 Total = 3,530 SF
 = 4.5%

**6600 BLACKFOOT PASS
EXISTING ELEVATIONS**

FIRST FLOOR = 927.6
 LOWER ENTRY = 918.9
 TOP OF BLOCK = 918.4
 GARAGE FLOOR = 918.0

PROPOSED LOT AREAS:

Proposed Lot 1 = 46,473 SF or 1.07 Acre
 Width (at 50' Setback) = 153.8 FL
 Depth = 284.0 FL

Proposed Lot 2 = 50,800 SF or 0.71 Acre
 Width (at 50' Setback) = 150.1 FL
 Depth = 323.6 FL

FRONT YARD SETBACKS FROM NEARBY LOTS:

6605 BLACKFOOT PASS = 62.0'
 6621 CHEYENNE TRAIL = 22.5'
 6624 CHEYENNE TRAIL = 45.0'

PROPERTY DESCRIPTION: Lot 4, Block 3, ROYAL HILLS, Hennepin County, Minnesota.

BENCHMARKS: EBM 1503
 1511.0 on the West Side of Cheyenne Tr. Between
 16704 and 16703. Elevation = 891.08.

NOTE: No Search Was Made For Any Encumbrances

NOTE: The location of all utilities shown are from plans furnished by the utility companies and are approximate. Utility companies should be notified for exact location before doing any excavation.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

W. BROWN LAND SURVEYING, INC.

Woodrow A. Brown
 Woodrow A. Brown, R.L.S. MN REG 15230
 Dated: 03-04-2013

PERCENTAGE OF EXISTING LOT OR OVER ADJACENT BY PROPOSED CONSTRUCTION OF PRELIMINARY PLAT LOTS 1 & 2:

Lots 1 & 2 Square Footage of Grade 13% or Over = 65,072 SF
 Total Square Footage Affected Lots 1 & 2 w/ Lot 2 Home Footprint at 45' Front Setback (Minimum Required) = 11,485 SF or 23.6%

13% Square Footage Affected Lots 1 & 2 w/ Lot 2 Home Footprint at 100' Front Setback (No Surface Required) = 13,201 SF or 28.4%

Minimum of 23% Allowed

PROPOSED HOME LOT 1:

First Floor = 928.0
 Lower Entry = 918.9 (Existing Home = 918.9)
 Home W/ 50' of Zoning Requirements

PROPOSED HOME LOT 2 WITH 45' FRONT SETBACK (PROPOSED GARAGE):

First Floor = 901.0
 100% Home Maximum = 35' Above Existing Grade (Code Allow 40')
 Home W/ 50' of Zoning Requirements

PROPOSED HOME LOT 2 WITH 100' FRONT SETBACK (PROPOSED NO GARAGE):

First Floor = 913.0
 100% Home Maximum = 40' Above Existing Grade
 Home W/ 50' of Zoning Requirements

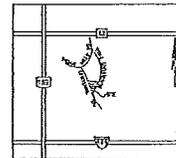
NOT TO SCALE

VALLEY ESTATES
 1ST ADDITION

ST. ALBANS
 ADDITION

INDIANA

VICINITY MAP



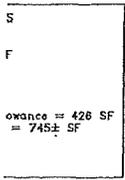
W. BROWN LAND SURVEYING, INC.
 6035 Cedar Avenue So., Suite 210,
 Minneapolis, MN 55415
 Phone: (612) 854-4055
 Fax: (612) 854-1358

Drawing: 126-13
 Date: 03-04-2013
 Scale: 1 inch = 20 Feet
 1 of 1

All

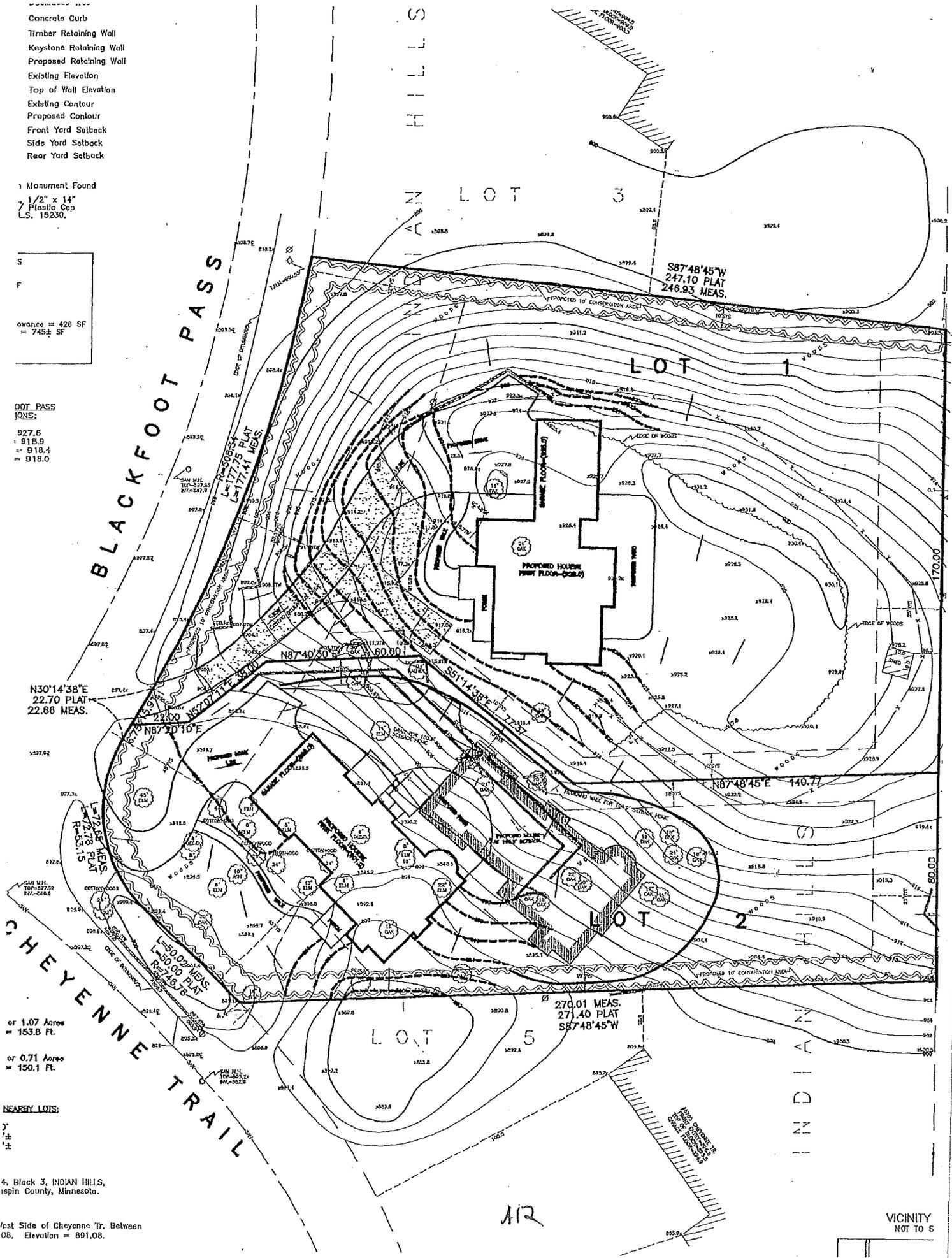
- Concrete Curb
- Timber Retaining Wall
- Keystone Retaining Wall
- Proposed Retaining Wall
- Existing Elevation
- Top of Wall Elevation
- Existing Contour
- Proposed Contour
- Front Yard Setback
- Side Yard Setback
- Rear Yard Setback

1 Monument Found
 1/2" x 14"
 7 Plastic Cop
 L.S. 15230.



ODT PASS
 IONS:

- 927.6
- 918.9
- = 918.4
- = 918.0



of 1.07 Acres
 = 153.8 Ft.

of 0.71 Acres
 = 150.1 Ft.

NEARBY LOTS:

3'

10'

10'

4, Block 3, INDIAN HILLS,
 Iepin County, Minnesota.

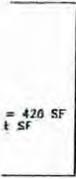
West Side of Cheyenne Tr. Between
 08. Elevation = 891.08.

112

VICINITY
 NOT TO S

Wall Elevation
 Contour
 1st Contour
 2nd Setback
 3rd Setback
 4th Setback

ent Found
 c 14"
 i Cap
 30.



SS
 1.4
 .0

BLACKFOOT PASS

INDIAN HILLS

S87°48'45"W
 247.10 PLAT
 246.93 MEAS.

LOT 1

PROPOSED HOUSE
 FIRST FLOOR (2000)

LOT 2

LOT 5

N30°14'38"E
 22.70 PLAT
 22.66 MEAS.

N87°40'50"E
 140.00 PLAT
 140.00 MEAS.

N87°48'45"E
 140.77 PLAT
 140.77 MEAS.

HEYENNE TRAIL

1.07 Acres
 153.8 FL.

0.71 Acres
 150.1 FL.

EASEMENT LOTS:

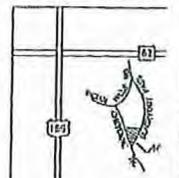
Block 3, INDIAN HILLS,
 Minn. County, Minnesota.

1st Side of Cheyenne Tr. Between
 15. Elevation = 891.08.

or Any Easements

lines shown are from plans
 companies and are
 companies should be notified
 are doing any excavation.

VICINITY
 NOT TO SC



A13

all Elevation
 Contour
 Contour
 d Setback
 Setback
 | Setback

Found
 4"
 3p

BLACKFOOT PASS

6 SF

38°E
 2LAT
 EAS.

L=72.80 MEAS.
 L=72.78 PLAT
 R=53.12

LENNE TRAIL

N HILLS,
 resold,
 enne Tr. Between
 891.08,

form plans
 are
 be notified
 tation.

LOT 3

S87°48'45"W
 247.10 PLAT
 248.93 MEAS.

LOT 1

PROPOSED HOUSE
 FIRST FLOOR-POOL

N87°40'30"E
 150.00 PLAT
 150.00 MEAS.

TREES +
 SLOPES PRESERVE
 WITH VARIANCE

N87°48'45"E
 140.77

270.01 MEAS.
 271.40 PLAT
 S87°48'45"W

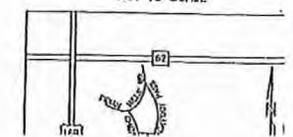
LOT 5

VALLEY ESTABLISHMENTS

38°E
 2LAT
 EAS.

250.00 MEAS.
 250.00 PLAT
 S00°04'58"W

VICINITY MAP
 NOT TO SCALE



A14



Parcel ID: 06-116-21-42-0010

Owner Name: D L Johnson Etal

Parcel Address: 6609 Blackfoot Pass Edina, MN 55439

Property Type: Residential

Home-stead: Homestead

Parcel Area: 1.76 acres 76,652 sq ft

Lot Areas

Map Scale: 1" ≈ 200 ft.
Print Date: 9/5/2013



This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.

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