

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: VIII.B.

From: Cary Teague, Community Development Director

Action

Discussion

Information

Date: December 3, 2013

Subject: Resolution No. 2013-120 Final Plat & Preservation Easement at 5 Merilane for John Adams on behalf of Ted Warner.

Action Requested:

Adopt the attached resolution and approve the Preservation Easement.

Information / Background:

On October 1, 2013, the City Council approved the Preliminary Plat. The Final Plat is the same as the approved Preliminary Plat.

Two conditions of Preliminary Plat have been satisfied by the applicant as follows:

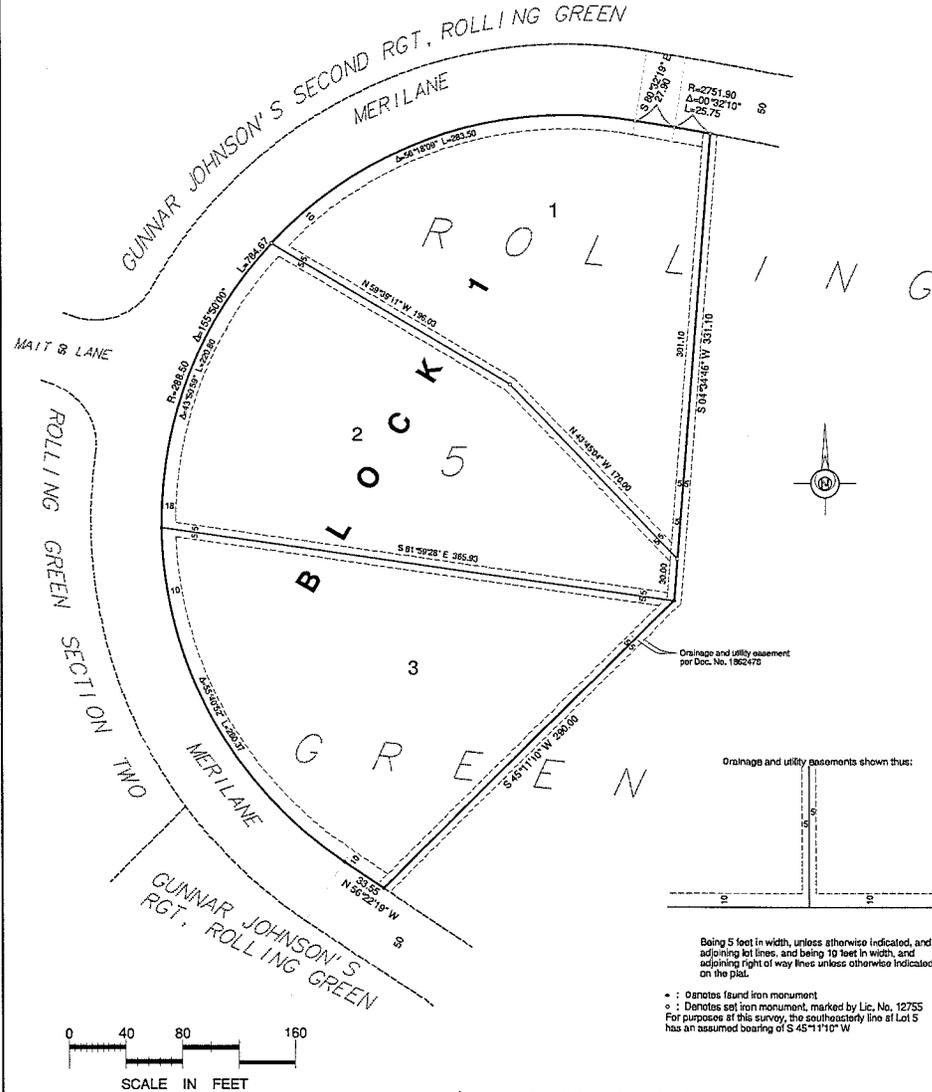
1. Variiances. VariANCES were granted by the Planning Commission to allow front yard setbacks of 130 feet for each lot. Condition of that approval was the establishment of the preservation easement and landscaping plan to be approved by the City Council. That easment is included; and is agreeable to the adjacent residents to the east.
2. Verification of the minimum lot size requirements. Staff hired Harry S. Johnson Surveyors to verify the median lot sizes, which establishes the minimum lot size requirement. (See the attached median calculations.) The survey concludes that the proposed subdivision does meet the minimum lot size requirements. Outlot 1, in the Gunnar Johnson Plat was not included in the calculations as it is a pond. Ponds are excluded from the calculations per Section 850.03 which defines Lot Area as follows: "The area within the lot lines exclusive of land located below the ordinary high water elevation of lakes, ponds and streams."

ATTACHMENTS:

- Preliminary & Final Plats
- Preservation Easement including Landscape Plan
- Resolution 2013-120
- Median Calculations done by Harry S. Johnson Surveyors
- Median Calculations done by Gronberg & Associates
- City Council Minutes October 1, 2013

WARNER ESTATES

C.R.DOC.NO. _____



KNOW ALL PERSONS BY THESE PRESENTS: That Joan E. Warner, a single person, a nine-tenths interest, and David A. Warner and Ted E. Warner, an undivided one-tenth interest, fee owners of the following described property situated in the County of Hennepin, State of Minnesota, to wit: Lot 5, "Rolling Green, Hennepin County, Minnesota" Have caused the same to be surveyed and platted as WARNER ESTATES, and do hereby donate and dedicate to the public for public use forever the drainage and utility easements as shown on the plat.

In witness whereof said Joan E. Warner, single, has hereunto set her hand this _____ day of _____, 20____; and said David A. Warner has hereunto set his hand this _____ day of _____, 20____; and said Ted E. Warner has hereunto set his hand this _____ day of _____, 20____.

JOAN E. WARNER _____

DAVID A. WARNER _____

TED E. WARNER _____

STATE OF _____)
 COUNTY OF _____) The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Joan E. Warner, single.

Notary Public, _____ County, _____ Notary's printed name
 My commission expires _____

STATE OF _____)
 COUNTY OF _____) The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by David A. Warner.

Notary Public, _____ County, _____ Notary's printed name
 My commission expires _____

STATE OF _____)
 COUNTY OF _____) The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Ted E. Warner.

Notary Public, _____ County, _____ Notary's printed name
 My commission expires _____

I, Mark S. Gronberg, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands as defined in Minnesota Statutes, Section 505.01, Subd. 3 as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Mark S. Gronberg, Licensed Land Surveyor and Engineer
 Minnesota License Number 12755

STATE OF MINNESOTA)
 COUNTY OF HENNEPIN) The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Mark S. Gronberg, Land Surveyor and Engineer.

Notary Public, _____ County, Minnesota Notary's printed name
 My commission expires _____

EDINA, MINNESOTA
 This plat of WARNER ESTATES was approved and accepted by the City Council of Edina, Minnesota, at a regular meeting held this _____ day of _____, 20____. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505.03, Sub. 2

CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA

_____, Mayor
 _____, Manager

TAXPAYER SERVICES DEPARTMENT, HENNEPIN COUNTY, MINNESOTA
 I hereby certify that taxes payable in 20____ and prior years have been paid for land described on this plat. Dated this _____ day of _____, 20____.

MARK V. CHAPIN, HENNEPIN COUNTY AUDITOR

By _____ Deputy
 SURVEY DIVISION, HENNEPIN COUNTY, MINNESOTA
 Pursuant to MINN. STAT. Sec. 383B.565 (1993), this plat has been approved this _____ day of _____, 20____.

WILLIAM P. BROWN, HENNEPIN COUNTY SURVEYOR

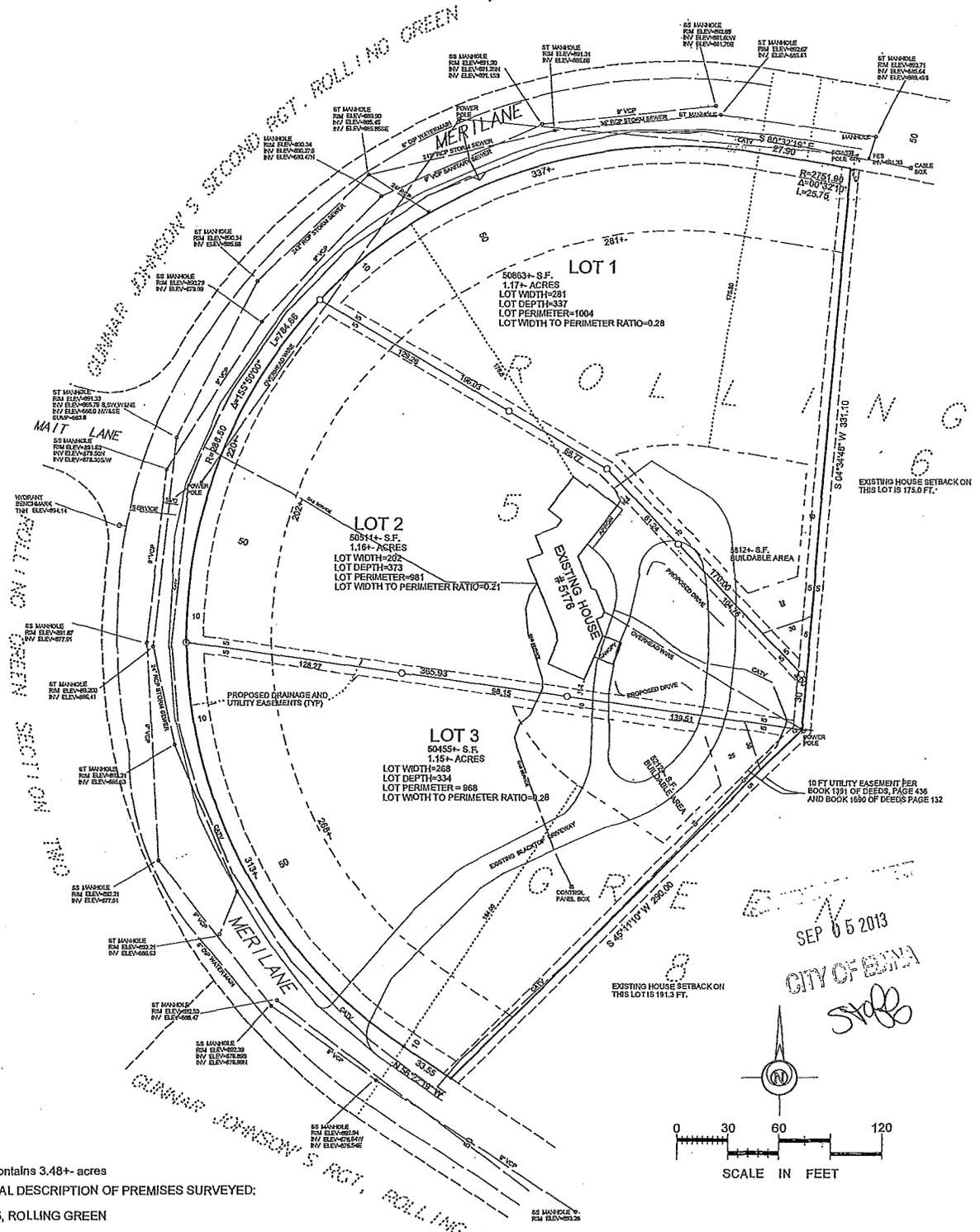
By _____
 COUNTY RECORDER, HENNEPIN COUNTY, MINNESOTA
 I hereby certify that the within plat of WARNER ESTATES was filed in this office this _____ day of _____, 20____, at _____ o'clock _____ M.

MARTIN MCCORMICK, HENNEPIN COUNTY RECORDER

By _____, Deputy

GRONBERG & ASSOCIATES, INC. ENGINEERS, LAND SURVEYORS, PLANNERS

WARNER ESTATES PRELIMINARY PLAT FOR THE H. D. WARNER ESTATE OF LOT 5, ROLLING GREEN HENNEPIN COUNTY, MINNESOTA



Lot contains 3.48+ acres
LEGAL DESCRIPTION OF PREMISES SURVEYED:
Lot 5, ROLLING GREEN

This survey shows the boundaries and topography of the above described property, and the location of an existing house and driveway. It does not purport to show any other improvements or encroachments.
NOTE: The land surveyed covers the entire parcel and there are no gaps or overlaps with adjoining parcels.
• : Iron marker found
◦ : Iron marker set
- - - Existing contour (City of Edina datum)
Bearings shown are based upon an assumed datum
Trees shown are in the areas of the proposed drives and houses and 8" diameter and larger.

P I D : 29-117-21-12-0009
CURRENT ZONING : R-1

OWNERS
JOAN A. WARNER, DAVID A. WARNER AND TED E. WARNER
C/O JOHN ADAMS, AGENT
COLDWELL BANKER BURNETT
201 E. LAKE STREET
WAYZATA, MN 55391
612-720-4827
jadams@cbburnet.com

REVISIONS		DESIGNED	I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.	DATE	MNL. LICENSE NUMBER
DATE	BY	REMARKS			
7-31-13					
8-7-13		TREES, UTILITIES ADDED			
9-4-13		PROPOSED O & U EASEMENTS ADDED			

DATE: 9-4-13
MNL. LICENSE NUMBER: 22735

DATE: 4-29-13
MNL. LICENSE NUMBER: 15-03

GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435



**RESOLUTION NO. 2013-120
APPROVING A FINAL PLAT AT 5 MERILANE**

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

Section 1. BACKGROUND.

- 1.01 John Adams, on behalf of property owner Ted Warner is requesting a Final Plat of 5 Merilane to divide the existing parcel into three lots.
- 1.02 The following described tract of land is requested to be divided:

Lot 5 Rolling Green, 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, 2, & 3 Block 1, Warner Estates.
- 1.04 Within this neighborhood, the median lot area is 46,832 square feet, median lot depth is 277 feet, and the median lot width is 192. The median calculations were determined by Harry S. Johnson Surveyors, for the City of Edina on November 22, 2013. All three meet the above medians.
- 1.05 The proposed subdivision meets all minimum zoning ordinance requirements
- 1.05 On October 1, 2013, the City Council approved the Preliminary Plat; Vote 5-0.

Section 2. FINDINGS

- 2.01 Approval is based on the following findings:
 1. The proposed Final Plat is the same as the approved Preliminary Plat.

Section 3. APPROVAL

NOW THEREFORE, it is hereby resolved by the City Council of the City of Edina, approves the Final Plat for the proposed subdivision of 5 Merilane.

Approval is subject to the following Conditions:

CITY OF EDINA

4801 West 50th Street • Edina, Minnesota 55424
www.EdinaMN.gov • 952-927-8861 • Fax 952-826-0390

1. Park dedication fee of \$10,000 must be paid prior to release of the final plat.
2. Prior to issuance of a building permit, the following items must be submitted:
 - a. Submit evidence of a Minnehaha Creek Watershed District approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - b. Curb-cut permits must be obtained from the Edina engineering department. Driveway plans must be consistent with the proposed grading plan to preserve as many trees as possible.
 - c. A grading plan subject to review and approval of the city engineer.
 - d. A construction management plan will be required for the construction of the new homes.
 - e. Utility hook-ups are subject to review of the city engineer.
3. Preservations easements established along the east lot lines, subject to approval of the City Council.

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)

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

**DECLARATION OF
PRESERVATION EASEMENT AND COVENANTS**

THIS DECLARATION ("Declaration") is made as of the 3rd day of December, 2013, by Ted E. Warner, personal representative of the Estate of Joan E. Warner, deceased, David A. Warner, individually in his personal capacity, and Ted E. Warner, individually in his personal capacity (collectively, "Declarant").

RECITALS:

A. Declarant is the owner of three parcels of real property legally described as Lot 1, Lot 2 and Lot 3, all in Block 1, Warner Estates, Hennepin County, Minnesota (referred to hereinafter as "Lot 1", "Lot 2" and "Lot 3", respectively; each being a "Lot" and collectively the "Lots").

B. Immediately adjacent to the Lots are two other parcels of real property located at 6 Merilane and 7 Merilane, respectively (referred to hereinafter as the "6 Merilane Neighboring Parcel" and the "7 Merilane Neighboring Parcel", respectively; each being a "Neighboring Parcel" and collectively the "Neighboring Parcels"); the Neighboring Parcels being legally described on Exhibit A attached hereto and incorporated herein by reference.

C. A frontyard setback variance for each of the three Lots has been approved by the Planning Commission of the City of Edina ("City") on or about Nov. 13, 2013 pursuant to Resolution No. CB-13-23 (the "Resolution").

D. As a condition to its approval of the variances, the City required, and Declarant, in consideration of its receipt of such variances, is willing to create and record against each of the three Lots, this Declaration of Preservation Easement and Covenants.

NOW, THEREFORE, Declarant makes the following declaration:

1. Definitions. In addition to the words and phrases defined elsewhere in this Declaration, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

"Landscape Plan" shall refer to the landscape plan attached hereto as Exhibit B and incorporated herein by reference.

"Owner" and "Owners" shall refer to Declarant, the current owners of fee title to the 6 Merilane Neighboring Parcel and the 7 Merilane Neighboring Parcel, respectively, and to any Person now or hereafter holding legal or equitable title in any Parcel.

“Parcels” or “Parcel” mean the Lots and the Neighboring Parcels, collectively or individually, as the context may require.

“Person” shall refer to individuals, limited liability companies, partnerships, joint ventures, corporations, trusts, unincorporated associations and any other form of private, public or governmental entity, or any one or more of them, as the context may require.

“Preservation Easement Areas” shall refer to those portions of the Lots which are legally described, and depicted by crosshatching, on Exhibit C attached hereto and incorporated herein by reference.

2. Covenants. Declarant, for itself as owner of each of the Lots and on behalf of all future owners of each of the Lots, covenants that:

(a) Each Owner of a Lot shall cause trees to be planted by a landscaping contractor in the Preservation Easement Areas located on its Lot as and to the extent indicated on the Landscape Plan (which new trees, together with the existing trees shown in said Preservation Easement Areas on the Landscape Plan, are collectively referred to as the “Screening Vegetation”); such planting to be completed by not later than (i) the sixtieth (60th) day following the date a building permit is issued by the City for a new house, or a remodel of the existing house, as the case may be, on Lot 2 as to the trees on Lot 2; (ii) the sixtieth (60th) day following the date a building permit is issued by the City for a new house on Lot 1 as to the trees on Lot 1; (iii) the sixtieth (60th) day following the date a building permit is issued by the City for a new house on Lot 3 as to the trees on Lot 3, or as soon after such designated dates as weather and road restrictions permit. Said new trees shall be planted in accordance with best industry practices and specifications, as and to the extent commonly applied by first class landscape contractors in the Twin Cities metropolitan area. Promptly following said plantings (not to exceed sixty (60) days, weather permitting), the Owner of each Lot shall install an irrigation system on its Lot reasonably designed to irrigate the Screening Vegetation in the Preservation Easement Areas on its Lot.

(b) The Screening Vegetation shall not be cut, killed, trimmed or otherwise harmed or removed from the Preservation Easement Areas; it being the intent of the City and the Declarant that the Screening Vegetation located in the Preservation Easement Areas shall be maintained and preserved for purposes of screening the homes on the Lots from the homes on the Neighboring Parcels. Said prohibition shall not apply to any cutting, trimming or any removal reasonably necessary to remove dead, dying or diseased trees or limbs, or trees or limbs which otherwise pose a material risk of injury to persons or property.

(c) In the event a tree shown on the Landscape Plan and planted after the date hereof pursuant to the terms of Subsection 2(a) above dies or is removed, the Owner of the Lot upon which the subject tree is located shall replace said tree with a tree of the same species specified therefor on the Landscape Plan and of a height not less than that

specified on said Landscape Plan; provided, if such species is not reasonably available, another species as similar as reasonably possible may be substituted therefor.

(d) No driveways, buildings or other structures (including, not by way of limitation, tennis courts, sport courts, sculptures (greater in height than six (6) feet) or swimming pools) shall be constructed, installed or maintained on the Preservation Easement Areas; provided, the foregoing shall not prohibit or limit the construction, installation, maintenance, repair and replacement of the following: gardens, lawns and other landscape plantings, irrigation systems, utilities, retaining walls and fences (to the extent permitted by city code), walking paths and patios, birdbaths, fountains and sculptures (but only to the extent the height of the subject birdbaths, fountains and sculptures is not greater than six (6) feet) and low voltage landscape lighting; provided the height of such lighting shall not exceed two feet above grade.

(e) Prior to commencing construction on a Lot, individual trees in the Preservation Easement Areas on that Lot that may be affected by construction equipment shall be (i) treated with a deep root fertilization and subsoil insecticide treatment, and (ii) protected by installation of fencing extending to the edge of the subject tree's drip line (and such fence to be approximately 36 inches in height).

3. Creation of Preservation Easement. Declarant hereby declares and creates a non-exclusive, perpetual preservation easement (the "Preservation Easement") for the benefit of the City over the Preservation Easement Areas for purposes of inspecting and replacing, as the case may be, the Screening Vegetation, consistent with the terms of this Declaration; provided, however, that any entry onto a Lot by the City pursuant to this Declaration shall be with reasonable prior notice to the Owner of said Lot and done in a manner which reasonably minimizes any inconvenience to the Lot Owner.

4. Remedies.

(a) Not by way of limiting any other rights or remedies of the City, the City shall, in case of a violation of the covenants set forth in 2(b) or 2(c) above, be entitled, but not obligated, to enter the Preservation Easement Areas on the Lot on which the violation has occurred and replace any tree(s) comprising the Screening Vegetation which has been cut, removed, trimmed or not replaced in violation of the foregoing covenants; all costs incurred by the City in completing such replacement to be paid by the then Owner of the subject Lot within thirty (30) days following receipt of an invoice therefor from the City.

(b) In case of a dispute regarding whether any of the Screening Vegetation is dead, dying, diseased or poses a material risk of injury to persons or property, or the appropriateness of a substitute species of replacement tree, a determination thereof by the City forester or other City official designated therefor by the City Mayor shall be binding on all Parcel Owners

5. Legal Effect.

(a) The covenants set forth herein: (i) are permanent and run with the land, burdening each of the Lots; (ii) bind every current and future Owner of all or any part of each Lot; (iii) will inure to the benefit of and be enforceable by the City, and (iv) will also inure to the benefit of and be enforceable by the Owner of the 6 Merilane Neighboring Parcel and the Owner of the 7 Merilane Neighboring Parcel, respectively; it being acknowledged and agreed that each of the City, the Owner of the 6 Merilane Neighboring Parcel and the Owner of the 7 Merilane Neighboring Parcel may exercise their respective rights to enforce the covenants of this Declaration independently from each other. The rights of the City hereunder shall not be assigned or otherwise transferred by the City. The rights of the Owners of the Neighboring Parcels are appurtenant to the Neighboring Parcels and may not be transferred, assigned or encumbered except as an appurtenance to the Neighboring Parcels.

(b) The easement set forth herein: (i) is permanent and runs with the land, burdening each of the Lots; (ii) binds every current and future Owner of all or any part of each Lot; and (iii) will inure to the benefit of and be enforceable by the City. The rights of the City hereunder shall not be assigned or otherwise transferred by the City.

(c) Upon the conveyance of all or any part of the fee title to a Lot, the grantee will thereby automatically become a new party to, and be bound by, this Declaration. Upon the recording of said conveyance in the office of the County Recorder and/or the County Registrar of Titles, as applicable, in and for Hennepin County, the conveying Owner (including, as the case may be, Declarant) will be released from (x) all covenants and obligations under this Declaration to be performed thereafter with respect to the Lot so conveyed and (y) all liability for a breach or violation of any covenant under this Declaration occurring thereafter with respect to the Lot so conveyed; provided, such conveying Owner shall not be released from any obligation to be performed, or liability for any breach or violation occurring, under this Declaration prior thereto.

6. Miscellaneous.

(a) Duration. Each covenant and the easement created hereby shall be perpetual in duration unless as otherwise terminated or amended as provided herein.

(b) Amendment. This Declaration and any provision herein contained may be amended or terminated only with the express written consent of the City, the Owners of the Lots, and the Owners of the Neighboring Parcels; provided, an Owner of a Parcel whose Parcel is not materially affected by any such amendment shall not unreasonably withhold or delay its consent to any such amendment. No tenant, licensee, holder of any mortgage constituting a lien on any portion of a Parcel, or other person having only a possessory interest in a Parcel will be required to join in the execution of, or consent to, any action of the Owner of a Parcel taken pursuant to this Declaration.

(c) No Dedication. Nothing contained in this Declaration (a) constitutes a gift, grant or dedication of any portion of the Parcels to the general public or (b) allows

access onto any portion of the Lots by any Person, except by the City as and to the extent provided above or by Court Order.

(d) Notices. Any notice required herein shall be in writing and shall be deemed effective and received (a) upon personal delivery; (b) five (5) days after deposit in the United States mail, certified mail, return receipt requested, postage prepaid; or (c) one (1) business day after deposit with a national overnight air courier, fees prepaid, to an Owner of a Parcel at the address maintained by the Owner on file with the office of the Hennepin County Assessor for the delivery of ad valorem tax statements relating to the Owner's Parcel, unless and until any such address is changed by written notice delivered in accord with this section.

(e) No Waiver. No waiver of any breach or violation by any Owner of a Lot will be implied from the failure by the City or any Owner of a Neighboring Parcel to take any action in respect of such breach or violation. One or more waivers of any breach or violation will not be deemed a waiver of any subsequent breach or violation in the performance of the same covenant or provision or any other covenant or provision. Failure of the City or the Owner of a Neighboring Parcel to enforce any provision of this Declaration upon a violation of it cannot be deemed a waiver of the right to do so as to that or any subsequent violation.

(f) No Partnership. Nothing contained in this Declaration and no action by the City or any Owner will be deemed or construed by the Owners, the City or by any third person to create the relationship of principal and agent, or a partnership, or a joint venture, or any association between or among any of the Owners or the City.

(g) Severability. If any provision of this Declaration is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration (or the application of such provision to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Declaration will be valid and enforceable to the fullest extent permitted by law.

(h) Governing Law. This Declaration will be construed in accordance with the laws of the State of Minnesota. In the event of a controversy, claim or dispute relating to this Declaration or an alleged breach thereof, the prevailing party shall be entitled to recover its attorneys' fees, court costs and other expenses of litigation from the non-prevailing party.

(i) Captions. The captions of the paragraphs of this Declaration are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.

(j) Time. Time is of the essence of this Declaration.

(k) MCIOA. The Minnesota Common Interest Ownership Act is not applicable to this Declaration.

(l) Title. Declarant does covenant with the City and the Owners of the Neighboring Parcel that it is well seized in fee title of the above described Preservation Easement Areas; that it has the sole right to grant and convey this Preservation Easement to the City; that there are no unrecorded interests in the Preservation Easement Areas against which this Declaration is not enforceable; and that it indemnifies and holds the City harmless for any breach of the foregoing covenants.

(m) Indemnity. The Owner of each Lot, not the City, shall be responsible for, and shall bear all costs and liabilities of any kind related to, the ownership, operation, upkeep and maintenance of the Preservation Easement Areas on its Lot to be performed, or which otherwise arise or accrue, during the period of its ownership of its Lot, in accord with the terms of Section 5(c) above. The Owner of each Lot shall hold harmless, indemnify and defend the City, its officers, employees, and agents from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands or judgments, including without limitation, reasonable attorneys' fees brought against or incurred by the City to the extent arising from: (1) a violation or alleged violation of any State environmental statute or regulation on its Lot; (2) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or incurring on or about its Lot, regardless of costs, unless due solely to the gross negligence of any of the City, its officers, employees or agents; and (3) administration of this Declaration and Preservation Easement required as a consequence of a breach by that Owner of the covenants hereunder or as otherwise reasonably required.

[Signature page follows]

EXHIBIT A

Legal Description of Neighboring Parcels

Legal Description of the 6 Merilane Neighboring Parcel:

That part of Lot 6, "Rolling Green, Hennepin County, Minn." lying Westerly of a line drawn Northerly from a point in the South line of said Lot 6 equi-distant between the Southeast and Southwest corner of said Lot 6 to a point in the Northerly line of said lot, equi-distant between the Northeast and Northwest corner of said Lot 6, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Legal Description of the 7 Merilane Neighboring Parcel:

That part of Lot 8, "Rolling Green", Hennepin County, Minn." described as follows: Beginning at the most Southerly corner of Lot 5 in said Rolling Green; thence Northeasterly along the dividing line between said Lot 5 and said Lot 8, a distance of 290 feet to the Southwest corner of Lot 6 in said Rolling Green; thence Easterly along the South line of said Lot 6, a distance of 100 feet; thence southeasterly deflecting to the right at an angle of 20 degrees from the last described course, a distance of 133.1 feet; thence Southwesterly parallel with aforesaid dividing line between Lots 5 and 8 and the same extended to a point in the Westerly line of said Lot 8; thence Northwesterly along the Westerly line of Lot 8, a distance of 200 feet, more or less, to the point of beginning.

EXHIBIT B

Landscape Plan

[See attached sheets labeled
“Exhibit B”, “D1”, “D2” and “D3”, respectively]

MERILANE
RESIDENCES

3 MERILANE
EDINA, MN 55425

ARCHITECT

CONSTRUCTION

REVISIONS

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE: _____ REG. NO. _____

AUTHORIZATION

Designed By: EG

Drawn By: JH

Reviewed By: _____

Revision Date: 11/30/11

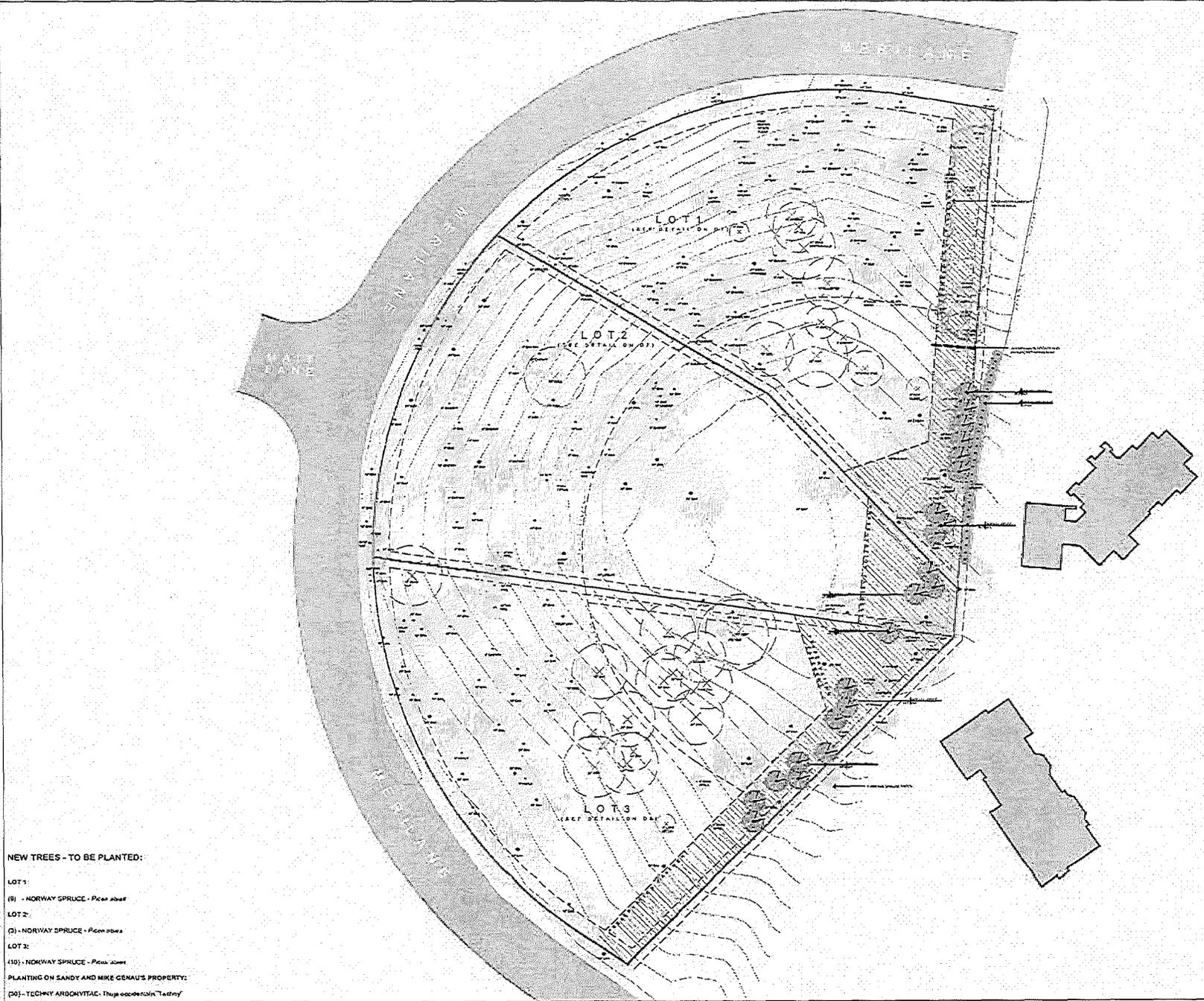
Project Name: _____

Project Code: 110411

LANDSCAPE PLAN

Sheet #

EX. B



NEW TREES - TO BE PLANTED:

- LOT 1:
- (9) - NORWAY SPRUCE - Plant about
- LOT 2:
- (2) - NORWAY SPRUCE - Plant about
- LOT 3:
- (10) - NORWAY SPRUCE - Plant about

PLANTING ON SANDY AND MIKE GENAU'S PROPERTY:

- (04) - TECHNY ARBORVITAE - These coordinates are "As of"

MERILANE
RESIDENCES

3 HIGHLAND
DRONA, NY 13426

ARCHITECT

CONSTRUCTION

SELECTION

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN
AND SPECIFICATIONS OF IMPROVEMENTS
PREPARED BY ME OR UNDER MY
DIRECT SUPERVISION AND THAT I AM
A QUAL LICENSED PROFESSIONAL
LANDSCAPE ARCHITECT UNDER THE
LAWS OF THE STATE OF NEW YORK.

DATE: FEB. 03

AUTHORIZATION

Designed By: MS

Drawn By: MS

Approved By: MS

Revision Date: 11.20.13

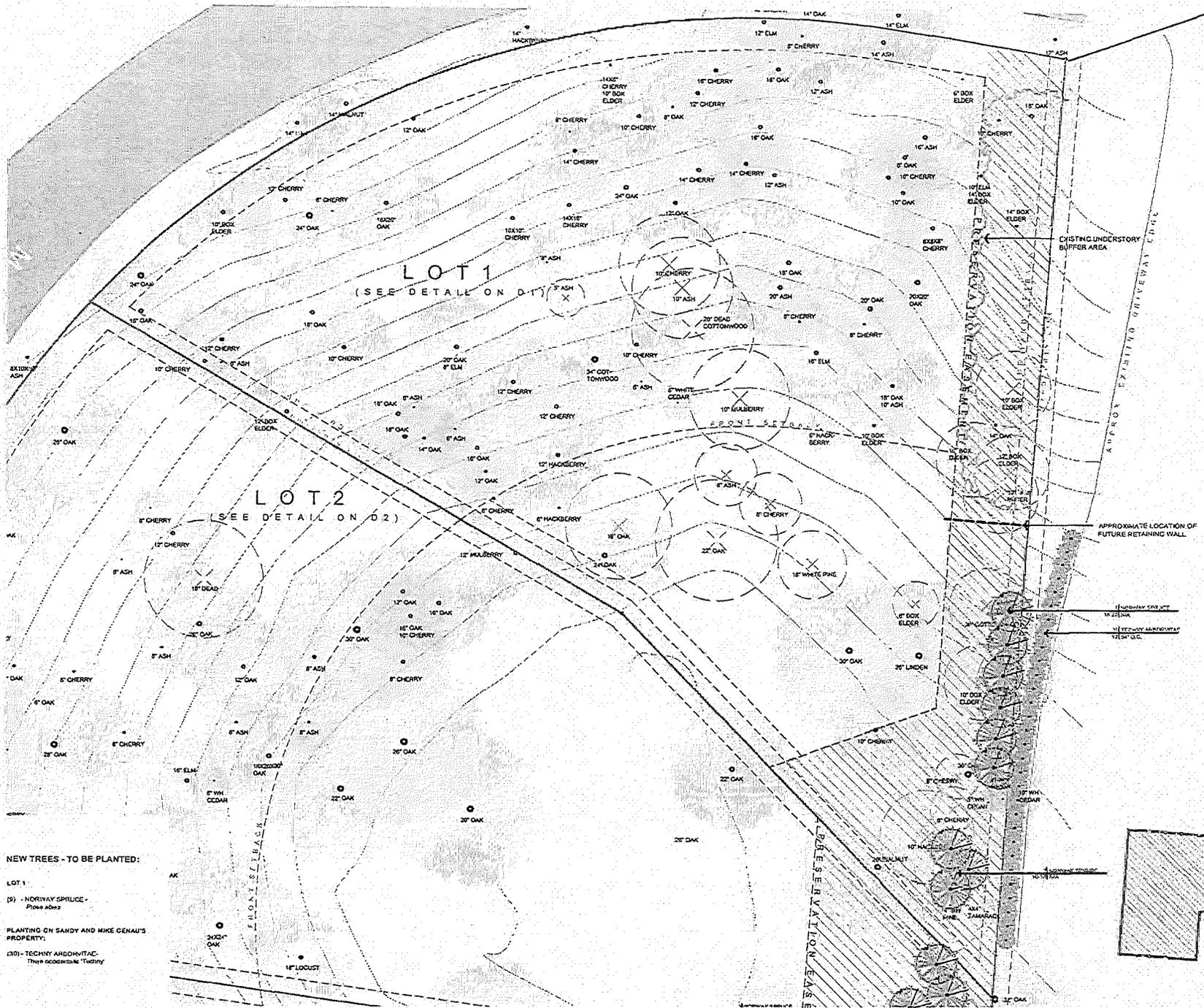
Owner Name: [REDACTED]

Drawing Scale: 1/8"=1'-0"

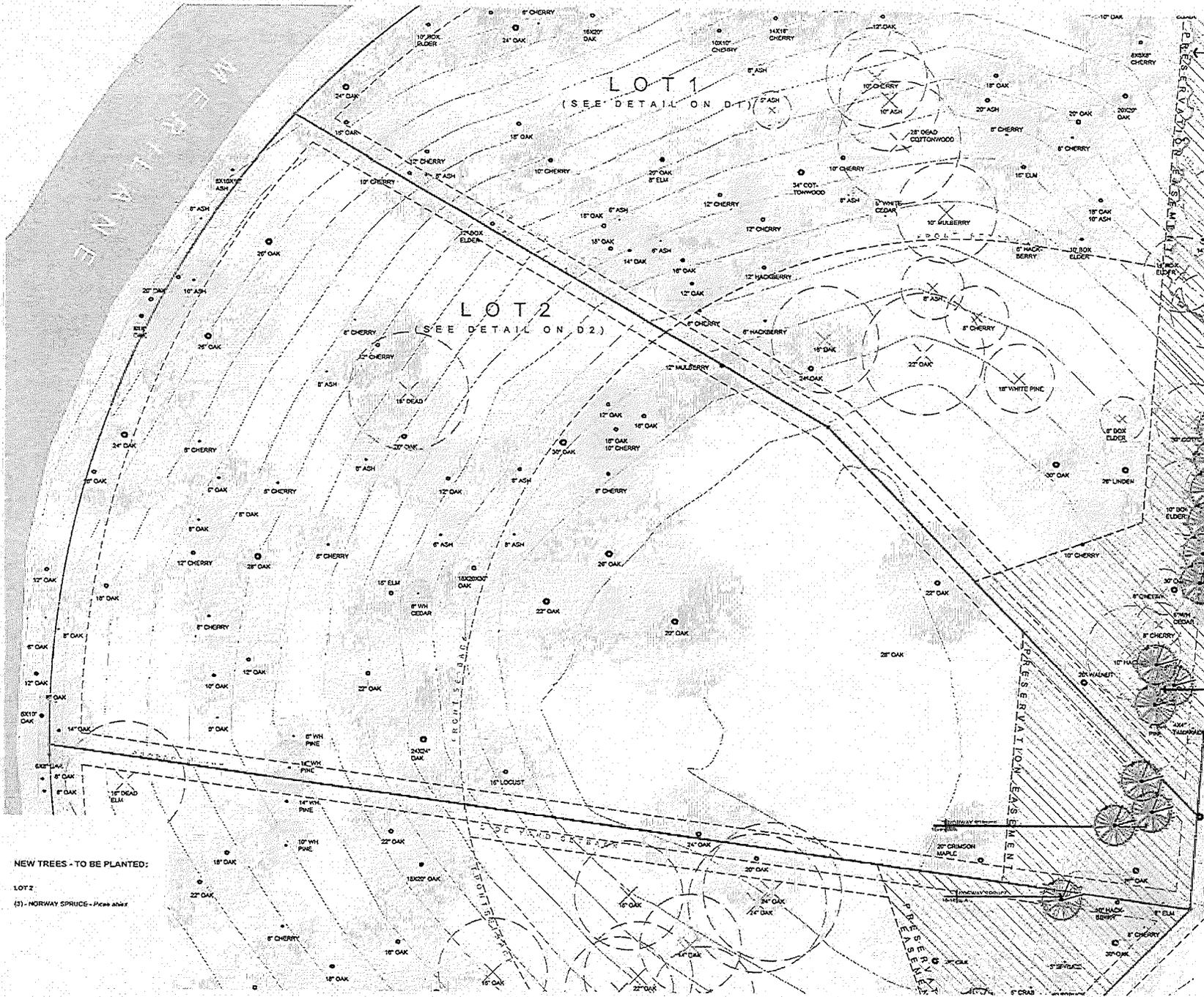
LOT 1
LANDSCAPE PLAN

SHEET 1

D1



- NEW TREES - TO BE PLANTED:**
- LOT 1
- (S) - NORWAY SPRUCE - *Picea abies*
- PLANTING ON SANDY AND MIKE GENAU'S PROPERTY:
- (SO) - TOWNY ARDOVITAE - Their occasional 'Towny'



NEW TREES - TO BE PLANTED:
 LOT 2
 (3) - NORWAY SPRUCE - Place above

KRAEMER
 SONS INC.
 CUSTOM BUILDERS

MERLANE
 RESIDENCES

1 ARIQUANT
 EDNA, N.Y. 12420

ARCHITECT

CONSTRUCTION

REVISIONS

CERTIFICATION

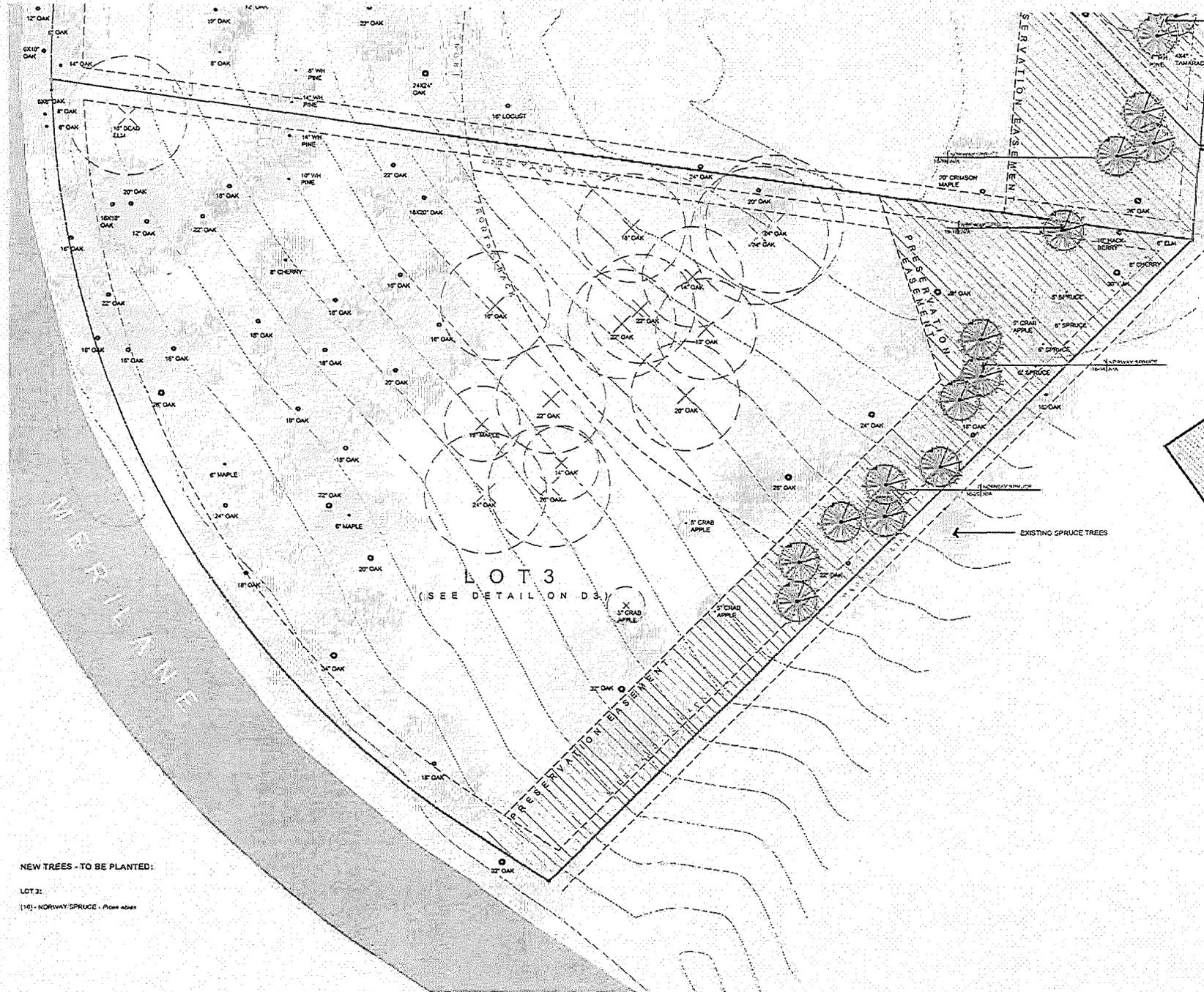
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATIONS OF WORK AND PROVISIONS OF REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF NEW YORK.

DATE: _____ REV. NO: _____
 AUTHORIZATION
 Prepared By: SA
 Drafted By: SA
 Reviewed By: SA
 Revision Date: 11.20.14
 Owner Name: _____
 Graphic Scale: 1"=10'

LOT 2
 LANDSCAPE PLAN

144 (1) #

D2



NEW TREES - TO BE PLANTED:

LOT 3:
 (1) 1 - NORWAY SPRUCE - Place above



MERILANE RESIDENCES

3 HILLSDALE
 EDINA, MN 55426

ARCHITECT

CONSTRUCTION

REVISIONS

CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATIONS OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE: _____ REG. NO.: _____
 AUTHORIZATION: _____
 Drawn By: _____
 Project No.: _____
 Merilane Proj.: 11-20-11
 Output Register: _____
 Drawing Scale: THREE

LOT 3
 LANDSCAPE PLAN

SHEET

D3

EXHIBIT C

Preservation Easement Areas

[See Schedules C-1 and C-2 attached]

SCHEDULE C-1

Legal Description of Preservation Easement Areas

A. Preservation Easement Areas In Lot 1, Block 1, WARNER ESTATES

That part of Lot 1, Block 1, WARNER ESTATES which lies southeasterly of "Line A", said "Line A" being described as follows: Beginning at a point in the Southwesterly line of said Lot 1 distant 102.50 feet northwesterly, as measured along said southwesterly line, from the most southerly corner of said Lot 1; thence northeasterly to a point in the east line of said Lot 1 distant 102.50 feet northerly, as measured along said East line, from said most southerly corner, and said "Line A" there ending.

Also the easterly 25 feet of that part of said Lot 1 lying northerly of said "Line A";
All in Hennepin County, Minnesota.

B. Preservation Easement Areas In Lot 2, Block 1, WARNER ESTATES

The East 60 feet of Lot 2, Block 1, WARNER ESTATES, Hennepin County, Minnesota.

C. Preservation Easement Areas In Lot 3, Block 1, WARNER ESTATES

That part of Lot 3, Block 1, WARNER ESTATES which lies northeasterly of "Line A", said "Line A" being described as follows: Beginning at a point in the Southeasterly line of said Lot 3 distant 100.75 feet southwesterly, as measured along said southeasterly line, from the most easterly corner of said Lot 3; thence northwesterly to a point in the northerly line of said Lot 3 distant 100.75 feet westerly, as measured along said northerly line, from said most easterly corner, and said "Line A" there ending.

Also the southeasterly 25 feet of that part of said Lot 3 lying southwesterly of said "Line A";

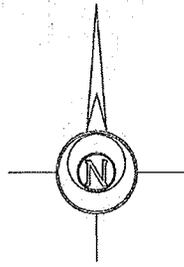
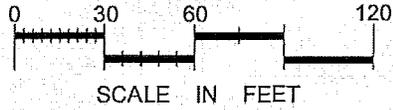
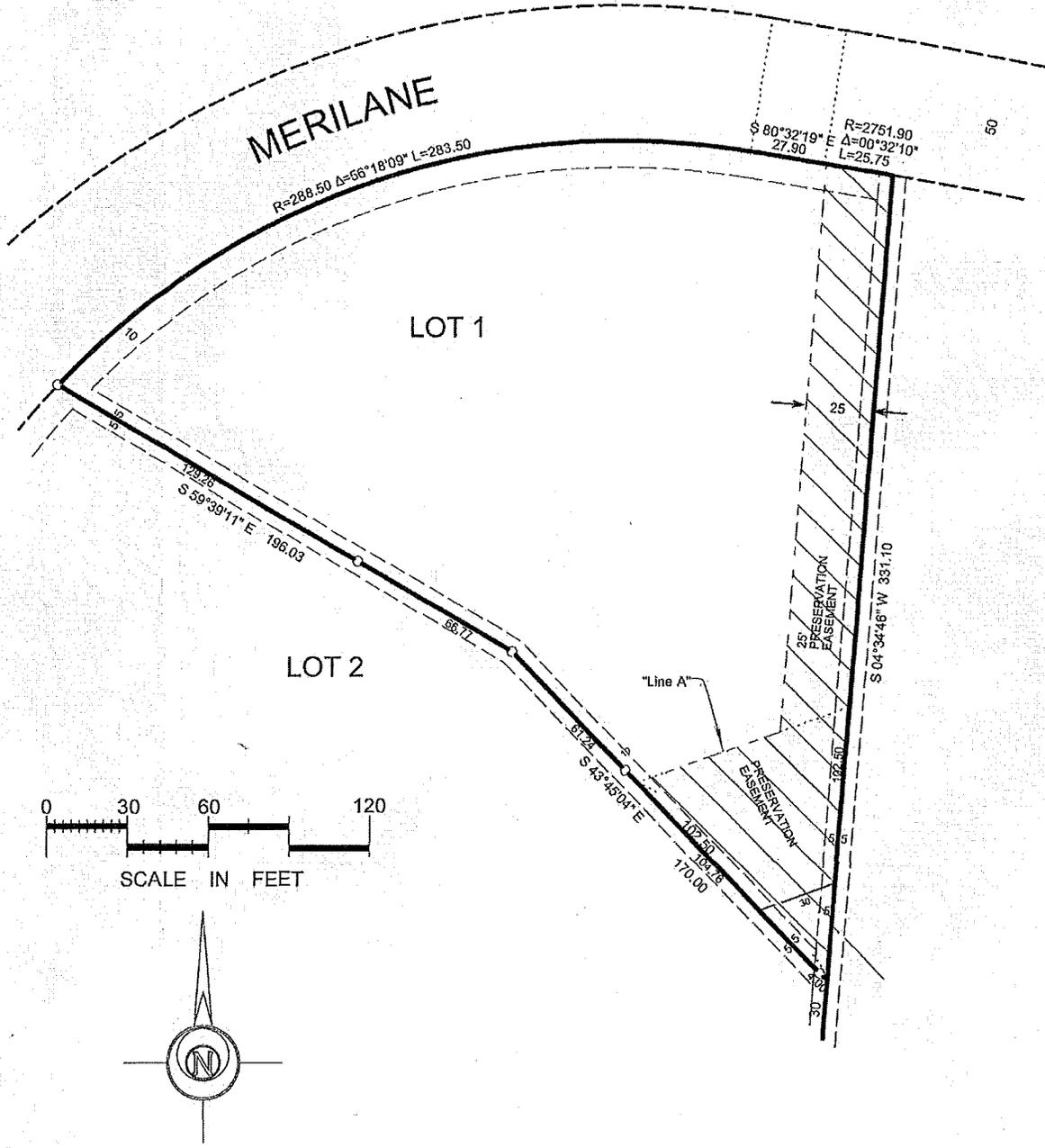
All in Hennepin County, Minnesota.

SCHEDULE C-2

Depiction of Preservation Easement Areas

[See attached]

PROPOSED PRESERVATION EASEMENT AREAS EXHIBIT FOR LOT 1, BLOCK 1, WARNER ESTATES



o Denotes iron marker

DESIGNED	REVISION	DATE	DESCRIPTION



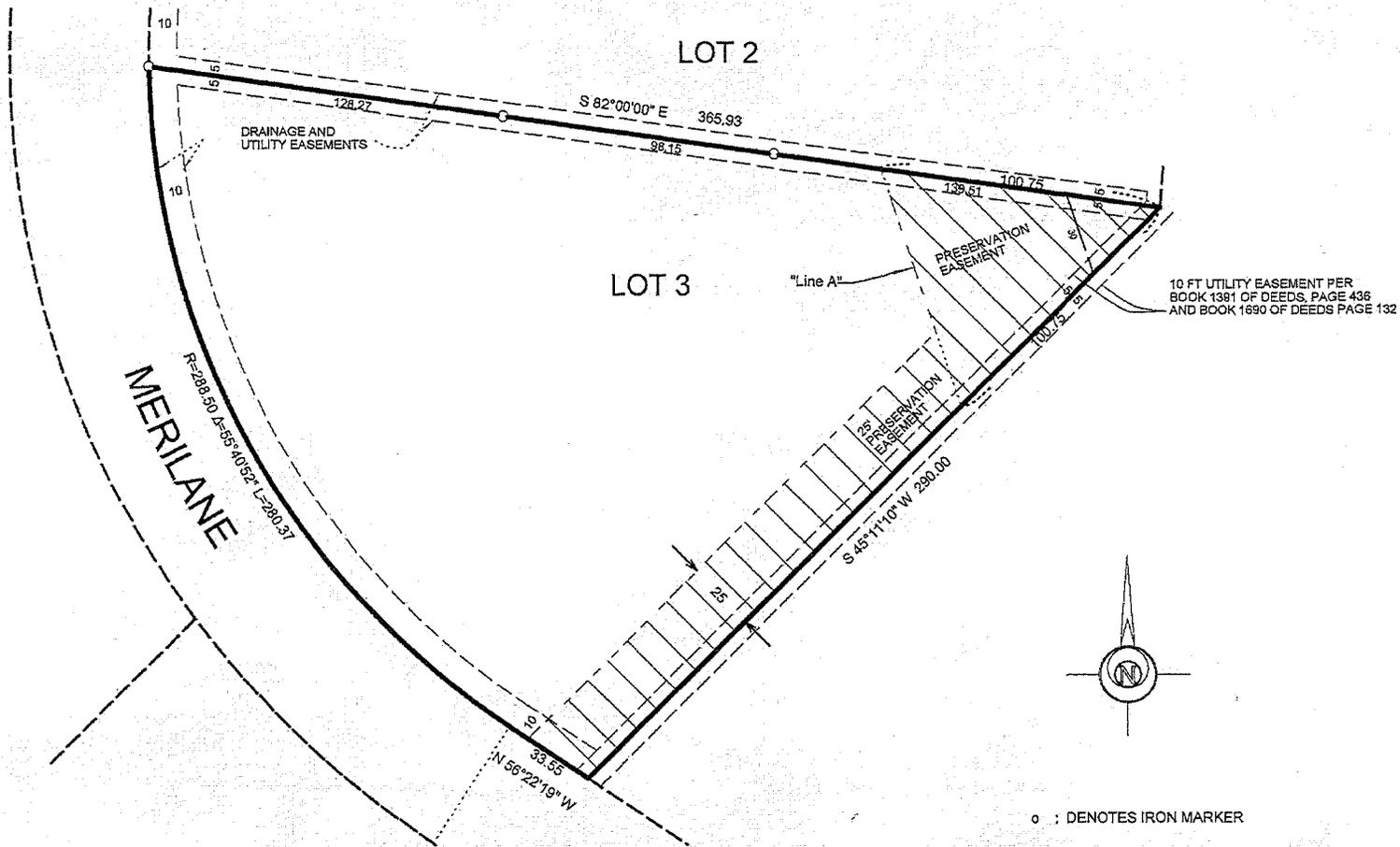
GRONBERG & ASSOCIATES, INC.
CONSULTING ENGINEERS, LAND SURVEYORS
SITE PLANNERS
445 N. WILLOW DR. LONG LAKE, MN. 55356
952-473-4141

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

Mark L. Gronberg
DATE 11-25-13 MN LICENSE NUMBER 12255

SCALE
1"=60'
DATE
11-25-13
JOB NO.
13-139A

PROPOSED PRESERVATION EASEMENT AREAS EXHIBIT FOR LOT 3, BLOCK 1, WARNER ESTATES



DESIGNED	REVISION	DATE	DESCRIPTION
DRAWN			
CHECKED			



GRONBERG & ASSOCIATES, INC.

CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS

445 NORTH WILLOW DRIVE, LONG LAKE, MN. 55356

952-473-4141

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Michael J. Gronberg
DATE: 11-25-13 MN LICENSE NUMBER: 11155

SCALE
1"=60'
DATE
11-25-13
JOB NO.
13-139A

GRONBERG & ASSOCIATES, INC.

SURVEYING, ENGINEERING AND LAND PLANNING

445 N. WILLOW DRIVE

LONG LAKE, MINNESOTA 55356

952-473-4141

FAX: 952-473-4435

5 MERILANE
H. D. WARNER ESTATE
MEDIAN LOT AREA WITHIN 500'
OCTOBER 3, 2013

<u>ADDRESS</u>	<u>LOT AREA* S.F. ±</u>	<u>RANK</u>
8 Merilane	657,865	1
7 Merilane	68,206	4
6 Merilane	56,087	6
4 Merilane	51,305	9
2 Merilane	120,550	2
4600 Merilane	112,227	3
4602 Merilane	<u>47,933</u>	14 Median
4603 Merilane	18,649	28
4604 Merilane	36,258	21
4608 Merilane	34,273	23
4612 Merilane	37,479	20
4616 Merilane	51,057	11
4700 Merilane	48,249	13
4704 Merilane	48,435	12
4708 Merilane	43,958	17
4733 Annaway Dr.	51,227	10
4729 Annaway Dr.	45,696	16
4725 Annaway Dr.	41,138	18
4715 Annaway Dr.	52,805	8
4705 Annaway Dr.	57,352	5
4701 Annaway Dr.	52,969	7
4605 Annaway Dr.	30,014	25
4602 Annaway Dr.	28,737	26
4601 Annaway Dr.	38,799	19
5808 Mait La.	30,779	24
5805 Mait La.°	45,730	15
5804 Mait La.	35,640	22
5800 Mait La.	24,817	27

* From Hennepin County property records

° 5805 Mait La. is in 2 parcels.

NOTE: 14 & 15 are tied for the median. We used the higher number 14 to be conservative.

GRONBERG & ASSOCIATES, INC.

SURVEYING, ENGINEERING AND LAND PLANNING

445 N. WILLOW DRIVE

LONG LAKE, MINNESOTA 55356

952-473-4141

FAX: 952-473-4435

5 MERILANE
H. D. WARNER ESTATE
MEDIAN WIDTH WITHIN 500'
OCTOBER 3, 2013

<u>ADDRESS</u>	<u>LOT WIDTH* FT ±</u>	<u>RANK</u>
8 Merilane	580	1
7 Merilane	202	9
6 Merilane	178	18
4 Merilane	176	19
2 Merilane	60	27
4600 Merilane	180	17
4602 Merilane	30	28
4603 Merilane	94	26
4604 Merilane	228	6
4608 Merilane	212	8
4612 Merilane	<u>192</u>	<u>14</u> Median
4616 Merilane	139	23
4700 Merilane	140	22
4704 Merilane	260	5
4708 Merilane	282	3
4733 Annaway Dr.	290	2
4729 Annaway Dr.	200	11
4725 Annaway Dr.	201	10
4715 Annaway Dr.	195	13
4705 Annaway Dr.	191	15
4701 Annaway Dr.	187	16
4605 Annaway Dr.	110	25
4602 Annaway Dr.	281	4
4601 Annaway Dr.	213	7
5808 Mait La.	112	24
5805 Mait La.°	162	20
5804 Mait La.	196	12
5800 Mait La.	141	21

* Distance scaled from Hennepin County maps

° 5805 Mait La. is in 2 parcels.

NOTE: 14 & 15 are tied for the median. We used the higher number 14 to be conservative.

GRONBERG & ASSOCIATES, INC.

SURVEYING, ENGINEERING AND LAND PLANNING

445 N. WILLOW DRIVE

LONG LAKE, MINNESOTA 55356

952-473-4141

FAX: 952-473-4435

5 MERILANE
H. D. WARNER ESTATE
MEDIAN LOT DEPTH WITHIN 500'
OCTOBER 3, 2013

<u>ADDRESS</u>	<u>LOT DEPTH* FT ±</u>	<u>RANK</u>
8 Merilane	922	1
7 Merilane	340	5
6 Merilane	321	6
4 Merilane	293	9
2 Merilane	612	2
4600 Merilane	537	4
4602 Merilane	558	3
4603 Merilane	148	27
4604 Merilane	168	24
4608 Merilane	165	25
4612 Merilane	173	22
4616 Merilane	271	16
4700 Merilane	318	7
4704 Merilane	172	23
4708 Merilane	265	17
4733 Annaway Dr.	290	10
4729 Annaway Dr.	230	18
4725 Annaway Dr.	205	19
4715 Annaway Dr.	280	13
4705 Annaway Dr.	300	8
4701 Annaway Dr.	286	12
4605 Annaway Dr.	275	15
4602 Annaway Dr.	118	28
4601 Annaway Dr.	188	20
5808 Mait La.	<u>277</u>	14 Median
5805 Mait La. °	287	11
5804 Mait La.	183	21
5800 Mait La.	154	26

* scaled from Hennepin County half section maps

° 5805 Mait La. is in 2 parcels.

NOTE: 14 & 15 are tied for the median. We used the higher number 14 to be conservative.

Motion carried.

Interim Fire Chief Todd accepted the proclamation, described the educational programs offered, and thanked the Council for its continued support of the Fire Department.

V.C. 2013 MNAPA'S EXCELLENCE IN COMMUNITY ENGAGEMENT AWARD – PRESENTED

Member Brindle announced the City of Edina had received the 2013 Minnesota Chapter American Planning Association's (MNAPA's) Excellence in Community Engagement Award acknowledging the City's do.town initiative, and its vision and core values for quality of life for its residents.

VI. PUBLIC HEARINGS HELD – Affidavits of Notice presented and ordered placed on file.

VI.A. PRELIMINARY PLAT, 6609 BLACKFOOT PASS; GREAT NEIGHBORHOOD HOMES, INC. ON BEHALF OF DOUGLAS JOHNSON – RESOLUTION NO. 2013-82 – POSTPONED TO OCTOBER 14, 2013

Mayor Hovland announced that the proponent had requested postponement to October 14, 2013. Member Sprague made a motion, seconded by Member Brindle, postponing consideration of the Preliminary Plat, 6609 Blackfoot Pass; Great Neighborhood Homes, Inc. on behalf of Douglas Johnson and Resolution No. 2013-82, to October 14, 2013.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VI.B. PRELIMINARY PLAT AT 5 MERILANE FOR JOHN ADAMS ON BEHALF OF TED WARNER – APPROVED RESOLUTION NO. 2013-84 – ADOPTED

Community Development Director Presentation

Community Development Director Teague presented the request of Ted Warner for a Preliminary Plat to subdivide 5 Merilane into three lots. He stated the median lot area in this neighborhood was 48,249 square feet, median lot depth was 277 feet, and median lot width was 192 feet. The proposed new lots would meet all minimum lot size requirements. If approved, the existing house would remain on Lot 2 and a new driveway constructed to serve the existing house as the current driveway would be located on proposed Lot 3.

Mr. Teague reviewed the consideration of the Planning Commission and advised that a motion to approve the request based on the findings and conditions as contained in the Planning Commission staff report failed for lack of a second. A motion to deny the request based on the finding that the subdivision as proposed would change the character and symmetry of the Rolling Green neighborhood, as a result of new house placement in close proximity to existing homes failed on a vote of 3-5. Mr. Teague stated staff recommended approval, as it meets the ordinance's subjective standards, subject to the findings and conditions as detailed in the staff report.

City Attorney Knutson advised that when considering a plat approval, the Council was acting in a quasi-judicial capacity in applying City ordinances and Statute to the facts as presented to determine whether it met the requirements of the ordinance. It was not a consideration of establishing policy. City Attorney Knutson stated if the subdivision met ordinance standards, the City lacked discretion to deny. He explained that courts construed the City's ordinances in the least restrictive manner to allow property owners to do what they wished with their property. The purpose of tonight's public hearing was to gather information on whether the facts as presented met the ordinance requirements. Denial could not be based on neighborhood comment but had to be based on the objective standards within the ordinance. He explained that conditions could be imposed that were ordinance based to assure compliance with ordinance standards.

Proponent Presentation

Charlie Carpenter, attorney representing the Warner family, thanked the Council for visiting the site and discussing the proponent's plans to become familiar with the proposed plat. Mr. Carpenter stated the

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subjective statements/conditions set forth in the subdivision ordinance (protecting character/symmetry of the community) distinguished from the standards relating to lot size and width. He read three statements from Minnesota Courts relating to consideration by local authorities of subdivisions and stated it was the proponent's position that statements within the City's ordinance lacked in providing a clear and objective standard. Mr. Carpenter stated the proponent believed the subdivision request did comply with the City's objective standards as contained in its ordinances and that "neighborhood" goes beyond the adjacent lots.

Mr. Carpenter addressed the drawing presented by John Adams last week based on comments by the Planning Commission relating to aesthetics of placing houses at the back of the three lots and suggestion to seek a variance to bring the house location forward. He displayed a new plan prepared by the proponent's surveyor to bring the houses forward to the 130-foot setback line and to add a buffer zone/conservation easement to provide screening to the Pohlad and Genau houses as well as between the three lots as viewed from the street. Mr. Carpenter stated based on this new plan, the proponent would agree to the following: to request variances to the front yard setback to the 130-foot line conditioned upon creating a permanent conservation easement to be recorded against each of the three lots; to be obligated to plant vegetation and trees according with a landscaping plan approved by the City; to construct no buildings in the conservation zone; to agree with a restrictive covenant that vegetation and trees within the conservation easement would remain in place; and, that it would be a perpetual conservation easement and binding on future owners of the three lots.

Mr. Carpenter requested Council approve the preliminary plat as submitted and provide guidance whether the neighborhood would be better served with the new plan that would require variances to the front yard setback of the three lots. If so, the proponent would petition the City for variances, work with the City Attorney to draft the conservation easement, and work with staff to develop the landscape plan.

Mr. Teague explained the process to consider approval of the preliminary plat and a subsequent variance application that would be considered by the Planning Commission. He indicated those considerations could occur separately, or together.

The Council asked questions of Mr. Carpenter relating to the genesis of the new plan that would require three front lot setback variances. Mr. Carpenter stated it was developed at the suggestion of the Planning Commission and he believed the conservation easement should be linked with the variance requests.

John Adams, realtor with Coldwell Banker Burnet representing the Warner family, stated he also received an e-mail from a resident suggesting the houses be moved forward to create more space in between. He explained the 130-foot setback was the average front yard setback along that side of the street. This method of calculating an average front yard setback had been used in Edina until three years ago. He described how the area of the conservation easement was customized and stated they were willing to run the 25-foot conservation easement along the property lines to the street.

The Council asked how the proponent could be legally bound to return with variance requests and conservation easement should the Preliminary Plat be approved tonight. Mr. Adams suggested a condition of approval to require the proponent to make variance application. City Attorney Knutson stated if the proponent agreed to that requirement, it would be legally binding.

Mayor Hovland opened the public hearing at 8:16 p.m.

Public Testimony

Tom Owens, real estate lawyer representing Mary Pohlad of 7 Merilane and Michael and Sandra Genau of 6 Merilane, addressed the Council and requested a five-minute recess to consider the information just received. The Council agreed to briefly recess the meeting following Public Testimony.

Gerald Hulbert, 4616 Merilane, addressed the Council.

James Ganley, 4704 Merilane, addressed the Council.

Donna Roback, 18 Merilane, addressed the Council.

Suzanne Knelman, 4812 Rolling Green Parkway, addressed the Council.

Michael Genau, 6 Merilane,, addressed the Council.

David Evinger, 4 Merilane, addressed the Council.

Member Swenson made a motion, seconded by Member Sprague, to recess the public hearing at 8:37 p.m.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland
Motion carried.

Member Sprague made a motion, seconded by Member Bennett, to reconvene the public hearing at 8:47 p.m.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland
Motion carried.

Tom Owens, real estate lawyer representing Mary Pohlad of 7 Merilane, and Mike and Sandy Genau of 6 Merilane, addressed the Council.

Member Sprague made a motion, seconded by Member Swenson, to close the public hearing at 8:50 p.m.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland
Motion carried.

The Council confirmed that houses could be constructed on each of the three lots without front yard setback variances or conservation easements. The Council asked staff to respond to questions relating to the accuracy of the median lot data as presented in the staff report, from the proponent's surveyor. Mr. Teague stated the Council could table consideration to allow time for staff to verify the numbers or a condition could be added that approval was subject to re-verification and that the new lots must meet all median lot size requirements. City Attorney Knutson recommended the proponent submit survey information for review by staff and if needed, the City would hire an outside consultant for verification. In addition, staff could review data provided by other surveyors to verify accuracy.

The Council acknowledged that a number of variances, at least seven, had been issued in this general area. With regard to area of notification and definition of "neighborhood," the Council considered whether an ordinance should be created that was neighborhood specific or included properties within the same plat. It was noted that Statute required notification to properties within 350 feet of the subject site; however, the City provided notice to properties within 500 feet of the subject site. The Council discussed the difference in ordinance guideline language between Sections 810 and 850. City Attorney Knutson pointed out that regardless of the Section, the ordinance language related to "guidelines." The Council reviewed ordinance Section 810.11 subd. 1. C. relating to guidelines as contained in the Comprehensive Plan. City Attorney Knutson stated the purpose of the Comprehensive Plan was to provide guidance in drafting ordinances.

The Council asked whether shape of lot was a consideration. City Attorney Knutson stated it was the Council's judgment whether the lot shape was objective. Mr. Teague stated he had generally looked at the issue of shape, finding other pie-shaped lots, but had not measured angles. The Council acknowledged the City had a single zoning code that applied to lots throughout the City even though there was great

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variation (lot sizes/topography) between and within neighborhoods, which raised the question of whether the code was adequate. The issue was raised whether a professional planning consultant should be considered to review and standardize the code.

The Council found the essence of the issue was that while the lot qualified for a legal subdivision under the objective standards of the code, subdivision would cause impact on surrounding properties by clustering three houses on the back of the lots at the top of the hill. In addition, the supplemental information asked if there was some objectivity in using the old methodology to measure front yard setbacks and proffering a variance request to separate houses from each other and neighboring houses along with conservation easements to protect woodlands. The Council found a conservation easement would be an enhancement and align interests of the developer and adjacent neighbors.

The Council asked how staff would proceed to verify the numbers to assure the Council based its decision on accurate objective information. Mr. Teague stated the calculations were difficult, time intensive, and if directed, the City could engage a new consultant but it might take one month to complete that analysis. He stated the proponent had one year from the date of preliminary plat approval to submit the final plat. The City Attorney stated if the Council considered the preliminary plat tonight, resolution language could be included that the applicant shall apply for front yard setback variances for the three proposed lots and provide conservation easements over areas indicated at tonight's meeting in conjunction with the variance. He stated the conservation easement would result in adjusting the location of building pads to protect privacy of adjacent and existing houses.

Mr. Carpenter stated the resulting building area on Lot 1 would be within the setbacks and further constricted by the easement. The Council supported consideration of a setback from the conservation easement to create maximum privacy for abutting and neighboring houses. Mr. Carpenter assured the Council that would be accomplished by the conservation easement and he believed the market was a positive force because buyers want privacy.

The Council acknowledged the genesis of the new plan was in response to the suggestion by the Planning Commission for variances and conservation easements and letter from a resident encouraging relocating the houses on the lot. The Council agreed that a solution to address clustering would be to separate the houses, move the houses toward the street, and off the bluff. City Attorney Knutson stated staff would verify ownership of the outlot, lake area, and impact to the median calculation.

Member Swenson introduced and moved adoption of Resolution No. 2013-84, Approving a Preliminary Plat at 5 Merilane, 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 applicant has located the driveways and home to minimize tree and slope disturbance.**

And 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. Park dedication fee of \$10,000 must be paid prior to release of the Final Plat.**
- 3. Prior to issuance of a building permit, the following items must be submitted:**
 - a. Submit evidence of a Minnehaha Creek Watershed District approval. The City may require revisions to the Preliminary Plat to meet the District's requirements.**
 - b. Curb-cut permits must be obtained from the Edina Engineering Department. Driveway plans must be consistent with the proposed grading plan to preserve as many trees as possible.**
 - c. A grading plan subject to review and approval of the City Engineer.**
 - d. A construction management plan will be required for the construction of the new homes.**
 - e. Utility hook-ups are subject to review of the City Engineer.**

4. The applicant must apply for a variance for front yard setbacks for all three lots, consistent with the plan map presented at the October 1, 2013, Council meeting. The plan map included 130-foot front yard setbacks and conservation easements along the outer side lot lines in the rear yard to ensure house separation and tree preservation.
5. The 500-foot median calculations must be verified to ensure compliance with all minimum lot standards.

Member Sprague seconded the motion.

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VII. COMMUNITY COMMENT

No one appeared to comment.

VIII. REPORTS / RECOMMENDATIONS

VIII.A. RESOLUTION NO. 2013-85 ADOPTED – ACCEPTING VARIOUS DONATIONS

Mayor Hovland explained that in order to comply with State Statutes, all donations to the City must be adopted by Resolution and approved by four favorable votes of the Council accepting the donations.

Member Bennett introduced and moved adoption of Resolution No. 2013-85 accepting various donations. Member Brindle seconded the motion.

Rollcall:

Ayes: Bennett, Brindle, Sprague, Swenson, Hovland

Motion carried.

VIII.B. RESOLUTION NO. 2013-77 ADOPTED – SILVER OAK DEVELOPMENT ON BEHALF OF IRET PROPERTY; SITE PLAN REVIEW WITH A PARKING RAMP SETBACK AND PARKING STALL VARIANCE AT 6525-45 FRANCE AVENUE – APPROVED

Community Development Director Presentation

Mr. Teague reviewed that this item had been tabled at the last meeting to allow time for the proponent to address issues that had been raised.

Proponent Presentation

James O'Shea, Collaborative Design Group, presented revised plans for a four-story, 60,000 square foot medical office building expansion and new parking ramp expansion to the Southdale Medical Office building. He noted the plans included taller trees around the parking ramp, intensive plantings along 66th Street and Drew Avenue, new locations for more bicycle racks, addition of a sidewalk into the site west of the drive entrance from West 66th Street, permeable paver drive per City standard, and public art in the central plaza. He stated the proponent's engineer would work with City staff to address appropriate driveway width.

Reid Schulz, Civil Engineer with Landform Professional Services, described the redesigned two-way, 24-foot wide, delivery access to the loading area. He also described the minimized apron and drive aisle within the paved setback, remaining truck apron to accommodate truck movements, and how a box truck would maneuver to back into the loading area. Mr. Schulz then presented details of the landscaping, noting incorporation of a retaining wall, with the backside of the five-foot berm planted with mature trees and incorporation of a plaza area and two sidewalks.

The Council voiced support for the alternate design as it separated truck and car traffic and slowed the speed of vehicles.

Mr. O'Shea displayed pictures of the existing garage and stated they now proposed to remove the ramp, return the north setback to the City, and address the street with landscaping. He then displayed a picture of the new proposed ramp, noting the location of the plaza to better engage citizens and the street in a