

City of East Bethel
Planning Commission Agenda
Planning Commission Regular Meeting
Date: May 28, 2024 at 7 p.m.



Two or more Council Members and/or the Mayor may be in attendance at this meeting.
If two or more Council Members and the Mayor attend the event, there will be a quorum of Council Members.

This meeting may be monitored live via the following means:
Cable Channel 10, MidcoTV Channel 77, or the City of East Bethel YouTube channel
(www.youtube.com/channel/UC8_7ShcME-XG14pN5JrmBGg/live)

1. Call To Order
2. Adopt Agenda
3. Approval of Minutes: April 23, 2024 Pg. 1-5
4. **Public Hearing:** **A.** Setback Variance – 18116 Deerwood LN NE Pg. 6-16
B. Variance to lot and setback standards – 18164 Highway 65 NE Pg. 17-41
Lots 17 & 125
5. Updates
6. Adjourn

1 **DRAFT MINUTES: NOT YET APPROVED**

2
3 EAST BETHEL PLANNING COMMISSION MEETING
4 April 23, 2024

5
6 MEMBERS PRESENT: Chair Sharon Johnson, Vice Chair Gabriel Hanschen, Glenn Terry, Brian Downie,
7 Corey Jorgensen, and Diana Saenger.

8
9 MEMBERS ABSENT: Tanner Balfany

10
11 ALSO PRESENT: Aaron Berg, Community Development Director
12 Jim Smith, City Council Liaison

13
14 **1.0 Call to Order**

15 Chair Johnson called the Planning Commission regular meeting to order at 7:00 pm.

16
17 **2.0 Adopt Agenda**

18 **Commissioner Jorgensen moved and Commissioner Terry seconded to adopt the agenda as**
19 **presented.** Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson
20 asked any opposed? That motion passes. **Motion passes unanimously.**

21 **3.0 Approve March 26, 2024 meeting minutes**

22 Johnson asked if there were any corrections to the March 26, 2024 Minutes.

23 Jorgensen stated on Line 414 should say he drove by this property every day and he did not think that he
24 had not ever not seen a vehicle for sale.

25 Terry noted on line 416, it said Commissioner Downey moved and Commissioner Downey seconded.
26 Berg stated he would get this corrected.

27 Terry stated on line 295, change “sent” to “sense.”

28 Johnson stated on line 434 the name of the company is Designing Earth Contracting.

29 Johnson stated on line 26 the wording was strange and she believed Jorgensen asked that his name be
30 corrected in a couple of locations.

31 **Commissioner Terry moved and Commissioner Downie seconded to adopt the March 26, 2024**
32 **regular meeting minutes as amended.** Johnson asked any discussion? To the motion, all in favor say
33 aye. **All Downie, Jorgensen, Terry, and Johnson.** Johnson asked any opposed? Hanschen abstained.
34 That motion passes. **Motion passes 4-0-1.**

35 **4.0 Oath of Office – Diana Saenger**

36 Diana Saenger took the Oath of Office.

37
38 **5.0 Public Hearing: Variance – Driveway Access Standards – 21333 Durant St NE**

39 Berg reviewed staff’s report stating on March 15, 2024, the City of East Bethel received a Variance
40 Application from Mariah Vangness, the property owner at 21333 Durant St NE, to obtain a variance to
41 the paving standards as required in Sec. 10, Sub.15 (B2), the driveway access and standards.

42 Berg indicated a building permit for the construction of a new home on the applicant’s property was
43 issued in October 2023 and the Certificate of Occupancy was issued in February 2024.

44 Berg noted Durant St NE is also Anoka County Hwy 15 which requires the applicant’s Right of Way
45 access permit be applied for and issued by Anoka County Highway Department (ACHD).

46 Berg stated due to wetland impacts on the property the driveway and access required Anoka County
47 Board of Soil and Water, as well as City Engineer approval. The access location, driveway base
48 elevations and fill material required a City grading plan.

49 Berg noted the applicant has indicated that, “this variance request is not for financial reasons and that
50 not one residential driveway on Durant St. is paved for the first 75 feet. Another reason is that it is off of
51 a County road, and this is not a requirement of Anoka County, solely the City of East Bethel
52 requirements.”

53 Berg reviewed Sec.10 – General Development Regulations Sub. 15 – Driveway access and standards.
54 As was noted by the applicant, Durant St NE is also Anoka County Hwy 15 therefore the applicant’s
55 Right of Way access permit was issued by the ACHD. Joe MacPherson, Anoka County Engineer, was
56 contacted in an effort to determine the counties requirements. MacPherson indicated that Anoka County
57 does not have the paving requirement however the individual cities ordinances can require improvement
58 and have been applied throughout the county.

59 Berg indicated an inventory was made of each of East Bethels neighboring cities/ townships (Andover,
60 Columbus, Ham Lake, Linwood Township, Oak Grove, and St. Francis) to determine how each
61 jurisdiction applies the ordinances to County Highways that run through their jurisdictions, which he
62 reviewed for the Commission.

63 Berg stated to hear requests for variances from the literal provisions of the ordinance in instances where
64 their strict enforcement would cause practical difficulties because of circumstances unique to the
65 individual property under consideration, and to grant such variances only when it is demonstrated that
66 such actions will be in keeping with the spirit and intent of the ordinance. Practical difficulties, as used
67 in connection with the granting of a variance, means that the property owner proposes to use the
68 property in a reasonable manner not permitted by an official control; the plight of the landowner is due
69 to circumstances unique to the property not created by the landowner; and the variance, if granted, will
70 not alter the essential character of the locality. Economic considerations alone do not constitute practical
71 difficulties.

72 Berg noted the consideration of a variance requires the consideration of a three-factor test for practical
73 difficulties (a test of reasonableness, that the landowner’s problem is due to circumstances unique to the
74 property and not caused by the landowner, and a variance would not alter the essential character of the
75 neighborhood.

76 Berg stated with respect to the test of reasonableness, in this case the paving, as required by Ordinance,
77 would not deny the landowner reasonable use of the property.

78 With respect that the landowner’s problem is due to circumstances unique to the property and not caused
79 by the landowner, Berg indicated in this case, this property, although partially classified as a FEMA
80 flood plain with multiple ditches throughout the parcel, is not more unique than many of the properties
81 in the area.

82 With respect that a variance would not alter the essential character of the neighborhood, in this case,
83 there are 47 parcels with driveways on Durant St NE between Wild Rice Drive and 229th Ave NE of
84 which 31 are not paved.

85 Berg stated paving requirements for driveways in all residential zoning districts has been in East Bethel
86 City Code since 2008. An alteration was made in 2010, at the request of the City Council, to delay the
87 paving requirement by (1) one year for all new construction accesses, as well as limiting the paving
88 requirement to those accesses/ driveways adjoining a paved right of way.

89 Berg noted the City cannot enforce ex post facto laws or ordinances. Meaning the City cannot obligate
90 any property owner of a parcel, with a driveway constructed prior to 2008 meet the driveway access
91 paving standard.

92 Berg requested the Planning Commission review the application, information and make a
93 recommendation to approve or deny the variance request to the paving standards as required in Sec. 10,
94 Sub.15 (B2), the driveway access and standards.

95 Johnson opened the public hearing at 7:12 p.m.

96 Zach Vangness, 21333 Grant Street, stated it “threw him for a loop” about paving the first 75 feet. He
97 asked why was this required when most of neighborhood had a Class 5 driveways. He indicated paved
98 driveways cost a lot of money. He stated he had also not completed his home yet, so paving his
99 driveway 75 feet did not make any sense when construction trucks would be backing over it. He stated
100 with farm equipment going over it, it would also crack up right away. He believed it was just throwing
101 his money away.

102 Johnson closed the public hearing at 7:15 p.m.

103 Berg requested the Commission make a motion either approving or denying the variance request with a
104 second and then proceed to discussion.

105 **Commissioner Hanschen moved to approve the variance request. Motion died for lack of a**
106 **second.**

107 **Commissioner Terry moved and Commissioner Jorgensen seconded a motion to discuss.** Johnson
108 asked any discussion?

109 Berg stated in response to the applicants concern that his home was not completed and the 75 feet was
110 being required to be put in, which would get ruined by construction equipment, he noted in 2010 the
111 Council agreed to delay the pavement by one year after the Certificate of Occupancy was issued to
112 address similar concerns such as the applicant’s concerns.

113 With respect to neighborhood driveways not being paved, Berg believed those driveways were installed
114 prior to 2008 and then the Ordinance was changed. However, he indicated the City could not require
115 those residents to now pave their driveways.

116 Terry asked what was the logic of an apron for some length of driveway. Berg explained the apron was
117 defined as the area between the edge of the paved surface and the property line or the end of the right-of-
118 way. He noted the City chose 75 feet as that number, but he did not know why that number was chosen
119 in 2008 when the City passed the Ordinance.

120 Jorgensen stated he wanted to see some type of an apron, but he did not know if 75 feet was the answer.
121 He believed they could get by with less of an apron. He agreed the applicant should be given time to
122 finish his home before the apron was put in. Berg stated the Certificate of Occupancy was issued in
123 February of 2024, so the applicant had until February, 2025 to get the apron installed. He noted because
124 this would be in the middle of winter and pavement could not be poured at that time of year, the City
125 would allow the applicant to set up an escrow account to cover the costs.

126 Jorgensen stated he would like the 75 requirement to be less. Berg stated the variance did not allow for
127 that as an opinion, so the variance would be for either pavement or no pavement. He indicated if they
128 wanted to change the Ordinance, which was an entirely different avenue.

129 Johnson inquired as to how the escrow worked. Berg explained how the escrow was determined. He
130 noted once the project was completed, the applicant would receive the escrow back. He noted the
131 applicant did not need to pay the escrow immediately and there was plenty of time to pay it.

Saenger stated she drove through the neighborhood today and it was difficult to tell what was paved and not paved. She indicated what concerned her with the Code was that they were dealing with the State Fire Code also which required taking the load of fire trucks coming down the driveway. She stated if they gave the applicant a variance, then they were not following the City's Code which required that the City was applicable with the State Statute. She believed if this was granted, they might be in violation of Fire State Statute.

Berg stated 75 feet was required in any driveway across the entire City and Fire Code was a completely separate requirement that was touched on in the driveway access standard. He noted if they dug further into the Fire Code, they would see much more in-depth requirements. He indicated the aprons were done to an engineering standard that was approved by the City Engineer which would handle a fire truck, ambulance, etc.

Downie believed they needed to stick to the Ordinance the City had now, and if there were homes in the neighborhood that had been built prior to 2008, they were built under a difference Ordinance.

Terry stated the reason he wanted to discuss this was to find out if they could reduce the 75-foot requirement, but apparently that was not an option.

Johnson stated she was "hung up" on the test of uniqueness of the land and she did not believe this land was unique to the neighborhood.

Hanschen inquired about the 16 properties that were paved. He asked if there was a distinct cut-off between the 2008 Ordinance change and now. Berg responded he did not research when each property was built.

Johnson asked when the applicant started the building process, was it made clear to him that this was going to be a requirement. Berg responded that the driveway information and requirements were in the building permit application packet which the applicant had received.

By consensus, the discussion was closed.

Commissioner Downie moved and Commissioner Saenger seconded to deny the variance request to the pavement standards as required in Section 10. Subd. 15(b)(2) to the property owner at 2133 Durant Street NE. Johnson asked any discussion?

Jorgensen clarified that the applicant had until next spring to finish this. Berg responded staff would work with he applicant to ensure he had the one year. He noted the escrow would be held until the pavement was completed and then it would be returned to the applicant.

To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

This item goes before City Council on May 13, 2024.

6.0 Updates

Council Liaison Smith updated the Commission on recent Council actions.

Johnson requested if staff had a lot of variances on one type of an issue and staff believed the Ordinance needed to be looked at, to bring it up to the Commission for review.

8.0 Adjournment

Commissioner Jorgensen moved and Commissioner Hanschen seconded to adjourn at 7:43 pm. Johnson asked any discussion? To the motion, all in favor say aye. **All in favor.** Johnson asked any opposed? That motion passes. **Motion passes unanimously.**

Submitted by:

175 Kathy Altman
176 *TimeSaver Off Site Secretarial, Inc.*
177

**43City of East Bethel
Planning Commission Meeting
Agenda Item Information**



Date: May 28th, 2024

Agenda Item Number: 4.0

Agenda Item: Variance – Reduction of Front Yard setback for Raised Bed Box Mound Drain Field and Tank Placement – 18116 Deerwood Ln NE.

Background Information: On January 30, 2024, Blake Robinson purchase 18116 Deerwood Ln NE. At the time of the sale the septic system, which was installed in 1978, failed an inspection and was declared non-compliant.

***Sec. 74-36. - Compliance.** No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this article.*

***Sec. 74-48. - Compliance inspection.** An SSTS compliance inspection is required: (2) Before the sale or property transfer within the city.*

Boettcher Excavating and Septic was hired to replace the system. Due to the age of the existing system, the condition of the soils and lack of available space on the property, it was noted that a variance would be necessary to install a replacement system.

On April 11th, 2024, the city received an application from Mr. Robinson, for a variance to reduce the front yard setback standard from 10 feet to 2 feet for the placement of a Type III, raised pressure bed, septic box mound and a tank at 5 feet.

The proposed septic design calls for soil corrections (removal of all existing material and replacement) with additional soils, approximately three (3) feet above ground, contained within a landscape block retaining wall. The proposed placement requires the raised bed be placed two (2) feet from the City Right of Way (ROW) in the front yard setback in order to achieve the required 20 foot setback from the residence basement/ foundation wall.

This proposed placement of the raised pressure bed is completely on the property and not in the city ROW however, due to the proximity of the City ROW the Public Works Manager was consulted. After a visual observation of the property, it is believed that if approved the placement would not interfere with maintenance operations or future street repair.

The proposed system meets setback requirements for all wells.

Consideration of a variance requires the following three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance.

In this case:

Septic systems are required for a home to be considered habitable. The approval of the variance would allow this property to continue to be used as a residential use.

- The second factor is, a test of uniqueness, the issue for the variance is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular property.

In this case:

The property has limited space for a drain field due to the irregular shaped corner lot. A branch of Anoka County Ditch 28 runs through the property from the rear lot line to the front lot line dividing it into two land areas.

- The third factor is, that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure or improvement will be out of scale, out of place, or otherwise inconsistent with the surrounding area. When applying this test to a setback reduction, the visual impact or use or improvement relative to the surrounding dwellings is the emphasis of assessment. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

In this case:

The property has an existing hedge running parallel to the front property line and in the city Right of Way. The proposed raised bed box mound will not exceed the height of the hedge.

Recommendation: City Staff request that Planning Commission hold a public hearing, review the application and approve a variance to reduce the front yard setback standard of 10 feet to 2 feet, for the placement of a raised pressure bed septic box mound at 18116 Deerwood Ln NE, with the following conditions:

1. A licensed septic designer must obtain all necessary building permits and complete all necessary inspections for the installation, as required by the Minnesota Septic Code.
2. A Monitor and Mitigation Plan must be submitted and approved.

Attachments:

1. Resolution 2024-40, Approving Variance to the standard for the installation of a septic mound and tank in front yard setback.
2. Location Map
3. Aerial of Property
4. SSTS Design
5. Site Photos

**CITY OF EAST BETHEL
COUNTY OF ANOKA
STATE OF MINNESOTA**

RESOLUTION NO. 2024-40

A RESOLUTION **GRANTING** VARIANCE FOR THE REDUCTION IN SETBACK FROM THE FRONT PROPERTY LINE FROM TEN FEET TO TWO FEET FOR THE INSTALLATION OF A SEPTIC SYSTEM DRAINFIELD PROPERTY LOCATED AT 18116 DEERWOOD LN. NE (PIN 33-33-23-34-0043), LEGALLY DESCRIBED AS:

LOTS 9 & 10 BLK 1 PINE GROVE ESTATES, SUBJ TO EASE OF REC

WHEREAS, the property owner requested a variance for a reduction in setbacks from the front yard setback from 10 feet to 2 feet for the placement of a septic system box mound, and;

WHEREAS, the property owner requested a variance for a reduction in setbacks from the front yard setback from 10 feet to 5 feet for the placement of a tank, and;

WHEREAS, the Minnesota Septic Code requires the approval of a variance to the standards by the governing municipality, per Minnesota Rule Chapter 7080; and,

WHEREAS, the Planning Commission held a public hearing on May 28th, 2024; and,

WHEREAS, the Planning Commission finds the request:

1. Is a reasonable request:
 - Minnesota Septic Code allows municipalities to grant variances to the standards.
 - The issuance of a variance for the drain field box mound installation is necessary for this home to be a habitable structure.
2. Is due to circumstances unique to the property, not caused by the landowner;
 - Due to the irregular shaped corner lot, the property has limited space for a compliant drain field.
 - A branch of Anoka County Ditch 28 runs through the property from the rear lot line to the front lot line dividing it into two land areas.
3. Will not have a negative effect on the characteristic of the neighborhood;
 - The property has an existing hedge running parallel to the front property line and in the city Right-of-Way.
 - The proposed raised bed box mound will not exceed the height of the hedge.

WHEREAS, the Planning Commission recommends to the City Council approval of the variance request, and;

WHEREAS, the City Council approves of the variance request.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of East Bethel hereby approves the variance to the front yard setback standards from 10 feet to 2 feet and a tank at 5 feet on a property at 18116 Deerwood Ln NE, with the following conditions:

1. A licensed septic designer must obtain all necessary building permits and complete all necessary inspections for the installation, as required by the Minnesota Septic Code.
2. A Monitor and Mitigation Plan must be submitted and approved.

Adopted this 10th day of June, 2024 by the City Council of the City of East Bethel.

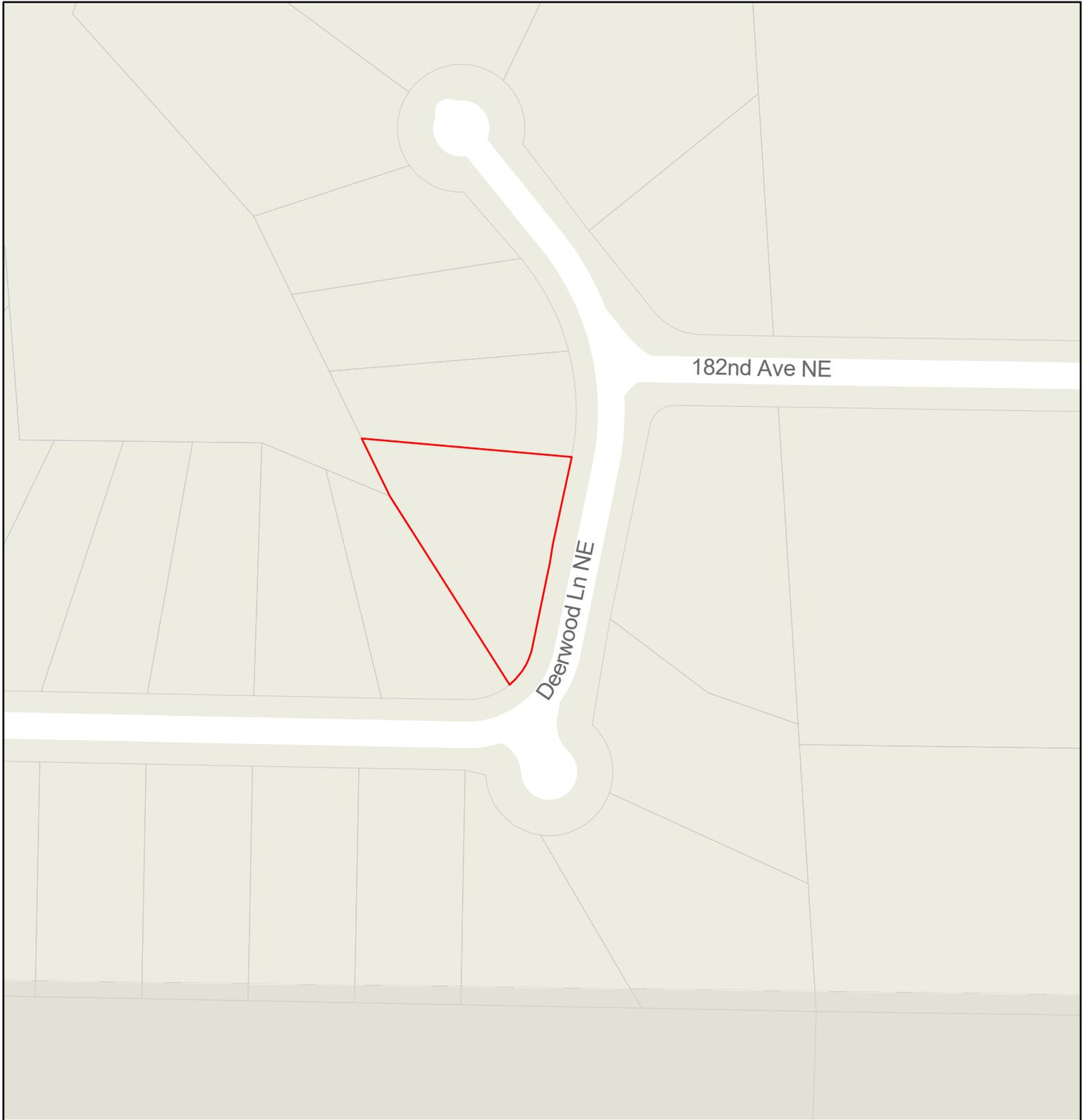
CITY OF EAST BETHEL

ATTEST

Kevin Lewis, Mayor

Matt Look, City Administrator

18116 Deerwood LN NE - Location Map



1 inch equals 180 feet

Parcels

City Mask



18116 Deerwood LN NE - Aerial Map



Parcels

City Mask

1 inch equals 136 feet











**City of East Bethel
Planning Commission Regular Meeting
Agenda Item Information**



Date: May 28, 2024

Agenda Item Number: 4.0 B

Agenda Item: Variance Request – General Regulations – for a variance to setback and lot standards for placement of manufactured homes, on sites 17 and 125, at the property located at 18164 Highway 65 NE — Continental Communities.

Background Information: Cedarwood Estates, formerly Village Green North, is a 150 + unit Manufactured Home Park, located in an R2 Residential Zoning District, at the corner of Hwy 65 NE and 181st Ave NE. Continental Communities purchased the property in November 2021. Documentation showing that this property was given a Special Permit by the Village of East Bethel Council to be a Mobile Park as early as September 1969. Multiple zoning code and ordinance revisions (May 1979 & March 1987) have been occurred since 1969, to include a requirement that Manufactured Home Parks have Conditional Use Permits. City Staff and Continental Communities staff have searched and are unable to locate any Conditional Use Permit issuance for the property.

Sec. 38-20. - Location of manufactured homes and manufactured home parks. (e) Zoning.
No person shall construct, locate, operate or maintain a manufactured home park in the city unless the proposed area is zoned for B-1 business commercial district as stated in the city's zoning ordinance. (Ord. No. 142, § 2(subd. 2), 3-4-1987)

Since 18164 Hwy 65 NE was rezoned to R2 Residential in 2008 and no Conditional Use Permit can be located this makes the entire property a potential non-conforming use. In addition to the non-conforming use, there are also potentially non-conforming placements, as a result of the changes in zoning standards.

Sec 05. – NONCONFORMITIES - 1. - Purpose. *Within the zoning districts established by this chapter, or amendments that may later be adopted, situations may occur where, as a result of the requirements contained in this chapter, an existing lot, structure, site improvement, or use does not conform to one or more of the requirements of this chapter. It is the intent of this section to regulate such nonconforming situations to accomplish the following:*

- A. Recognize the existence of uses and structures which were lawful when established but which no longer meet all ordinance requirements.*
- B. Discourage the enlargement, expansion, intensification, or extension of any nonconforming use or structure and discourage any increase in the impact of a nonconforming use or structure on adjacent properties. Only exceptional cases of any expansion or intensification of a nonconforming use will be permitted and only after city approval of a variance.*
- C. Encourage the elimination of nonconforming uses and structures or reduce their impact on adjacent properties.*

2. - Nonconforming use. *A nonconforming use may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless:*

- A. *The nonconforming [use] or occupancy is discontinued for a period of more than one year.*
- B. *Any nonconforming use is destroyed by fire to the extent of 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In such a case, any such building permit shall be subject to reasonable conditions in order to mitigate any newly created impact on adjacent property.*
- C. *A nonconforming use may not be changed to another nonconforming use.*
- D. *When any nonconforming use has been changed to a conforming use, it may not be later changed to a nonconforming use.*
- E. *A nonconforming use may be changed to lessen the nonconformity, but once lessened, the use may not be changed to increase the nonconformity.*

Minn. Stat. § 462.357, subd. 1e says any legal nonconformity has a right to continue. It may be continued through repair, replacement, restoration, maintenance, or improvement. These rights were limited to repair and maintenance until 2004 when the Legislature added replacement, restoration, and improvement, but not expansion.

The East Bethel City Council in 1987 recognized that there would be complications and impacts when enacting new citywide zoning standards.

Sec. 38-44. - Existing manufactured home parks. *Manufactured home parks in existence or for which conditional use permits have been issued as of the effective date of the ordinance from which this article is derived may continue to operate for a period not to exceed two years from the effective date of the ordinance from which this article is derived, during which two-year period this article shall not apply to such parks; at the termination of said two-year period, however, all the provisions contained herein shall apply and must be met by such parks within the following exceptions: sections 38-24(2) and (3), 38-25, 38-26(d) through (i), and 38-27(a) and (b); other variances may be approved by city council if strict compliance with said provisions of this article would be an undue hardship upon the owner of the park. (Ord. No. 142, § 11, 3-4-1987)*

Sec. 38-25. - Lot standards. *All lots in a manufactured home park are subject to the following regulations:*

- (1) *Size, single lot. Each lot in a manufactured home park intended as the location for one singlewide unit shall contain not less than 7,800 square feet of unoccupied space excluding street and sidewalk right-of-way and shall have a minimum width of 60 feet except corner lots which shall have a minimum width of 70 feet and shall have a minimum depth of 130 feet measured from the curb face to the rear lot line, provided, however, that in all cases lots shall be of sufficient size to meet all setback requirements of this article.*
- (2) *Size, double lot. Each special width lot in a manufactured home park intended as the location for one doublewide unit shall contain not less than 11,700 square feet of unoccupied space excluding street and sidewalk right-of-way and shall have a minimum width of 90 feet and a minimum depth of 130 feet, provided, however, that in all cases lots shall be of sufficient size to meet all setback requirements of this article. An applicant may designate lots for doublewide units in the original plans or may recombine single lots to achieve the necessary width to the satisfaction of the building official. No doublewide unit may be installed on any but a special width lot.*

- (3) *Front setback. Front setback of the manufactured home shall be no less than 30 feet from the curb face. On corner lots the setback shall be observed on both frontages.*
 - (4) *Rear setback. Rear setback of the manufactured home shall be not less than 20 feet from the rear lot line.*
 - (5) *Side yard. The side yard setback shall be no less than 15 feet from the lot line.*
 - (6) *Minimum distance. There shall be no less than 30 feet between manufactured homes in all directions.*
 - (7) *Area occupied. No more than 25 percent of each lot may be occupied by a dwelling or structure.*
- (Ord. No. 142, § 6 (subd. 2), 3-4-1987)*

Historical mapping shows that last time homes were placed on Lots 17 and Lot 125 was in 2008, prior to Continental Communities purchase. The lots remained empty until October 2022, when Continental Communities applied for a permits to place a new homes on the lots. Without a Conditional Use Permit, these non-conforming lots were lessened in conformity sometime after 2008, when the previous non-conforming homes were removed. They remained vacant all the way up to 2022, which is more than 1 year. The placement of a new manufactured homes, with a larger foot prints and square footages, would meet the definition of expansion.

Since those lots were vacant and exceptions were codified for existing manufactured home parks city staff reviewed Ordinance No. 122 for prior lot standards. This was the regulatory ordinance for mobile homes and mobile home parks prior to March 4, 1987.

Subdivision 2. Lot Standards. *All lots in a mobile home park are subject to the following regulations. Size, Single Lot. Each lot in a mobile home park intended as the location for one singlewide unit shall contain not less than 7,800 sq. ft. of unoccupied space excluding street and sidewalk right-of-way and shall have a minimum width of sixty feet except corner lots which shall have a minimum width of seventy feet and shall have a minimum depth of 130 feet measured from the curb face to the rear lot line. Provided, however, that in all cases lots shall be of sufficient size to meet all setback requirements of this ordinance.*

- a. Size, Double Lot. Each special width lot in a mobile home park intended as the location for one doublewide unit shall contain not less than 11,700 sq. ft. of unoccupied space excluding street and sidewalk right-of-way and shall have a minimum width of ninety feet and a minimum depth of 130 feet. Provided, however, that in all cases lots shall be of sufficient size to meet all setback requirements of this ordinance. Applicant may designate lots for doublewide units in the original plans or may recombine single lots to achieve the necessary width to the satisfaction of the Building Inspector. No doublewide unit may be installed on any but a special width lot.*
- b. Front setback. Front setback of the manufactured home shall be no less than thirty feet from the curb face. On corner lots the setback shall be observed on both frontages.*
- c. Rear setback. Rear setback of the manufactured home shall be not less than twenty feet from the rear lot line.*
- d. Side Yard. The side yard setback shall be no less than fifteen feet from the lot line.*
- e. Minimum Distance. There shall be no less than thirty feet between mobile homes in all directions.*
- f. Area occupied. No more than twenty five percent of each lot may be occupied by a dwelling or structure.*

In comparing the existing lot proposals to the standards of Ordinance No. 122 from 1979 shows that they did not, nor would not meet the standards making them Illegal Nonconformities without a Conditional Use Permit. Illegal nonconformities are defined as those that were not permitted when established. They may exist because a prior zoning ordinance was not enforced as written. A city's failure to enforce a prior zoning ordinance does not give a landowner the legal right to continue an illegal nonconformity. Illegal nonconformities do not have the rights associated with legal nonconformities. Municipalities should consider whether the nonconformity ever complied with existing ordinance or law before assuming a particular nonconformity is entitled to the statutory right to continue.

Minn. Stat. § 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE. Subd. 1a. *Certain zoning ordinances. A municipality must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.*

Landowners may assert their continuance rights in response to city enforcement of a zoning ordinance. The burden is on the landowner to establish that their property qualifies for nonconforming rights. Continental Communities has not provided the city any documentation to establish the manufactured home park complied with existing requirements when constructed.

Lot 17 is an interior lot with a reported width of 30 feet and a length of 80 feet. The newly proposed home is 16' X 76' home. The placement is 5'9" from the curb face, 21' from the home to the rear, 21' from the home to the right and 27' from the home to the left. In 2008, the home on Lot 17 was approximately a 14' x 65' home with a placement of approximately 10 feet from the curb face, 25' from the home to the rear, 20' from the home to the right and 25 feet from the home on the left.

Lot 125 is a corner lot at the intersection of Cedarwood Rd NE and Linden PL NE with the possible dimensions of 50 X 90, however lot lines cannot be established. The newly proposed home is a 16' x 76' home and was placed on the lot 6.5' off of the curb face of Cedarwood Drive NE. There is 29' of distance between the new home and the home to the east however there is 14.5' of distance between this and the home to the north. Additionally, this is a corner lot so the side yard placement off of the curb face of Linden PI NE is 30'.

In 2008, the home on Lot 125 was approximately a 14' X 68' and it was placed 15' off of the curb face of Cedarwood Drive, 26' from the curb face of Linden PI NE and 28' from the neighboring home to the east and 15' from the home to the north.

These placements do not meet the criteria set forth to allow for the structures to be placed on the lots, so variances would be required.

Consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

- In this case:
 - *The placement of a new manufactured home on a lot in an existing manufactured home park is reasonable.*
 - *Placing a manufactured home with the dimensions larger than a previous non-conforming home is not be reasonable.*
 - *Expansion of a non-conformity is prohibited by East Bethel Ordinance Sec 05. & Minn. Stat. § 462.357, subd. 1e.*
 - *Placing a manufactured home within 30' of another manufacture home may not be reasonable.*

- The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands.

- In this case:
 - *Continental Communities purchased the property in its existing form and design.*
 - *Due to the lack of CUP and non-conforming/ illegal non-conforming status of the entire property, the existing lot dimensions in Cedarwood Estate cannot be expanded to accommodate placements of manufactured homes within existing setbacks.*

- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

- In this case:
 - *There are 150 + manufactured homes in the park of which all would not meet Sec. 38-25. - Lot standards.*
 - *The encroachment in setbacks vary on each lot as a result of the inconsistent lot dimensions.*
 - *A variety of manufactured home dimensions have been placed on lots throughout the history of the park.*

Recommendation: City Staff is requesting the Planning Commission hold a public hearing and make a recommendation of approval or denial to the City Council to the variance requests to reduce the lot standards and setback distances to allow the existing placement of Manufactured Homes on Lot 17 and Lot 125.

Attachments:

- . Location Map
- . Aerial Map
- .
- . Sketches of Lot 17 & 125
- . Photographs

Planning Commission Action:

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

18164 Highway 65 - Location Map



-  Parcels
-  City Mask

1 inch equals 359 feet



18164 Highway 65 - Aerial Map

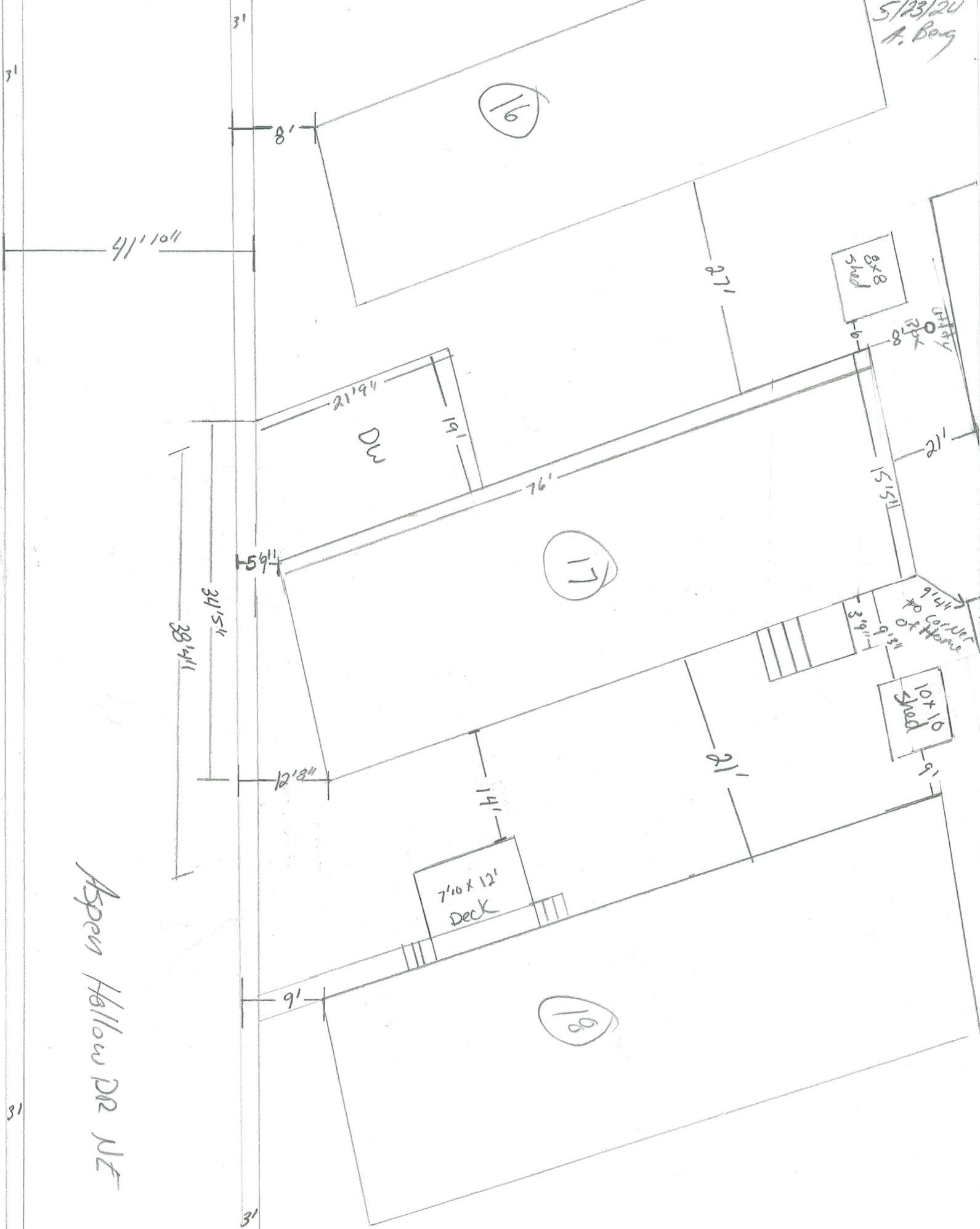


-  Parcels
-  City Mask

1 inch equals 271 feet



5/23/20
A. Berg



Aspen Hollow DR NE



























