

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** 1945 Rome Lot Split Appeal **FILE #** 21-277-255
  2. **APPLICANT:** Scott & Taylor Ames, Kirk & Rebecca Pennings **HEARING DATE:** July 15, 2021
  3. **TYPE OF APPLICATION:** Appeal of lot split approval by the planning administrator
  4. **LOCATION:** 1945 Rome Avenue (north side between Howell and Wilder)
  5. **PIN & LEGAL DESCRIPTION:** 16.28.23.23.0126, Lots 7 & 8, Block 2, Highview Addition
  6. **PLANNING DISTRICT:** 15 **PRESENT ZONING:** R4
  7. **ZONING CODE REFERENCE:** §§ 69.304, 69.305, 69.306(a), 61.701, 61.704, 61.107
  8. **STAFF REPORT DATE:** July 9, 2021, amended 7/23/21 **BY:** M. Rosendahl & A. Torstenson
  9. **DATE RECEIVED:** June 18, 2021 **60-DAY DEADLINE FOR ACTION:** August 17, 2021
- 

- A. **PURPOSE:** Appeal of lot split approval by the planning administrator.
- B. **PARCEL SIZE:** 10,011 sq. feet (10,807 sq. feet with half the adjoining alley for applying lot area requirements per Zoning Code § 63.101) and 80 feet wide
- C. **EXISTING LAND USE:** Vacant
- D. **SURROUNDING LAND USE:** One-family residential in an R4 one-family residential district
- E. **ZONING CODE CITATIONS:** § 69.304 specifies conditions for lot split review and approval when platting is not required. § 69.305 provides for application to the planning administrator for lot split review and approval for compliance with City subdivision regulations. § 69.306(a) gives the planning administrator authority to approve lot splits. § 61.701 provides for and specifies procedures for appeal of planning administrator decisions. § 61.704 provides that the planning commission may reverse, affirm or modify the decision appealed from. § 61.107 provides that the planning commission may impose such reasonable conditions and limitations in granting a zoning approval as determined to be necessary to fulfill the intent and purpose of the zoning code, to ensure compliance, and to protect adjacent properties.

F. **HISTORY/DISCUSSION:**

In August 2019 an application was submitted for City review of a proposal to split the parcel of land at 1945 Rome Avenue, along the original platted lot line between lots 7 and 8.

On November 21, 2019, the planning administrator issued a letter of preliminary approval of the lot split for compliance with City subdivision regulations subject to the following conditions:

- 1) Removal of the existing house and garage, which straddled the proposed new lot line, by a licensed contractor under a demolition permit issued by the Department of Safety and Inspections; and
- 2) Removal of existing sewer service to the existing house.

The preliminary approval letter stated that once these conditions were met a final approval letter would be issued subject to side setback requirements, minimizing grading near side property lines, and protection of neighboring property from surface water drainage. It noted that any interested party may appeal the preliminary approval within ten days. Copies of the preliminary approval letter were sent to the owners of adjoining property. No appeal was filed.

In compliance with the preliminary approval letter, the house, garage, and sewer service were removed in spring 2021, and a final lot split approval letter was issued on June 9, 2021. On June 18, 2021, the owners of adjoining property appealed the final approval of the lot split.

- G. **DISTRICT COUNCIL RECOMMENDATION:** The Highland District Council does not intend to take a position on the appeal.

#### H. FINDINGS:

1. Zoning Code § 69.304 states that lot splits and adjustments of common boundaries are permitted without platting, provided the following conditions are met:
  - (1) The lot or lots have frontage on an existing improved street and access to municipal services.
  - (2) The lot or lots to be divided are previously platted land.
  - (3) The lot or lots meet the minimum standards for lot width and area for the zoning district in which they are located.
  - (4) The division of the lots shall not cause a remaining part of a lot to become a separately described tract that does not meet the minimum standards of the zoning district in which it is located or that does not have street frontage and access to municipal services.
  - (5) The division does not result in a split zoning classification on a single lot.
  - (6) The division does not result in the creation of a nonconforming structure or use.
  - (7) No lot shall be created where the building pad area for the principal structure has an existing slope steeper than eighteen (18) percent or where a driveway steeper than twenty (20) percent is required to reach the building site. However, the planning administrator may approve the creation of a steeper lot, as an exception to this regulation, where a steeper lot is specifically consistent with a city-approved neighborhood plan or redevelopment project.
2. Zoning Code § 69.305 provides for application to the planning administrator for lot split review and approval for compliance with City subdivision regulations. It states that information such as a grading plan or contour map may be required to fully represent the intent of the lot split or to determine if the lot split meets the intent and requirements of City subdivision regulations. In August 2019 an application was submitted for City review of a proposal to split the parcel of land at 1945 Rome Avenue, consisting of two 40 ft. wide platted lots with frontage on and access to municipal services in Rome Avenue, along the original platted lot line between lots 7 and 8. In October 2019 the applicant submitted a grading plan showing existing and proposed contour lines, the location of the existing house, and the proposed location of new houses on lots 7 and 8.
3. § 69.306(a) gives the planning administrator authority to approve lot splits that meet all of the required conditions in § 69.304. § 69.306(a) states:

In approving lot splits and adjustments of common boundaries, the planning administrator shall review the application for compliance with section 69.304 and cause the application to be reviewed by the public works department and other affected city departments, if appropriate, and shall notify the applicant of any required modifications. When all conditions are met and modifications made, the planning administrator shall stamp the survey as approved.

The proposed lot split was reviewed by the Departments of Planning and Economic Development, Safety and Inspections, Parks and Recreation, and Public Works. On November 21, 2019, based on the review by affected City departments, the planning administrator issued a preliminary approval letter notifying the applicant of approval of the lot split for compliance with the City of St. Paul's subdivision regulations, including all of the required conditions in § 69.304, subject to the following conditions:

- 1) Removal of the existing house and garage, which straddled the proposed new lot line, by a licensed contractor under a demolition permit issued by the Department of Safety and Inspections; and

2) Removal of existing sewer service to the existing house.

These conditions were needed for compliance with condition (6) in § 69.304 that the lot split not result in the creation of a nonconforming building. The house and garage straddling the proposed new lot line, without the required setback, would have become nonconforming structures. The preliminary approval letter stated that once these conditions were met a request for final approval of the lot split could be submitted, and that a final approval letter would then be issued subject to side setback requirements, minimizing grading near side property lines, and protection of neighboring property from surface water drainage.

4. Zoning Code § 61.701 provides that any party affected by a decision of the planning administrator may appeal the decision to the planning commission, specifying the grounds of the appeal, within ten days after the date of the decision. The November 21, 2019, preliminary approval letter stated that “any interested party may appeal this decision to the Planning Commission within ten days as provided in Zoning Code § 61.701.” Copies of the preliminary approval letter were sent to the owners of adjoining property. No appeal was filed.
5. Zoning Code § 61.105, *Period of decision*, states that no zoning approval by the planning administrator shall be valid for a period longer than two years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the planning administrator grants an extension not to exceed one year. It explains that if the use approved is no longer permitted because the code has been amended, the use must meet the requirements of § 61.803, *Amendment’s effect on pending uses and structures*.

In compliance with the November 21, 2019, preliminary approval letter, demolition permits for the house and garage were issued by the Department of Safety and Inspections on March 23, 2021, (permit numbers 21-247058 and 21-247065) subject to conditions for erosion and sediment control, and the house, garage and sewer service were removed in spring 2021.

Reflecting language in Zoning Code § 61.105, the preliminary approval letter states that the approval would expire in one year, provided that the planning administrator may grant an extension of up to one year. At the request of the applicant, the code not having been amended in a way that would affect the approval, a one-year extension to November 21, 2021, was granted by the planning administrator on May 27, 2021.

6. On June 9, 2021, with the house, garage, and sewer service having been removed from the property, a final lot split approval letter was issued in compliance with the requirement in Zoning Code § 69.306(a) for planning administrator approval of a lot split when all conditions are met and required modifications made, consistent with the November 21, 2019, preliminary approval decision that final approval would be issued once the conditions for removal of the existing house, garage, and sewer service are met.
7. On June 18, 2021, the owners of adjoining property appealed the final approval of the lot split, specifying three grounds for the appeal:
  - 1) Noncompliance with the condition in Zoning Code § 69.304(7) that “*no lot shall be created where the building pad area for the principal structure has an existing slope steeper than eighteen (18) percent;*”
  - 2) Potential adverse effect on neighboring property; and
  - 3) Neighborhood opposition and concern about the addition of a new home and garage on this already dense street.

8. The planning administrator decision approving the lot split for conformance with the building pad grade condition, also stating that final approval would be issued once the conditions for removal of the existing house, garage and sewer service are met, was on November 21, 2019. The ten-day appeal period for that decision expired on December 1, 2019. Therefore, the June 18, 2021, appeal of the planning administrator decision to approve the lot split for conformance with the building pad grade condition and issue final approval once the conditions for removal of the existing house, garage and sewer service are met, after a demolition permit was issued and the house, garage and sewer service were removed based on the decision, is outside of the ten-day appeal period for that decision.

9. Zoning Code § 66.233 requires a minimum building width of 22 feet for one-family dwellings in the R4 district. The zoning administrator in the Department of Safety and Inspections considered 22 foot wide building pads in determining compliance with the condition in § 69.304(7) that *"no lot shall be created where the building pad area for the principal structure has an existing slope steeper than eighteen (18) percent."*

The certificate of survey submitted with the lot split application, signed by surveyor Daniel McGibbon on August 26, 2019, shows the east wall of the existing house about 13' from the east property line and about 27' from the proposed new lot line. With the required 4' setback from the new lot line, there would be a 23' wide building pad for a new house on the flat building pad area of the previous house. The building pad for a new house could extend into the relatively flat area behind the eastern part of the previous house and still be well within the 18% building pad slope standard. The building pad for a new house could also extend east a bit and be within the 18% building pad slope standard.

The certificate of survey submitted with the lot split application, signed by surveyor Daniel McGibbon on August 26, 2019, shows the west wall of the existing house about 16' from the west property line and about 24' from the proposed new lot line. With the required 4' setback from the new lot line, there would be a 20' wide building pad for a new house on the flat building pad area of the previous house. The building pad for a new house could extend west a bit and be within the 18% building pad slope standard. For example, if the building pad is extended west 3' and slopes down 1' over the 3', the building pad would have a 1' grade change over a width of 23', a slope of about 4½ %.

The appeal notes the change in grade from west to east across the entire 80-foot wide parcel. This is shown on a certificate of survey attached to the appeal, measured from an elevation of 190' below a retaining wall and slope along the west property line to an elevation of 208' along the neighbor's fence above a retaining wall and slope along the east property line. This would be a rise of 18 feet over a run of 80 feet, an average slope of 23%. However, this is the average slope across the entire parcel, not the building pad area slope that is the subject of the requirement in Zoning Code § 69.304(7).

10. The appeal states that maximizing lot coverage with two new houses will exacerbate the risk for flooding for the neighbor to the west (1949 Rome) by increasing the impervious area, that the developer's proposal does not address how soil on the 1937 Rome lot to the east will be supported with a retaining wall, and that a 5-foot setback from the east lot line would not be adequate. These concerns appear to stem from the grading plan showing existing and proposed contour lines, the location of the existing house, and the proposed location of new houses on lots 7 and 8 submitted by the lot split applicant on October 26, 2019, to show the intent of the lot split and help determine if the lot split meets requirements of City subdivision regulations.



The preliminary approval letter did not approve the grading plan, which showed proposed grading and proposed new retaining walls along the side property lines. Rather, the preliminary approval letter specifically said that any grade change within 5' of lots 6 and 9 must be minimized, and that all grading and new construction on the lots must be designed to protect neighboring property from surface water drainage. This was also noted in the final approval letter. These are issues commonly addressed in detail as part of site plan and building plan review prior to issuance of building and grading permits.

Zoning Code § 63.111, *Residential development on steep slopes*, provides a number of requirements and standards for residential development on slopes greater than 12%, including an engineering report on slope stability and hydrology. It states that "buildings should be designed to fit into the hillside without significant regrading to protect the stability of the slope and preserve existing trees while preventing excessively tall retaining walls and unattractive trough-shaped yards between buildings and retaining walls. Multi-story buildings are encouraged to reduce the area of the building footprint."

Zoning Code § 63.111(d) requires that "retaining walls taller than four feet shall be constructed under city permit with frost footings as required by the state building code and shall be engineered to retain lateral earth pressure consistent with the principles of soils mechanics, and shall be detailed to minimize hydrostatic pressures."

11. The appeal states that the neighborhood does not support this project as evidenced by a petition, neighbors are concerned about the addition of a new home and garage on this already dense street, there is concern about a single builder constructing two new houses here, and the developer has already proven not to be capable of efficiently, safely and effectively completing this difficult project. The conditions for lot split approval specified in Zoning Code § 69.304 and § 69.306 do not include neighborhood support and the capability of a particular developer. Rome Avenue is designed to handle development of one-family dwellings on the 40-foot lots originally platted along it.

12. § 61.704 provides that the planning commission may reverse, affirm or modify the decision appealed from. § 61.107 provides that the planning commission may impose such reasonable conditions and limitations in granting a zoning approval as determined to be necessary to fulfill the intent and purpose of the zoning code, to ensure compliance, and to protect adjacent properties. To fulfill the intent and purpose of the zoning code, ensure compliance, and protect adjacent properties, it would be reasonable to condition approval of the lot split on compliance with Zoning Code § 63.111, *Residential development on steep slopes*.

I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends denial of the appeal and affirmation of lot split approval by the planning administrator for 1945 Rome Avenue subject to the following conditions:

1. Development on the new lots must comply with Zoning Code § 63.111, *Residential development on steep slopes*, requirements and standards. New houses shall be set back at least 7 feet from neighboring lots 6 and 9, designed with at least 2 stories to minimize the building footprints, and designed to fit into the site without significant regrading to protect the stability of slopes and preserve existing trees while preventing excessively tall retaining walls and unattractive trough-shaped yards between buildings and retaining walls.
2. All grading and new construction on the lots must be designed to minimize grading within five feet of neighboring lots 6 and 9, and to protect neighboring property from surface water drainage.



**SAINT PAUL**  
PLANNING & ECONOMIC  
DEVELOPMENT

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT  
NICOLLE GOODMAN, DIRECTOR

City Hall Annex, 25 West 4th Street, Suite 1300  
Saint Paul, MN 55102  
Tel: 651-266-6565

June 9, 2021

Jeff Cragg  
Providence Homes LLC  
1715 W. 7<sup>th</sup> Street  
Saint Paul, Minnesota 55116

RE: 1945 Rome Avenue Lot Split – Zoning File # 19-079-395 – Final Approval

Dear Mr. Cragg:

The proposed lot split shown on the certificate of survey by Daniel McGibbon, McGibbon Land Surveying, dated May 24, 2021, for 1945 Rome Avenue (PIN 16-28-23-23-0126) is hereby approved for compliance with the City of Saint Paul's subdivision regulations.

The Department of Public Works noted that Lot 7 will retain the existing address of 1945 Rome Avenue, and Lot 8 will be issued the assigned address of 1941 Rome Avenue.

Please refer to the November 21, 2019, preliminary approval letter for this lot split with regard to minimizing grading of steep slopes and protecting neighboring property from surface water drainage.

The enclosed stamped and signed survey as approved by the Planning Administrator is your record of lot split approval by the City of Saint Paul, which is required in order to record a lot split. It is the responsibility of the property owner to record the lot split with Ramsey County.

This approval by the Planning Administrator will expire two years from the date of this letter if you have not yet recorded the proposed lot split, unless the Planning Administrator (at your request) has granted an extension not to exceed one year as provided in Zoning Code § 61.105. Any interested party may appeal this decision by the Planning Administrator to the Planning Commission within ten days as provided in § 61.701.

If you have any questions, please contact me at (651) 266-6583 or [paul.dubruiel@ci.stpaul.mn.us](mailto:paul.dubruiel@ci.stpaul.mn.us).

Sincerely,

Paul Dubruiel, on behalf of the Planning Administrator

cc: Highland District Council  
Jim Brown, Department of Public Works  
David Eide, Sean Enright, Ashley Skarda, & Larry Soderholm, Dept. of Safety and Inspections  
Anca Sima, Sewer Utility  
Dan McGibbon, McGibbon Land Surveying

CITY OF SAINT PAUL  
MELVIN CARTER, MAYOR

AN AFFIRMATIVE ACTION &  
EQUAL OPPORTUNITY EMPLOYER

STPAUL.GOV

Need this translated? Call us at 651-266-6565

¿Necesita esta traducción? Comuníquese con nosotros al 651-266-6565.

Ma u bawhian lahay tarjamadaan Nago soo wac 651-266-6565.

Xav tau qhov no txhais los? Hu rau peb ntawm 651-266-6565.

# McGibbon Land Surveying Certificate of Survey

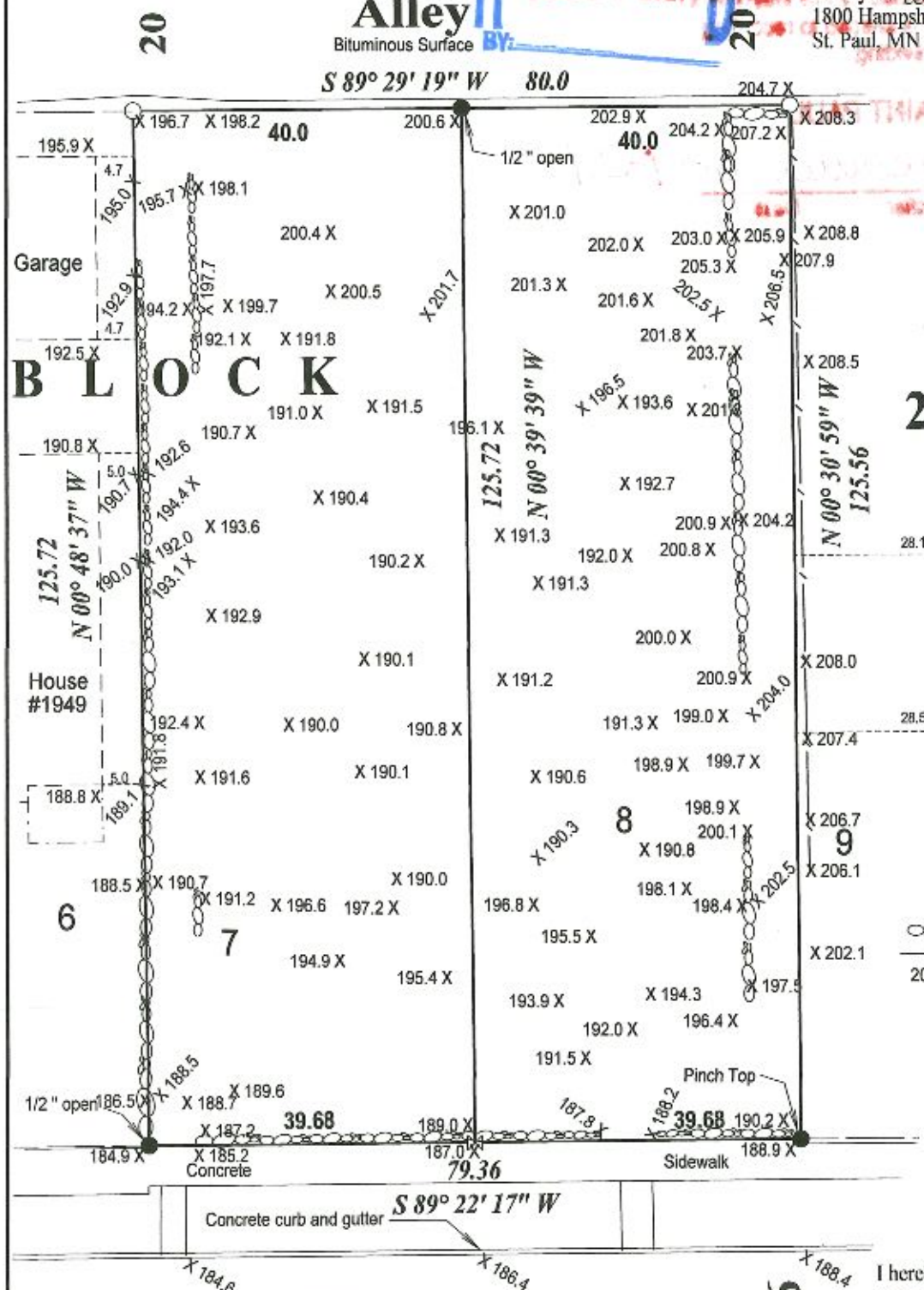
2214 Tower Ct.  
Woodbury, MN 55125  
(651) 442-9823

## Proposed Lot Division

RECEIVED  
JUN 01 2021  
BY: [Signature]

FOR:

Jeffery Cragg  
1800 Hampshire Ave  
St. Paul, MN 55116



### SURVEY OF:

Lots 7 and 8, Block 2,  
Highview Addition  
Ramsey County, Minnesota.

### PROPOSED DESCRIPTIONS:

Lot 7, Block 2, Highview Addition,  
Ramsey County, Minnesota.

Lot 8, Block 2, Highview Addition,  
Ramsey County, Minnesota.

### LEGEND

- - Denotes iron pipe found
- - Denotes 1/2 inch iron pipe set capped  
PLS 18883
- ⊗ - Denotes Drill Hole set in concrete
- ⊖ - Denotes Limestone Retaining Walls
- - Denotes Wood fence
- 207.4 X - Denotes Elevation

For the purpose of this survey the  
south line of said Lots 7 & 8 is  
assumed to bear South 89 degrees  
22 minutes 17 seconds West.

BENCH MARK: Top Nut Hydrant  
NW Corner Montreal and Howell  
El = 194.45 (St. Paul City Datum)

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

*Daniel R. McGibbon*

Daniel R. McGibbon P.L.S.  
Minnesota License No. 18883

This 24th Day of May, 2021

Elevations revised

Project 1912B

### NOTE:

There was no Title work provided to  
determine if there are any easements  
or encumbrances on this property.

see reverse for City  
approval  
Official Drawing is signed in Blue ink

Conveyance of land described by this instrument  
is hereby approved and is entitled to recording  
and subdividing.

CITY OF SAINT PAUL

by Paul Dubuich 6-9-21  
for Planning Administrator Date





CITY OF SAINT PAUL  
*Melvin Carter, Mayor*

25 West Fourth Street  
Saint Paul, MN 55102

Telephone: 651-266-6700  
Facsimile: 651-228-3220

November 21, 2019

Jeff Cragg  
Providence Homes LLC  
1715 W. 7<sup>th</sup> Street  
Saint Paul, Minnesota 55116

RE: 1945 Rome Avenue Lot Split – Preliminary Approval  
Zoning File #19-079-395

Dear Mr. Cragg:

The proposed lot split at 1945 Rome Avenue (PIN 16-28-23-23-0126) is hereby preliminarily approved for compliance with the City of Saint Paul's subdivision regulations subject to the following conditions.

1. Removal of the existing house and garage, which straddle the proposed new lot line, by a licensed contractor under a demolition permit issued by the Department of Safety and Inspections (contact Ashley Skarda, 651-266-9013).
2. Removal of the existing sewer service (A-77431, R-102033, 10-504704) to the existing house (contact Anca Sima, Sewer Utility, 651-266-6237).

To minimize grading of steep slopes and protect adjacent property, the building pad area for a new principal structure must have an existing slope less than 18%. For this purpose, a house on Lot 7 with a front setback similar to the existing house and a 5 foot setback from Lot 8 will need to be set back at least 7 feet from Lot 6, and any grade change within 5 feet of Lot 6 must be minimized. A house on Lot 8 with a front setback similar to the existing house and a 7 foot setback from Lot 7 will need to be set back at least 5 feet from Lot 9, and any grade change within 5 feet of Lot 9 must be minimized. All grading and new construction on the lots must be designed to protect neighboring property from surface water drainage.

The Department of Public Works noted that Lot 7 will retain the existing address of 1945 Rome Avenue, and Lot 8 will be issued the assigned address of 1941 Rome Avenue.

Once the two conditions are met you may submit a request for final city approval of the lot split. Final approval by the City Planning Administrator is required for you to be able to record the lot split with Ramsey County. Please submit 5 copies of a revised survey showing the conditions once the house and garage have been removed. We will then issue a final approval subject to the minimum side setbacks, minimum grading near side property lines, and protection of neighboring property from surface water drainage noted above.

This preliminary approval by the Planning Administrator will expire and this file will be closed one year from the date of this letter if you have not yet requested final city approval, unless the Planning Administrator (at your request) has granted an extension not to exceed one year. Any interested party may appeal this decision to the Planning Commission within ten days as provided in Zoning Code § 61.701.

Call me at 651 266-6583 if you have any further questions.

Sincerely,



Paul Dubruiel, on behalf of the Planning Administrator

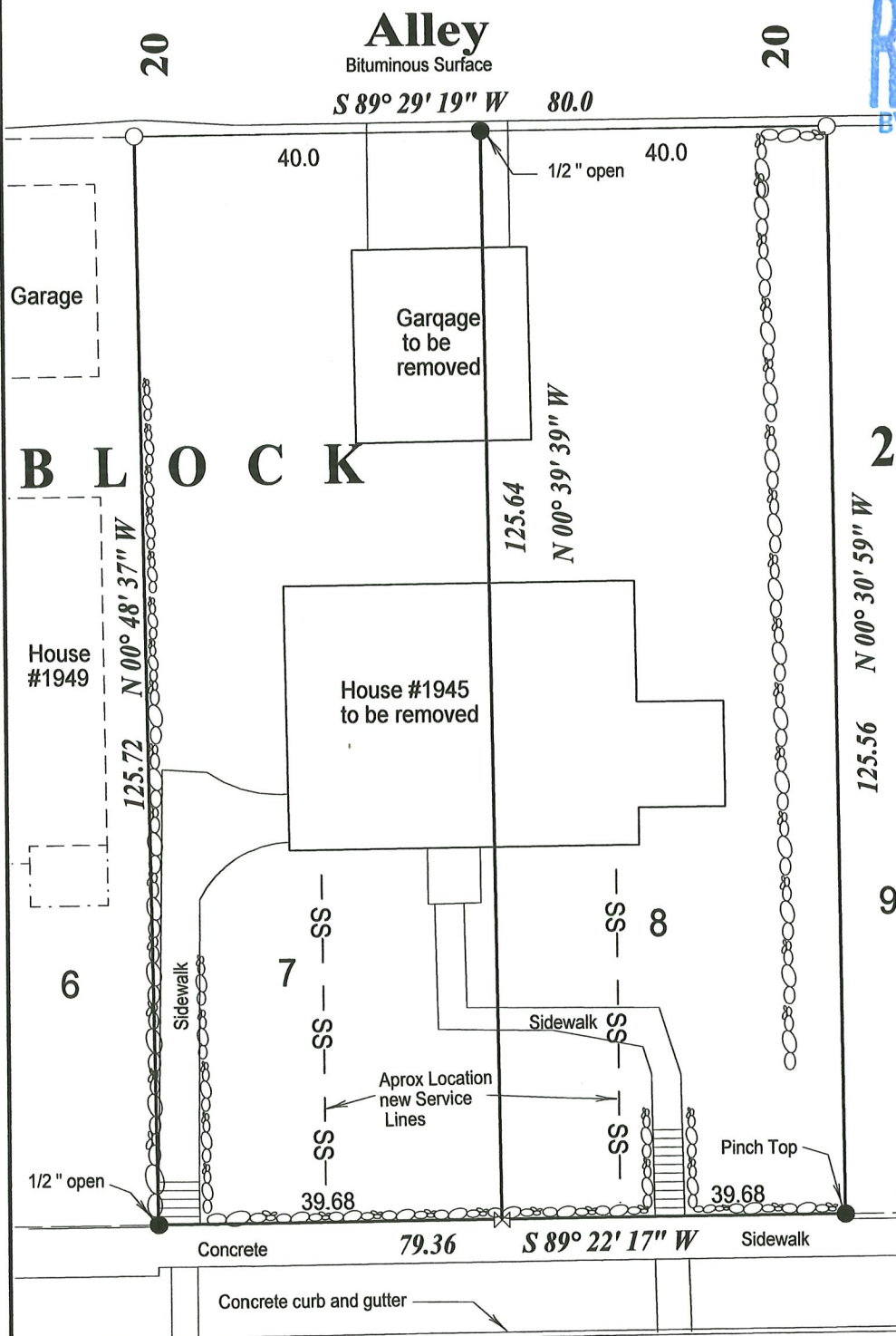
cc: Highland District Council  
Jim Brown, Dept. of Public Works  
Anca Sima, Sewer Utility

Meera Sehgal and Brendan Larocque, 1945 Rome Avenue  
Dan McGibbon, McGibbon Land Surveying  
Ashley Skarda, Dept. of Safety and Inspections

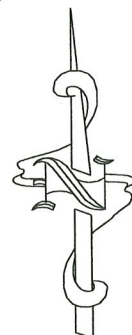
# McGibbon Land Surveying Certificate of Survey

2214 Tower Ct.  
Woodbury, MN 55125  
(651) 442-9823

## Proposed Lot Division



**RECEIVED**  
AUG 28 2019  
BY: \_\_\_\_\_



SCALE 1" = 20 FEET

### FOR:

Jeffery Cragg  
1800 Hampshire Ave  
St. Paul, MN 55116

### SURVEY OF:

Lots 7 and 8, Block 2,  
Highview Addition  
Ramsey County, Minnesota.

### PROPOSED DESCRIPTIONS:

Lot 7, Block 2, Highview Addition,  
Ramsey County, Minnesota.

Lot 8, Block 2, Highview Addition,  
Ramsey County, Minnesota.

### LEGEND

- - Denotes iron pipe found
- - Denotes 1/2 inch iron pipe set capped  
PLS 18883
- ⊠ - Denotes Drill Hole set in concrete
- - Denotes Limestone Retaining Walls

For the purpose of this survey the  
south line of said Lots 7 & 8 is  
assumed to bear South 89 degrees  
22 minutes 17 seconds West.

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

*Daniel R. McGibbon*

Daniel R. McGibbon P.L.S.  
Minnesota License No. 18883

This 26<sup>th</sup> Day of Aug, 2019  
Project 1912

### NOTE:

There was no Title work provided to  
determine if there are any easements  
or encumbrances on this property.

Official Drawing is signed in Blue ink





# DEMOLITION PERMIT

PERMIT#: 20 21 247058  
Issued Date: March 23, 2021

**CITY OF SAINT PAUL**  
Department of Safety & Inspections  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101-1806  
[www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)  
Phone: 651-266-8989  
Fax: 651-266-9124

CONTRACTOR:

LOWBOYZ TRUCKING LLC DBA  
LOWBOYS EXCAVATING  
2845 232ND LANE NW  
ST FRANCIS MN 55070

OWNER:

JEFF CRAGG  
1800 HAMPSHIRE AVE  
ST PAUL MN 55116  
USA

PERMIT ADDRESS:

1945 ROME AVE  
ST PAUL MN 55116-2032

Inspector: David T.

Phone: 651-266-9020

Schedule Inspection:  
7:30-9:00 AM Monday - Friday

SUB TYPE: Demolition

WORK TYPE: Residential Demo

## DEMO HOUSE

Estimated Value of Work	\$15,000.00	# of Dwelling Units	1
Existing Primary Use	R-Single Family Dwelling	Estimated Start Date	Mar 10, 2021
Estimated Completion Date	Mar 12, 2021	Cubic Feet	14400
Contract Standard	Total Removal	PIN	162823230126
Building Length (ft)	30	Building Width (ft)	40
Building Height (ft)	12	Basement?	Full Basement
Erosion Control Inspection Required?	Yes	Curb Cut Letter?	No
Zoning Fee Required?	Yes	Elevating Device?	No
Application Method	Email	Date Received	Mar 23, 2021

## FEES

Permit Fee	75.00
Zoning Review Fee	90.00
<b>TOTAL</b>	<b>\$165.00</b>

EROSION & SEDIMENT CONTROL INSPECTION REQUIRED ALL EROSION AND SEDIMENT CONTROL DEVICES SHALL BE INSTALLED PER APPROVED SITE PLAN AND SHALL BE INSPECTED AND APPROVED BY THE INSPECTOR PRIOR TO BEGINNING EXCAVATION. CONTROL DEVICES SHALL BE MAINTAINED UNTIL FINAL APPROVAL OF THE PROJECT. NOTE: Call Public Works Inspectors at 651-485-0414, 24 hours in advance of work. All voids or damage in the City Right-of-Way must be filled and sealed. Call 651-266-6120 for details.

It shall be the duty of the person performing the work authorized by this permit to notify the Building Inspector that such work is ready for inspection (MN 1300.0210) Before final approval, excavations, holes and depressions shall be filled with compacted clean fill and leveled to provide a final grade which will effect good drainage, and such lots shall be planted in an appropriate ground cover or perennial vegetation so as to prevent erosion or flow of sediment onto the streets and sidewalks.

NOTE: This structure shall be removed per the Contract Standard listed above and, where applicable, basement slabs must be broken and penetrated for adequate drainage. A parking lot for more than 3 vehicles cannot be established without site plan approval. Contact Tom Beach at 651-266-9086 for information about the site plan review process.



# DEMOLITION PERMIT

PERMIT#: 20 21 247065  
Issued Date: March 23, 2021

**CITY OF SAINT PAUL**  
Department of Safety & Inspections  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101-1806  
[www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)  
Phone: 651-266-8989  
Fax: 651-266-9124

CONTRACTOR:

LOWBOYS EXCAVATING  
2845 232ND LANE NW  
ST FRANCIS MN 55070

OWNER:

JEFF CRAGG  
1800 HAMPSHIRE AVE  
ST PAUL MN 55116  
USA

PERMIT ADDRESS:

1945 ROME AVE  
ST PAUL MN 55116-2032

Inspector: Michael P.

Phone: 651-266-9025

Schedule Inspection:  
7:30-9:00 AM Monday - Friday

SUB TYPE: Demolition

WORK TYPE: Residential Accessory Structure

## DEMO GARAGE

Estimated Value of Work	\$15,000.00	Estimated Start Date	Mar 10, 2021
Estimated Completion Date	Mar 12, 2021	Cubic Feet	4800
Contract Standard	Total Removal	PIN	162823230126
Building Length (ft)	20	Building Width (ft)	20
Building Height (ft)	12	Basement?	No Basement
Accessory Structure Type	Garage 1	Erosion Control Inspection Required?	Yes
Curb Cut Letter?	No	Zoning Fee Required?	No
Application Method	Email	Date Received	Mar 23, 2021

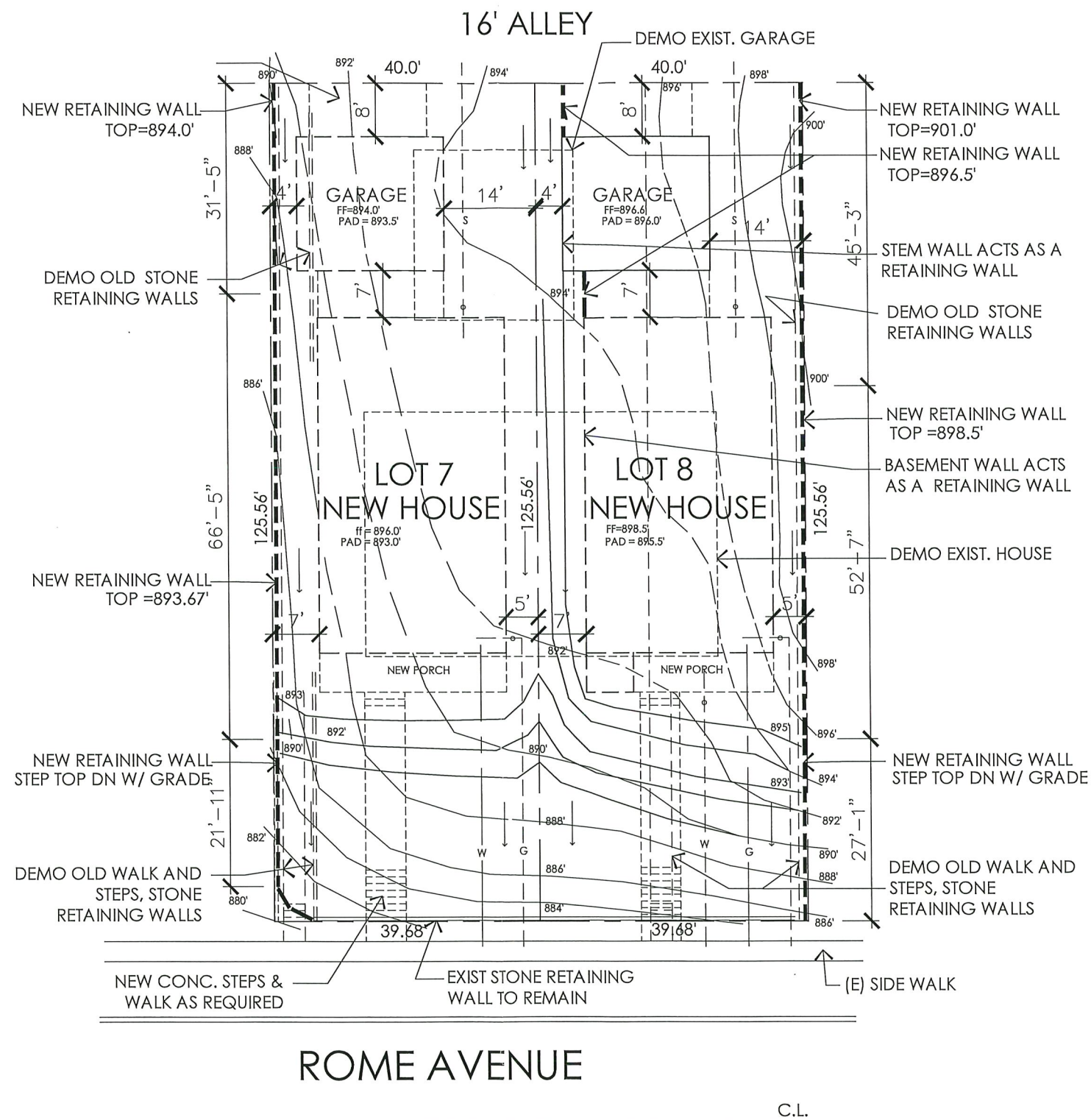
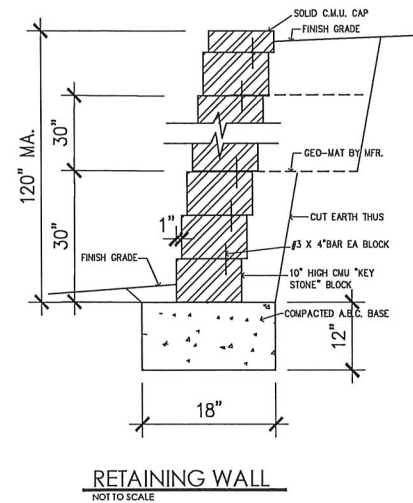
## FEES

Permit Fee	78.00
<b>TOTAL</b>	<b>\$78.00</b>

EROSION & SEDIMENT CONTROL INSPECTION REQUIRED ALL EROSION AND SEDIMENT CONTROL DEVICES SHALL BE INSTALLED PER APPROVED SITE PLAN AND SHALL BE INSPECTED AND APPROVED BY THE INSPECTOR PRIOR TO BEGINNING EXCAVATION. CONTROL DEVICES SHALL BE MAINTAINED UNTIL FINAL APPROVAL OF THE PROJECT. NOTE: Call Public Works Inspectors at 651-485-0414, 24 hours in advance of work. All voids or damage in the City Right-of-Way must be filled and sealed. Call 651-266-6120 for details.

It shall be the duty of the person performing the work authorized by this permit to notify the Building Inspector that such work is ready for inspection (MN 1300.0210) Before final approval, excavations, holes and depressions shall be filled with compacted clean fill and leveled to provide a final grade which will effect good drainage, and such lots shall be planted in an appropriate ground cover or perennial vegetation so as to prevent erosion or flow of sediment onto the streets and sidewalks.

NOTE: This structure shall be removed per the Contract Standard listed above and, where applicable, basement slabs must be broken and penetrated for adequate drainage. A parking lot for more than 3 vehicles cannot be established without site plan approval. Contact Tom Beach at 651-266-9086 for information about the site plan review process.



LOT SPLIT PLAN  
SCALE 1"=10'

RECEIVED  
OCT 26 2019  
BY: \_\_\_\_\_

PROJECT		DESIGNER		JOB NUMBER
CUSTOM HOME		S.D.S CONSULTING		19-08
LOT 7 & 8 LOT SPLIT PLAN		1800 HAMPSHIRE AVENUE		CONTRACT DATE
ST. PAUL, MN		ST. PAUL, MN		3-10-19
		DRAWN BY		
		MM		
		APPROVED		
		CD		
				OWNER: SHAWNEE AND STEPHANIE ARE THE JOINT PROPERTY AND CO-OWNERS OF 20% OF THE PROJECT. THE PROJECT IS A 100% RESIDENTIAL

CITY-1





## ZONING APPEAL APPLICATION

### To/From Board of Zoning Appeals

Dept. of Safety & Inspections  
Zoning Section  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101-1806  
(651) 266-9008

### To / From Planning Commission

Dept. of Planning & Econ. Devt.  
Zoning Section  
1400 City Hall Annex, 25 W 4<sup>th</sup> St.  
Saint Paul, MN 55102-1634  
(651) 266-6583

### Zoning Office Use Only

File # \_\_\_\_\_  
Fee Paid \$ \_\_\_\_\_  
Received By / Date \_\_\_\_\_  
Tentative Hearing Date \_\_\_\_\_

### APPELLANT

Name(s) Scott and Taylor Ames / Kirk and Rebecca Pennings  
Address 1949/1937 Rome Avenue City St. Paul State MN Zip 55116  
Email ames.scott@yahoo.com/kirkpennings@gmail.com Phone (651) 233-3480/(612) 718-1934

### PROPERTY LOCATION

Project Name 1945 Rome Avenue Lot Split - Zoning File #19-079-395  
Address / Location 1945 Rome Avenue, St. Paul MN 55116

**TYPE OF APPEAL:** Application is hereby made for an appeal to the:

- ☐ **Board of Zoning Appeals**, under provisions of Zoning Code § 61.701(c), of a decision made by the Zoning Administrator.
- ☐ **Planning Commission**, under provisions of Zoning Code § 61.701(c), of a decision made by the Planning Administrator or Zoning Administrator.
- ☐ **City Council**, under provisions of Zoning Code § 61.702(a), of a decision made by the Board of Zoning Appeals or the Planning Commission.

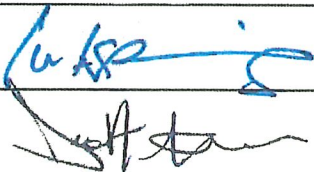
Date of decision \_\_\_\_\_, 20 \_\_\_\_\_ File Number \_\_\_\_\_

**GROUND FOR APPEAL:** Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission or Board of Zoning Appeals. Attach additional sheets if necessary.

Please see the attached letter and supporting documentation.

☐ If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Appellant's Signature



Date

6/18/21

June 17, 2021

Board of Zoning Appeals  
Dept. of Safety & Inspections  
Zoning Section  
375 Jackson Street, Suite 220  
St. Paul, MN 55101-1806

**RE: 1945 Rome Avenue Lot Split – Zoning File # 19-079-395**

To Whom It May Concern:

The owners of bordering properties to 1945 Rome Avenue, Scott and Taylor Ames (1949 Rome Avenue) and Kirk and Rebecca Pennings (1937 Rome Avenue) respectfully request the Appeals Committee to rescind the Planning Administrator's decision to approve the proposed lot split at the above referenced property on the following grounds:

- 1) Zoning Code Sec. 69.304.7 No lot shall be created where the building pad area for the principal structure has an existing slope steeper than eighteen (18) percent or where a driveway steeper than twenty (20) percent is required to reach the building site. However, the planning administrator may approve the creation of a steeper lot, as an exception to this regulation, where the steeper lot is specifically consistent with a city-approved neighborhood plan or redevelopment project.

There is approximately a 19' change in grade from East to West. This equates to a 24% cross slope which exceeds the maximum slope allowed by 6% or approximately 5' (see comments on McGibbon Survey attached).

- 2) Splitting the lot will have an adverse effect on both neighboring properties. Providence Homes LLC ("Developer") has proposed maximizing the lot coverage building area for both of the newly created lots with 5' side yard setbacks.

The 1949 home has experienced basement flooding in 2019 due to being at the bottom the 1945 lot slope. The Developer's proposal will exacerbate the risk for flooding by increasing the impervious area of the lot.

The Developer's proposal does not address how it will support the soil on the 1937 lot. The 5' distance between the new home and the property line is not adequate space to construct the 13' – 15' tall retaining wall required per elevations provided in the McGibbon Survey. The Developer has not obtained a construction easement from either neighbor and will not be allowed to excavate beyond the property line.

- 3) The neighborhood does not support this project, as evidenced by the attached petition. Residents of the 1900 Rome Ave. block and Saunders Ave. alley neighbors are concerned about the



addition of another home and garage on this already dense street. Additionally, we argue the amount of disruption that comes with a single builder constructing two brand-new builds back-to-back in the same space with no time constraints is above and beyond general construction nuisance that should be imposed upon a residentially-zoned neighborhood.


The Developer has already proven to not be capable of efficiently, safely and effectively completing this difficult project with respect to the neighborhood. They let the original property sit vacant after purchase for 1.5 years without any communication to concerned neighbors. They began demolition one evening (6:45 pm) without a wrecking permit, notice to neighbors, signage, runoff or dust mitigation in place. They went on a neighbor's property to remove a shared tree on the property line after consent was denied and they did not provide retribution for it as they said they would. They have left the site completely exposed for the past 3 months post demo, not maintaining soil erosion control, site fencing, installing temporary earth retention, filling in potholes or cleaning dirt left in the alley, or removing the porta pottie left in the public ROW. And per OSHA standards, the site currently has illegal excavation slope.

Attempts at communication from neighbors have been rejected multiple times.

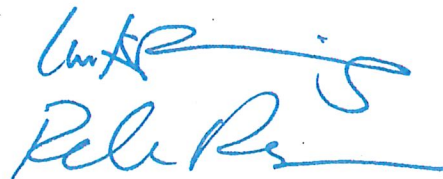
And, to be clear, we are not against development of this property. We are against the bad development of it.

The Ames and Pennings, as well as the residents of 1900 Rome. Ave., thank you for taking the time to consider this matter from our point of view and we urge you to uphold and enforce the city's zoning code referenced above.

Sincerely,



Scott and Taylor Ames  
1949 Rome Avenue



Kirk and Rebecca Pennings  
1937 Rome Avenue

Attachments



# McGibbon Land Surveying Certificate of Survey

2214 Tower Ct.  
Woodbury, MN 55125  
(651) 442-9823

Proposed Lot Division

RECEIVED  
JUN 01 2021  
Alley  
Bituminous Surface

FOR:

Jeffery Cragg  
1800 Hampshire Ave  
St. Paul, MN 55116



20

S 89° 29' 19" W 80.0

SCALE 1" = 20 FEET



## SURVEY OF:

Lots 7 and 8, Block 2,  
Highview Addition  
Ramsey County, Minnesota.

## PROPOSED DESCRIPTIONS:

- 2 Lot 7, Block 2, Highview Addition,  
Ramsey County, Minnesota.
- Lot 8, Block 2, Highview Addition,  
Ramsey County, Minnesota.

$$\% \text{ Change in Grade} = (208 - 190)/80' = 19/80 = 23.8\%$$

$$\% \text{ Change in Grade} = (200.6 - 187)/125.6 = 11\%$$

- - Denotes iron pipe found
- - Denotes 1/2 inch iron pipe set capped  
PLS 18883
- ⊗ - Denotes Drill Hole set in concrete
- - Denotes Limestone Retaining Walls
- - Denotes Wood fence
- 207.4 X - Denotes Elevation

For the purpose of this survey the  
south line of said Lots 7 & 8 is  
assumed to bear South 89 degrees  
22 minutes 17 seconds West.

BENCH MARK: Top Nut Hydrant  
NW Corner Montreal and Howell  
El = 194.45 (St. Paul City Datum)

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

*Daniel R. McGibbon*

Daniel R. McGibbon P.L.S.  
Minnesota License No. 18883

This 24<sup>th</sup> Day of May, 2021

Elevations revised

Project 1912B

## NOTE:

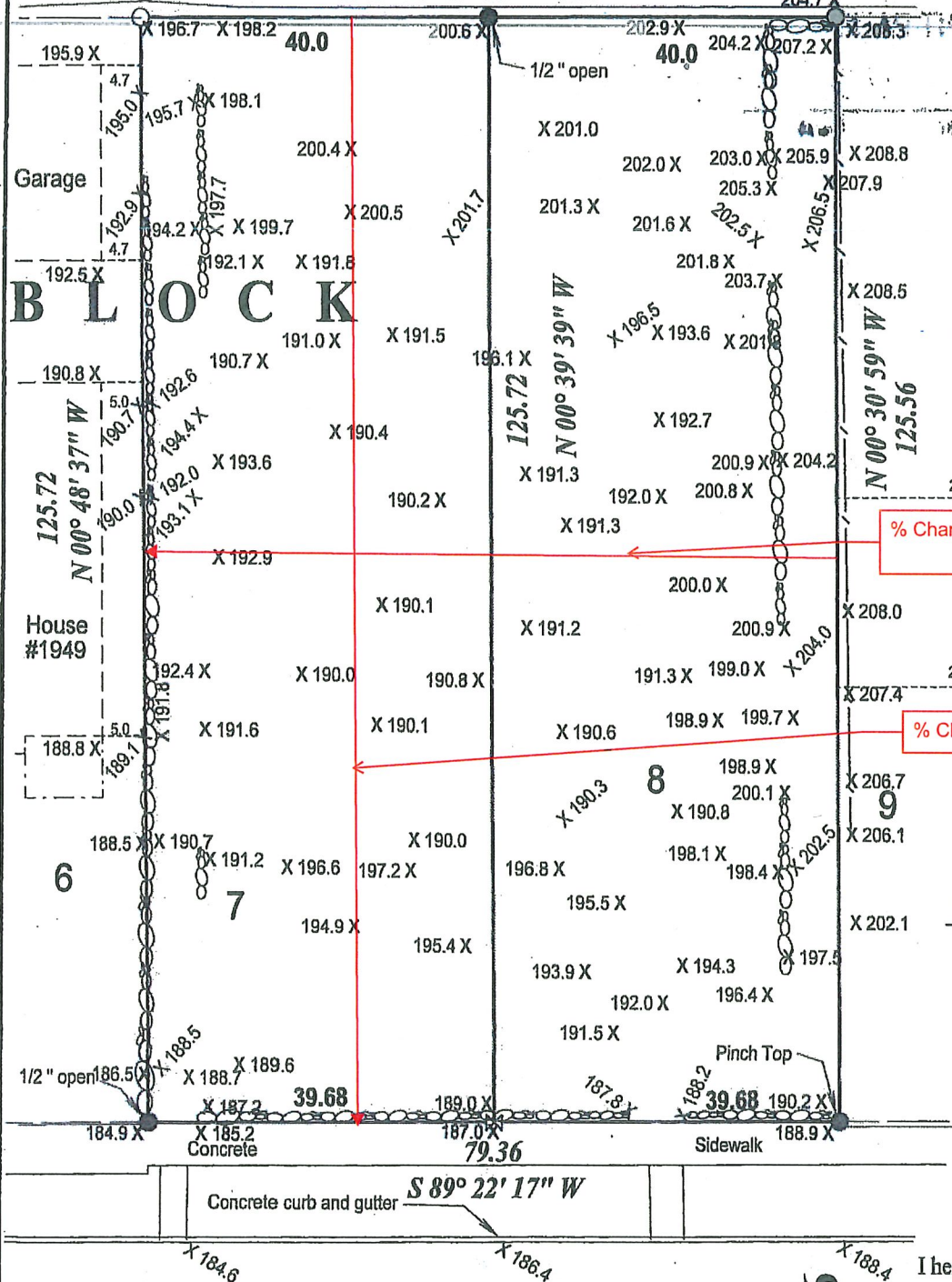
There was no Title work provided to  
determine if there are any easements  
or encumbrances on this property.

Rome Ave

56

56

see reverse for City  
Approval  
Official Drawing is signed in Blue ink























This mature maple tree  
was cut down after  
1937 Rome explicitly  
denied consent.



# Petition to Appeal Lot Split of 1945 Rome Ave

Printed Name	Signature	Address	Comment	Phone	Date
Emily Seng	<i>Emily Seng</i>	1940 Rome Ave		451-330-8021	6/16/21
Betsy Penning	<i>Betsy Penning</i>	1937 Rome Ave		451-699-4829	6/16/21
Bogey & Jones	<i>Bogey &amp; Jones</i>	1950 Rome Ave		651-699-4533	6/16/21
Karen Fisher	<i>Karen Fisher</i>	1934 Rome Ave		651-276-2306	6/16/21
Kathy Huls	<i>Kathy Huls</i>	1882 Rome Ave		651-698-1455	6/16/21
Susie Kukkonen	<i>Susie Kukkonen</i>	1920 Rome Ave		651-428-3154	6/16/21
Wesley Rice	<i>Wesley Rice</i>	1945 Rome Ave		651-690-3097	6/16/21
Taylor Ames	<i>Taylor Ames</i>	1949 Rome Ave		651-233-7412	6/16/21
Jacob Gage	<i>Jacob Gage</i>	1919 Rome Ave		701-305-0455	6/17/21
Joseph Kour	<i>Joseph Kour</i>	1918 Sanders Ave		651-356-4543	6/17/21
Andrea Maly	<i>Andrea Maly</i>	1906 Rome Ave		451-1690-2999	6/17/21
KEVIN ROBERGE	<i>Kevin C. Roberge</i>	1946 Rome Avenue		651-435-7154	6/17/21
Allison Koon	<i>Allison Koon</i>	1969 Rome Avenue		651-824-5550	6/17/21

2 sides →

[illegible]



July 9, 2021

Allan Torstenson  
Principal City Planner  
City of Saint Paul, Department of Planning  
25 West Fourth Street, 1400 City Hall Annex  
Saint Paul, Minnesota 55102

Dear Mr. Torstenson:

This letter is in response to the **appeal of lot split approval** by the planning administrator at **1945 Rome Avenue** Saint Paul, MN 55116 (Zoning File #19-079395).

This letter is a response from the co-owners of the property located at 1945 Rome Avenue owned under 1945 Rome, LLC. The co-owners of 1945 Rome, LLC are Shawn Devine and David Wickiser. 1945 Rome, LLC hired Providence Homes as its General Contractor for this project. Mr. Devine and Mr. Wickiser have worked with Providence Homes on several new construction single family homes and additional house rehabilitations, within the City of Saint Paul, over the past three years without incident or neighborhood complaint.

**We contend that the Planning Administrator's decision to approve the lot split was correct.** I will address the grounds for appeal as they are listed in order on the appeal letter received by the City of Saint Paul on June 18, 2021.

1. We agree with the City Planning Administrator on the determination of the slope as it relates to the building pad. We believe the appellant has not interpreted the slope issue correctly.

- 2a. CLAIM: *Adverse Effect* on neighboring properties due to 5' side yard setback.  
FACT: R4 zoning allows for 4' side yard setback
- 2b. CLAIM: 1949 Rome experienced basement water in 2019.  
FACT: 1945 Rome, LLC purchased property in September of 2019. No demolition was conducted until spring of 2021. Any suggestion that 1945 Rome, LLC is a cause of water into the basement of 1949 Rome is unfounded. Furthermore, 1949 Rome is a new construction home purchased by the current owners in September 2017. This home is still under the 10 year construction warranty provided by builder.
- 2c. CLAIM: "Soil support", retaining wall and excavation concerns.  
FACT: Providence Homes has engaged an experienced and licensed engineer to design retaining the retaining walls for this project. These engineering plans will be fully vetted by the City of Saint Paul during SITE PLAN

REVIEW. Additionally we have never asked for a construction easement from neighboring properties.


3. CLAIM: Neighborhood opposition to project along with additional list of concerns.  
FACT: These are DSI concerns and complaints should have been filed with the Department of Safety and Security. Any complaint notices we would have received from the City of Saint Paul would have been and will be immediately remedied. According to public records there have been two cases opened with DSI (3/19/21 & 3/31/21) of unknown reason listed for the complaint. Both of these cases have been marked closed according to City of Saint Paul DSI website.

The appeal of this approved lot split is completely without merit as evidenced above.

Sincerely,



Shawn Devine  
1945 Rome, LLC



David Wickiser  
1945 Rome, LLC



1945 Rome



Properties west of 1945 Rome





Property to the east of 1945 Rome



View of 1945 from the alley looking south





View from the alley of 1945 Rome and the property to the west



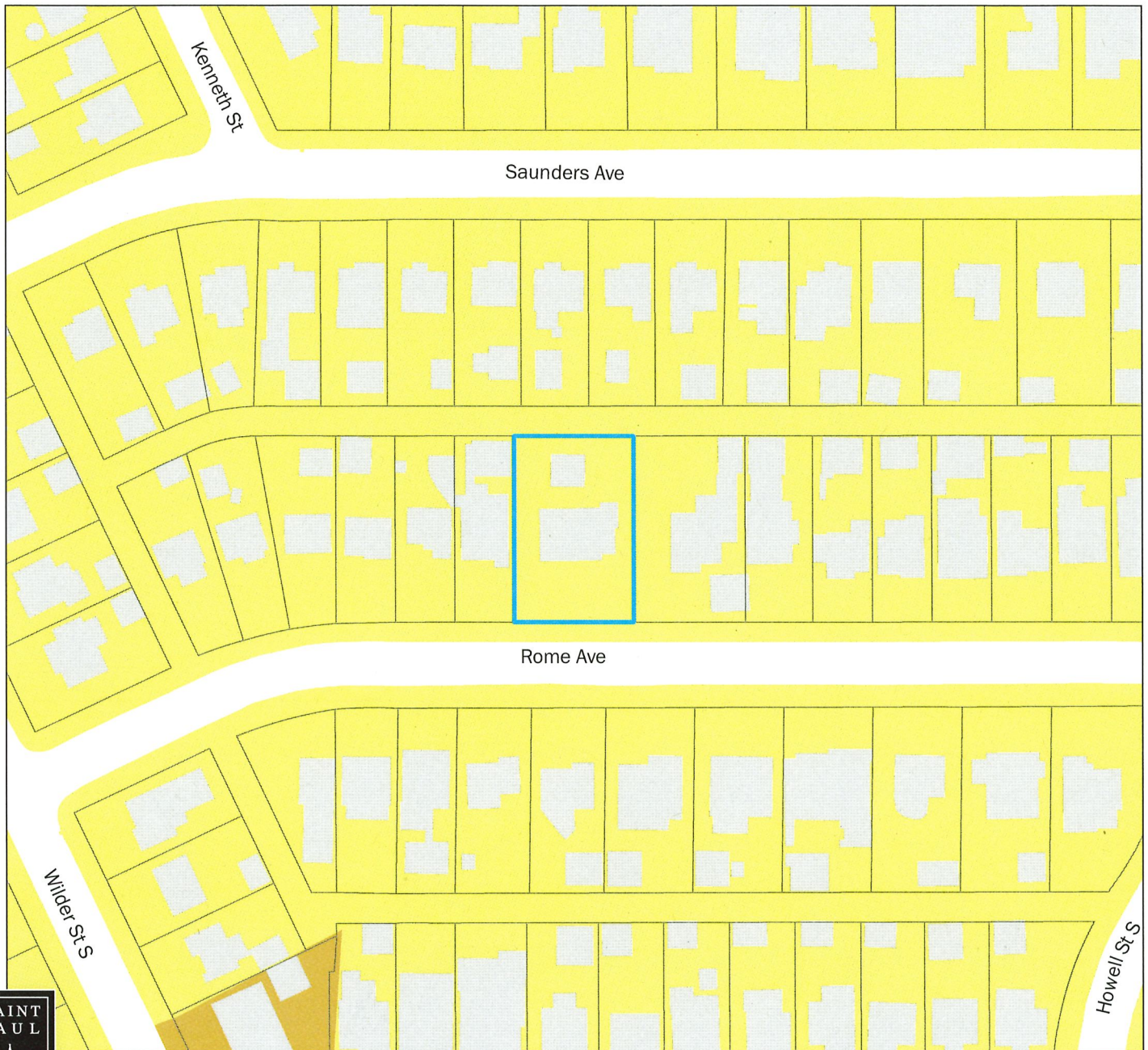
View from alley of 1945 Rome and property to the east



View near property line between 1945 Rome and the property to the west







## FILE #21-277-255 Existing Land Use Map Appeal Scott and Taylor Ames et al

Application Type: Appeal  
Application Date: June 18, 2021  
Planning District: 15

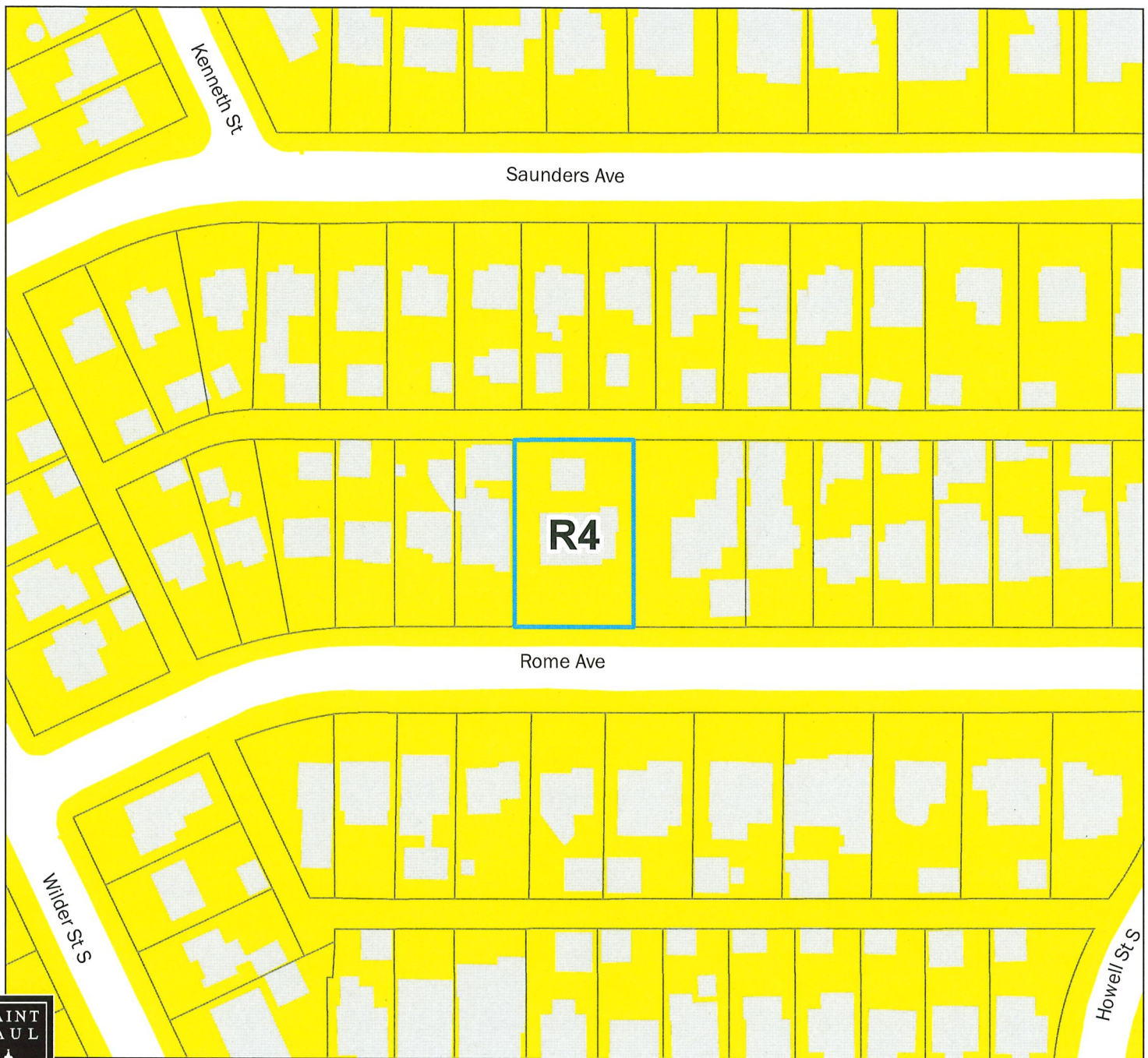


This document was prepared by the Saint Paul Planning and Economic Development Department and is intended to be used for reference and illustrative purposes only. This drawing is not a legally recorded plan, survey, official tax map or engineering schematic and is not intended to be used as such. Data sources: City of Saint Paul, Ramsey County, Metropolitan Council, State of Minnesota.

### Subject Parcel(s) Outlined in Blue

Parcel Boundary	Multifamily	Industrial and Utility	Railway
Farmstead	Office	Extractive	Airport
Seasonal/Vacation	Retail and Other Commercial	Institutional	Agricultural
Single Family Detached	Mixed Use Residential	Park, Recreational or Preserve	Undeveloped
Manufactured Housing Park	Mixed Use Industrial	Golf Course	Water
Single Family Attached	Mixed Use Commercial and Other	Major Highway	





## FILE #21-277-255 Zoning Map Appeal Scott and Taylor Ames et al

Application Type: Appeal  
Application Date: June 18, 2021  
Planning District: 15

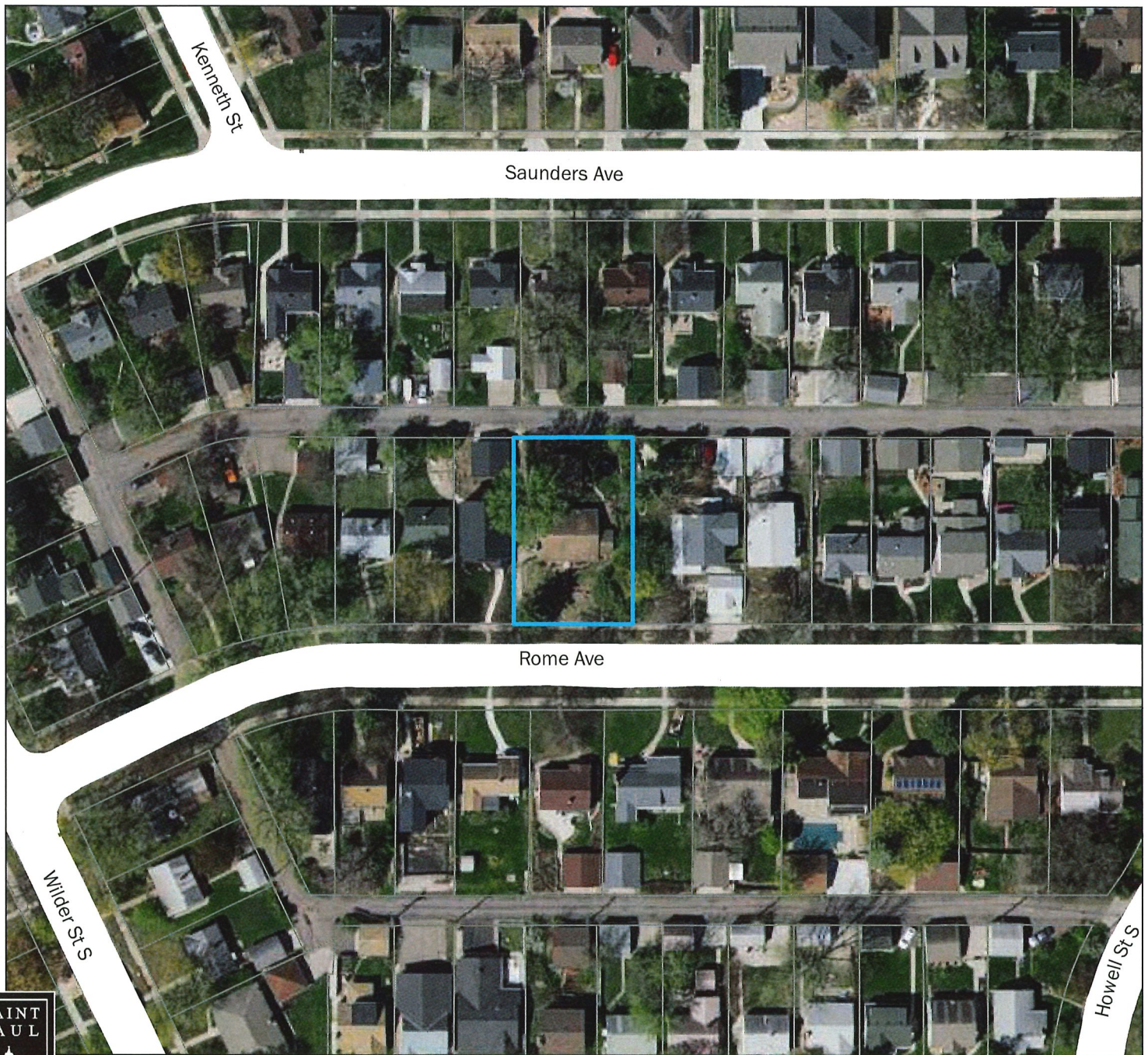


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### Subject Parcel(s) Outlined in Blue

Parcel Boundary	RM3 Multiple-Family	B2 Community Business	F2 Residential Low
RL One-Family Large Lot	T1 Traditional Neighborhood	B3 General Business	F3 Residential Mid
R1 One-Family	T2 Traditional Neighborhood	B4 Central Business	F4 Residential High
R2 One-Family	T3 Traditional Neighborhood	B5 Central Business Service	F5 Business
R3 One-Family	T3M T3 with Master Plan	IT Transitional Industrial	F6 Gateway
R4 One-Family	T4 Traditional Neighborhood	ITM IT with Master Plan	VP Vehicular Parking
RT1 Two-Family	T4M T4 with Master Plan	I1 Light Industrial	PD Planned Development
RT2 Townhouse	OS Office-Service	I2 General Industrial	CA Capitol Area Jurisdiction
RM1 Multiple-Family	B1 Local Business	I3 Restricted Industrial	
RM2 Multiple-Family	BC Community Business (converted)	F1 River Residential	





FILE #21-277-255 Aerial Map  
**Appeal Scott and Taylor Ames et al**

Application Type: Appeal  
Application Date: June 18, 2021  
Planning District: 15

**Subject Parcel(s) Outlined in Blue**

 Parcel Boundary



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