



# CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996  
(757) 868-3040 TELEPHONE (757) 868-3105 FAX

May 23, 2016

**To:** The Honorable City Council

**Through:** City Manager

**From:** Deborah L. Vest, Director, Community Development

**Subject:** **A Subdivision Ordinance Variance Request Of Wayne And Shirley Haugen As It Pertains To A Division Of Property Located At 284 Hunts Neck Road, Tax Map Parcel No. 05-01-00-0004, Zoned R-S (Single-family Residential)**

The City of Poquoson is in receipt of a request by Wayne and Shirley Haugen, property owners, and Davis and Associates, P.C., agent, for approval of variances to requirements of the City's Subdivision Ordinance as it pertains to the division of acreage located at 284 Hunts Neck Road. Specifically, the applicants are proposing to subdivide the property into nine (9) lots with benefit of relief from Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.4; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the Subdivision Ordinance which requires preliminary plan submittal and installation of curb and gutter, sidewalks, underground utilities, fire hydrants and streetlights.

The Planning Commission held a public hearing on this item at its May 16, 2016 meeting and by a unanimous vote of 6-0 is recommending denial of the request based on insufficient justification that warrants its approval pursuant to the criteria for the granting of variances prescribed in Section 7-3 of the Subdivision Ordinance. Specifically, the Commission concluded that the Haugen request failed to substantiate the need for variances based on a required finding that a physical or dimensional condition on the property prevented compliance of development standards which have been consistently required of other subdivisions for decades. Additionally, the Commission determined that the granting of the variances represented an unfair financial advantage not afforded to others and could therefore establish a precedent for similar proposals in the future. Lastly, please note that only one landowner of the neighboring Poquoson Shores subdivision addressed the Commission during the public hearing and expressed concern over several aspects of the proposal with emphasis on drainage impacts and fair application of all code requirements as a means of protecting the public's interest.

This application was originally scheduled for public hearing and consideration by the Planning Commission and City Council in April, 2016. However, subsequent to publication of the public

hearing in the Daily Press on April 1, 2016 and April 8, 2016, the applicants requested that consideration of the item be delayed until the May, 2016 meeting schedule. Consequently adjacent property owners, initially notified of this request by letters mailed on April 1, 2016, were re-notified of the change in meeting schedule by letters mailed on May 6, 2016.

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING VARIANCES TO THE CITY'S SUBDIVISION  
ORDINANCE AS IT RELATES TO THE PRELIMINARY PLAN  
SUBMITTAL FOR A PROPOSED SUBDIVISION OF PROPERTY  
LOCATED AT THE INTERSECTION OF BAYVIEW DRIVE AND  
HUNTS NECK ROAD, TAX MAP NO. 05-01-00-0004**

**WHEREAS**, an application was submitted by Davis & Associates, P.C., agent, and Shirley F. Haugen, property owner, for variances to Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the City's Subdivision Ordinance as it relates to preliminary plan submittal; street/sidewalk minimum improvements; utilities; fire protection and street light requirements in order to subdivide 8.0 acres located at the intersection of Hunts Neck Road and Bayview Drive, specifically identified as Tax Map Parcel No. 05-01-00-0004, Zoned R-S (Single-Family Residential); and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on May 16, 2016 and City Council on May 23, 2016; and

**WHEREAS**, careful and thorough consideration was given the request.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Poquoson, Virginia:

**Section 1:** That the request of Davis & Associates, P.C., agent, and Shirley F. Haugen, property owner, for variances to Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the City's Subdivision Ordinance as it relates to preliminary plan submittal; street/sidewalk minimum improvements; utilities; fire protection and street light requirements in order to subdivide 8.0 acres located at the intersection of Hunts Neck Road and Bayview Drive, specifically identified as Tax Map Parcel No. 05-01-00-0004 is hereby approved contingent upon the following:

**Section 2:** That this resolution shall be in effect on and after its adoption.

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DENYING VARIANCES TO THE CITY'S SUBDIVISION  
ORDINANCE AS IT RELATES TO THE PRELIMINARY PLAN  
SUBMITTAL FOR A PROPOSED SUBDIVISION OF PROPERTY  
LOCATED AT THE INTERSECTION OF BAYVIEW DRIVE AND  
HUNTS NECK ROAD, TAX MAP NO. 05-01-00-0004**

**WHEREAS**, an application was submitted by Davis & Associates, P.C., agent, and Shirley F. Haugen, property owner, for variances to Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the City's Subdivision Ordinance as it relates to preliminary plan submittal; street/sidewalk minimum improvements; utilities; fire protection and street light requirements in order to subdivide 8.0 acres located at the intersection of Hunts Neck Road and Bayview Drive, specifically identified as Tax Map Parcel No. 05-01-00-0004, Zoned R-S (Single-Family Residential); and

**WHEREAS**, public hearings to receive public comments and review the request were held before the Planning Commission on May 18, 2016 and City Council on May 23, 2016; and

**WHEREAS**, careful and thorough consideration was given the request.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Poquoson, Virginia:

**Section 1:** That the request of Davis & Associates, P.C., agent, and Shirley F. Haugen, property owner, for variances to Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the City's Subdivision Ordinance as it relates to preliminary plan submittal; street/sidewalk minimum improvements; utilities; fire protection and street light requirements in order to subdivide 8.0 acres located at the intersection of Hunts Neck Road and Bayview Drive, specifically identified as Tax Map Parcel No. 05-01-00-0004 is hereby denied.

**Section 2:** That this resolution shall be in effect on and after its adoption.

ADOPTED: \_\_\_\_\_

TESTE: \_\_\_\_\_

City Clerk



## CITY OF POQUOSON

PLANNING DEPARTMENT

500 CITY HALL AVENUE, POQUOSON, VIRGINIA 23662-1996  
(757) 868-3040 TELEPHONE (757) 868-3105 FAX

### MEMORANDUM

**Date:** May 16, 2016  
**To:** The Honorable Chairwoman and Members of the Planning Commission  
**From:** Deborah L. Vest, Director of Community Development  
**Subject:** A Subdivision Ordinance Variance Request By Shirley Haugen

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#### Introduction

The City of Poquoson is in receipt of a request by Wayne and Shirley Haugen, property owners, and Davis and Associates, P.C., agent, for approval of variances to requirements of the City's Subdivision Ordinance as it pertains to the division of acreage located at 284 Hunts Neck Road. Specifically, the applicants are proposing to subdivide the property into nine (9) lots with benefit of relief from Sections 5-2; 10-1-1; 10-1-2; 10-1-3; 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.4; 10-1-4.5; 10-4(b); 10-5 and 10-6 of the Subdivision Ordinance which requires preliminary plan submittal and installation of curb and gutter, sidewalks, utility upgrades, fire protection and streetlights.

#### Public Notice

This application was advertised for public hearing in the Daily Press on April 1 and 8, 2016. Adjacent property owners were notified of the public hearing by letters mailed on April 1, 2016; however, subsequent to these notices, the applicants requested a postponement of the request until the Planning Commission's May 16, 2016 meeting. Consequently, additional notification was given to the adjacent property owners by letters mailed on May 6, 2016.

#### Site Location/Character

The Haugen property is identified as Tax Map Parcel No. 05-01-00-0004 and is located at the corner of Hunts Neck Road and Bayview Drive. It contains eight (8) acres of land comprised of field and woods with over 1,600' of "unimproved" street frontage on both Hunts Neck Road and Bayview Drive. For purposes of this request unimproved street frontage refers to a substandard right-of-way and pavement width with no curb and gutter, sidewalk or underground utilities. Additionally there is an existing small family cemetery on the site which will be preserved during the subdivision process.

## Applicants' Proposal

The applicants propose to divide the referenced tract into nine (9) lots measuring between .6 and 1.5 acres in size. Each lot will front directly on either Bayview Drive or Hunts Neck Road. These bordering streets are presently substandard in terms of public street requirements and will remain unchanged with the approval of the requested variances. Access points to each lot will be provided by individual driveway openings on the adjoining streets. The applicants are proposing a slight right-of-way dedication for future improvements at the corners of Hunts Neck Road and Bayview Drive and at the corner of Bayview Drive across from Poquoson River Drive. These dedications are depicted on the attached plan view drawing. To support this application as proposed, a variance is needed from the following Subdivision Ordinance provisions:

Section 5-2 - Prescribes the preliminary plan submission, review and approval process

Sections 10-1-1; 10-1-2; 10-1-3 – Establishes minimum design standards for public streets by specifying pavement composition and width, curb and gutter composition and street grade

Sections 10-1-4; 10-1-4.1; 10-1-4.2; 10-1-4.3; 10-1-4.4 – Regulates sidewalk installation by specifying design, width, setback and placement requirements and outlines a waiver process

Section 10-1-5 – Specifies minimum street elevation

Section 10-4(b) - Requires all utilities traversing or within a subdivision be placed underground

Section 10-5 – Requires adequate fire hydrants

Section 10-6 - Requires installation of streetlights at a maximum separation of 300'

## Zoning

The Haugen property, as well as adjoining parcels, are located in the R-S Zoning District (ref. Article V of the Zoning Ordinance). In summary, single-family residential developments are allowed by right in the R-S Zoning District provided that new lots are created with a minimum area of 26,700 square feet, exclusive of wetlands and rights-of-way; and measure at least 120 feet wide at the front building setback line which must be established at least 40 feet from the front property line.

All lots in the Haugen subdivision are proposed to exceed these dimensional standards.

## Environmental

Wetlands - There are no known wetland areas on this site at this time; however, further analysis of environmental features will be addressed during the site plan review process.

Flood Zone – A portion of this property is categorized as an AE 7 on the City's Flood Insurance Risk Map (FIRM); therefore, homes within this zone will be constructed with a Base Floor Elevation (BFE) of 10 feet or higher. Other areas of the property lay outside of an AE zone.

Stormwater – Typically residential developments generate stormwater loads that are best managed through a unified retention and treatment system such as wet ponds; however, such a system does not appear necessary for the Haugen subdivision given the minimal amount of expected development improvements compared to the size of the lots. Therefore, on-site stormwater mitigation will most likely be managed on an individual lot basis which will be determined during the plan review process.

## Utilities

The Haugen subdivision will be served by individual lot connections to the public water and sewer system which are available on both Hunts Neck Road and Bayview Drive.

## Alternative Development Opportunities

The City's Subdivision Ordinance includes a provision which relaxes many of the development standards for small scale subdivisions categorized as either a "Definitional Exception" which allows up to three (3) lots or a "Family Subdivision" which allows up to five (5) lots with a 3-year ownership restriction. Basically these subdivisions are exempt from the public street and utility standards required of larger subdivisions.

## Surrounding Character

The Haugen property is uniquely located near the westernmost end of Hunts Neck Road at the entranceway to the Poquoson Shores Subdivision. With the exception of independently platted acreage to the south, most surrounding lots are located within an established subdivision which are not eligible for re-divisions based on current zoning laws. Hence no significant growth is expected beyond the subdivision's boundaries at this time. However, redevelopment of the area is always a possibility in the future, thereby possibly changing the overall character of the area.

The street network in the area is also unique with varying characteristics. Specifically Hunts Neck Road at the subdivision site is substandard in terms of right-of-way width and physical improvements. Bayview Drive appears fairly functional as a neighborhood street with minimal physical improvements at the subdivision site.

## Variance Provision

Section 7.3 of the City's Subdivision Ordinance outlines the terms for the granting of a variance to a requirement of the ordinance. The provision states:

"The city council may authorize in specific cases such variances from the strict application of the terms of this ordinance that will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in unnecessary hardships, provided that the spirit of this ordinance shall be observed and substantial justice be rendered.

No variance shall be authorized by the city council unless:

- (a) Strict application of the ordinance would produce undue hardship.
- (b) The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the neighborhood will not be adversely affected.
- (c) The problem involved is not of so general or recurring of a nature as to make reasonably practicable the formulation of general regulations to be adopted as an amendment to the ordinance.
- (d) The hardship is created by the physical character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a variance.
- (e) Where a variance is granted, the city council may attach such conditions and safeguards as are deemed necessary to protect general public interest or the character of the neighborhood, and may require a guarantee or bond to assure compliance.

Application for modification of standards or for variances to subdivision requirements shall be made to the city council and filed with the city manager. The application shall be advertised for public hearing before the planning commission in the manner prescribed by the city. The planning commission shall forward a recommendation to the city council. After receiving the recommend action of the planning commission, the city council shall hold a public hearing and act upon the proposed application , granting the application in whole or in part with or without modification , or denying it.

Any appeal for a variance shall be accompanied by a fee of \$225.00 to cover the cost of publication of notice of public hearing and processing.

### Conclusion

In comparing the submitted application with the above variance criteria, most of the variances requested could be granted with a seamless effect on the character of the neighborhood. Specifically, the least impactful variances pertain to burial of overhead utilities, installation of sidewalks and upgrading of Bayview Drive along the northwestern boundary of the subdivision site. However, the more impactful variances apply to roadway improvements along Hunts Neck Road and bayview Drive at the eastern end of the subdivision tract. Specifically, Hunts Neck Road presently suffers from a substandard right-of-way and pavement width. Any upgrade to this street would certainly improve its service capacity. Furthermore, upgrading Bayview Drive at the referenced location would certainly improve the stretch between two (2) 90 degree curves. However should the Commission decide that street upgrades are not needed at this time, staff suggest requiring the dedication of right-of-way along the tract's front property line to accommodate future improvements.

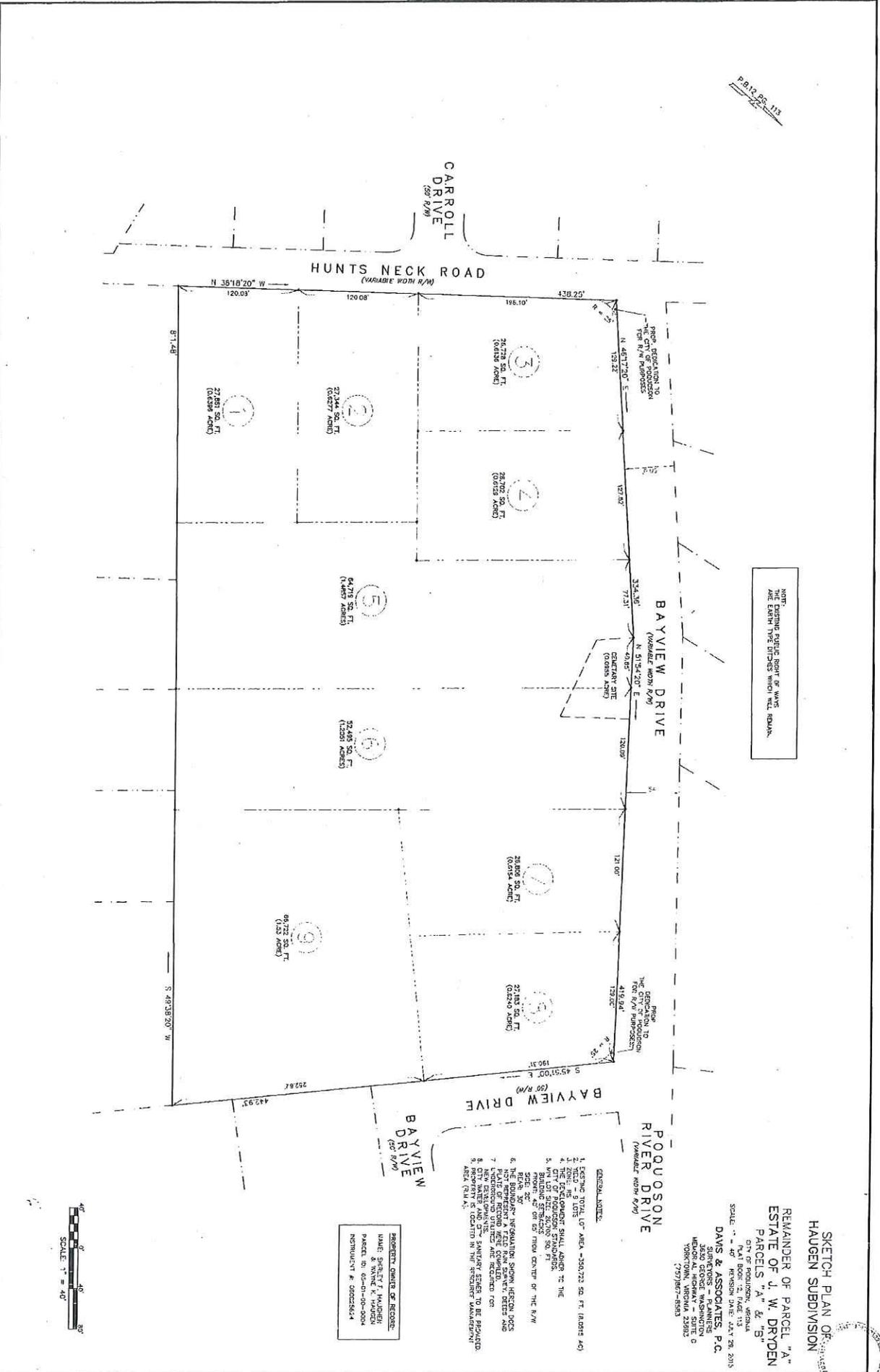
Additionally, the granting of a variance to the fire protection requirement may be inappropriate until a water service analysis is completed by appropriate agencies during the plan review process. It is possible that the analysis may find that no additional water service upgrade, i.e. fire hydrant installation, is required. However, the assessment can only occur after design work is completed on the property. If the Commission elects to deny the fire protection variance, the applicants will be required to re-submit the request in the future.

Overall there are some unique aspects of this request in terms of site location and varying roadway conditions. Specifically the subdivision tract has over 1,600' of road frontage which could be deemed unusual, but not an exception. For example a similar situation was experienced in the development of the Hunts Neck Estates Subdivision, just to the southeast of the Haugen property. That subdivision had frontage on two (2) existing streets, Hunts Neck Road and Edwards Road. Both streets were upgraded through the development process to comply with ordinance requirements which resulted in improved travel lanes on each street. Consequently the Commission should remain mindful that the approval of the applicants request could establish precedence for the submission of similar request in the future.

DLV

Attachments

PR12 05-113



NOTE: THE EXISTING PUBLIC RIGHT OF WAY ARE EXCEPTED FROM THIS PLAN AND ARE SHOWN BY DASHED LINES WITH 'R/W'.

REMANDED OF PARCEL "A"  
 ESTATE OF J. W. DRYDEN  
 PARCELS "A" & "B"  
 SKETCH PLAN OF  
 HAUGEN SUBDIVISION

DATE OF PREPARATION: 07/28/2013  
 SCALE: 1" = 40'  
 REVISION DATE: JULY 28, 2013  
 DAVIS & ASSOCIATES, P.C.  
 SURVEYORS - PLANNERS  
 3000 GEORGE WASHINGTON C  
 WASHINGTON, VIRGINIA 22002  
 (703) 947-4500

- GENERAL NOTES:
1. EXISTING TOTAL LOT AREA = 260,722 SQ. FT. (6.000 AC)
  2. ZONED R-9 LOT
  3. THE DEVELOPER SHALL ADHERE TO THE
  4. THE DEVELOPER SHALL ADHERE TO THE
  5. MIN LOT SIZE: 20,000 SQ. FT.
  6. THE BOUNDARY INFORMATION SHOWN HEREON DOES NOT REPRESENT A FIELD SURVEY, BIRTH AND
  7. UNDERGROUND UTILITIES ARE INDICATED FOR
  8. CITY WATER AND CITY SANITARY SEWER TO BE PROVIDED
  9. ANY LOT IS LOCATED IN THE RESERVE MANAGEMENT

PROPERTY OWNER OF RECORD:  
 NAME: SURVEY, HAUGEN  
 PARCEL ID: 01-01-00-0004  
 INSTRUMENT #: 00005414

