

**September 14, 2020**

TO: Chairperson Cauley, Planning Commission Members, & Administrator Meyer  
 FROM: Cynthia Smith Strack, Community Development Director  
 SUBJECT: Variance: Front Yard Fence Opacity

**BACKGROUND**

The Planning Commission is to hold a public hearing and consider a variance to standards for fences in front yards. Section 1107.02, Subd. 4(6) requires fences in front yards be at least 50% open. The Owner of property at 561 Elk Street South, Troy Schrom, proposes a fence of which a portion would be less than 50% open. The subject property is legally defined as Outlot B, Oak Village Subdivision. Property number: 200790170.

If approved the variance would allow slats to be inserted into a four foot (48") coated chain link fence at the subject address. Slats would be inserted in the fence at starting at a point 30' from the front lot line through the remainder of the fence. The 30' point is approximately equal with the front building line of a dwelling to the north of the subject property.

Surrounding locale is mixed residential and agricultural guided toward mixed residential. The variance application and site plan are attached hereto.



The Applicant represents:

- Variance is requested as a means of accommodating a request for screening of entryway into an apartment complex.
- Screening slats are proposed to be inserted in a chain link fence at a point 30 feet from the front property line. The previously approved fence is 48" in height and features black vinyl coating over the chain link.
- The subject property is unique in that it provides access to multiple family units and abuts detached residential properties.
- The proposed slats will match the fence which is currently under construction.

**REVIEW**

- Public notice of the requested variance has been published, posted, and mailed. As of the drafting of this memo no public comment for or against the request has been received.
- Section 1107.02, Subd. 4(6) requires fences in front yards be at least 50% open.

- The existing use is consistent with planned land use under Destination 2040 and existing zoning. No change to the use of property is contemplated.
- Section 1103.05 of the Code establishes general and review criteria to be address during variance review as follows:
  1. Variance must be in harmony with the general purposes and intent of the Code.
  2. Variance must be consistent with the Comprehensive Plan.
  3. Practical difficulties must exist, meaning:
    - a. The property is to be used in a reasonable manner which is not permitted by the Code;
    - b. The plight of the property owner is due to circumstances unique to the property and not created by the landowner; and,
    - c. The variance, if granted, will not alter the essential character of the locality.

### Potential Findings

1. In favor of the request:
  - The current use of the property is consistent with both planned use and existing zoning.
  - The subject parcel is an access to multiple family apartments and, as a condition of previous Planned Unit Development approval, required to be combined with the adjoining lot under unified ownership.
  - Privacy fences are common elements of residential development.
  - The adjacent property owner at 549 Elk Street South has provided written permission for the fence to be placed on the property line.
  - The fence has been properly permitted.
  - The subject parcel is unique in that it provides access to a high density residential use. The variance will provide additional screening to the adjacent use.
  - The proposed variance is to a performance standard and not a property use.
2. In opposition to the request:
  - The property owner could eliminate the need for a variance by not inserting slats into the chain link fence. As such the proposed variance does not rise to a level of a practical difficulty but instead amounts to a request from the property owner.
  - The same or similar situation exists on the south side of the subject parcel, as such the conditions do not constitute circumstances that are unique to the property.

### Review Comments

If the Planning Commission considers a favorable recommendation the following conditions are suggested:

1. The "Use" is limited to insertion of privacy slats into a proposed vinyl coated chain link fence at a point thirty (30) feet from the front property line at 561 Elk Street South.
2. The privacy slats shall compliment the style of the approved fence.
3. This approval shall expire one year after date of approval unless the Applicant has commenced construction.
4. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

### **ACTION**

The Planning Commission is to hold a public hearing and make a recommendation to the City Council pertaining to the variance requests.

**ATTACHMENTS**

- Application, aerial, and site plan survey.
- Resolution 20-010(A) recommending approval of a variance to fence opacity standards.
- Resolution 20-010(B) recommending denial of a variance to fence opacity standards.

Annex	CUP	Home Occ.	Interim Use	Move Building	Non - Conform	Plan Consid.	PUD	Variance
Driveway	Land Excavation		Land Fill	Rental		ROW	Sign	



City of Belle Plaine  
 218 N. Meridian Street  
 P.O. Box 129  
 Belle Plaine, MN 56011

Community Development Department  
 Phone: 952-873-5553  
 Fax: 952-873-5509  
 www.belleplainemn.com

Fee: \$300.00 Single-family Dwellings / \$500.00 all other applicants

## VARIANCE REQUEST APPLICATION

**PROPERTY** Address: 561 South Elk Street Belle Plaine, MN P.I.N: 20079

Lot(s): 007 Block(s): 002 Subdivision: oak Village

Zoning:

**APPLICANT**  Owner Name: Troy Schrom Phone: 507-257-5110

Address: 704 Parkway Avenue Eagle Lake MN 56024 Cell: 507-390-5346

E-mail: troymschro@gmail.com Fax:

**OWNER** Name: Phone:

Address: Cell:

E-mail: Fax:

Variance is requested to: Allow for privacy screening in fence from the front of the garage to the back of the property - open fence from front of garage

Ordinance in which variance is requested: Section Number: 1107.02 Subdivision Number: 4 (6)

Description: Fences in front yards to be at least 50% opaque

In your opinion, is the variance consistent with the purpose and intent of the ordinance?  Yes  No  
 Explain: Fence would remain open from front of garage to front of property

In your opinion, is the variance consistent with the comprehensive plan?  Yes  No  
 Explain: Fence would remain on 561 property providing privacy to 549

In your opinion, does the proposal put property to use in a reasonable manner?  Yes  No  
 Explain: Provides privacy to neighbor

In your opinion, are there circumstances unique to the property?  Yes  No  
 Explain: Multi Family Building going in

In your opinion, will the variance maintain the essential character of the locality?  Yes  No  
 Explain: 4' Black vinyl coated chain-link fence

**SUBMISSION OF APPLICATION MUST INCLUDE:**

- Attached site plan (to scale) depicting present and proposed improvements.

Within the time frame established by Minnesota Statutes section 15.99, following receipt of the completed application, the City Council shall render its decision granting or denying the variance. Such decision shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance. Such plans and specifications shall remain a part of the permanent records of the City Council. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact. In extenuating circumstances, extension of the sixty (60) days may be granted upon receipt of signed request from applicant.

An application for a variance shall be submitted to the Zoning Administrator. A nonrefundable application fee, established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application. The application shall contain the following information, as well as such additional information as may be required by the Zoning Administrator:

- The applicant's name and address.
- A site plan drawn to scale showing the property dimensions, existing and proposed buildings and other structures, existing and proposed grading, landscaping, easements and location of utilities, as applicable. The Zoning Administrator may require the applicant to obtain a certified survey at the time of application.
- The particular requirements of the Ordinance which prevent the proposed use or construction.
- The characteristics of the subject property which prevent compliance with the said requirements of the Ordinance.
- The minimum reduction of the requirements of the Ordinance which would be necessary to permit the proposed use or construction.
- The practical difficulty which would result if said particular requirements of this Ordinance were applied to the subject property.
- If the variance is part of an application for Commercial, Industrial, or Multiple-Family Residential Site Plan Approval, all of the submittal requirements for a Site Plan, Section 1103.07, shall also apply.

I certify that I am the applicant named herein; that I have familiarized myself with the rules and regulations with respect to preparing and filing this application that the foregoing statements and answers herein contained and the information on the attached maps or plot plans and any other documents submitted herewith are in all respects true and accurate to the best of my knowledge and behalf.

APPLICANT SIGNATURE:  DATE: 8/12/20

**OFFICE USE ONLY**

Zoning: R-7	Application Fee: \$300.00	Form of Payment: check # 8691
		Date: 8/24/20
	<input checked="" type="checkbox"/> Site Plan	Transaction Number: 45127.2012
		Collected By: LB
Reviewed by Community Development Director	<input checked="" type="checkbox"/> Application Complete	Date: 8/24/20
Reviewed by Planning Commission	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:
Reviewed by City Council	<input type="checkbox"/> Tabled <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date:

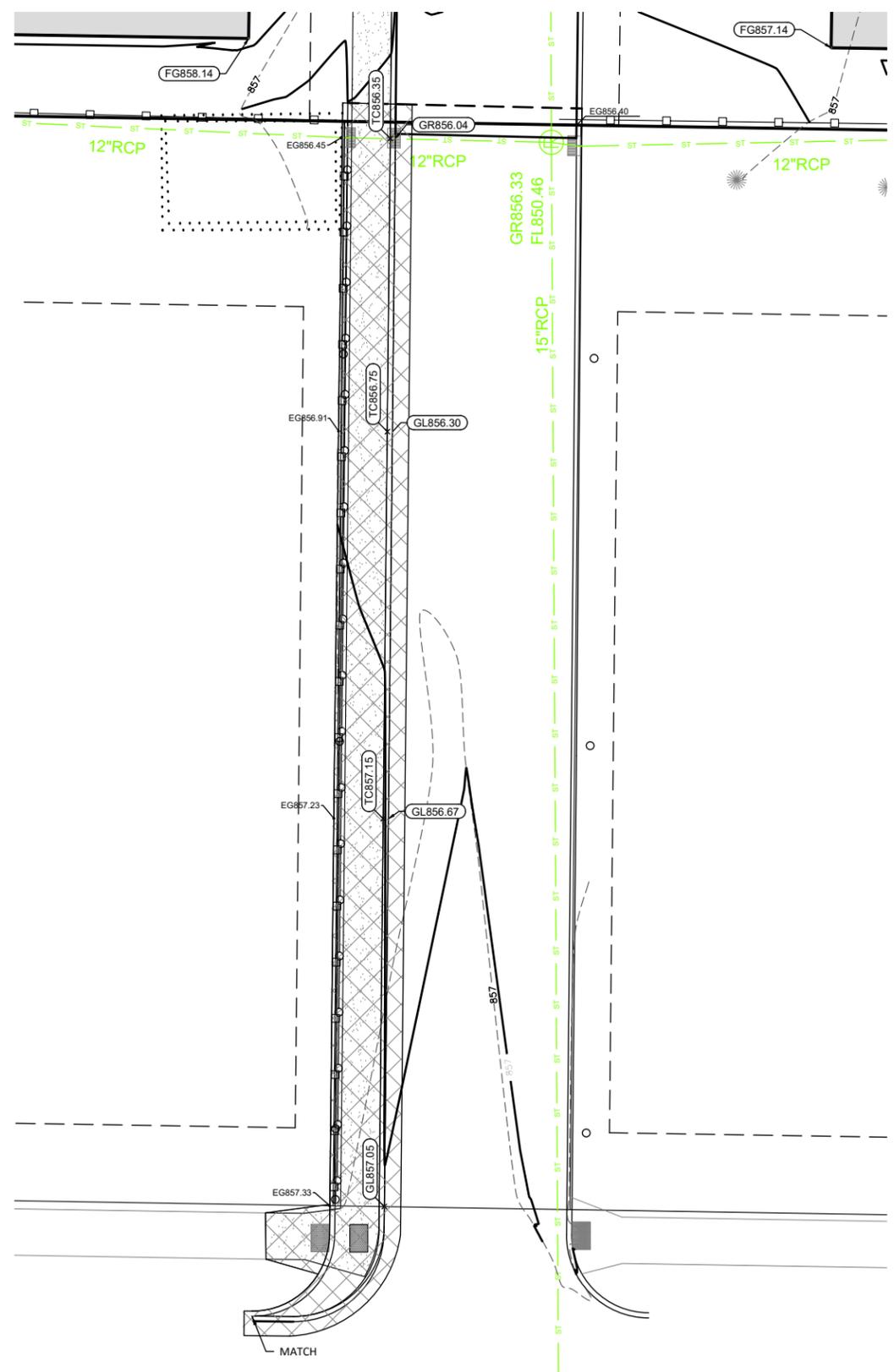
# CITY OF BELLE PLAINE

218 N. MERIDIAN STREET  
PO BOX 129  
BELLE PLAINE MN 56011

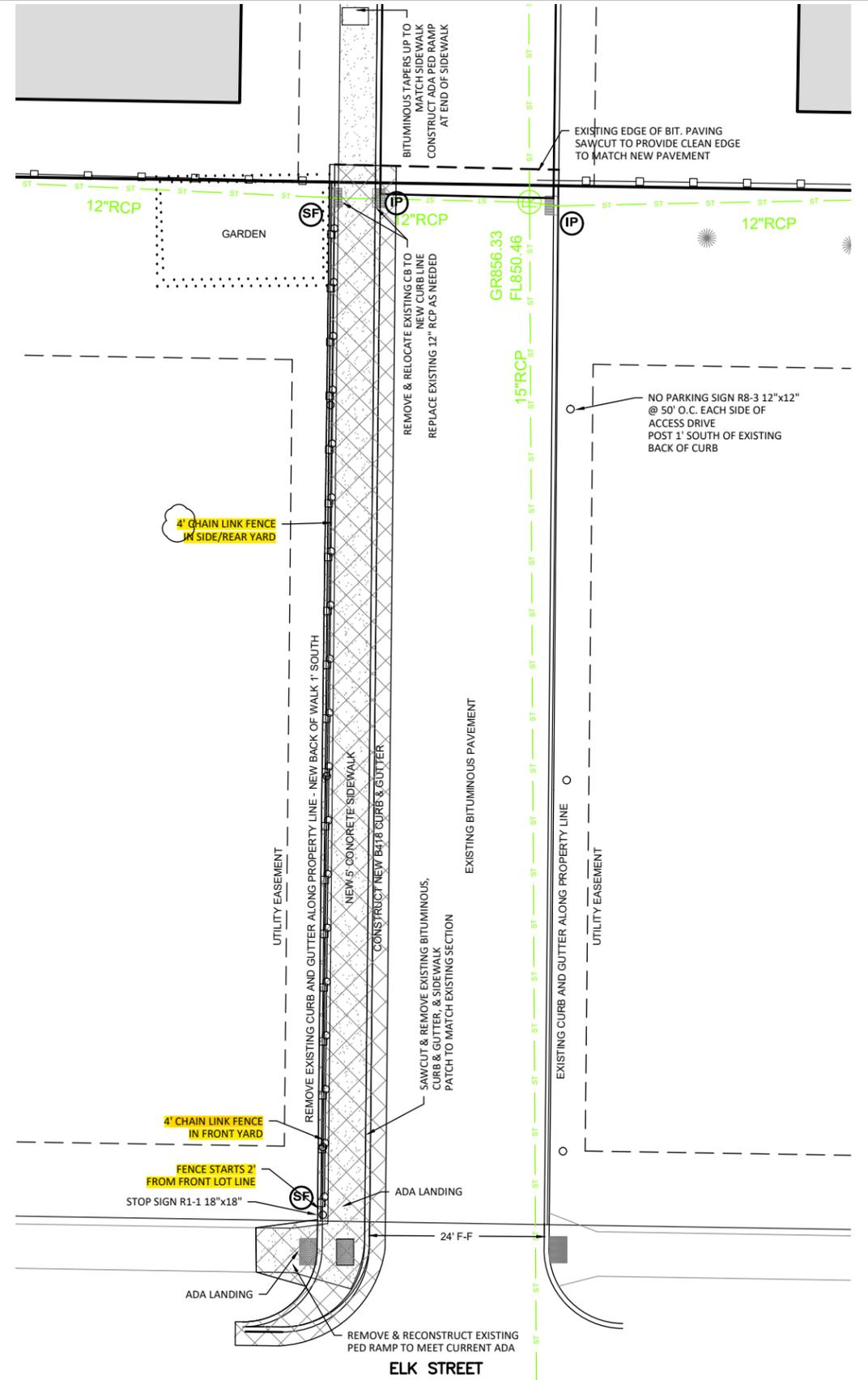
**Receipt #** 45127.2012  
25-Aug-20 10:02am

Permit D-200005 Z-Variance - All Other

	<u>\$300.00</u>	561 ELK STREET SOUTH
<b>Subtotal</b>	<b>\$300.00</b>	
Check	\$300.00	8691 LB



ELK STREET



ELK STREET

**LEGEND**

- 848— EXISTING ELEVATION CONTOUR LINE
- 848— PROPOSED ELEVATION CONTOUR LINE
- FGXXXX.X FINISH GRADE ELEVATION
- GLXXXX.X GUTTER LINE ELEVATION
- TCXXXX.X TOP OF CURB ELEVATION
- GRXXXX.X GRATE ELEVATION
- (IP) CATCH BASIN INLET PROTECTION
- (SF) SILT FENCE — MACHINE SLICED



DRAWINGS ON 11x17 SHEETS ARE HALF SCALE

ADD FENCE ALONG PRIVATE DR  
4' FENCE

REV.	BY	DATE
1	JHSS	8/3/2020
2	JHSS	8/24/2020

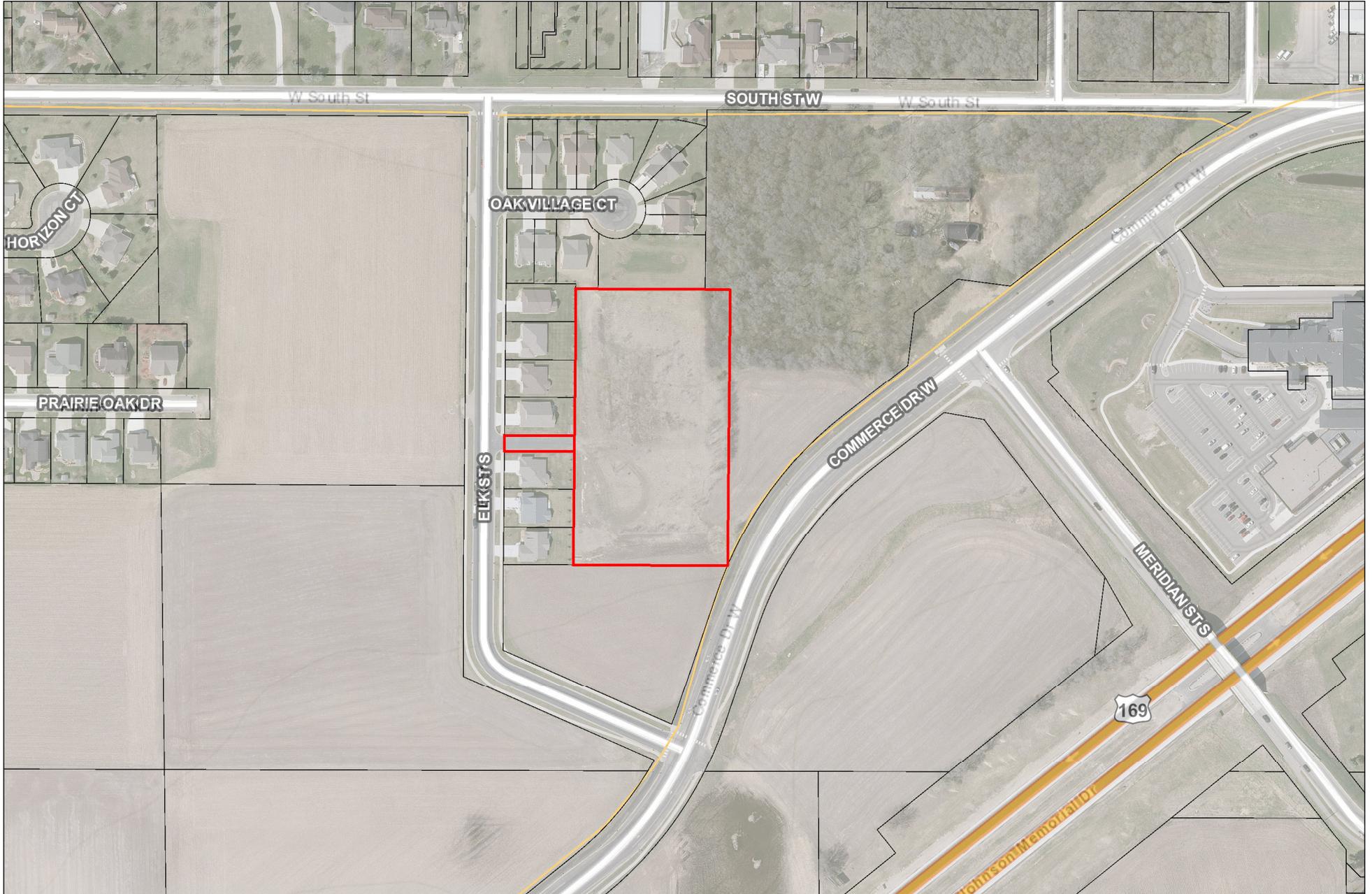


DESIGNED: JHS  
 DRAWN: JHS  
 CHECKED: BU  
 DATE: 9/16/19  
 DWG: 19-1151SP

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.  
 John H. Schulte V  
 License No. 44639 Date: 9/16/19

<b>BELLE COURT APARTMENTS</b>		SHEET 12 OF 12
BELLE COURT APARTMENTS LLC		
2019 CONSTRUCTION ACCESS ROAD PLAN		

# 561 Elk Street South



This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. Scott County is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the Scott County Surveyors Office.



Date: 9/8/2020

1 in = 376 ft



**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ-20-010(A)**

**RECOMMENDING THE CITY COUNCIL APPROVE A VARIANCE ALLOWING PRIVACY SLATS TO  
BE PLACED IN A PORTION OF A FRONT YARD FENCE AT 561 ELK STREET SOUTH**

WHEREAS, the City Code §1103.07 provides for the processing of variance requests; and,

WHEREAS, Troy Schrom, authorized representative for Belle Court LLC the fee owner of the property addressed as 561 Elk Street South (the 'Applicant') has applied for a variance to Section 1107.02, Subd. 4(6) of the City Code which requires fences in front yards be at least 50% open; and,

WHEREAS, the subject property is legally defined as Outlot B, Oak Village Subdivision, City of Belle Plaine, Scott County, Minnesota; property number 200790170; and,

WHEREAS, the Applicant represents:

1. Variance is requested as a means of accommodating a request for screening of entryway into an apartment complex.
2. Screening slats are proposed to be inserted in a chain link fence at a point 30 feet from the front property line. The previously approved fence is 48" in height and features black vinyl coating over the chain link.
3. The subject property is unique in that it provides access to multiple family units and abuts detached residential properties.
4. The proposed slats will match the fence which is currently under construction.

WHEREAS, a public hearing was scheduled and held by the Planning Commission, the City's designated Planning Agency, on September 14, 2020 following duly published, posted, and mailed notice; and,

WHEREAS, the Planning Commission accepted public input and discussed the proposed variance; and,

WHEREAS, the Planning Commission finds:

1. The current use of the property is consistent with both planned use and existing zoning.
2. The subject parcel is an access to multiple family apartments and, as a condition of previous Planned Unit Development approval, required to be combined with the adjoining lot under unified ownership.
3. Privacy fences are common elements of residential development.
4. The adjacent property owner at 549 Elk Street South has provided written permission for the fence to be placed on the property line.
5. The fence has been properly permitted.
6. The subject parcel is unique in that it provides access to a high density residential use. The variance will provide additional screening to the adjacent use.
7. The proposed variance is to a performance standard and not a property use.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council approve variance from Section 1107.02, Subd. 4(6) of the City Code to allow privacy slats to be inserted into a four foot (48") coated chain link fence in a front yard at 561 Elk Street South, provided:

1. The "Use" is limited to insertion of privacy slats into a proposed vinyl coated chain link fence at a point thirty (30) feet from the front property line at 561 Elk Street South.
2. The privacy slats shall compliment the style of the approved fence.

3. This approval shall expire one year after date of approval unless the Applicant has commenced construction.
4. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

and the following voted against the same: \_\_\_\_\_.

Whereupon said resolution was declared duly passed and adopted. Dated this 14<sup>th</sup> day of September, 2020.

\_\_\_\_\_  
Ashley Cauley  
Chairperson

\_\_\_\_\_  
Cynthia Smith Strack  
Community Development Director

**BELLE PLAINE PLANNING COMMISSION  
RESOLUTION PZ-20-010(A)**

**RECOMMENDING THE CITY COUNCIL DENY A VARIANCE ALLOWING LESS THAN FIFTY PERCENT OPENNESS IN A FRONT YARD FENCE AT 561 ELK STREET SOUTH**

WHEREAS, the City Code §1103.07 provides for the processing of variance requests; and,

WHEREAS, Troy Schrom, authorized representative for Belle Court LLC the fee owner of the property addressed as 561 Elk Street South (the 'Applicant') has applied for a variance to Section 1107.02, Subd. 4(6) of the City Code which requires fences in front yards be at least 50% open; and,

WHEREAS, the subject property is legally defined as Outlot B, Oak Village Subdivision, City of Belle Plaine, Scott County, Minnesota; property number 200790170; and,

WHEREAS, the Applicant represents:

1. Variance is requested as a means of accommodating a request for screening of entryway into an apartment complex.
2. Screening slats are proposed to be inserted in a chain link fence at a point 30 feet from the front property line. The previously approved fence is 48" in height and features black vinyl coating over the chain link.
3. The subject property is unique in that it provides access to multiple family units and abuts detached residential properties.
4. The proposed slats will match the fence which is currently under construction.

WHEREAS, a public hearing was scheduled and held by the Planning Commission, the City's designated Planning Agency, on September 14, 2020 following duly published, posted, and mailed notice; and,

WHEREAS, the Planning Commission accepted public input and discussed the proposed variance; and,

WHEREAS, the Planning Commission finds:

1. The property owner could eliminate the need for a variance by not inserting slats into the chain link fence. As such the proposed variance does not rise to a level of a practical difficulty but instead amounts to a request from the property owner.
2. The same or similar situation exists on the south side of the subject parcel, as such the conditions do not constitute circumstances that are unique to the property.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE, SCOTT COUNTY, MINNESOTA, THAT: It recommends the City Council deny a variance from Section 1107.02, Subd. 4(6) of the City Code pertaining to opacity standards for front yard fences.

The adoption of the foregoing resolution was duly moved by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_\_, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof: \_\_\_\_\_.

and the following voted against the same: \_\_\_\_\_.

Whereupon said resolution was declared duly passed and adopted. Dated this 14<sup>th</sup> day of September, 2020.

\_\_\_\_\_

\_\_\_\_\_

Ashley Cauley  
Chairperson

Cynthia Smith Strack  
Community Development Director