



118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

## MEMORANDUM

---

**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**CC:** JOSHUA M. TETZLAFF, CITY ADMINISTRATOR  
**FROM:** KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR  
KYRA CHAPMAN, PLANNER  
**SUBJECT:** PLANNING COMMISSION SUMMARY - REQUEST FOR VARIANCE #V2-2024 FOR 21.2' FRONT SETBACK AND A 5' SETBACK TO THE EDGE OF THE EXISTING CONSERVATION EASEMENT LOCATED AT 703 7<sup>TH</sup> ST NE, AS PROPOSED BY MICHAEL WEINANDT.  
**DATE:** MAY 28, 2024

---

### **Planning Commission Summary**

The Planning Commission heard the above variance request on May 22nd, 2024. The applicant, Michael Weinandt, is proposing to build a single-family home with an attached garage, which would have a front setback of 21.2' and a 5' setback from the conservation easement. Currently there is a required 30' front setback and a 6' setback from the edge of the conservation easement as required by the conditions for approval for Pond Third Addition. Staff recommend denial because all neighboring homes currently meet the 30' front setback, therefore the variance would alter the character of the neighborhood.

During the public hearing, Weinandt stated that the wrong plans were submitted to staff. He explained that plan would consist of a 2-car garage, not a 3-car garage. Additionally, he clarified that the violation letter was for removing trees in the conservation easement. Staff clarified that the violation letter was for excavation in the conservation easement area, removal of the conservation easement signs and building without a permit for a basement. Staff and the Planning Commission also confirmed that the garage, whether called a two or three stall garage, still needed a variance to the front setback line.

The Planning Commission recommended denial of the variance request for with a unanimous vote (4-0) based on the findings listed in the attached resolution.

### **Staff Recommendation**

Staff recommends approval of the attached resolution "...Denying Variance (#V2-2024)...".

**RESOLUTION #24-06-03-02**

**RESOLUTION OF THE NEW PRAGUE CITY COUNCIL  
DENYING VARIANCE #V2-2024 FOR A 21.2' FRONT SETBACK AND A 5' SETBACK  
TO THE EDGE OF THE CONSERVATION EASEMENT LOCATED AT 703 7<sup>TH</sup> ST NE,  
AS PROPOSED BY MICHAEL WEINANDT**

**WHEREAS**, Michael Weinandt, applicant, and owner of the following real estate in the County of Scott to wit:

Lot 1, Block 1, Pond Third Addition, according to the plat thereof, Scott County, Minnesota.

Is requesting a variance to build a residential home with an attached garage at 703 7<sup>th</sup> St NE in the RL-90 Single Family Residential Zoning District, which is located on the above real estate; and,

**WHEREAS**, the New Prague Planning Commission has completed a review of the application and made a report pertaining to said request #V2-2024, a copy of said report has been presented to the City Council; and,

**WHEREAS**, the New Prague Planning Commission on the 22nd day of May, 2024, following proper notice held a public hearing regarding the request, and following due consideration of presented testimony and information, voted unanimously (4-0) to forward a recommendation to the City Council with a recommendation for denial subject to the findings contained in staff report #V2-2024; and,

**WHEREAS**, the New Prague City Council finds:

1. The proposed single-family home on the lot which would not be a reasonable use because although it would match the existing neighborhood area in terms of home size, it would not match the existing neighborhood in terms of the front setback being 30' for most other homes in the area.
2. The variance would alter the essential character of the neighborhood because there are currently very few, if any, homes that are less than 30' from the front setback.
3. The variance requested is not the minimum variance which would alleviate the practical difficulty because the building site plans could be adjusted or reduced to meet the setback requirements which would better fit the look of the neighborhood.





118 Central Avenue North, New Prague, MN 56071  
phone: 952-758-4401 fax: 952-758-1149

---

## MEMORANDUM

---

**TO:** PLANNING COMMISSION  
**FROM:** KEN ONDICH – PLANNING / COMMUNITY DEVELOPMENT DIRECTOR  
KYRA CHAPMAN - PLANNER  
**SUBJECT:** REQUEST FOR VARIANCE #V2-2024 FOR 21.2' FRONT SETBACK AND A 5' SETBACK TO THE EDGE OF THE EXISTING CONSERVATION EASEMENT LOCATED AT 703 7<sup>TH</sup> ST NE, AS PROPOSED BY MICHAEL WEINANDT.  
**DATE:** MAY 15, 2024

---

### **Background / History**

In 2023, Pond Third Addition was platted, dividing the single parcel into four lots. In the approved final plat, a shared private access driveway was required. This means that the subject property must share a driveway with the lot(s) directly to the east. The applicant, Michael Weinandt, is requesting a reduction from the front setback and setback from the conservation easement for the western most lot located at 703 7<sup>th</sup> Street in the RL-90 Single Family Residential Zoning District. Currently there is a required 30' front setback and a 6' setback from the edge of the conservation easement (as required by the conditions for approval for Pond Third Addition). To make room for a residential home with an attached garage, the applicant is requesting a 21.2' front setback and a 5' setback from the edge of the conservation easement.

Back in 2020, a variance was granted to allow construction to the conservation easement line, but this variance is no longer needed as the ordinance was amended to allow building construction to the conservation easement line and furthermore one of the conditions of the approval of Pond Third Addition required additional setback to the easement of 6'.

When the property was platted in 2018, a conservation easement was put into place as Document #A1059675. This conservation easement was required by the City's zoning ordinance based on the assessment of the wetland's condition. Signs were installed on the site by the applicant in 2019, and verified by the City, to delineate the edge of the easement. The conservation easement provides for a buffer of a minimum of 30' from the delineated edge of the wetland and requires that the easement area be left in a natural state.

The wetland edge was delineated with the plat of the property and established the wetland edge as noted on the plat. With the applicable regular setbacks for a single family home plus conservation

easement plus an additional setback of 6' from said easement line, the lot is left with a building pad of just under 53' deep in areas of the lot which limits the style of home that could be constructed on the lot (most homes in the neighborhood are split level type homes, although the house to the west is not a split level style home). It is noted that staff does not believe this to be a substandard lot depth. It is noted, however, that during the platting of the property in 2023 that this lot would have a smaller than building pad depth than some other lots due to the additional conservation easement 6' setback.

### **Legal Description**

Lot 1, Block 1, Pond Third Addition according to the plat thereof, Scott County, Minnesota.

### **Zoning**

The subject property is located in the RL-90 Single Family Residential Zoning District.

### **Neighborhood Conditions Statement of Practical Difficulties**

The subject property is located in the RL90 single family residential zoning district. Most properties in the neighborhood are similarly zoned. Most properties in the neighborhood are meeting the 30' front setback requirement.

Many other properties in this neighborhood also abut the wetland but have lot dimensions which did not limit the type of home that could be constructed on the lot or in the case of the property at 900 Lexington Ave. N., are considered a legal non-conforming home as they are located less than 30' from the delineated wetland edge. All other lots in the neighborhood were all platted prior to the City's requirement that conservation easements must be put in place around wetlands and also before the 50' setback to buildings from wetlands existed (or alternately the newer standard to build up to a conservation easement edge (or in the case of this lot 6' from the conservation easement edge per the plat condition).

While other lots in the neighborhood (other than those in the same plat) have deeper building pads than the depth of just under 53' on this lot, staff does not believe this to be a substandard lot depth to build a home comparable to others in the neighborhood.

### **Statement of Practical Difficulties**

The applicant is requesting a front setback reduction to 21.2' to allow the construction of an attached garage and a setback reduction of 5' to the edge of the conservation easement to build a residential home. As required in Pond Third Addition Preliminary and Final plat, a shared driveway must be built on the subject property and the abutting east property. The shared driveway will impact the area of buildable space and the layout of the home. Furthermore, the applicant believes that the lot is an irregular shape with most of the lot unable to be built on due to the wetland. The applicant would like to construct a high-end home to fit the character of the neighborhood.

### **Wetland Setback Ordinance**

In 2002, the Minnesota Pollution Control Agency required that the City of New Prague adopt a wetland buffer requirement. On April 1, 2002 the City of New Prague amended its Comprehensive Stormwater Management Plan to include the buffer strips as required by the PCA. The rules required a 40' strip of native vegetation (buffer) adjacent to a wetland and required that buildings be set back an additional 10' beyond the buffer area for a total of 50' from the delineated wetland edge. This setback has continued to exist since it was adopted in 2002 however it is now contained in Zoning Ordinance Section 734 (4)(D)(2) and 734(4)(E)(5) and provides a buffer based on the assessment of

the wetland, rather than a blanket number. The existing conservation easement covers this requirement.

### **Past Wetland Variances**

Since the 50' wetland setback to buildings went into effect in 2002 there have been six variances granted for properties which existed prior to the wetland setback going into effect and having issues pertaining to the wetland setback precluding the use of their backyards or precluding any additions to their homes. The most recent wetland setback variance was V2-2020 on the previous plat (Pond 2<sup>nd</sup> Addition-same land) for a home to be built up to the wetland buffer/conservation easement line. Although the variance was approved, it did not go into effect since the Zoning Ordinance was updated after the meeting, requiring a minimum of 25% of the site in natural conservation areas to be protected with conservation easements.

There were several other variances such as V1-2016 for a wetland setback variance to allow a new home to be constructed at 24' feet (reduced to 14' for a deck off the home) from the wetland edge, V4-2018 which allowed an above ground pool to be located 14' from a wetland edge, and finally V5-2019 that allowed a new home to be constructed at 40' from the edge of a wetland, but outside of the conservation easement area.

### **Public Works Comments**

Public Works Director (Matt Rynda) and Utilities General Manager (Bruce Reimers) were not solicited for comments on this variance request as it does not involve any public works or utility related matters.

### **City Engineer Comments**

City Engineer Chris Knutson was not solicited for comments on this variance request.

### **Building Official Comments**

Building Official Scott Sasse was not solicited for comments on this variance request as no new home permit has actually been applied for at this time.

### **Criteria for Granting Variances – Section 507**

The Zoning Ordinance defines a variance as follows: A modification or variation of the provisions of this Ordinance where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties.

The Zoning Ordinance identifies criteria for granting variances as noted below. These items must be evaluated by the Planning Commission and City Council when considering variance requests. It is important to note that variances should only be granted in situations of practical difficulties. **A variance may be granted only in the event that all of the circumstances below exist.** Staff has attempted to evaluate the established criteria for this specific request. Staff's comments are highlighted in yellow below:

- A. The variance is in harmony with the general purposes and intent of this Ordinance. **(The requested variances to allow for new home construction to be within 5' of the edge of the existing conservation easement and within 21.2' from the front lot line is**

in harmony with the general purposes and intent of this Ordinance because residential structures are a permitted use in the RL-90 Single Family Residential Zoning District.)

- B. The variance is consistent with the comprehensive plan. (The requested variance to allow for new home construction to within 5' of the edge of the existing conservation easement and within 21.2' from the front lot line is consistent with the comprehensive plan because the subject property can have a single family home as a permitted use in the RL-90 Single Family Residential Zoning District and the variance would provide for a buildable area to construct a single family home on the lot that is consistent with the type and size of home that exists in the neighborhood.)
- C. The applicant proposes to use the property in a reasonable manner not permitted by this Ordinance, the City Code or the City Subdivision Ordinance. (The applicant intends to construct a single family home on the lot which would not be a reasonable use because although it would match the existing neighborhood area in terms of home size, it would not match the existing neighborhood in terms of the front setback being 30' for most other homes in the area.)
- D. Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property since enactment of this Ordinance has had no control. The unique circumstances do not result from the actions of the applicant. (Unique circumstances apply to this property in that a shared driveway is required and it abuts a wetland.)
- E. The variance does not alter the essential character of the neighborhood. (The variance would alter the essential character of the neighborhood because there are currently very few if any homes that are less than 30' from the front setback.)
- F. That the variance requested is the minimum variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties. (The variance requested is not the minimum variance which would alleviate the practical difficulty because the building site plans could be adjusted or reduced to meet the setback requirements which would better fit the look of the neighborhood.)
- G. The Board of Adjustment may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by federal, state or local law. (No additional conditions are imposed.)

## **Staff Recommendation**

Staff recommends **denial** of Variance #V2-2024 from the required 30' front setback to 21.2' and from the required 6' conservation easement to 5' of the existing conservation easement to allow for a new home construction located on Lot 1, Block 1, Pond 3<sup>rd</sup> Addition, for the following reasons:

1. The proposed single family home on the lot which would not be a reasonable use because although it would match the existing neighborhood area in terms of home size, it would not match the existing neighborhood in terms of the front setback being 30' for most other homes in the area.
2. The variance would alter the essential character of the neighborhood because there are currently very few if any homes that are less than 30' from the front setback.
3. The variance requested is not the minimum variance which would alleviate the practical difficulty because the building site plans could be adjusted or reduced to meet the setback requirements which would better fit the look of the neighborhood.

## **Attachments**

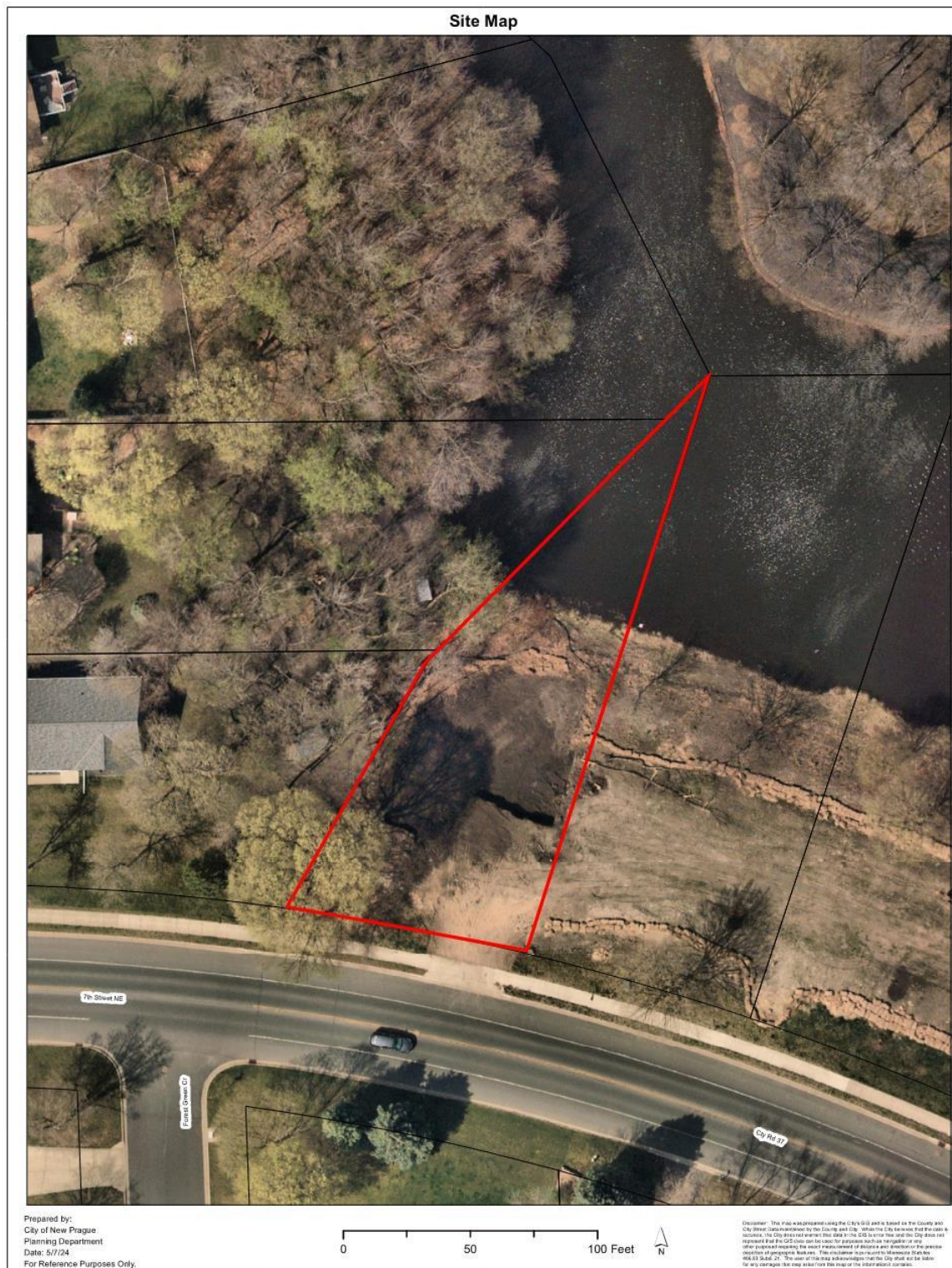
- 1) Site Map Aerial – Dated 5/7/24
- 2) Enlarged View of Subject Site – Dated 5/7/24
- 3) Zoning Map – Dated 5/7/24
- 4) Survey – Undated
- 5) Survey Planning Comments – 5/15/24
- 6) Home Rendering – 4/28/24
- 7) Oblique Air Photo – Undated
- 8) Pictures – Dated 5/7/24



**Disclaimer:** This map was prepared using the City of GIS and is based on the County and City General Data maintained by the County and City. While the City and County are responsible, the City does not warrant that the data in GIS is error free and the City does not represent that the GIS data can be used for purposes such as navigation or any other purpose requiring the exact measurement of distance and direction or the precise depiction of geographic features. This disclaimer is required by Minnesota Statutes 466.03 Subd. 2. The user of this map acknowledges that the City shall not be liable for any damages that may arise from this map or the information it contains.

Variance #V2-2024  
May 22, 2024 Planning Commission Meeting  
Page 6 of 14





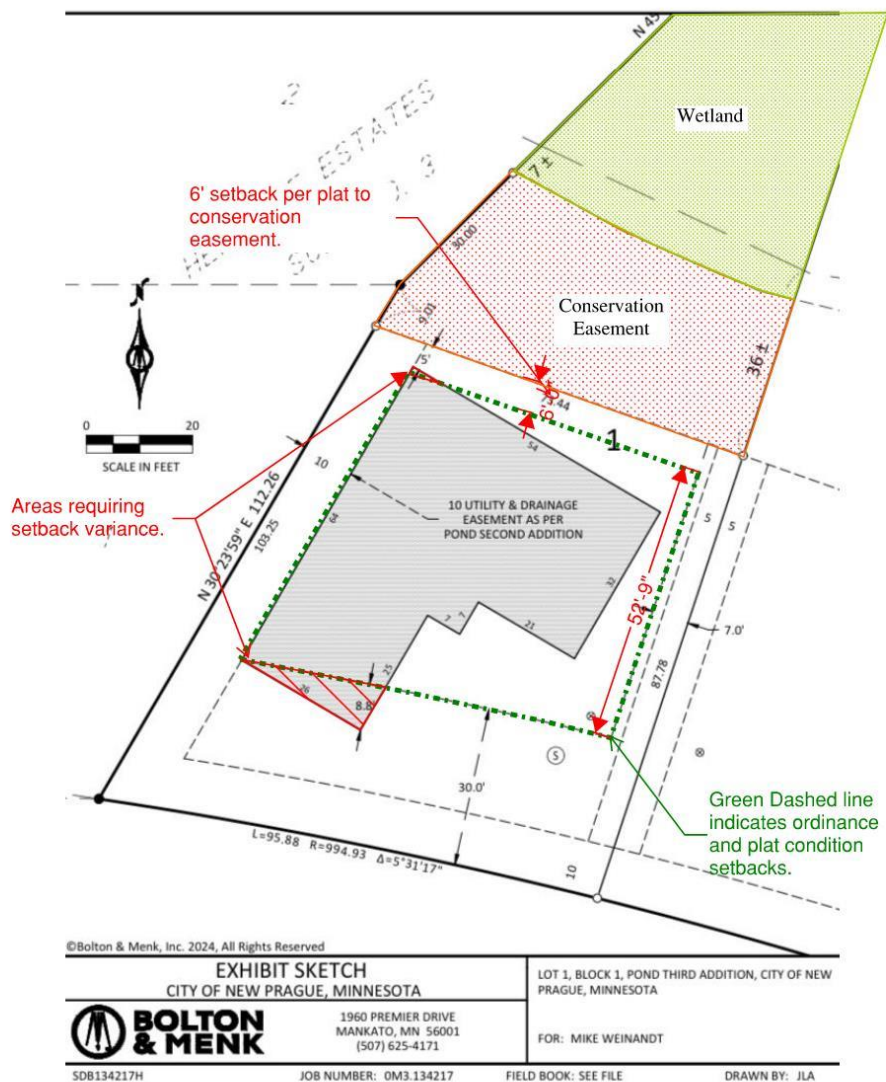
Enlarged View of the Subject Property





## Zoning in the Neighborhood





### Planning Comments on Survey

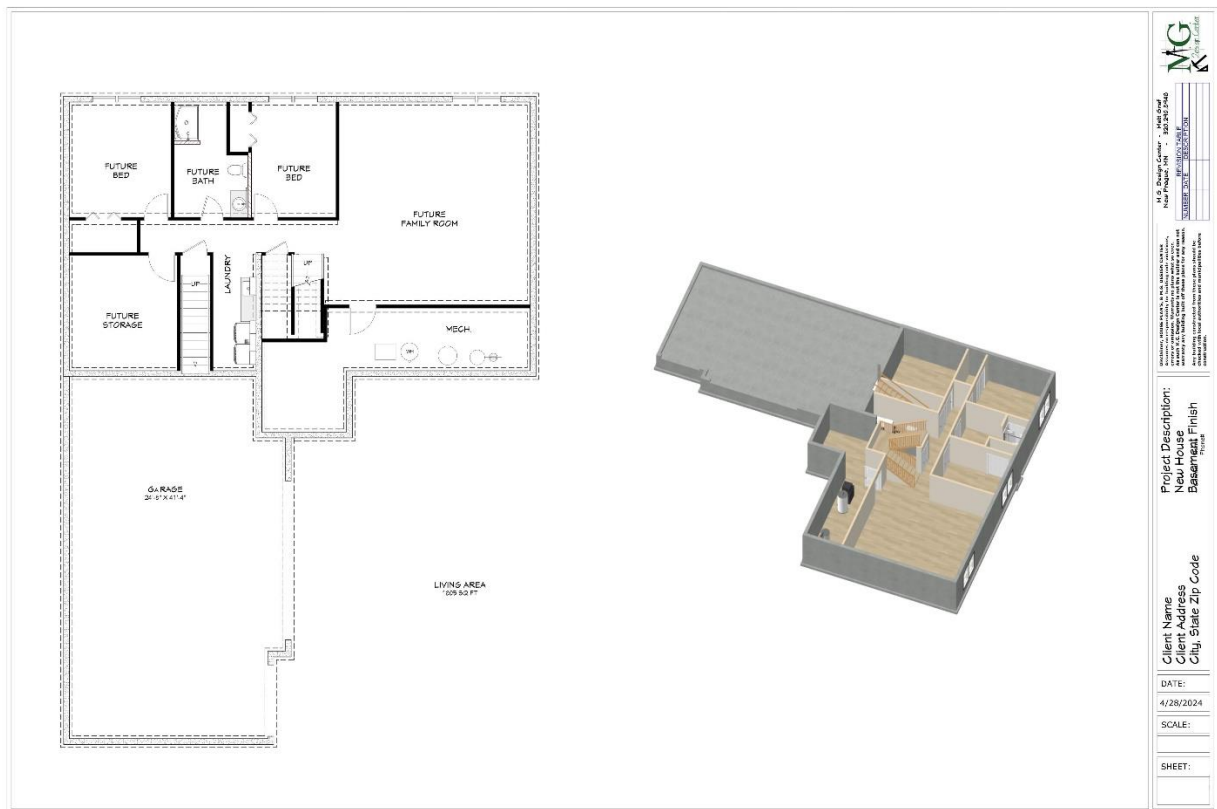




Home Rendering 1 of 3



Home Rendering 2 of 3



Home Rendering 3 of 3



Oblique Air Photo – Looking North at the Property





Looking North towards lot from 7<sup>th</sup> Street NE



Looking Northeast from the sidewalk on 7<sup>th</sup> Street NE





Looking Northwest from the sidewalk on 7<sup>th</sup> Street NE