

Steve Furlong

Subject: FW: [External] RE: Penn Lake CityHomes and Penn Ave access

From: Carla J Stueve <Carla.Stueve@hennepin.us>

Sent: Wednesday, December 30, 2020 9:56 AM

To: Steve Furlong <steve@smartfitdevelop.com>

Cc: Chad Ellos <Chad.Ellos@hennepin.us>; Jason D Gottfried <Jason.Gottfried@hennepin.us>; Michael D Olmstead <Michael.Olmstead@hennepin.us>; Kristy A Morter <Kristy.Morter@hennepin.us>; Jessa Trboyevich <Jessa.Trboyevich@hennepin.us>; Eric M Drager <Eric.Drager@hennepin.us>

Subject: RE: [External] RE: Penn Lake CityHomes and Penn Ave access

Steve,

For the design of an emergency only access, we offer the following:

- Consistent with other emergency only access locations on the county's system, our preference is that the access be controlled by a chain or cable with the appropriate "emergency access only" sign.
- Provide enough space internally near the emergency only connection for vehicles to turn around, such as a few parking stalls hatched out.
- The connection to Penn Avenue should be as narrow as possible while still accommodating a fire truck. This will likely result in a perpendicular connection to Penn Avenue or a connection with a slight skew.
- The sidewalk will need to maintain ADA standards as it travels through the emergency only access.
- In rare cases, where the use of a chain or cable is not considered feasible, the following may be considered as an alternative:
 - Use of a different pavement material (such as concrete) for the emergency access and bituminous for the internal street to provide visual cues that something is different about the access (preferably, the access would resemble a sidewalk or trail connection to the development and not a vehicle driveway).
 - The use of surmountable curb and gutter to delineate where the emergency only access connects to Penn Avenue and where it connects to the internal cul-de-sac.
 - Internal signage "Do Not Enter – Emergency Access Only" on the right and left sides.
 - Signage facing Penn Avenue - "Do Not Enter – Emergency Access Only."

Thanks,
Carla

HENNEPIN COUNTY

MINNESOTA

September 1, 2020

Mr. Nick Johnson
City of Bloomington
1800 West Old Shakopee Road
Bloomington, MN 55431

Re: Preliminary Plat Review – 8525 and 8545 Penn Avenue South (Received 08/06/20)
County State Aid Highway (CSAH) 32 (Penn Avenue) at 86th Street
Hennepin County Plat Review ID #3449A (Reviewed 08/11/20)

Dear Mr. Johnson:

Please consider the following county staff comments in your review of this preliminary plat proposal to redevelop two vacated single-family properties into 15 townhomes:

Access: Two new accesses are proposed, one full access on 86th Street and a right-in/right-out on Penn Avenue. Since the proposed Penn Avenue access does not meet the county's access spacing guidelines, an access is not recommended at this location due to safety and operations concerns. Based on the development size, a single access on 86th Street is recommended.

To accommodate emergency response vehicles, an emergency only access on Penn Avenue can be permitted for the site. The access design will need to prohibit general usage through a variety of means such as alignment, signage, curb, and paving materials. Acceptance of this access is predicated on county design review prior to and during the county access permitting process.

Right-of-Way: County staff supports the proposed seven-foot right of way dedication, along with the ten-foot sidewalk and trail, and drainage and utility easements. We believe this will provide adequate space for any future public infrastructure needs along the corridor.

Bicycle and Pedestrian: We support the proposed reconstructed sidewalk with a six-foot boulevard to provide enhanced pedestrian safety.

Storm Water / Drainage: Please ensure discharge rates remain less than existing flow rates. The county storm water system will not take water from new drainage areas. Additional treatments may be necessary if flow rates cannot match existing. Please also ensure the proposed vegetated gravity wall and infiltration basin adjacent to Penn Avenue is owned and maintained by the property owner. *Contact: Drew McGovern at 612-596-0208 or drew.mcgovern@hennepin.us*

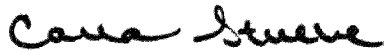
Hennepin County Transportation Project Delivery
Public Works Facility, 1600 Prairie Drive, Medina, MN 55340
612-596-0300 | hennepin.us



Permits: Please inform the developer that all construction within county right-of-way requires an approved Hennepin County permit prior to beginning construction. This includes, but is not limited to, driveway and street access, drainage and utility construction, trail development, and landscaping. Contact: Michael Olmstead, Permits Coordinator at 612-596-0336 or michael.olmstead@hennepin.us

More Information: Please contact Jason Gottfried: 612-596-0394, jason.gottfried@hennepin.us for any further discussion of these items.

Sincerely,



Carla Stueve, PE, PTOE
County Highway Engineer



Hennepin County Property Map

PL202100050
PL2021-50

Date: 8/11/2020



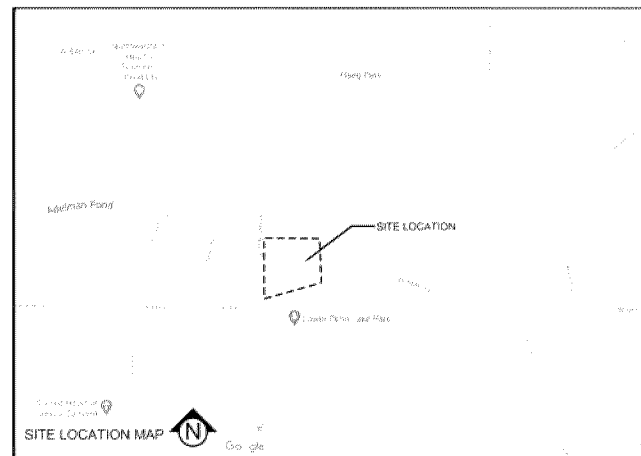
No results

Comments:

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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BLOOMINGTON, MINNESOTA
ISSUED FOR: CITY SUBMITTAL



SHEET INDEX	
SHEET NUMBER	SHEET TITLE
C0.0	TITLE SHEET
V1.0	SITE SURVEY
C1.0	REMOVALS PLAN
C2.0	SITE PLAN
C3.0	GRADING PLAN
C4.0	UTILITY PLAN
C5.0	CIVIL DETAILS
C5.1	CIVIL DETAILS
C5.2	CIVIL DETAILS
L1.0	LANDSCAPE PLAN
L1.1	LANDSCAPE PLAN NOTES & DETAILS
SW1.0	SWPPP - EXISTING CONDITIONS
SW1.1	SWPPP - PROPOSED CONDITIONS
SW1.2	SWPPP - DETAILS
SW1.3	SWPPP - NARRATIVE
SW1.4	SWPPP - ATTACHMENTS
SW1.5	SWPPP - ATTACHMENTS

Penn Lake CityHomes LLC
Bloomington, Minnesota

I HEREBY CERTIFY THAT THIS PLAN
 (DISPOSITION) OR REPORT WAS
 PREPARED BY ME OR UNDER MY DIRECT
 SUPERVISION AND THAT I AM A FULLY
 LICENSED PROFESSIONAL ENGINEER
 UNDER THE LAWS OF THE STATE OF
 MINNESOTA

[illegible]

ISSUE SUBMITTAL SUMMARY

Figure 1 is a schematic representation of a 1000 bp DNA fragment. The fragment is shown as a horizontal line with various restriction enzyme sites marked by vertical lines and labels. The sites include XbaI, PstI, KpnI, SmaI, BamHI, EcoRI, HindIII, SalI, and XhoI. The sequence is flanked by two XbaI sites. The fragment is 1000 bp long.

THE UNIVERSITY OF CHICAGO PRESS

REVISION SUMMARY

16-BIT ALU

CARRY IN

CARRY OUT

TITLE SHEET

C0.0

HENNEPIN COUNTY

MINNESOTA

February 5, 2021

Steve Furlong, President
Penn LakeCity Homes, LLC
Steve@smartfitdevelop.com

RE: Penn Avenue (CSAH 32) Access Permit Appeal Determination

Dear Mr. Furlong,

On January 26, 2021, I received notice of your intent to appeal the County's denial of a right of way access permit at 8525 and 8545 Penn Avenue South (CSAH 32) in Bloomington. Based on the process outlined in Hennepin County Ordinance 22, Section 19.0, I undertook a renewed review of your application. I'm writing to inform you that your appeal is respectfully denied.

As you know, my staff and I have had numerous previous exchanges and conversations regarding this matter with both you and planning staff for the City of Bloomington. My renewed review included all facts available to me leading up to today's date, including the Traffic Analysis Memorandum forwarded by your attorney on January 28, 2021. It is my duty and obligation to make reasonable decisions that promote and protect the public's health, safety, and welfare, specifically to protect the safety of right of way users. With these factors in mind, I offer the following background and rationale supporting my decision:

Background

Your application for access onto Penn Avenue South is intended to accommodate a proposed residential development in the northeast quadrant of Penn Avenue and 86th Street in the City of Bloomington ("Development"). Penn Avenue is a county state aid highway, also referred to as CSAH 32. Hennepin County controls access to its rights of way pursuant to applicable state laws, county ordinances, and police power authority. The Development is subject to plat approval and other related subdivision regulations governed by the City of Bloomington ("City"). The City's authority to govern land development within its boundaries does not extend to grants of access to highways under county jurisdiction. *See e.g.* Minn. Stat. § 505.03. The preliminary plat related to your Development borders a Hennepin County road, and therefore the City was required to submit the plat to me for written comments and recommendations pursuant to Minn. Stat. § 505.03. The City officially did so on August 6, 2020, and I officially responded to the City on September 1, 2020 (see enclosures for reference). My written response to the City included the following comment specific to access onto Penn Avenue:

Access: Two new accesses are proposed, one full access on 86th Street and a right-in/right-out on Penn Avenue. Since the proposed Penn Avenue access does not meet the county's access spacing guidelines, an access is not recommended at this



location due to safety and operations concerns. Based on the development size, a single access on 86th Street is recommended.

To accommodate emergency response vehicles, an emergency only access on Penn Avenue can be permitted for the site. The access design will need to prohibit general usage through a variety of means such as alignment, signage, curb, and paving materials. Acceptance of this access is predicated on county design review prior to and during the county access permitting process. (emphasis mine).

My September 1, 2020 written response to the City represented the County's official comments and recommendations as to all related questions before the County under Minn. Stat. § 505.03.

Thereafter, on October 19, 2020 the City issued combined approval of the preliminary plat, and conditional approval of the final plat. Notwithstanding the County's official comments and recommendations related to access onto Penn Avenue, the City conditioned final plat approval on your ability to obtain public use access onto Penn Avenue to serve as a secondary access to the Development. As a result of the City's October 19, 2020 action, exchanges ensued during November and December 2020 between you, the City, me, and my staff to again consider whether public access could be granted from the Development on to Penn Avenue to serve as secondary access to the Development.

During the November and December 2020 exchanges, the parties considered the addition of a median within Penn Avenue to mitigate safety and operational concerns and allow for a right-in/right-out only access. City staff determined that this approach is not feasible due to insufficient right of way space as well as other concerns put forth by the City in a November 25, 2020 email from City planner, Nick Johnson to you. In the same email, Mr. Johnson stated, "IF the access will not include a true public use component, you [Steve Furlong] would need to go back to City Council to seek their approval for a change of condition or revised development plans." (emphasis original). Notably, in a follow up message forwarding Mr. Johnson's November 25 email to me that same day, you indicated, "... we as developer do not share the need for public access as the city does. The council's approval of the development plan does condition for public access, however." The County shares your opinion that secondary access is not essential to the Development; rather, public access from 86th Street together with secondary emergency access to and from Penn Avenue would reasonably serve the property based on the proposed use. The Penn Avenue secondary access condition that has been imposed on your final plat approval is supported by the City alone.

After exhausting consideration of traffic engineering measures to regulate right in/right out public access from the Development onto Penn Avenue, I declined to reverse my earlier position again pointing to safety and operational concerns. I then directed you to the County's permit application process. You submitted your access permit application on December 30, 2020 and the application was denied on January 4, 2021. Your current appeal followed.

Safety Analysis

In reviewing your appeal, I relied on dimensions from the plans submitted with your December 30, 2020 application¹ and applied the stated measurements to Hennepin County Access Spacing Guidelines (“Spacing Guidelines”). The Spacing Guidelines are consistent with MnDOT access management standards as well as those of other Minnesota counties, and they are applied consistently to all applications for new access to county roads.

The current Spacing Guidelines were published in 2009 and have since been considered and reviewed as part of the County’s 2030 Hennepin County Transportation System Plan and 2040 Comprehensive Plan. These resources consider local crash data and demonstrate that crash rates increase rapidly as the density of access increases. In particular, the number of crashes is shown to increase rapidly as the average spacing between access points drops below 500 feet.

The access point you have requested is approximately 300 feet north of 86th Street, falling well within the high crash risk range cited above.² The proposed access spacing is substantially short of what is recommended for a 4-lane undivided roadway. Additionally, sight distance is limited for northbound traffic; oncoming drivers cannot see through the signalized intersection due to the crest along the grade of Penn Avenue. Speed rates and traffic volumes at this location would not support an exception to the County’s adopted standards, nor would extenuating circumstances, such as a lack of alternate access to the parcel (reasonable public access exists at 86th Street).

In addition to the above, I have also reviewed and considered the January 27, 2021 Traffic Analysis Memorandum from Swing Traffic Solutions (“Memorandum”), submitted by your attorney. The Memorandum asserts that a public right-in/right-out design can be safely achieved by incorporating a pork chop island (vs. center median). Contrary to the Memorandum, research and experience support the need for a center median to prohibit restricted movements. A “pork chop” channelization island may discourage prohibited movements; however, this design generally has a lower rate of compliance than locations where a median is used to prohibit left turns as demonstrated in research, including the report cited in the Memorandum. Notably, a significant retail center exists to the north of the Development at I-494/Penn Avenue. Based on proximity and high demand for this center, drivers would be faced with a natural desire to make left turns into the Development off Penn Avenue.

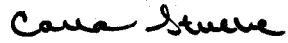
City of Bloomington fire and emergency response have consistently maintained that direct access to the Development from/to the north is necessary to limit response times. For this reason, I would renew my previous decision to allow an access permit that is limited to emergency vehicle access (with the corresponding design elements to be further considered). However, I decline to

¹ Hennepin County property map overlays were used to aid measurement where specific distances were not included.

² While not the primary basis of this determination, it should be noted that Penn Circle is approximately 240 feet north of the proposed access (again falling short of Spacing Guidelines). The County has received emails from Penn Circle residents concerned about ability to navigate to and from Penn Avenue with a new development access in close proximity.

reverse the County's decision to deny an access permit for public use of a right in/right out access point along Penn Avenue.

Sincerely,



Carla Stueve, P.E.
County Highway Engineer

Enclosures

cc: Robin Hennessy, Assistant Hennepin County Attorney
Michael Klemm, Attorney at Law

HENNEPIN COUNTY

MINNESOTA

Hennepin County, Board of Commissioners RESOLUTION 21-0083

2021

The following resolution was moved by Commissioner Irene Fernando and seconded by Commissioner Jeff Lunde:

BE IT RESOLVED, that having timely considered the matter, including written submissions from both the Applicant and the County Engineer, the Hennepin County Board of Commissioners hereby affirms the County Engineer's denial of the right of way access permit to Penn Avenue South (CSAH 32) in Bloomington requested by Applicant Penn LakeCity Homes, LLC, and adopts the attached Findings of Fact.

The question was on the adoption of the resolution and there were 6 YEAS and 0 NAYS, as follows:

**County of Hennepin
Board of County Commissioners**

YEAS: Anderson, Conley, Fernando, Greene, LaTondresse, Lunde

NAYS:

ABSTAIN:

ABSENT: Goettel

RESOLUTION ADOPTED ON 3/9/2021

ATTEST:



Deputy/Clerk to the County Board

Hennepin County Board of Commissioners
300 South Sixth Street, Minneapolis, MN 55487
hennepin.us

