

**Benner II, Jerome (CI-StPaul)**

---

**From:** Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>  
**Sent:** Monday, July 17, 2017 10:26 AM  
**To:** Benner II, Jerome (CI-StPaul)  
**Subject:** RE: 17 Hall Lane

Jerome –

DNR has reviewed the variance application for 17 Hall Lane, St. Paul, and has no comment.

Thank you for the opportunity to comment.

**Jen**

**Jenifer Sorensen**  
East Metro Area Hydrologist (Ramsey and Washington Counties)  
Division of Ecological and Water Resources

**Minnesota Department of Natural Resources**  
1200 Warner Road  
St Paul, MN 55106  
Phone: 651-259-5754  
Email: [jenifer.sorensen@state.mn.us](mailto:jenifer.sorensen@state.mn.us)

**From:** Benner II, Jerome (CI-StPaul) [mailto:jerome.benner.ii@ci.stpaul.mn.us]  
**Sent:** Sunday, July 16, 2017 3:12 PM  
**To:** Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>  
**Subject:** RE: 17 Hall Lane

Hi Jen,

My apologies, I would have sent this on Friday but was out of the office.

Please see the attached documents:

- Information Cover Sheet
- Variance Application
- Applicant's Findings
- Certified Survey
- Site Plan and Elevations of home and garage
- Staff Report

If you have any questions please let me know.

Thanks!

-Jerome

**From:** Sorensen, Jenifer (DNR) [<mailto:jenifer.sorensen@state.mn.us>]  
**Sent:** Thursday, July 13, 2017 7:21 PM  
**To:** Benner II, Jerome (CI-StPaul) <[jerome.benner.ii@ci.stpaul.mn.us](mailto:jerome.benner.ii@ci.stpaul.mn.us)>  
**Subject:** RE: 17 Hall Lane

Jerome –

Can you please send me a copy of the staff report for the 17 Hall Lane variance. You had emailed that this document was sent to me but I can't seem to find it. Thanks –

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**Cc:** Crippen, Debbie (CI-StPaul) <[debbie.crippen@ci.stpaul.mn.us](mailto:debbie.crippen@ci.stpaul.mn.us)>  
**Subject:** RE: 17 Hall Lane

Good Morning Jen,

The Board of Zoning Appeals will be hearing a case on Monday July 17, 2017, in regard to the variance request at 17 Hall Lane to construct a single family dwelling with a detached garage in the front yard. There are several community members and nearby residents who think the property cannot support a slab on grade single family dwelling because of past issues with the limestone in the bluff area.

The Assistant to the Board, Debbie Crippen sent out my staff report along with the applicant's plans a couple of weeks ago so if you can, please provide a statement on whether this house could be constructed or if it has been deemed unsafe due to erosion and landslide concerns. This information would be extremely helpful to provide to the Board and the community.

Thank you for your time and I look forward to hearing from you.

Thanks!

Jerome

**From:** Sorensen, Jenifer (DNR) [<mailto:jenifer.sorensen@state.mn.us>]  
**Sent:** Thursday, June 22, 2017 11:53 AM  
**To:** Benner II, Jerome (CI-StPaul) <[jerome.benner.ii@ci.stpaul.mn.us](mailto:jerome.benner.ii@ci.stpaul.mn.us)>  
**Subject:** Automatic reply: 17 Hall Lane

I will be out of the office Monday June 19 - Friday June 23.

**Jenifer Sorensen**

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mndnr.gov

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mndnr.gov

 **FILE**  
17-040587

Date: June 19, 17

City of St. Paul

To Whom It May Concern:

We have lived near 17 Hall Lane for almost three years and have concerns about the proposed house and garage. Hall Lane is a narrow street. Any long-term construction project would cause traffic problems and make it difficult for us to reach our garage. There is also little to no room for street parking and nowhere near 17 Hall for any additional visiting cars to park.

Additionally, we have an infant and have concerns about increased noise levels during construction.

We also have concerns about the impact that the proposed house and garage would have on the bluff.

Sincerely,

*Brandon and Alyson Sood*

Brandon and Alyson Sood

 **FILE**  
17-040587

6/18/2017

John Purdy  
10 W. Delos St.  
St. Paul, MN 55107

Ms. Gloria Bogen, Chair  
Board of Zoning Appeals  
City of St. Paul  
Department of Safety and Inspections  
375 Jackson St, Suite 220  
St. Paul, MN 55101

For hand delivery at Board (BZA) Meeting on June 19, 2017 (prepared with 7 copies for distribution).

File: 17-040587 (17 Hall Lane)

Dear Chair Bogen and members of the BZA,

My name is John Purdy a resident of 10 Delos St. located at the foot of W. Delos St. on the bluff that faces eastward towards Dayton's Bluff. Directly below are situated the following establishments:

The Taco House at 407 Wabasha St.

Milly's Bakery at 421 Wabasha St.

Rodriguez Auto Service Inc. at 411 Wabasha St.

thio-Habesha Foods LLC. At 385 Wabasha St.

Metropolitan Council Environmental Services Riverview Syphon Headbox at 352 Wabasha St.

ity of St. Paul (as property owners of the bluff slope properties situated directly above the above listed establishments).

y experience as a (retired) Minnesota State Boiler and Pressure Vessel safety inspector allows e the opportunity to carefully provide to you this objection to the findings contained in ome Benner's report on the subject property, dated June 9, 2017.

e-mail to Mr. Benner on June 4, 2017, I requested that Mr. Benner notify me regarding the tability of the bluff area immediately below the subject property.

Rock slides in the immediate vicinity of this property have been documented on 3 recent occasions:

- 1) May 2008-West Side bluffs green stairway is damaged by rock slide. (*Exhibit 1*)
- 2) May 2011-West Side bakery is damaged by rock slide. (*Exhibit 2*)
- 3) April 2017 West Side bluffs Wabasha St. wall and railing is damaged by rock slide. (*Exh. 3*)

Rock slides from other nearby bluffs have been documented on two recent occasions:

- 1) May 22, 2013 Lilydale Park rock slide kills two children. (*Exhibit 4*)
- 2) June 2014 Mendota Heights landslide closes MN Highway 13 (*Exhibit 5*)

Mr. Ricardo Cervantes, Department Director for Safety and Inspections states:

*"On occasion we're going to have some rocks come out of the bluffs, but typically it's not going to land on a structure, and especially they're not this large," (Exhibit 2)*

Mayor Chris Coleman hired two independent investigators to determine the cause of the fatal slope failure in Lilydale Park, and Mayor Coleman's consultant, Mr. Ryan Benson P.E. and Principal Engineer with Northern Technologies Inc. found in his report: (*Exhibit 4*)

*"There is no evidence that anything man-made triggered the rockslide." He further added, "it's hard to predict when, where, or how big the next rockslide would be, and the city should consider similar bluff areas to be at risk." (Exhibit 4)*

The report further stated:

*"The only variable that is predictable with a high level of certainty is that slopes of this nature...are inherently unstable, will undergo additional weathering, and are highly likely to undergo failures of varying degrees in the future." (Exhibit 4)*

Mayor Coleman's other consultant in this matter was Mr. Don Lewis, dean at Hamline University's school of law. Mr. Lewis' team found "...that while city officials knew soil erosion could be an environmental concern, there was no evidence that they knew of unstable bluffs that posed a safety risk." (*Exhibit 4*)

It was due to the above findings that I wrote to Mr. Benner, and am now here today:

To testify for the need and the requirement for the City of St. Paul to apply the requirements and standards found in Sec. 63.111, St. Paul Code of Ordinances, and to call for an engineering report on slope stability and hydrology at the location of the subject residential development.

Furthermore, I wish to call attention to Sec. 60.205.-D, and to the definition of "Development".



“Development. The construction of a new building or other structure on a zoning lot,”

“Development (river corridor district only). The making of any material change in the use...of land including, but not limited to: ...a material change in the external appearance ...of the land; a change in the intensity of use of the land;...” (please see exhibit 7).

The subject zoning lot does have a slope greater than 12 percent , and in such case the zoning administrator *shall consider* an engineering report on slope stability and hydrology, the material change in the external appearance of the land that will result, and the increased intensity of use that this development, if allowed, would experience.

The determination by Mayor Coleman’s P.E., Mr. Ryan Benson causes this engineering report on slope stability and hydrology to be both *warranted and mandatory* for the subject development.

The University of Maine has determined that adding weight to the top of a bluff can increase the risk of a landslide. Ground vibration also may locally increase the risk of a landslide. (please see Exhibit 6).

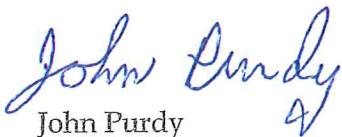
Both weight and vibration will increase with the development of this zoning lot.

Section 68.101 (b) St. Paul Code of Ordinances names two purposes:

- 1) To protect and preserve the Mississippi River Corridor as a unique and valuable resource for the benefit of health, safety and welfare of the citizens.
- 2) To prevent and mitigate the irreversible damage to the Mississippi River corridor.

The requested variance, and indeed the entire application for development of the subject zoning lot cannot be found to be in harmony with the general purpose of the above cited code until the engineering study on bluff stability and hydrology have been made a requirement of this application.

Respectfully submitted,



John Purdy  
10 Delos St. W.  
St. Paul, MN 55107

Exhibit 1

ST. PAUL

# St. Paul's Wabasha Street-West Side bluffs stairway on its last legs

A very special flight of stairs is coming down in St. Paul, perhaps as soon as today.

MAY 20, 2008 — 12:03AM

So long, green stairs.

The almost-century-old staircase that rises up 191 steps from Wabasha Street to the top of the West Side bluffs in St. Paul is on its last legs, and today might be the end.

A rainstorm a couple of weeks ago loosened a large boulder that fell from the top of the bluffs and crashed into one of the staircase's upright supports, said John Maczko, city engineer.

Workers have been trying to stabilize the staircase since, but to no avail. It's fenced off for safety.

"The best thing for it is to come down," Maczko said. Efforts to get money for more substantial rehabilitation haven't been successful, he added.

The city spends about \$16,000 yearly to maintain the stairs. About \$60,000 was put into them in the past couple of years to keep them safe, Maczko said.

Today, they're a safety hazard.

For many past and former high school athletes, the green stairs conjure burning sensations in the legs and lungs.

"It was the ideal training device," said Mayor Chris Coleman, a 15-year West Side resident. He used to load up a backpack and walk the stairs to train for mountain hikes.

People watched fireworks from it. But it also served a practical purpose: getting people from the bluffs to the flats.

The view from above gives a panoramic picture of downtown St. Paul.

At the top of the bluffs, where Hall Avenue turns into Prospect Boulevard, black letters and arrows on a white sign say: "Stairway to Wabasha."

At the top of the stairs, mounted on chain-link fencing, black letters — all capitalized — on a white sign say: "Steps closed."

"Hopefully we'll move forward quickly to get them rebuilt," Coleman said.

CHRIS HAVENS



(<http://stmedia.startribune.com/images/1stairs0520.jpg>)  
RENEE JONES SCHNEIDER, DML - STAR TRIBUNE STAR TRIBUNE

The staircase off Wabasha Street was recently damaged by a boulder that came loose during a rainstorm, rendering it unstable and...

Exhibit 2  
(p.1)

EAST METRO

# Van-sized boulder smashes into St. Paul bakery

Bakery owner Robert Dubuc wants to rebuild in a new location.

By Chao Xiong (<http://www.startribune.com/chao-xiong/10646266/>) Star Tribune

APRIL 13, 2011 — 12:43PM

Robert Dubuc thought he'd get a head start on a busy day at his West Side bakery in St. Paul last Friday, but what he found stopped all plans indefinitely: A van-sized boulder had crashed into the back of his business.

"It looked like a bomb went off back there," Dubuc said Monday.

Dubuc's now shuttered and condemned business sits at 385 Wabasha St. S. at the foot of St. Paul's limestone bluffs, where city authorities say a rockslide this large is unusual. Ricardo Cervantes, director of the city's department of safety and inspections, said the boulder is about 20 feet long and 12 feet high.

"On occasion we're going to have some rocks come out of the bluffs, but typically it's not going to land on a structure, and typically they're not this large," Cervantes said.

Dubuc believes the boulder fell sometime between midnight and 2 a.m. Friday. He arrived at the bakery about 2:15 a.m. with an extern.

At first, the two smelled gas. Further investigation revealed that the boulder had smashed through one-third of a rear wall and roof, and bent a gas pipe to the bread oven. No one was hurt.

"It's hard to think clearly right now," said Dubuc, who opened his bakery in 2008. "My whole life is wrapped up in the bakery, and other people's lives." He said he wants to rebuild — but not there.

Dubuc said he always knew there was the possibility of rockslides, but he never envisioned such damage. It's unclear what caused the boulder to fall, but Cervantes said the long winter may have weakened the boulder's hold in the bluff face.

"We understand that the bluff, like much of Mother Nature, is in change," Cervantes said.

Homes on top of the bluff were not compromised.

Dubuc was allowed back in for the first time on Monday. He gathered up some paperwork but left behind an expensive bread oven. He made sure to grab his 13-year-old sourdough starter.

"The longer it's alive, the more flavor it has," he said of the starter. "It takes time, and I really need to keep that going."

Chao Xiong • 612-270-4708 Follow Chao on Twitter: @ChaoStrib

cxiong@startribune.com

612-673-4391

ChaoStrib



Exhibit 2  
(p. 2)

385

385

Wabasha St S



Image capture: Nov 2016 © 2017 Google

St Paul, Minnesota

Street View - Nov 2016

FORMERLY Robert Dubrac's  
Bakery





Exhibit 2  
(p. 3)

Google Maps 357 Wabasha St S

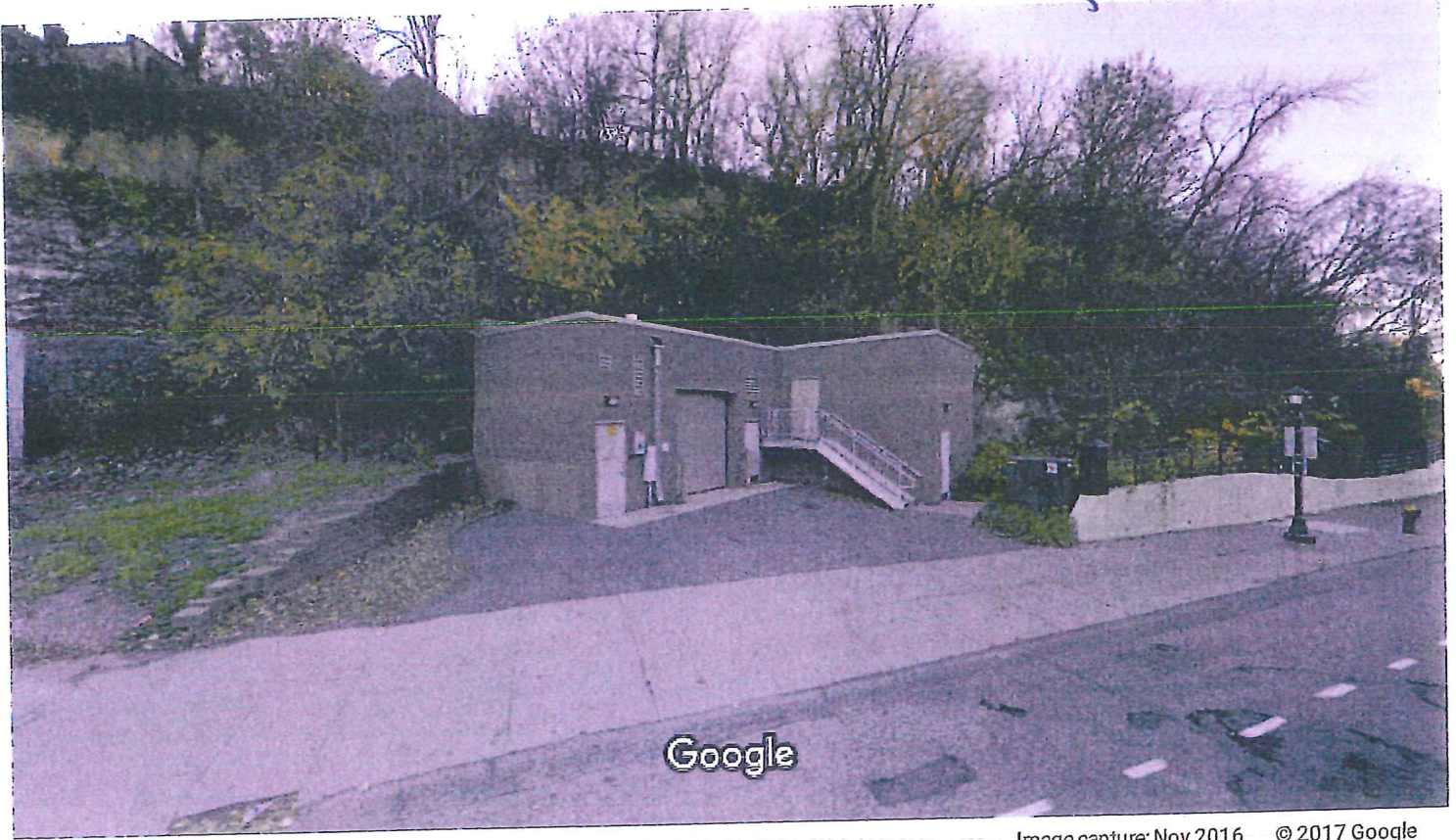


Image capture: Nov 2016 © 2017 Google

St Paul, Minnesota

Street View - Nov 2016



### EXHIBIT 3

My name is Milly Anderson, and own a business "Milly's Bakery" located at 421 Wabasha St South.

One morning around 10:30 a.m., In the month of April 2017, I was driving, as usual, from Wabasha Street toward my business "Milly's Bakery", right before the bakery space located crossing from the Taco House, I noticed a small rock coming down from the bluff, I hit my brakes, so the stone won't damage my car, as soon as I did that, I saw 2 large boulders, like 8 Ft long and maybe 3-4 Ft wide, coming after the little rock, they were flying high, I do not think those big boulders hit the railing.

I panicked and thank goodness no cars where coming on the other side of the street, so I was able to make a quick u-turn and that saved me.

I was just shaking and went into the Wabasha Caves parking lot, when I saw a guy who was walking and he stopped to watch, so I talked to him a little bit about this.

The large boulders once they hit the street, exploded all over and there was no access for cars to pass thru, for few minutes, people start moving pieces of stone, they could pass thru.

After this incident I am very scared to drive or walk thru that section of the street.



Exhibit 4  
(p. 1)

Place your ad here. Click triangle to begin.

# Investigators: Fatal rockslide was not predictable



FILE - In a May 22, 2013 file photo, an emergency worker attends to a victim brought out of a landslide area by helicopter on the West Side of St. Paul, Minn. The rockslide that killed two children on a fourth-grade field trip to Lilydale Regional Park was the result of natural causes and the city could not have predicted it, according to reports of two independent investigations released Thursday, Sept. 5, 2013. (AP Photo/The Star Tribune, Jerry Holt) MANDATORY CREDIT; ST. PAUL PIONEER PRESS OU (/ AP)

By **AMY FORLITI, Associated Press**

SEPTEMBER 5, 2013, 11:33 AM | ST. PAUL, MINN.

**A** rockslide that killed two children during a school field trip at a St. Paul park was the result of natural causes, and city officials could not have prevented or predicted the tragedy, according to findings of two investigations released Thursday.

**Mayor Chris Coleman** hired two independent investigators to examine the incident at Lilydale Regional Park. One investigation looked at what the city knew and whether the rockslide could have been

prevented. The other examined the geotechnical aspects of the slide and what caused it.

The investigators found the collapse was an "unpredictable, natural occurrence," the city said, adding it will continue to suspend permits for fossil hunting in the park while it creates a plan to keep people informed of potential risks.

"We can put up a sign. We can put up a fence. We can put up a gate. But we can't keep people from getting back into the 17 miles of wild area along the bluffs of the river in the city of St. Paul," Coleman said. "The best thing we can do is arm people with knowledge."

Lilydale Regional Park runs along the Mississippi River. It's a popular destination for fossil hunting, which requires a city permit.

Fourth-graders from Peter Hobart Elementary School in St. Louis Park were on a fossil-hunting field trip in the park on May 22 when a mass of sand and broken shale fell from a bluff overlooking the fossil beds near the East Clay Pit. Two students - 10-year-old Mohamed Fofana and 9-year-old Haysem Sani - were killed. Two others were injured.

As he announced the studies' findings, Coleman said Thursday the victims' families are in his thoughts and prayers.

"To those families, the tragedy will never end, and we need to always remember that," he said.

One investigation led by Don Lewis, the dean at Hamline University's School of Law, found the slope failure was apparently due to natural soil erosion common along the Mississippi River bluffs, aggravated by a rainy spring and foot traffic along unmarked trails. The other investigation, led by Ryan Benson of Northern Technologies, Inc., found the rockslide was a result of natural environmental changes, combined with ongoing impacts of weather on sand and shale.

Benson said there is no evidence that anything man-made triggered the rockslide. He added it's hard to predict when, where, or how big the next rockslide would be, and the city should consider similar bluff areas to be a risk.

The team's report said: "The only variable that is predictable with a high level of certainty is that slopes of this nature ... are inherently unstable, will undergo additional weathering, and are highly likely to undergo failures of varying degrees in the future."

Lewis' investigation found the city was aware that slope failures had occurred within the park and along the river's bluffs before. In May 2011, there was one failure north of the East Clay Pit, but it did not



damage people or property. Nine months later, a Parks and Recreation forestry supervisor saw erosion while ice climbing in the Fossil Ground, and reported that the hillside was at risk.

Mohamed Bah, one of Mohamed Fofana's uncles and president of the Guinea Association/Community of Minnesota, told the Star Tribune the results don't make sense, and parents wouldn't have sent their children to the park if they knew the dangers.

"If they had knowledge about the area that it was risky, why would they send vulnerable kids there?" Bah told the newspaper.

Lewis' team found that while city officials knew soil erosion could be an environmental concern, there was no evidence that they knew of unstable bluffs that posed a safety risk.

"The city did not know soil erosion posed a threat," Lewis said.

Sarah Thompson, a spokeswoman for St. Louis Park Public Schools, said the school is focusing on education, as well as recovery and healing for students.

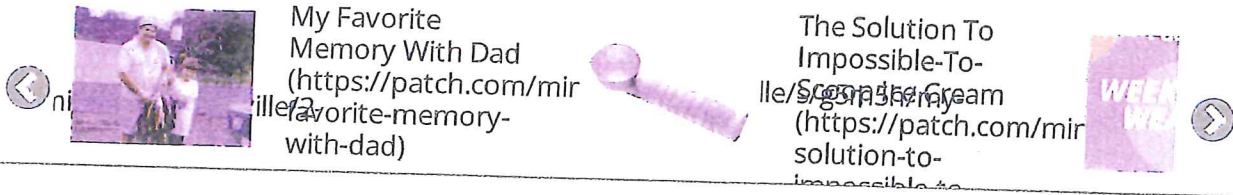
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Follow Amy Forliti on Twitter: <http://www.twitter.com/amyforliti>

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**This article is related to:** Government, Politics and Government, Public Officials

Exhibit 5  
(p. 1)



Shared from the Mendota Heights, MN Patch (/minnesota/mendotaheights) | Community Corner (/minnesota/mendotaheights/around-town)

# Mendota Heights Slope Repair Complete, Highway 13 Now Open

A stretch of Highway 13 in Mendota Heights that was closed after a landslide has reopened.

By William Bornhoft (Patch Staff) - (https://patch.com/users/william-bornhoft)  
Updated September 1, 2016 5:16 pm ET

Like 0 Share



Exhibit 5  
(p.2)



The Highway 13 slope repair project that began in 2015 is now complete, and the highway has reopened for regular traffic.

The project required the closing of Highway 13 between Wachtler Avenue and Sylvandale Road in Mendota Heights.

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The project was a result of a June 2014 landslide that happened on the east side of Highway 13, which occurred on private property. The landslide closed the highway for several days while crews cleaned off the debris.

The slope failure occurred on private property.

The property owner recently finished the repairs to the slope, which began in 2015.

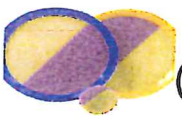
*Image via City of Mendota Heights*

*Originally published August 22, 2016.*

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(<https://patch.com/minnesota/roseville/s/g5l3a/minnesota-weekend-weather-expect-storms-and-rain>)



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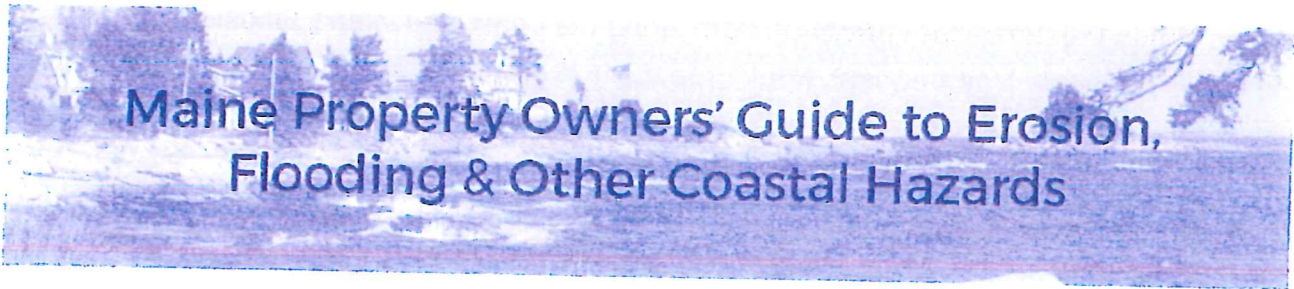


Exhibit 6  
(p. 1)



# MAINE SEA GRANT

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## Factors influencing coastal bluff stability



There are numerous, interconnected factors that influence the overall stability of a bluff, bluff erosion, and the formation of landslides. Landslides are one of the biggest hazards associated with coastal bluffs, especially high coastal bluffs made of muddy sediment. Landslides have occurred frequently enough in Maine that geologists have learned from them and identified ways to reduce risk and improve response in an emergency.

The information provided below has been developed from text used for the Maine Geological Survey's [Landslide Hazard Maps](#), and information from the [State of Washington Department of Ecology](#)

- |                         |                            |
|-------------------------|----------------------------|
| Height                  | Waves, tides and sea level |
| Sediment type           | Drainage                   |
| Slope                   | Surface water              |
| Slope aspect            | Ground water               |
| Topography              | Weathering                 |
| Vegetation              | Earthquakes                |
| Microclimate and aspect | Land use                   |

of the bluff by the elevation or slope height. >>[back to top](#)

**Slope aspect.** South-facing slopes undergo more extensive freeze/thaw cycles in winter months than slopes that face other directions. Repeated freeze-thaw cycles increase the likelihood of shallow soil slumps. >>[back to top](#)

**Topography.** Swales, gullies, or ditches can direct surface water toward or away from the bluff face and slope. They also affect the recharge of sub-surface water and groundwater. Steep-sided channels concentrate and accelerate runoff, increasing surface erosion. These features often indicate past erosion or landslides. >>[back to top](#)

**Vegetation.** The type, age, health, and abundance of vegetation growing on a bluff can offer valuable clues to determine slope stability. Even the presence of stumps and fallen trees can tell a story to a knowledgeable observer. Vegetative indicators are best interpreted in combination with soil and geological data.


- Tree trunks that are tilted or twisted in the same direction may indicate soil shift due to previous landslides or gradual surface creep.
- Curved tree trunks near the roots often indicate land movement down the face of a bluff.
- Jackstrawed trees that are jumbled in groups on sediment that slid down a slope usually indicates that a groundwater problem or slope instability caused the mass of soil and vegetation to move downslope as a single unit or block.
- Distinct lines of trees growing across a slope may indicate one of two different conditions. If the trees are young, fast-growing species such as alder or willow, they may have colonized an exposed area created by a previous landslide. The age of trees growing in this manner can be a clue to when the slide occurred. A distinct line of trees of a similar, water-loving species may indicate an area where water or groundwater seepage is perched above a layer of impervious material underlying a deposit of sandy soil. >>[back to top](#)

**Microclimate and Aspect.** The weather along Maine's diversely shaped coastline varies from cove to cove and beach to beach. Microclimates depend on local topography, aspect, and exposure to sunlight. >>[back to top](#)

**Waves, tides, and sea level.** A gradual, but ongoing rise in sea level at a rate of about an inch per decade is causing chronic erosion along the base of many bluffs. As sea level rises, wave action and coastal flooding can reach higher and farther inland and scour more sediment from a bluff. In winter, sea ice erodes tidal flats and the base of bluffs. Tides wash away eroded bluff sediment, which helps wave action move inland. Storm-driven wind, waves, and flooding can cause more extreme erosion at the base of a bluff, increase the



drains, and septic systems. Increased water below ground can weaken a bluff and lead to a landslide. Greater seepage of water out of the bluff face can also increase the risk.

Clearing of vegetation from the bluff face can lead to greater bluff erosion and a steeper bluff that is more prone to landslide. Vegetation tends to remove ground water, strengthen soil with roots, and lessen the impact of heavy rain on the bluff face. Removal of vegetation within a shoreland zone to enhance a view may require a permit from the Maine DEP and/or your city or town. 

Adding weight to the top of a bluff can increase the risk of a landslide. Saturating the ground with water also adds weight. Even ground vibration, such as well drilling or deep excavation, may locally increase the risk of a landslide.

Shoreline engineering in the form of seawalls, rip-rap, or other solid structures is sometimes used to reduce wave erosion at the toe of a bluff. In some settings, engineering can increase the rate of beach or tidal flat erosion and lower the shore profile over time. This intertidal erosion can undermine engineering and result in less physical support of the base of the bluff by natural sediment. When coastal engineering ends along a shoreline, "end effect" erosion can cause worse erosion on adjacent properties. Engineering alone cannot prevent some large landslides. In general, human activities that increase the amount or rate of natural processes may, in various ways, contribute to landslide risk.

>>back to top

Exhibit 7

## Sec. 60.205. - D.

DBH. Diameter at breast height, or the diameter in inches of a tree measured at four and one-half (4½) feet above the existing grade.

**Development.** The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**Development (river corridor district only).** The making of any material change in the use or appearance of any structure or land including, but not limited to: a reconstruction, alteration of the size, or material change in the external appearance, of a structure or the land; a change in the intensity of use of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; or the dividing of land into two (2) or more parcels.

**District.** A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this zoning code.

**Drip line.** An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

**Dwelling unit.** One (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility (stove and/or oven, refrigerator, and sink), sleeping area, and bathroom provided within the unit for the exclusive use of a single household.

(C.F. No. 10-349, § 1, 4-28-10)



TO: CITY OF SAINT PAUL BOARD OF ZONING APPEALS  
FROM: HALL LANE BLUFF HOMEOWNERS  
DATE: June 19, 2017  
RE: Opposition to Application for Zoning Variance

This letter is being written on behalf Christine Herkenratt, Kathryn Engdahl and Gordon Schwarz. We are the three homeowners living in historical home sites situated between Hall Lane and the Mississippi River Bluff on Saint Paul's West Side – 13 Hall Lane, 19 Hall Lane, and 11 Hall Lane, respectively. We respectfully submit to you our opposition to the granting of the applied-for variance. We have serious concerns that we ask you to consider carefully as you decide whether to approve this variance application.

**Procedural requirements have not been met.**

State law requires that a public hearing shall be held before any variance is approved or denied, and notice of such hearings must be at least 10 days before the hearing. Minn. Stat. §394.26, Subds. 1a and 2. The Public Hearing Notice was dated and mailed May 26<sup>th</sup> (the Friday before Memorial Day weekend), notifying property owners of a hearing June 5<sup>th</sup>. This provided notice of six calendar days (4 workdays, due to the intervening Memorial Day) – clearly a violation of the statute.

I was advised that the applicant decided to postpone the hearing two weeks in order to “submit additional information.” I asked whether the homeowners would be properly notified of the new hearing date and was told that “we don’t have to.” Thus, those homeowners who received the defective notice and who erroneously believed that they had missed the June 5<sup>th</sup> hearing, would have no opportunity to be heard.

Further, the Notice was never sent to the homeowner at 13 Hall Lane, who is directly adjacent to the subject property. Query whether the Metropolitan Council of Environmental Services (which I believe owns the lift station at about 352 Wabasha, at the bottom of the bluff directly below 17 Hall Lane) has received any notice either. If there was, indeed a failure to notify the MCES, there would appear to be an additional violation of the statutory procedural requirement.

In a June 15<sup>th</sup> email to Mr. Benner, our District 3 Planning Council (West Side Citizens Organization) President Krysten Ryba-Tures pointed out further procedural deficiencies in notification that raise significant issues of due process.

2

Finally, another irregularity is the failure to identify the owner of this property. The Applicant Andrew Zelinkas identifies his property interest as "Owner" – yet he is not the owner according to the Zoning Code definition (holder of fee simple title), §60.216. The title to this property is held by Anthony Starr, a Roseville resident who is a self-professed "flipper" of property for his own financial gain. Mr. Zelinkas' interest is merely conditional on being able to build. The application cover sheet sent out with the Notice fails to identify anywhere the actual owner, Mr. Starr.

It is at this point that the history of this Hall Lane Bluff land must be understood. For many, many years, the lots between Hall Lane and the bluff have contained three homes: 11 Hall Lane, 13 Hall Lane and 19 Hall Lane. For many, many years, two of the three houses (13 Hall Lane and 19 Hall Lane) historically have green space to the north of their property – land containing trees and gardens (see Exh. A). For many, many years there have been no "vacant lots." This longstanding history represents the "essential character of the surrounding area." It wasn't until Anthony Starr bought 13 Hall Lane, flipped the house, and then quickly severed its historical side yard for his own personal profit, that the landscaped side yard became a "vacant lot." Now, as a result of his action, you are being asked to cram two structures into a very small space – creating risks to public safety in several respects that will be discussed below. This is not within the historical or essential character of the surrounding area.

### Concerns for Neighborhood Safety

Procedural flaws and lack of transparency aside, those of us who live on the bluff and whose only access to our homes is by Hall Lane have sincere and deeply felt public safety concerns in two areas: (1) the fragility of the bluff – which has suffered three significant collapses in recent years (the most recent this spring); and (2) the impact on traffic congestion and safety of a garage opening directly onto Hall Lane with no driveway and a mere 4-



foot apron – creating a hazardous bottleneck on this 20-foot-wide alley called Hall Lane. Many of our neighbors share these concerns.

3

**The Findings in the Staff Report are not supported by the law or facts.**

The existing structures on the Hall Lane bluff lie within the River Corridor Overlay District, which was established after they were built. As the Staff Report acknowledges in “B. Site and Area Conditions,” 17 Hall Lane “is located within the River Corridor Overlay District and must comply with all standards and conditions.” The River Corridor designation signals the need for extra care in evaluating any proposed variance therein. With all due respect, the Staff Report is seriously deficient in this regard.

**D. FINDINGS:**

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

The Staff Report cites only the RT1 zoning language and fails to mention the “general purposes and intent of the zoning code.” According to §60.103 (Intent and purpose):

- The very first purpose is “**(a) To promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community.**” Through the unspeakable tragedy in spring 2013 in which a bluff collapse took the lives of two school children, Saint Paul came to grips with the imperative of taking care to prevent further such tragedy. Three collapses involving Yoerg’s bluff (the name of the bluff bordering Hall Lane) took out the historic green stairs, a bakery on Wabasha, and this spring brought a collapse that extended across the sidewalk and into Wabasha Street. Clearly, this bluff’s stability is in question – and bears serious evaluation before adding more stress in the form of excavation, utility digging, building placement, interference with large tree root systems, and changes in water distribution.
- **(g) To lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial**



**vehicles.** Hall Lane is 20 feet wide. It would qualify as an alley according to the Zoning Code (§60.202), except that the 3 houses on the bluff rely on Hall Lane as our sole means of access. The 20-foot width means that there is barely enough clearance for trucks and utility work (see Exhs. B, C and D), not to mention emergency vehicles. That is one reason each of the established homes has provided off-street parking in addition to garages to avert congestion by parking off the street (see Exhs. E and F). Commercial vehicles have space to pull off Hall Lane when servicing any of the three existing homes. The variance for 17 Hall Lane allows no such accommodation for commercial or even non-commercial vehicles. This problem will become severely exacerbated in the winter, when there already is limited space for the snow to be deposited so as not to obstruct traffic.

- **(h) To provide for safe and efficient circulation of all modes of transportation, including transit, pedestrian and bicycle traffic.** The addition and placement of a garage so close to the lane, with vehicles entering directly onto the lane, not to mention the inevitable addition of parking directly on the lane – will undermine the safe and efficient circulation of other vehicular, pedestrian and bicycle traffic.
- **(i) To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul’s existing traditional neighborhoods.** None of the homes on Hall Lane are as closely situated to neighboring buildings as would the proposed structures be.
- **(n) To prevent the overcrowding of land and undue congestion of population.** Just as noted in the Applicant’s comments – the lot is extremely small and narrow. Placing structures as proposed will cause overcrowding of land and – on the 20-foot wide road – undue congestion of traffic.

The Staff Report also fails to mention the “Intent and purpose” of the RC-4 Overlay District (§68.101), which provides:

- **(1) To protect and preserve the Mississippi River Corridor as a unique and valuable resource for the**

**benefit of the health, safety and welfare of the citizens of the city and the state;**

5

- **(2) To prevent and mitigate irreversible damage to the Mississippi River Corridor;**
- **(3) To protect and preserve the Mississippi River Corridor as an essential element in the federal, state, regional and local recreation, transportation, sewer and water systems;**
- **(4) To maintain the river corridor's value and utility for residential, commercial, industrial and public purposes;**
- **(5) To protect and preserve the Saint Paul River Corridor's biological and ecological functions;**
- **(6) To preserve and enhance the Saint Paul Mississippi River Corridor's aesthetic, cultural, scientific and historic functions.**

While the Staff Report's reference to the Code is severely limited here, the factual narrative is misleading. "There are four lots that front Hall Lane, three of which are developed with garages in front of the houses." The facts do not mention that two of the three lots have garages either facing north or south, with driveways ranging in length from 50 feet (19 Hall Lane) to 20 feet (13 Hall Lane); the only one of the garages directly facing Hall Lane is set back 17 feet – all starkly in contrast to the proposed variance. The three existing houses all provide substantial parking for additional off-street vehicles. The proposed variance has no such provision.

The Staff Report asserts that the applicant will be "preserving the bluff area." Presumably this refers only to lines on a drawing of the bluff line and the 40-foot setback. However, in reality, "preserving the bluff" is a much more complex and challenging matter. Certainly, this is a matter requiring closer scrutiny and study than simply lines on a plat drawing.

The requested variance may threaten the bluff as a vital component of the Mississippi River Corridor, and with it the health, safety and welfare of Saint Paul citizens. Not only will it not prevent or mitigate irreversible damage – but well may cause it.



The facts suggest that the variance is not in harmony with the general purposes and intent of the St. Paul Zoning Code and the Mississippi River Corridor Overlay District zoning code.

6

2. The variance is consistent with the comprehensive plan.  
The pertinent Comprehensive Plan referenced in the Staff Report is the Land Use Plan, not Housing. The cited provision (LU 3.4) stresses compatibility with the surrounding neighborhood's character and prevailing pattern of development.  
This has been discussed: the pattern of development for the homes on Hall Lane is that each allows ample space in addition to the garages to provide for vehicles parking off street. Singular among ALL of the lots on both sides of Hall Lane – the proposed variance will NOT provide such parking and by necessity will create a bottleneck on this 20-foot wide street, traffic congestion and safety hazards. This is not consistent with the comprehensive plan.
3. The applicant has established there there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.  
There is no doubt that there are practical difficulties in building on a lot that is too small to build on in light of the safety issues of bluff instability and traffic bottlenecking on a 20-foot wide lane.
4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.  
In the first place, the landowner is Anthony Starr, not Andrew Zalinkas. Mr. Starr turned a historic side yard into a "vacant lot" for his own personal profit (not out of interest in bluff preservation or concern for traffic congestion). He directly created a lot too small to build on in a way that would be compatible with the surrounding neighborhood and safe for the public.
5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.



The Staff Report speaks only to the RT1 zoning district, ignoring the RC4 Overlay zoning district. For reasons already discussed, there is significant likelihood that the proposed construction could cause irreparable harm to the fragile bluff, and thus would not be allowed in accordance with the RC4 intent and purpose.

6. The variance will not alter the essential character of the surrounding area.

The Staff Report characterizes the surrounding area simply as having "garages located in the front yard." This characterization is perfunctory and one-dimensional. The essential character of the surrounding area is that of "garages PLUS" – that is, garages plus sizeable driveways and parking provision in addition to the garages. As clearly illustrated in Exhibits E and F, the three houses have additional gravel parking areas – a 50-foot driveway at 19 Hall Lane, a 20-foot driveway at 13 Hall Lane, and at 11 Hall Lane, a 17-foot driveway and parking alongside the garage. Due to the narrow width of Hall Lane and its lack of curbing, sidewalk and shoulder, this extra accommodation within the lots on the bluff property is part of the essential character of the surrounding area.

The Board of Zoning Appeals is required to discharge your duties and exercise your powers to fulfill the objectives of the zoning code, to secure public safety and substantial justice done. §61.203(a). We hope that you take seriously your responsibilities to secure public safety and consider the equities of this landowner's conduct.

Through this process of neighbors talking with each other, sharing our genuine concerns about the degrading integrity of the River Bluff and about traffic congestion and threats to safety – a vision has begun to emerge: We believe that the best use of the land would be for us collectively to purchase the land and create a community garden – to share the vista of the river valley with the community and to offer a place of peace and contemplation.

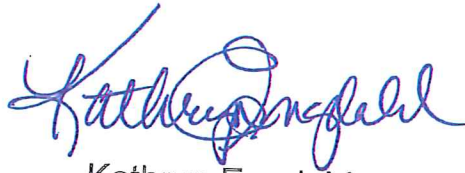
We respectfully request that the Board of Zoning Appeals deny the variance application. We thank you for your consideration.

Respectfully yours,

The Hall Lane Bluff Homeowners



Christine Herkenratt,  
13 Hall Lane



Kathryn Engdahl  
19 Hall Lane



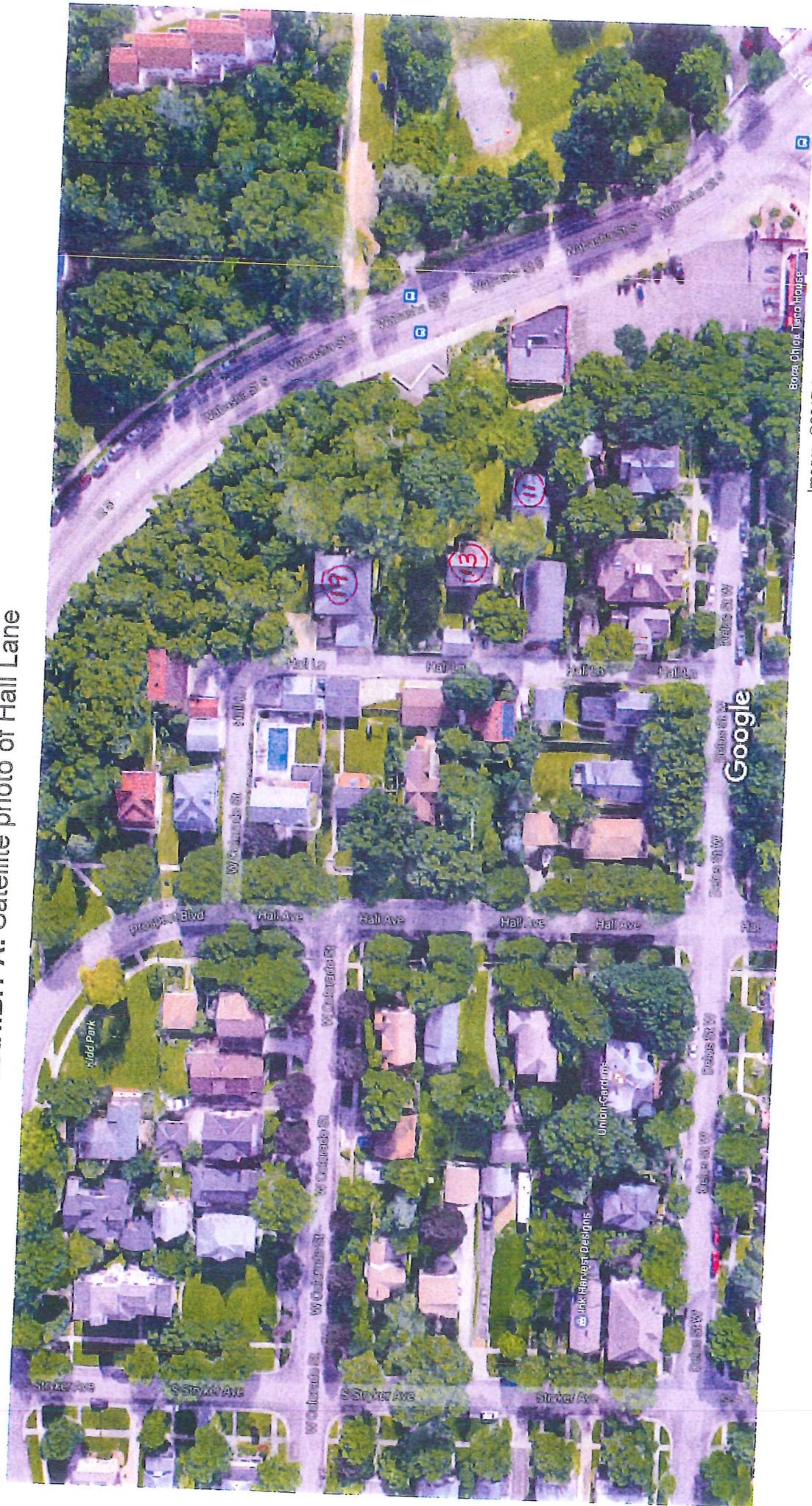
Gordon Schwarz  
11 Hall Lane



Opposition by Hall Lane Bluff Homeowners  
June 19, 2017



EXHIBIT A: Satellite photo of Hall Lane



Imagery ©2017 Google, Map data ©2017 Google 50 ft



Variance Application #17-040587  
Opposition by Hall Lane Bluff Homeowners  
June 19, 2017

**EXHIBIT B:** Garbage truck – 13 Hall Lane garage on left





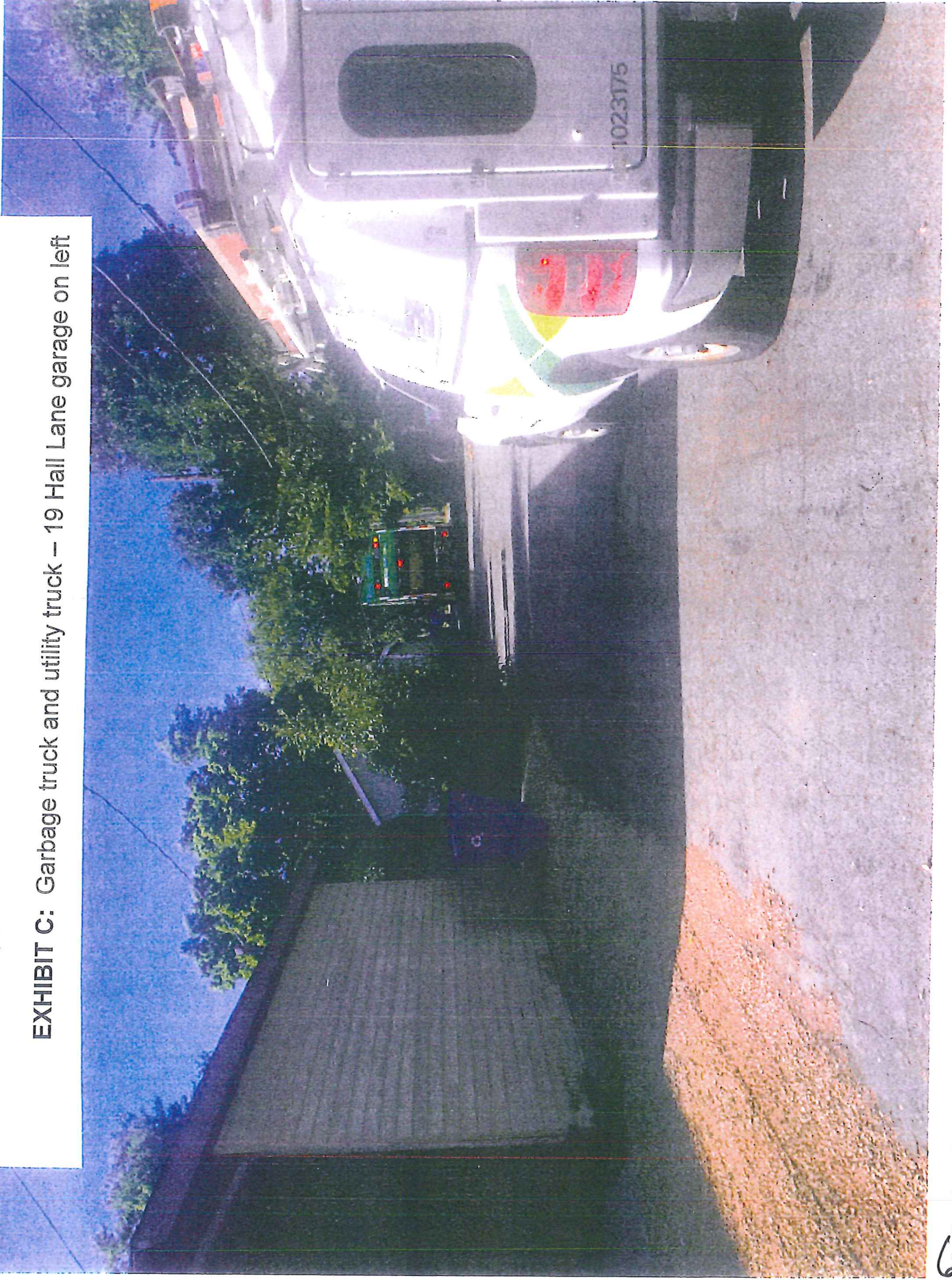
6/19/2017

PERMITS APPLICATION # 17-040587

Opposition by Hall Lane Bluff Homeowners

June 19, 2017

**EXHIBIT C:** Garbage truck and utility truck – 19 Hall Lane garage on left





Variance Application #17-040587  
Opposition by Hall Lane Bluff Homeowners  
June 19, 2017

**EXHIBIT D:** Utility truck – 19 Hall Lane driveway on right





Application # 17-040587  
Opposition by Hall Lane Bluff Homeowners  
June 19, 2017

Google Maps 18 Hall Ln



St Paul, Minnesota  
Street View - Aug 2014

Image capture: Aug 2014 © 2017 C





**EXHIBIT F: Driveway at 13 Hall Lane & additional offstreet parking  
at 11 Hall Lane (in addition to the 17 foot driveway)**



St Paul, Minnesota

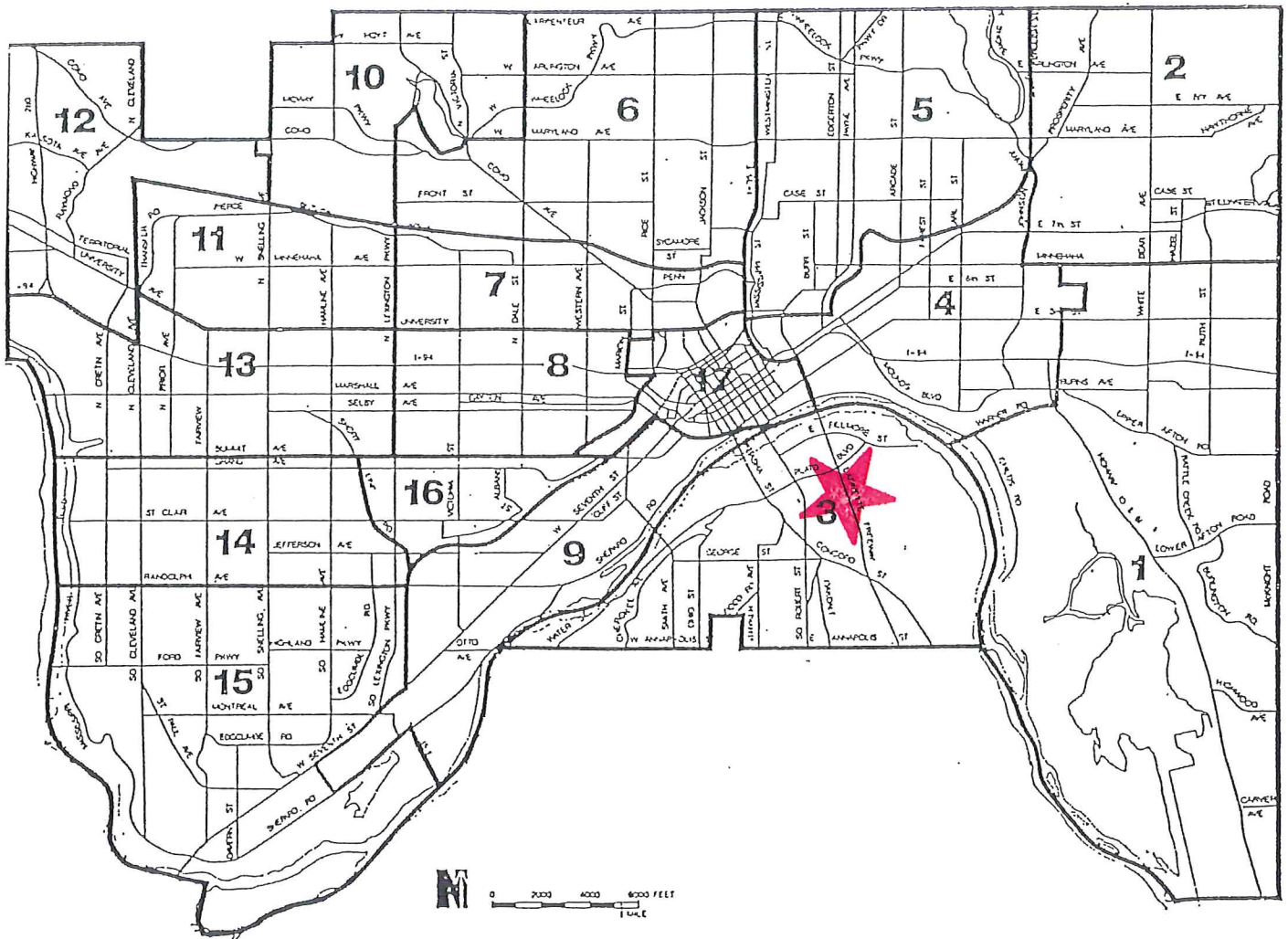
Street View - Aug 2014

Image capture: Aug 2014 © 2017

4







CITIZEN PARTICIPATION PLANNING DISTRICTS

1. SUNRAY-BATTLECREEK-HIGHWOOD
2. HAZEL PARK HADEN-PROSPERITY HILLCREST
3. WEST SIDE
4. DAYTON'S BLUFF
5. PAYNE-PHALEN
6. NORTH END
7. THOMAS-DALE
8. SUMMIT-UNIVERSITY
9. WEST SEVENTH
10. COMO
11. HAMLIN-MIDWAY
12. ST. ANTHONY PARK
13. MERRIAM PARK-LEXINGTON HAMLIN-SNELLING HAMLIN
14. MACALESTER GROVELAND
15. HIGHLAND
16. SUMMIT HILL
17. DOWNTOWN

ZONING FILE 17-040587