RLH OA 24-10

APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

RECEIVED
SEP 30 2024
CITY CLERK

310 City Hall, 15 W. Kellogg Blvd.
Saint Paul, Minnesota 55102
Telephone: (651) 266-8585

We need the following to process your appeal:

- [x] $25 filing fee (non-refundable) (payable to the City of Saint Paul)(if cash: receipt number_____)
- [x] Copy of the City-issued orders/letter being appealed
- [x] Attachments you may wish to include
- [x] This appeal form completed
- ☐ Walk-In *OR* [x] Mail-In

for abatement orders only: ☐ Email *OR* ☐ Fax

HEARING DATE & TIME
(provided by Legislative Hearing Office)
Tuesday, October 8, 2024
Location of Hearing:
☐ Telephone: *you will be called between*
_____ & _____
[x] In person *(Room 330 City Hall)* at: 3:00 P.M.
(required for all Fire C of O revocation & vacate; Condemnation orders)

Address Being Appealed:

Number & Street: 63 Arlington Ave E City: St. Paul State: MN Zip: 55401

Appellant/Applicant: Xcel Energy / Brian Sullivan Email brian.e.sullivan@xcelenergy.com

Phone Numbers: Business 612-216-8083 Residence _____ Cell 612-366-0234

Signature: B Sulli Date: 9/26/24

Name of Owner (if other than Appellant): _____

Mailing Address if Not Appellant's: Xcel Energy, 414 Nicollet Mall, 6th Floor, Minneapolis, MN 55401

Phone Numbers: Business 612-216-8083 Residence _____ Cell 612-366-0234

What Is Being Appealed and Why? *Attachments Are Acceptable*

- ☐ **Vacate Order/Condemnation/ Revocation of Fire C of O**
- ☐ **Summary/Vehicle Abatement**
- ☐ **Fire C of O Deficiency List/Correction**
- ☐ **Code Enforcement Correction Notice**
- ☐ **Vacant Building Registration**
- ■ **Other** (Fence Variance, Code Compliance, etc.)

Xcel is requesting to construct a 10' tall chian link fence to secure a natural gas regulator station. Xcel Energy has adopted new security standards for our facilities to address increased threats to essential service facilities around the nation.

CITY OF ST. PAUL

DEPARTMENT OF SAFETY AND INSPECTIONS
375 JACKSON STREET, SUITE 220
ST. PAUL, MINNESOTA 55101-1806

REQUEST FOR FENCE VARIANCE
$85.00

Visit our Web Site at www.stpaul.gov/dsi

24-001913

Effective: 02/25/2023

ADDRESS OF VARIANCE:	63 Arlington Ave, Saint Paul, MN 55104		
OWNER ADDRESS:	414 Nicollet Mall, Minneapolis, MN 55401		
CONTRACTOR ADDRESS:	414 Nicollet Mall		
CITY: Minneapolis	STATE: MN	ZIP: 55401	
PHONE: 612-216-8083	FAX:	EMAIL: brian.e.sullivan@xcelenergy.com	

FENCE DETAILS REQUIRED (A site plan indicating the location of the fence must be provided with this application)

Proposed length of fence (total lineal feet)	Proposed height of fence	Will the fence be erected on a corner lot?
Length of Fence: 250 ft	Feet: 10 Inches: _____	Yes _____ No X

Type of Fence: X Non-Obscuring Fence _____ Privacy Fence _____ Barbed Wire Fence

Fence Location: X Perimeter of Entire Yard _____ Front Yard Only _____ Rear or Side Yard Only

Sec. 33.07. Fences--Requirements.

Variances. A variance of the fence height regulations may be granted if, after investigation by the building official, it is found that site, or terrain, or nuisance animal conditions warrant a waiver of the height restrictions.

The property on which the fence is proposed satisfies the variance criteria (underlined in preceding box) for the following reason(s):
Check at least one item below and state the reason(s) you believe the property qualifies for variance consideration

X SITE CONDITIONS _____ TERRAIN CONDITIONS _____ NUISANCE ANIMAL CONDITIONS

REASON FOR VARIANCE REQUEST:
We are plan to upgrade the existing fence to a 10' tall 9 gauge fence for security purposes. Due to increased cyber and physical security threats to our facilities, Xcel has adopted new security standards. The site is a gas distribution center and due to the nature of this essential service, a 10 ft fence would provide added safety and security tp prevent unlawful entry and petential destruction of property.

INSPECTORS OBSERVATIONS: Request does not fall under either of the 3 conditions. Please see appeal process below

INSPECTORS NAME: Stephen VBJ Phone: 651-266-9021

_____ **APPROVED** Date: 7/31/24 Building Official: Steve VBJ Phone: 651-266-9021

X **DENIED** (This decision may be appealed to the legislative hearing officer by calling 651-266-8560.)

RETURN SIGNED RECOMMENDATION TO: _____ **AT THE FRONT COUNTER.**

****Effective April 3, 2021, a 2.49% service fee will be charged for all credit or debit card transactions and will appear as a separate transaction on your card statement. This fee is charged by the service provider the Department of Safety and Inspections uses to handle credit card transactions. The City will not receive any of the service fees.****

Signature of Cardholder (required for all charges): Bri Sulli

Expiration Date:

[redacted]

To: John Caldwell

RECEIPT

Payment #: 1693239
Payment Date: July 25, 2024

CITY OF SAINT PAUL

Department of Safety & Inspections
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
Phone: 651-266-8989
Fax: 651-266-9124
www.stpaul.gov/dsi

Paid By: XCEL ENERGY
414 NICOLLECT MALL
MINNEAPOLIS MN 55401
USA

PRIM: 612-216-8083

Amount Paid: $85.00

Payment Type: CREDIT

Transaction Description

Project Location: 63 ARLINGTON AVE E
ST PAUL MN 55117

24-061913 **TYPE: FENCE PERMIT**

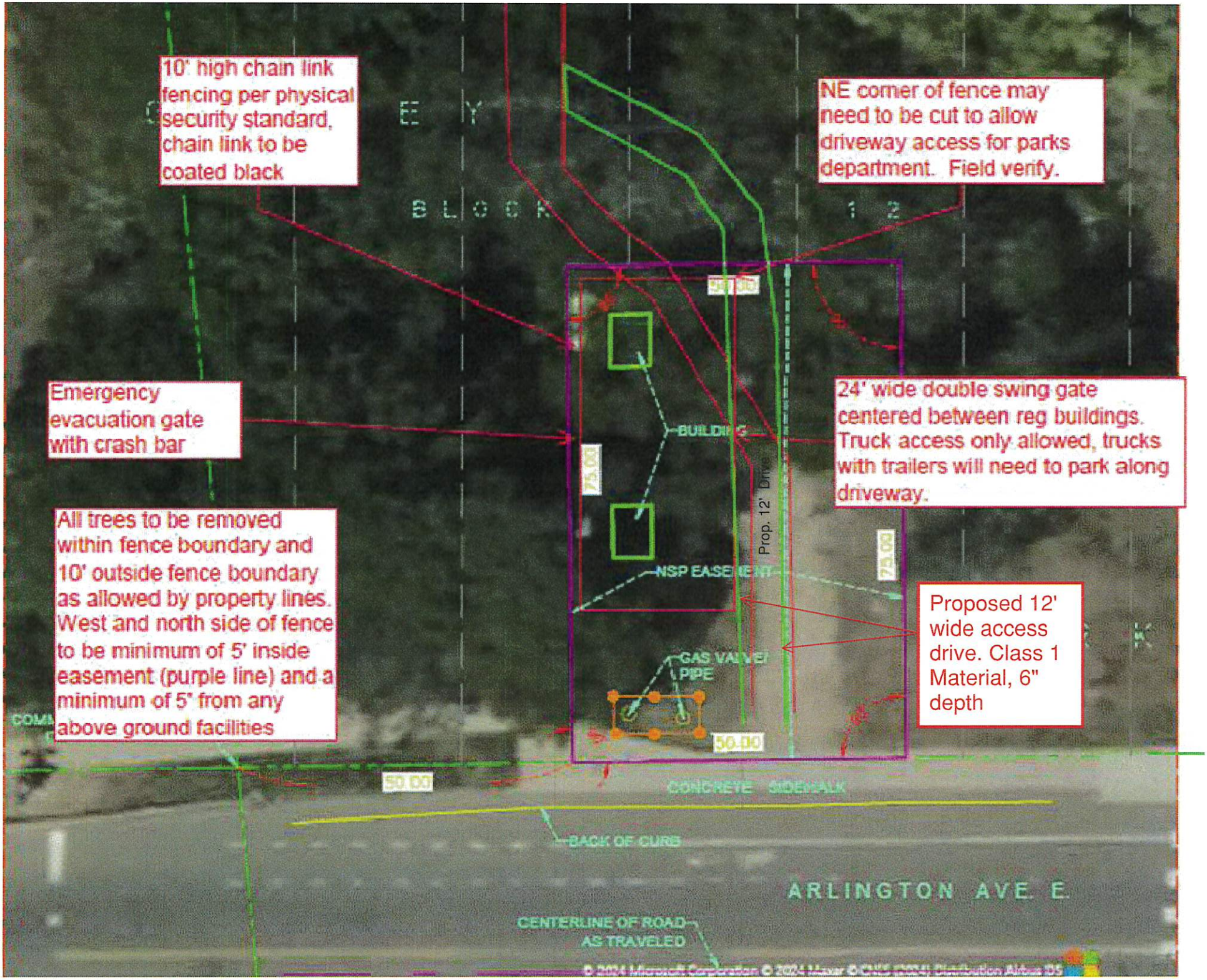
WE ARE PLAN TO UPGRADE THE EXISTING FENCE TO A 10' TALL 9 GAUGE FENCE FOR SECURITY PURPOSES. DUE TO INCREASED CYBER AND PHYSICAL SECURITY THREATS TO OUR FACILITIES, XCEL HAS ADOPTED NEW SECURITY STANDARDS. THE SITE IS A GAS DISTRIBUTION CENTER AND DUE TO THE NATURE OF THIS ESSENTIAL SERVICE, A 10 FT FENCE WOULD PROVIDE ADDED SAFETY AND SECURITY TO PREVENT UNLAWFUL ENTRY AND POTENTIAL DESTRUCTION OF PROPERTY.

SUB TYPE: FENCE VARIANCE **WORK TYPE: COMMERCIAL**

Pool Fence	No	Application Method	Email
Date Received	Jul 10, 2024		

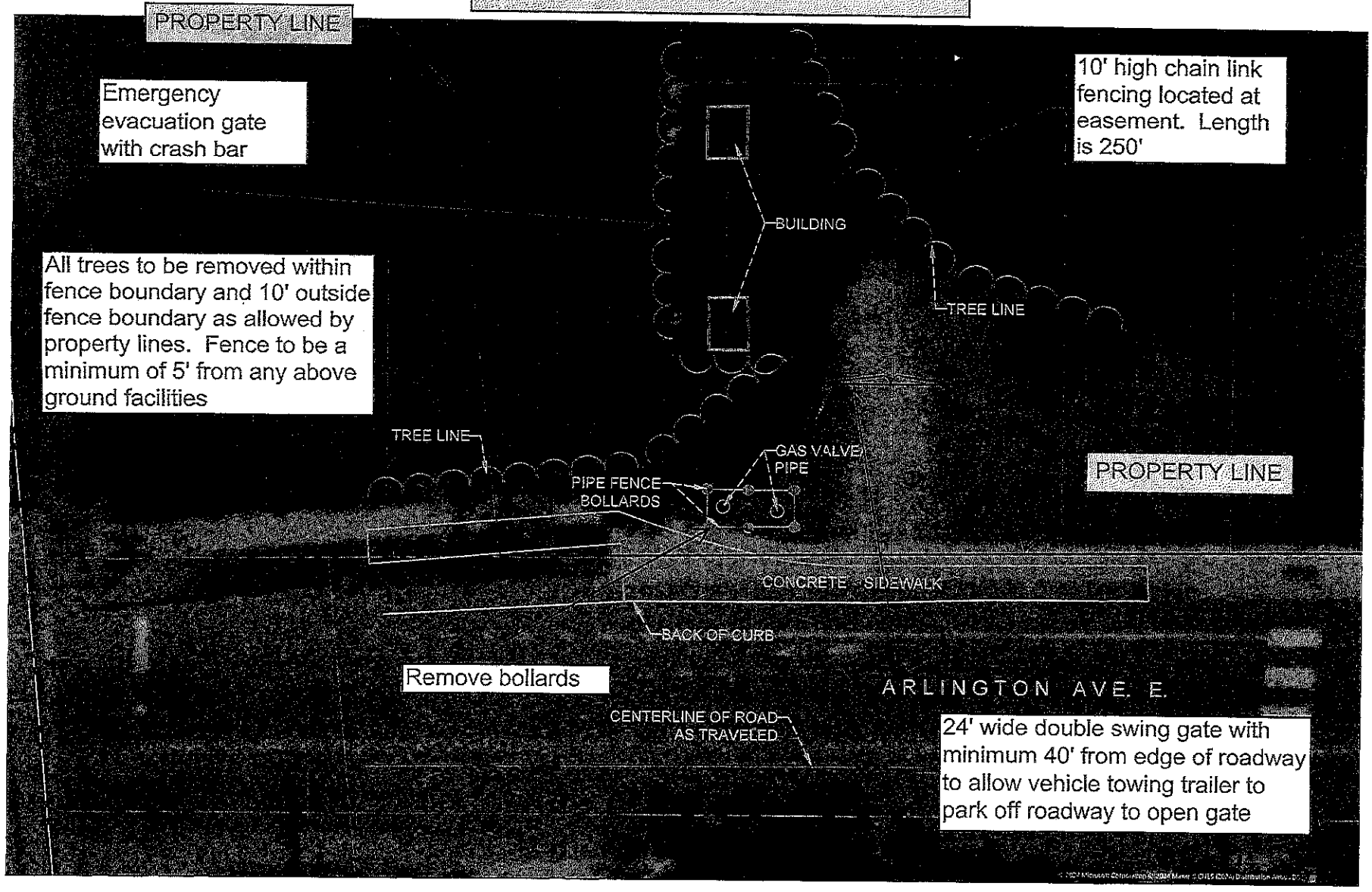
FEES

Fence Variance	$ 85.00
TOTAL	$ 85.00


10' high chain link fencing per physical security standard, chain link to be coated black
NE corner of fence may need to be cut to allow driveway access for parks department. Field verify.
Emergency evacuation gate with crash bar
24' wide double swing gate centered between reg buildings. Truck access only allowed, trucks with trailers will need to park along driveway.
All trees to be removed within fence boundary and 10' outside fence boundary as allowed by property lines. West and north side of fence to be minimum of 5' inside easement (purple line) and a minimum of 5" from any above ground facilities
Proposed 12' wide access drive. Class 1 Material, 6" depth
BLOCK
BUILDING
NSP EASEMENT
Prop. 12' Drive
75.00
50.00
CONCRETE SIDEWALK
BACK OF CURB
ARLINGTON AVE E
CENTERLINE OF ROAD AS TRAVELED

PID NO.: 192922240035

ADDRESS: 63 ARLINGTON AVE E.
ST. PAUL, MN 55117



K:\SURVEY\MN\GAS\St. Paul\24080\CAD\24080.dwg

Sullivan, Brian E

From: Shawn O'Keefe <shawn.okeefe@ci.stpaul.mn.us>
Sent: Monday, September 9, 2024 2:51 PM
To: Sullivan, Brian E
Cc: Matthew Graybar; Robert Smith; Juan Ortiz; Richard Ekobena; Patrick G Murphy; Aaron Hass; Melissa Doody; Wishard, Jessica; Gabriel, Sydney; Mahowald, Jason J; Bruce Engelbrekt
Subject: Arlington Ave E Fence Permit (63 Arlington Ave E)

Some people who received this message don't often get email from shawn.okeefe@ci.stpaul.mn.us. Learn why this is important

EXTERNAL - STOP & THINK before opening links and attachments.

Onsite meeting Thu. 8/29, Brian Sullivan, Xcel Energy and Shawn O'Keefe, Jeff Strobel, City of Saint Paul.

Xcel Energy agrees to revise fence submittal. Sewer Utility has no further objections to the Xcel Energy proposed fence, after submittal is revised to include:

- A 45-degree cut on the northeast corner of the fence to facilitate city access to the Arlington-Jackson stormwater pond.
- Grading of a vehicle and equipment access path that is located to the north of the eastern fence line. The access path should be at least 12-ft in width.
- Removal of tree stumps in the access path.
- Placement of aggregate surfacing for the access path. Material used should be surface aggregate class 1, minimum of 6-in thick, and conforming to MnDOT spec 3138 Aggregate for Surface and Base Courses.

Next steps based review of earlier emails appears to be an Xcel Energy submittal of revised fence plan for review by City Real Estate and DSI.

Shawn O'Keefe
651-266-9840

Sullivan, Brian E

From: Bruce Engelbrekt <bruce.engelbrekt@ci.stpaul.mn.us>
Sent: Thursday, August 1, 2024 3:09 PM
To: Melissa Doody; Sullivan, Brian E
Cc: Matthew Graybar; Gabriel, Sydney; Robert Smith; Juan Ortiz; Richard Ekobena; Patrick G Murphy; Aaron Hass; Shawn O'Keefe
Subject: RE: Arlington Ave E Fence Permit (63 Arlington Ave E)
Attachments: Doc 3129279.NSP.ease at PWPond.GurneyPk.pdf

Some people who received this message don't often get email from bruce.engelbrekt@ci.stpaul.mn.us. Learn why this is important

EXTERNAL - STOP & THINK before opening links and attachments.

Melissa and Brian,

Real Estate looked into the property rights and found the attached easement document from 1999. The City owns the property and granted Xcel (NSP) an easement for the regulator station and appurtenances (including fencing). Looking more closely at Xcel's drawings, we agree with the easement boundaries Xcel depicted, and it appears the proposed fence would be located within the easement area.

Public Works is certainly welcome to weigh in on Xcel's request to construct the fence, but Real Estate believes the easement gives Xcel the right to do so as long as they construct it within the existing easement area. The only outstanding issue is whether DSI will allow the fence to be built.

Bruce

From: Bruce Engelbrekt
Sent: Thursday, August 1, 2024 11:02 AM
To: Melissa Doody <Melissa.Doody@ci.stpaul.mn.us>; Sullivan, Brian E <Brian.E.Sullivan@xcelenergy.com>
Cc: Matthew Graybar <Matthew.Graybar@ci.stpaul.mn.us>; Gabriel, Sydney <Sydney.Gabriel@xcelenergy.com>; Robert Smith <robert.smith@ci.stpaul.mn.us>; Juan Ortiz <juan.ortiz@ci.stpaul.mn.us>; Richard Ekobena <richard.ekobena@ci.stpaul.mn.us>; Patrick G Murphy <patrick.g.murphy@ci.stpaul.mn.us>; Aaron Hass <aaron.hass@ci.stpaul.mn.us>; Shawn O'Keefe <shawn.okeefe@ci.stpaul.mn.us>
Subject: RE: Arlington Ave E Fence Permit (63 Arlington Ave E)

Melissa and Brian,

Let me give you a sense of the questions our Real Estate Section of the City's Office of Financial Services (not Public Works) is considering in connection with Xcel's fence request on city-owned land under the jurisdiction of Public Works.

1) The City needs to verify that we own the property, which we fully believe we do, but we want to be sure. Juan Ortiz from our Real Estate office is doing that now.

2) More important, the City needs to be clear whether Xcel already has an easement for the regulator station. If so, we would take that easement into account in considering whether to expand Xcel's easement footprint on the site. Juan is also looking for an easement, but we ask Xcel to check its records as well and send us any information regarding an existing easement.

3) While Real Estate is checking on property rights, another key step is to ask staff from our Public Works/Sewer Division to consider the fence request. The property is presumably being used for stormwater retention

purposes and the regulator station is on the perimeter of the site, so maybe erection of a fence around the station is not an issue, but our Public Works staff need to say for sure. I've copied them in this reply and included the drawings Xcel provide to our DSI staff. If they have any questions about the fence location or fence materials, they should reach out to Xcel directly.

4) If Xcel has easement rights to place the fence where they want, then the only issue is approval of a fence permit and/or fence variance. If Xcel does not have easement rights and Public Works does not wish to allow the construction of a fence on the property, it seems Xcel's fence request will not be approved. But if Xcel does not have easement rights and Public Works is comfortable with the fence construction, then Real Estate will need to work with Xcel to provide Xcel the necessary property rights, which in Real Estate's view should include the following steps:
    a. Legal description and depiction of the easement area
    b. Determination of the length of the easement term (presumably perpetual)
    c. Valuation of the easement area
    d. Codification of the easement on a written document signed by the City and approved by the City Council
    e. Payment for the easement rights by Xcel

Let me know if you have any questions about the above items. In the meantime, I would ask our Public Works staff to consider the request and reply to this group. Likewise, Real Estate staff will be looking into existing or needed property rights and get back to everyone.

Thanks,

Bruce

Bruce Engelbrekt
Real Estate Manager
Office of Financial Services – Real Estate Section
25 W. 4th St., Ste. 1000
Saint Paul, MN 55102
651-266-8854 (voice direct)
bruce.engelbrekt@ci.stpaul.mn.us

From: Melissa Doody <Melissa.Doody@ci.stpaul.mn.us>
Sent: Thursday, August 1, 2024 9:11 AM
To: Sullivan, Brian E <Brian.E.Sullivan@xcelenergy.com>
Cc: Matthew Graybar <Matthew.Graybar@ci.stpaul.mn.us>; Gabriel, Sydney <Sydney.Gabriel@xcelenergy.com>; Bruce Engelbrekt <bruce.engelbrekt@ci.stpaul.mn.us>
Subject: RE: Arlington Ave E Fence Permit (63 Arlington Ave E)

HI Brian,

I saw that the building official denied the fence variance – which makes sense, he denies most of them because he sees the power to approve/deny them as being up to City Council/the Legislative Hearing Officer (LHO). You can appeal his denial to the LHO of course, but first I would caution against going too far with the variance before we've got some other pieces figured out.

We've been in some discussions with the Real Estate Division in Public Works. We can't approve of a permit until we have their OK – I've cc'd Bruce Engelbrekt who works in that division. He mentioned he may need some time to research the property to figure things out with regards to property rights, easement(s), etc., since it's Public Work's land, we need their OK.

I just wanted to let you know before you were proceeding with any next steps with the height variance, so as not to give you the impression the variance is all we need for this.

Thanks,

Melissa Doody
Plan Examiner
She/Her
Department of Safety and Inspections
375 Jackson St, Suite 220
Saint Paul, MN 55101
P: 651-266-9071
Email: melissa.doody@ci.stpaul.mn.us
www.StPaul.gov

SAINT PAUL
MINNESOTA

From: Sullivan, Brian E <Brian.E.Sullivan@xcelenergy.com>
Sent: Wednesday, July 10, 2024 5:18 PM
To: Melissa Doody <Melissa.Doody@ci.stpaul.mn.us>
Cc: Matthew Graybar <Matthew.Graybar@ci.stpaul.mn.us>; Gabriel, Sydney <Sydney.Gabriel@xcelenergy.com>
Subject: RE: Arlington Ave E Fence Permit (63 Arlington Ave E)

Think Before You Click: This email originated **outside** our organization.

Hi Melissa
Please find attached for your review variance application for a 10' tall fence around the regulator station located on Arlington Ave. I believe I have addressed your comments below in red

Thank you for your assistance

Brian Sullivan
Siting and Land Rights
Xcel Energy I Responsible by Nature
P: 612-216-8083 C: 612.366.0234

From: Melissa Doody <Melissa.Doody@ci.stpaul.mn.us>
Sent: Friday, May 31, 2024 3:18 PM
To: Sullivan, Brian E <Brian.E.Sullivan@xcelenergy.com>

Cc: Matthew Graybar <Matthew.Graybar@ci.stpaul.mn.us>
Subject: Arlington Ave E Fence Permit (63 Arlington Ave E)

You don't often get email from melissa.doody@ci.stpaul.mn.us. Learn why this is important

EXTERNAL - STOP & THINK before opening links and attachments.

Hi Brian,

We have an application for a 10' tall chainlink fence around this gas regulator. A few things before we proceed with review:

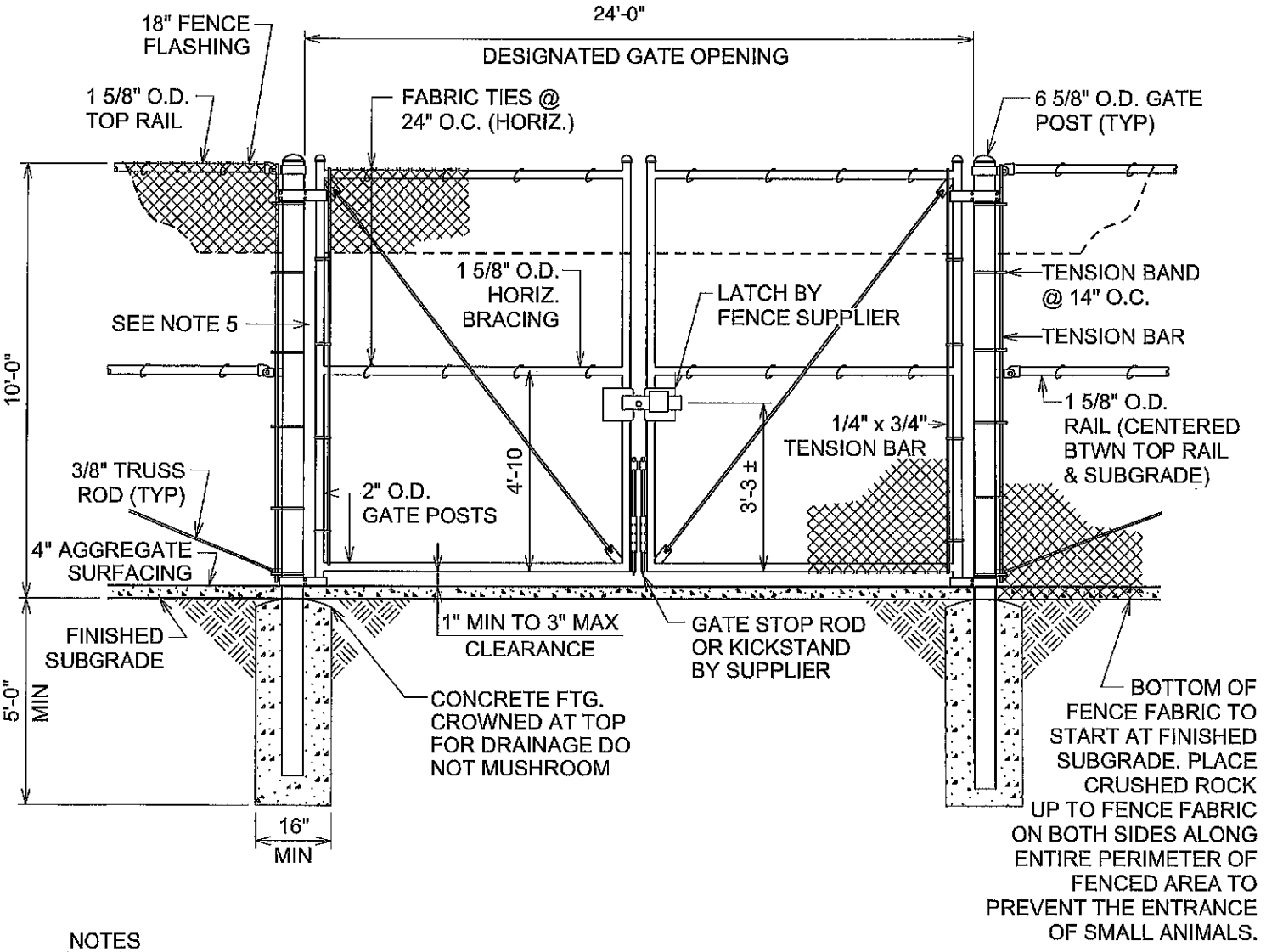
- I believe the address we're going to call this one is 63 Arlington Ave E, for your reference (we need to have an address for every permit and 63 Arlington is the one tied to that PIN number in our system). Noted
- This property is zoned H1 Residential. Section 33.07(c) states that "Fences for nonresidential uses in residential zoning districts must not exceed eight (8) feet in height" – so a 10 foot high fence would require a Fence Variance
    - If you want to proceed with the fence variance, please fill out and submit the fence variance form (not an 85.00 fee will be charged up front)
    - If you'd rather reduce the height to 8 feet to void the variance, please let me know
- Because this fence is over 7' in height it is a fence permit (same as a building permit) and not just a plan review. So when it's over 7 feet we then need to know and review more information on how the fence is constructed with regards to footings (depth, size, spacing) posts, gate, etc. – please provide more info on how the fence is to be constructed Details of the fence are attached.
- What style of gate is the 24' wide gate? Sliding, double swing, etc. - How does it open? We'd like to see this on the site plan to verify the gate won't swing especially over the property line, but also will the gate swing over the easement? The gate is a swing gate and can swing inwards and outwards
- Can you label the lineal feet of fencing on the site plan? I'm getting that it seems like it'd be more around 250-275 linear feet of fence rather than 375' but that's just me estimating based off a satellite image of the lot. The fence is 250' in length

Thanks,

Melissa Doody
Plan Examiner
She/Her
Department of Safety and Inspections
375 Jackson St, Suite 220
Saint Paul, MN 55101
P: 651-266-9071
Email: melissa.doody@ci.stpaul.mn.us
www.StPaul.gov

SAINT PAUL
MINNESOTA

NL-6-1B.DGN



NOTES

1. FENCE DESIGNED FOR: LC#1 40 MPH WIND, 1" ICE
   LC#2 90 MPH WIND, NO ICE
   ENGINEERING CALCS NX-272391
2. FENCE FABRIC TO BE 11 GAUGE, 1" GALVANIZED DIAMOND MESH CHAIN LINK STYLE
3. ALL GATE CONNECTIONS ARE WELDED
4. ALL GATES DESIGNED TO OPEN OUTWARD
5. PIPE OR TENSION BAR INSTALLED TO FILL GAP BETWEEN THE GATE POST & GATE
6. FENCE FLASHING TO BE 24 GA W/ 1" HEM TOP & BOTTOM MOUNTED OUTSIDE OF FENCE ON TOP
7. ALL PIPE MATERIAL IS SCH. 40

THIS MAP/DOCUMENT IS A TOOL TO ASSIST EMPLOYEES IN THE PERFORMANCE OF THEIR JOBS.YOUR PERSONAL SAFETY IS PROVIDED FOR BY USING SAFETY PRACTICES, PROCEDURES AND EQUIPMENT AS DESCRIBED IN THE SAFETY TRAINING PROGRAMS, MANUALS AND SPARS.

INTERNAL INFORMATION: DO NOT COPY OR DISTRIBUTE WITHOUT EXPRESS WRITTEN CONSENT FROM XCEL ENERGY

NSP STD DETAIL

FENCE DETAIL

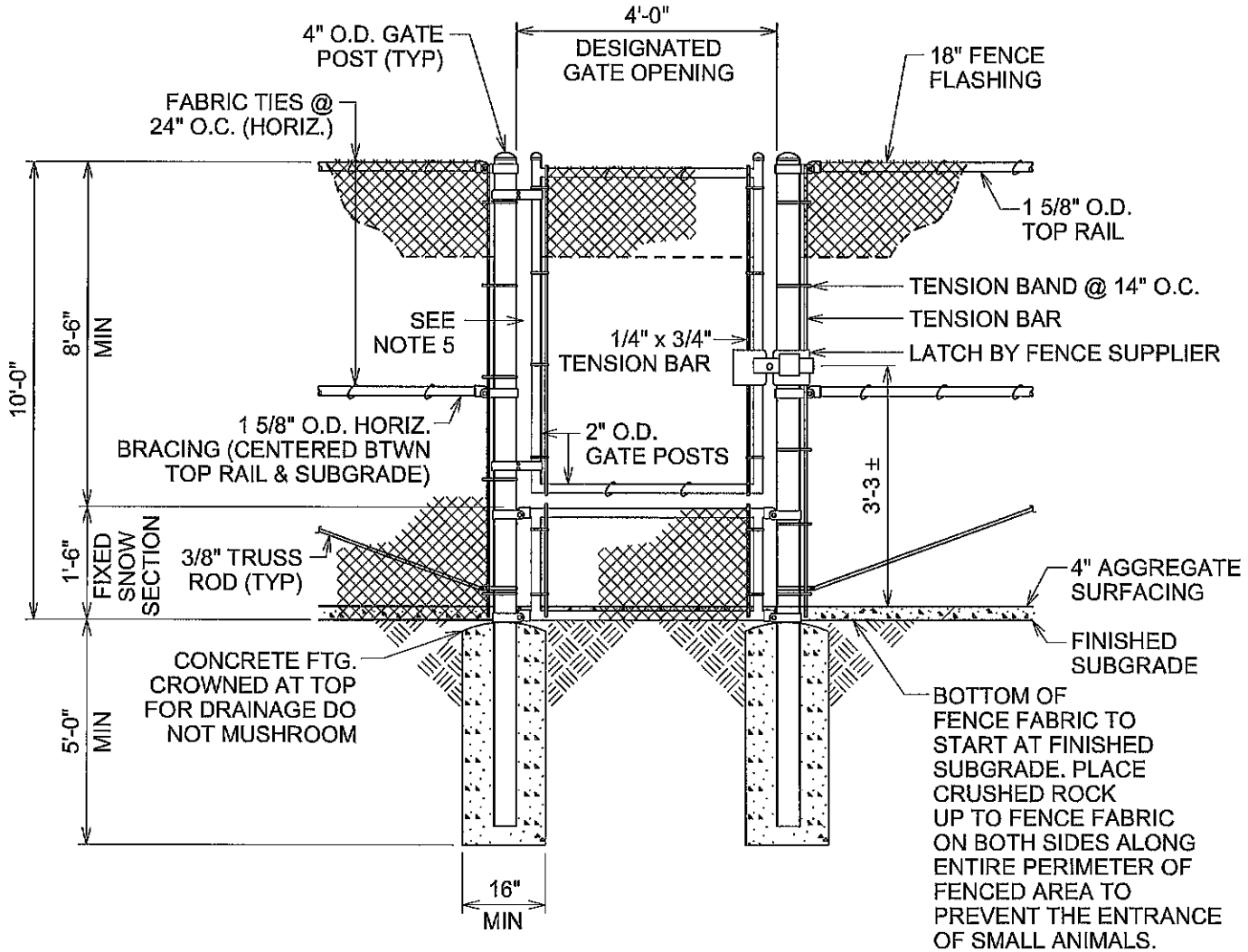
DRIVE GATE 20'-0" (10'-0" HIGH)

Xcel Energy®	NL-6-1B	SCALE NONE	REV 01

8/2/2017 10:29:32 AM

NL-6-2B.DGN

A MINIMUM 4'-0 BRACED FENCE SECTION MUST BE PLACED BETWEEN WALK GATE AND FENCE CORNER OR DRIVE GATE



NOTES

1. FENCE DESIGNED FOR: LC#1 40 MPH WIND, 1" ICE
   LC#2 90 MPH WIND, NO ICE
   ENGINEERING CALCS NX- 272391
2. FENCE FABRIC TO BE 11 GAUGE 1" GALVANIZED DIAMOND MESH CHAIN LINK STYLE
3. ALL GATE CONNECTIONS ARE WELDED
4. ALL GATES DESIGNED TO OPEN 180° OUTWARD
5. PIPE OR TENSION BAR INSTALLED TO FILL GAP BETWEEN THE GATE POST & GATE
6. FENCE FLASHING TO BE 24 GA W/ 1" HEM TOP & BOTTOM MOUNTED OUTSIDE OF FENCE ON TOP
7. ALL PIPE MATERIAL IS SCH. 40

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NSP STD DETAIL

FENCE DETAIL

SNOW WALK GATE 4'-0" (10'-0" HIGH)

Xcel Energy®	NL-6-2B	SCALE NONE	REV 01

01/12/2011 2:00:29 PM