



City Council Memorandum

To: Mayor Fasbender & City Councilmembers

From: John Hinzman, Community Development Director

Date: January 22, 2019

Item: Authorize Signature – License to Encroach – Merriman – 743 Bohlken Drive

Council Action Requested:

Authorize signature of the attached License to Encroach Agreement to allow partial construction of a pool within a drainage and utility easement on property owned by Alicia L. Merriman located at 743 Bohlken Drive. A simple Council majority is necessary for action.

Background Information:

The subject property is encumbered by a large drainage and utility easement across the backyard prohibiting construction of the proposed pool. City Staff has reviewed the proposed use and supports partial construction of the pool within the easement. The License to Encroach would allow for the proposed use only, and would prohibit any future encroachments within the easement. It would also hold the City harmless from any future claims and demands for use of that portion of the easement.

Financial Impact:

Issuance of the license will allow for a property improvement and increase in valuation.

Advisory Commission Discussion:

N\A

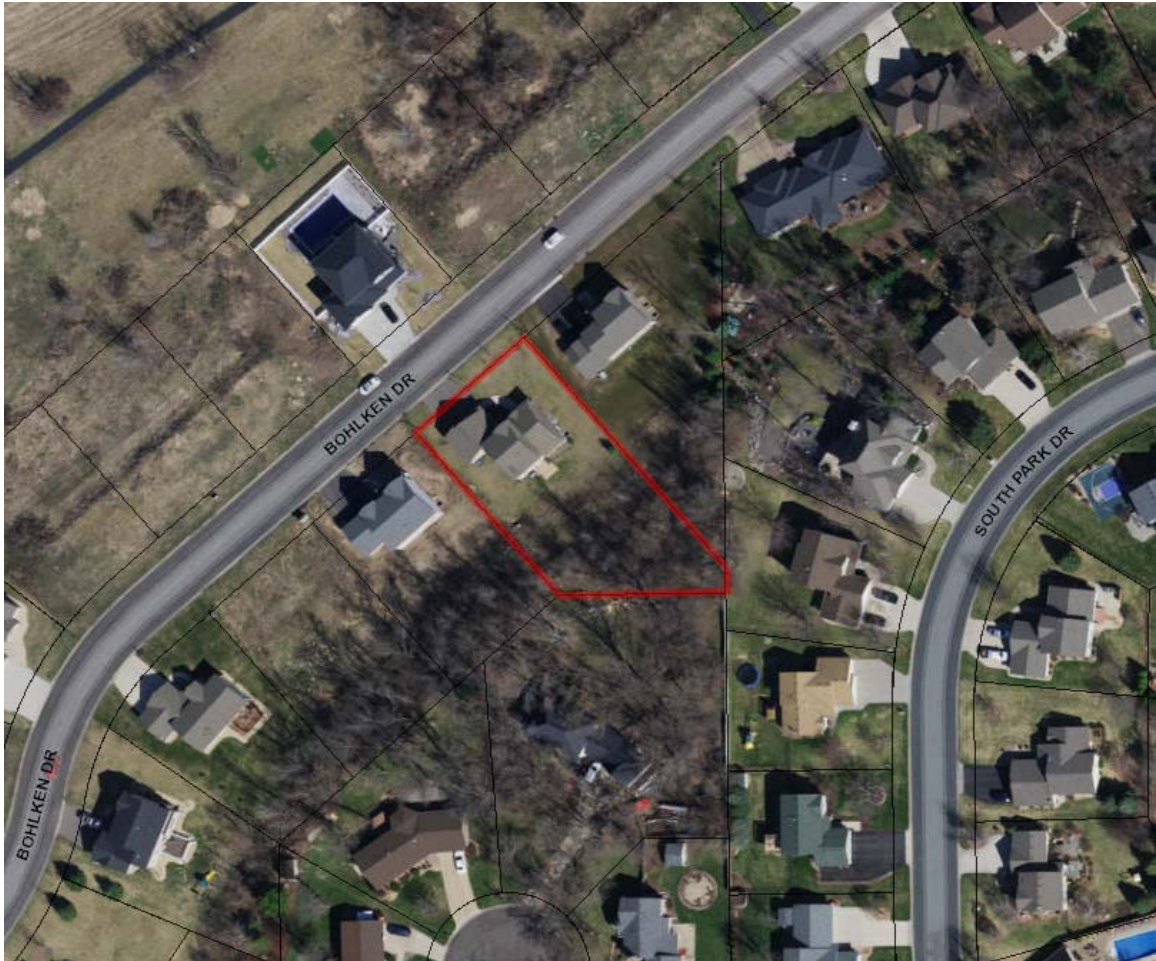
Council Committee Discussion:

N\A

Attachments:

- Location Map
- License to Encroach

LOCATION MAP



LICENSE TO ENCROACH

THIS AGREEMENT is made by and between the City of Hastings, a Minnesota municipal corporation, as Licensor ("City"), and Alicia L. Merriman, a single person, as Licensee. Where referred to herein, Licensee shall include reference to Licensee's successors, and assigns as to the Licensee's Property, as defined herein.

RECITALS

- A. Licensee is the owner of real property located generally at 743 Bohlken Drive in the City of Hastings, Dakota County, Minnesota and legally described as follows (hereinafter referred to as "Licensee's Property"):

Lot 15, Block 1, South Oaks of Hastings 2nd Addition, Dakota County Minnesota.

- B. The southeasterly portion of Licensee's Property is encumbered by a drainage and utility easement as more fully defined in the Plat of South Oaks of Hastings 2nd Addition, Dakota County, Minnesota (hereafter "the Drainage and Utility Easement"). The Drainage and Utility Easement is also depicted on the survey attached hereto as Exhibit A.
- C. Licensee has proposed to construct an in-ground pool, cement pool deck, retaining wall and privacy fence on Licensee's Property, that will collectively encroach into the Drainage and Utility Easement by approximately forty feet, more or less. The proposed improvements are depicted on Exhibit A and are hereinafter referred to as the ("Encroaching Improvements").
- D. The City of Hastings has established written policies prohibiting improvements within Drainage and Utility Easements.
- E. Licensee has asked the City for permission to construct the Encroaching Improvements in their proposed locations within the Drainage and Utility Easement, subject to certain restrictions.
- F. City is willing to grant Licensee permission to construct the Encroaching Improvements within the Drainage and Utility Easement, but only subject to the terms and conditions set forth in this License to Encroach.

NOW, THEREFORE, it is agreed as follows:

GRANT OF LICENSE AND SPECIAL CONDITIONS

1. This License to Encroach grants to Licensee, and the successors and assigns of Licensee's Property, the right to construct and maintain the Encroaching Improvements within the Drainage and Utility Easement and imposes obligations and responsibilities upon Licensee, in exchange for the permission allowing the Encroaching Improvements to encroach within the Drainage and Utility Easement. This License to Encroach, and the rights granted hereunder, is not and shall not be construed as a lease or a release, termination or subordination of the Drainage and Utility Easement, and Licensee shall not at any time claim any interest or estate of any kind or extent whatsoever inconsistent with the City retaining all right, title and interest to the Drainage and Utility Easement, indefinitely, and Licensee shall not interfere with or prohibit the City's use of the Drainage and Utility Easement, except to the extent specifically authorized herein, by virtue of this License to Encroach or their occupancy or use of Licensee's Property. This License to Encroach is not a building permit and Licensee must obtain a building permit and comply with all other requirements of the City of Hastings before constructing the Encroaching Improvements.
2. Licensee shall have the right to encroach within that portion of the Drainage and Utility Easement only for the purpose of constructing and maintaining the Encroaching Improvements in their proposed location as set forth on Exhibit A. This License to Encroach shall not allow or permit Licensee to expand the amount or extent of the encroachments beyond the locations proposed in Exhibit A.
3. Licensee shall not install or place any additional fence or any other structure or improvement of any type within the Drainage and Utility Easement other than what is expressly allowed under this License to Encroach. Licensee shall not store or place any personal property within the Drainage and Utility Easement other than personal property reasonably used in conjunction with the Encroaching Improvements.
4. Licensee agrees to defend and save the City harmless from any claims, demands, actions or causes of action by any person arising out of any acts or omissions on the part of Licensee, their successors and assigns, and their agents, servants, employees, or family members in relation to the use of the Drainage and Utility Easement for the purposes outlined in this Agreement.
5. Licensee agrees that the terms of this License to Encroach shall run with Licensee's property and shall bind Licensees' heirs, successor's and assigns.

- 6. The City is authorized by Licensee to record this License to Encroach upon the public records for Dakota County, Minnesota and in the event the City records the Agreement, all costs thereof shall be paid for by Licensee.

This License to Encroach is granted as of January ____, 2019.

LICENSOR:

CITY OF HASTINGS
A municipal corporation

Dated: _____

By: _____
Mary D. Fasbender, Mayor

(SEAL)

By: _____
Julie Flaten, City Clerk

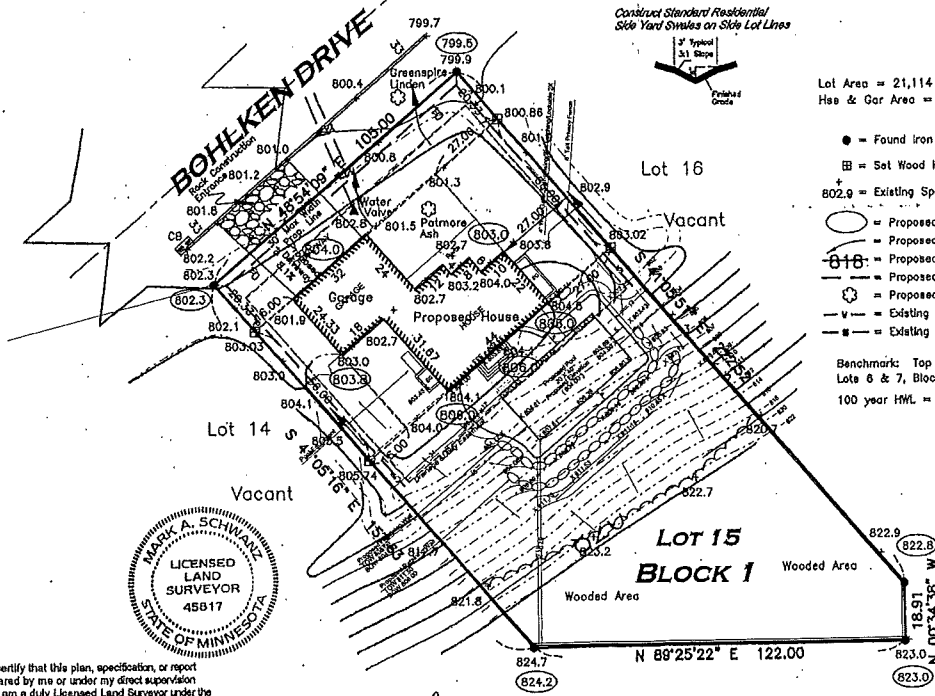
LICENSEE:

Alicia L. Merriman

Certificate of House Location for:
GREG J. HOMES

Property Address: 743. Bohlken Drive

Revised



Lot Area = 21,114 sq. ft.
Hse & Gar Area = 2,050 sq. ft.

- = Found iron Pipe Monument
- ⊠ = Set Wood Hub at Building Offset
- 802.9 = Existing Spot Elevation
- = Proposed Spot Elevation
- = Proposed Direction of Drainage
- ⊖ = Proposed Contour (Grading Plan)
- - - = Proposed Silt Fence prior to digging
- ⊗ = Proposed Tree Location
- - - = Existing Water Service
- - - = Existing Sanitary Sewer Service

Scale: 1 Inch = 30 feet

Proposed Garage Floor Elev. = 804.0
 Proposed Garage Top of Block Elev. = 804.3
 Proposed Lowest Level Elev. = 798.5
 Proposed Lowest Foundation Opening Elev. = 801.7
 Proposed House Top of Block Elev. = 806.5

Benchmark: Top Nut of Hydrant
 Lots 6 & 7, Block 3 = 815.9
 100 year HWM = 795.0

Property Description:

Lot 16, Block 1, SOUTH OAKS OF HASTINGS 2ND
 ADDITION, according to the recorded plat thereof, Dakota
 County, Minnesota.
 Also showing the location of a proposed house staked thereon.



I hereby certify that this plan, specification, or report
 was prepared by me or under my direct supervision
 and that I am a duly Licensed Land Surveyor under the
 laws of the State of Minnesota.

Dated 10-22-2010

Revised: 10-27-10/11-5-10

Mark A. Schwanz
 Mark A. Schwanz, Land Surveyor
 Minnesota License No. 45817

DELMAR H. SCHWANZ LAND SURVEYORS, INC.		
DRAWN MAS	DATE 10/06/10	13440 ELKWOOD DRIVE
APPROVED MAS	DATE 10/22/10	APPLE VALLEY, MN 5512
SCALE 1" = 30'	SHEET 1 of 1	PROJECT NO. B10018

743 Bohlken Dr



Prepared By:

Performance Pool & Spa
 2405 Annapolis Lane
 Plymouth, MN 55441
 (651) 775 - 3940
 (651) 731 - 8372 Fax
 Attn: Ken Ronsberg
 Kenronsberg@Comcast.net

Home Owner:

Alicia Merriman
 743 Bohlen Drive
 Hastings, MN 55033
 (651) 529 - 0800

Lot - 15 Block - 1
 Subdivision -
 South Oaks of Hastings 2nd
 PID 19-71026-01-150

Pool Dimensions
 Width X Length
 Pool (20 X 40)
 Deck (29 X 67)

(955.35) Denotes Proposed Elevation
 X 955.35 Denotes Existing Elevation
 ▲ Denotes Drainage Direction

X X Denotes Silt Fence
 Scale - 1 Inch = 20 Feet

City Codes / Setbacks

- Principal - 6' Water
- Side - 10' Concrete
- Rear - 10' Concrete
- Equipment - Same S & R
- Fence - 4' Tall
- Septic - 10' Water
- Well - 20' Water
- Drainfield - 20' Water

