

IN THE MATTER OF THE APPLICATION OF
***THE CHARLES FALBISANER REVOCABLE
TRUST***

FOR A ***VARIATION*** OF THE UNIFIED
DEVELOPMENT ORDINANCE OF
MCHENRY COUNTY, ILLINOIS

2024-053

WHEREAS, your petitioner, ***THE CHARLES FALBISANER REVOCABLE TRUST***, has filed an application with the McHenry County Hearing Officer, requesting a ***variation*** as it relates to the McHenry County Unified Development Ordinance and to the real property more fully described as:

LOT 21 IN BLOCK 6 IN NIPPERSINK CHANNEL ADDITION TO PISTAKEE HIGHLANDS, A SUBDIVISION OF PART OF SECTION 5, TOWNSHIP 45 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED AUGUST 11, 1954, AS DOCUMENT 281671, IN BOOK 12 OF PLATS, PAGE 1, IN MCHENRY COUNTY, ILLINOIS.

PIN 10-05-207-036

More commonly known as ***5810 Fox Lake Road, McHenry, Illinois in McHenry Township.***

WHEREAS, the application requests no reclassification of the subject property from its present classification which is ***“R-1” Single Family Residential District; but a variation be granted to the property to allow for a setback of twenty-five (25) feet instead of the required thirty (30) feet from the street lot line.***

The trustee of The Charles Falbisaner Revocable Trust, owner and applicant, is Charles Falbisaner.

WHEREAS, the subject property consists of approximately ***0.18 acre*** in which no reclassification is contemplated.

WHEREAS, a hearing on said petition was held before the Hearing Officer of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Hearing Officer of McHenry County ***did recommend the granting of a variation to allow for a setback of twenty-five (25) feet instead of the required thirty (30) feet from the street lot line.***

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Hearing Officer of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for a variation as set forth in the McHenry County Unified Development Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Unified Development Ordinance and the Zoning Maps of McHenry County and such Ordinances and such maps as amended, be and the same are hereby amended to allow **for a setback of twenty-five (25) feet instead of the required thirty (30) feet from the street lot line.**

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 20_____.

Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

**HEARING OFFICER REPORT TO THE MCHENRY
COUNTY BOARD IN THE MATTER OF PETITION #2024-053**

1. **Recommendation:** Approve
2. **Applicant:** Charles Falbisaner as Trustee of the Charles Falbisaner Revocable Trust, Owner of Record
3. **Request:** Variation within the R-1 Single-Family Residential/LN district to allow for a setback of twenty-five (25) feet instead of the minimum thirty (30) feet required from the street lot line (McHenry County Unified Development Ordinance §16.60.010.C).
4. **Location and size of property in question:** The subject property consists of approximately .18 acres and is located on the east side of Fox Lake Road, approximately six hundred (600) feet south of the intersection of Fox Lake Road and Sunrise Drive. Common address: 5810 Fox Lake Road, McHenry, Illinois in McHenry Township. PIN: 10-05-207-036
5. **Present at hearing:**
Applicants: Charles Falbisaner
Michael J. McNerney, Hearing Officer
Kim Scharlow, County Staff and Kit GearhartSchinske, County Staff
Public: None
6. **Date, time and location of the hearing:** October 8, 2024 at 11:00a.m., McHenry County Government Center, Ware Road Administration Building, Woodstock, IL 60098.
7. **Items of evidence:**
Official Site Plan, Application to allow variance, Natural Resource Information Report, McHenry-Lake County Soil & Water Conservation District Letter of L24-079-4635.
8. **Summary of Testimony at the hearing:**

The Hearing Officer opened the hearing and described the property and the request. Mr. McNerney read the Staff report into the record. Mr. McNerney swore in the parties.

Mr. McNerney asked Staff for the background on the application. Staff stated that there was a fire at the residence. The property owner had come in to get building permits for reconstruction. During the construction, the second story was constructed differently than what was on the approved building plans. Staff stated that the second story, which is a new addition to the home, did encroach about two feet past the front of the existing first floor into the required 30-foot setback. Staff stated that the 25-foot setback request would accommodate for that second story bump out.

Mr. McNerney asked if the construction has been started. Mr. Falbisaner stated that it is almost completed.

Mr. McNerney asked if Stormwater and the Health Department approval are a part of the process. Staff stated that their approval is required as part of the building permit process.

Mr. McNerney asked if any complaints were received from neighbors or any pending court cases regarding the permit. Staff stated that there were not.

The applicant answered the Variation Approval Standards questions asked by Mr. McNerney.

The Hearing Officer found that all of the Standards for Approval had been met and recommended approval of the request.

9. Recommended findings of fact as to the Request for the Variation:

The Witness has met their burden of establishing the necessary ordinance requirements. Accordingly, it is my recommendation that the petitioner's request be granted.

Respectfully submitted,

/S/: *Michael J. McNerney*
Michael J. McNerney

McHenry Township
PLAN REVIEW REPORT
VARIATION REQUEST APPLICATION #2024-053

Hearing Date: October 8, 2024

Applicant: Charles Falbisaner, as Trustee of the Charles Falbisaner Revocable Trust

Request: *Variation* within the **R-1 Single-Family Residential/LN** district to allow for a setback of twenty-five (25) feet instead of the minimum thirty (30) feet required from the street lot line (*McHenry County Unified Development Ordinance §16.60.010.C*).

Location: The subject property consists of approximately .18 acres and is located on the east side of Fox Lake Road, approximately six hundred (600) feet south of the intersection of Fox Lake Road and Sunrise Drive.
Common address: 5810 Fox Lake Road, McHenry, Illinois in McHenry Township.
PIN: 10-05-207-036

Current Land Use: The property is designated **SINGLE-FAMILY RESIDENTIAL** on the Current Land Use map.

Adjacent Land Use: North: *VACANT* East: *NIPPERSINK CREEK*
South: *VACANT* West: *SINGLE-FAMILY RESIDENTIAL*

Current Zoning: The property is currently zoned **R-1 Single-Family Residential District/LN**

Adjacent Zoning: North: *R-1 Single-Family Residential District/LN* East: *Nippersink Creek*
South: *R-1 Single-Family Residential District/LN* West: *R-1 Single-Family Residential District/LN*

2030 Plan: The property is designated **Environmentally Sensitive Area** on the *McHenry County Land Use Plan Map*.

Improvements: The subject property contains a frame residence, frame garage, wood decks, and a driveway, according to the Plat of Survey.

Natural Resources: The Nippersink Creek is located adjacent to the east of the parcel in question. Due to the size of the parcel and minimal new construction, impact to natural resources from the proposed use is minimal, according to Natural Resources Inventory (NRI) Letter L24-079-4635.

Flood Hazard Areas: The FEMA Flood Insurance Rate Map (Panel 17111C0112J) indicates Zone AE, 100-year floodplain with a base elevation of 745 feet throughout the entirety of the parcel.

Flood-of-Record: A flood-of-record is indicated for the eastern portion of the subject property adjacent to the Nippersink Creek, according to USGS map number HA-151 (Fox Lake Quadrangle).

SARA: The site is located in a zone with elevated aquifer contamination potential, according to the McHenry County Sensitive Aquifer Recharge Area (SARA) map.

Comments/ Conclusion:

- The granting of the requested variation would allow the applicant to complete pending building permit #K-5272 (Phase 1) and #K-5422 (Phase 2) in order to complete reconstruction of their residence, along with a second story addition, after the structure sustained fire damage. As the subject property is located within the Legacy Neighborhood overlay district, reconstruction of the residence would be permitted in its current footprint (§16.52.040.C). The addition of the second story, which encroaches closer to the road than the first floor, triggers the need for zoning variance.
- The applicant should be aware that under **Section 16.20.020 (F)** of the **McHenry County Unified Development Ordinance**, several standards are cited, all of which must be met in order for a Variation to be granted. These standards include hardship in relation to the site conditions, that the request is unique to the property, that the purpose of the request is not based on any monetary gain, that the petitioners did not cause or create the hardship, that the request is not detrimental to the public welfare and safety, that the request will not impair adequate light and air to adjacent property, or increase congestion in the public streets, or increase danger of fire, and that the request not confer any special privilege to the applicant that is denied to others of the same zoning district.
- An Illinois Department of Natural Resources (IDNR) report was not required for this project.

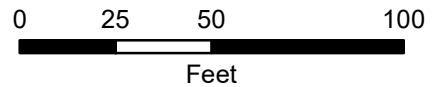
Aerial Photo

5810 Fox Lake Road, McHenry, Illinois



Photo: 2022

Any parcel lines depicted on the aerial photograph are for general reference only. Please refer to the plat of survey for the location of lot or parcel lines.



Elevation (feet above sea level)

— Contours

FEMA Flood Hazard Areas

- 0.2 % Annual Chance of Flood
- 1% Annual Chance of Flood
- Floodway

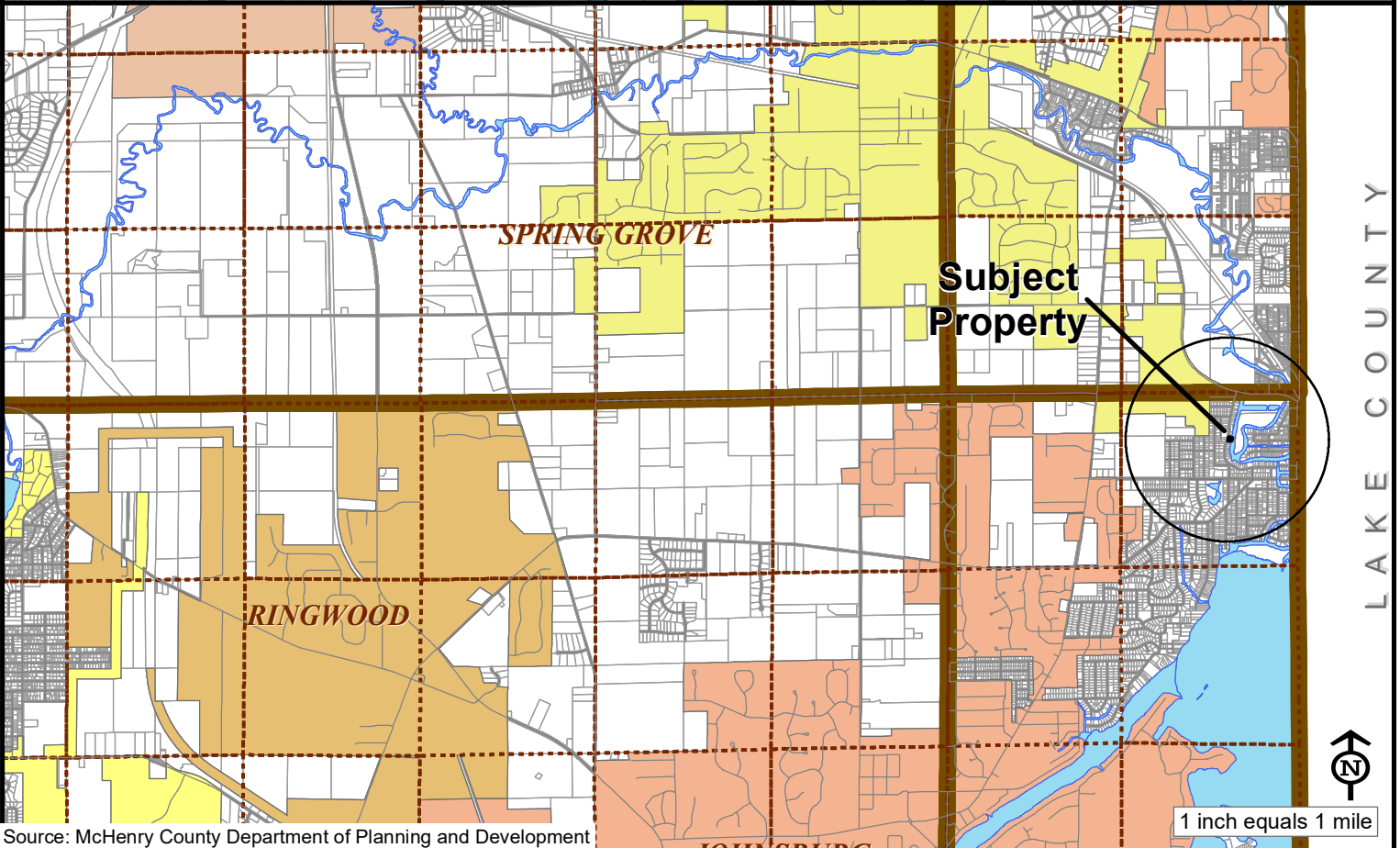
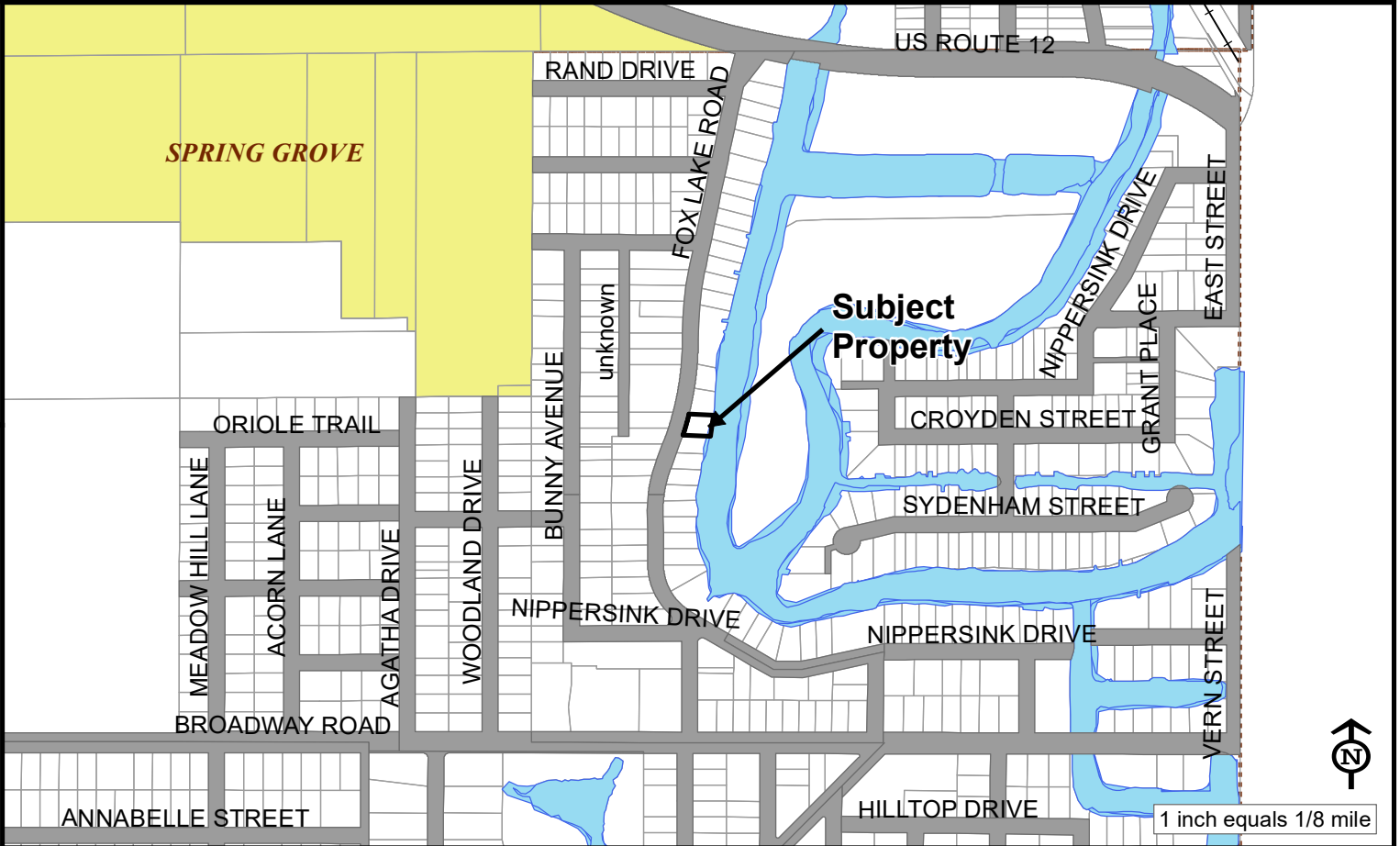
ADID Wetland Map 2005

- High Functional Value Wetland (hfw)
- High Quality Wetland (hqw)
- Wetland (w)
- Farmed Wetland (fw)

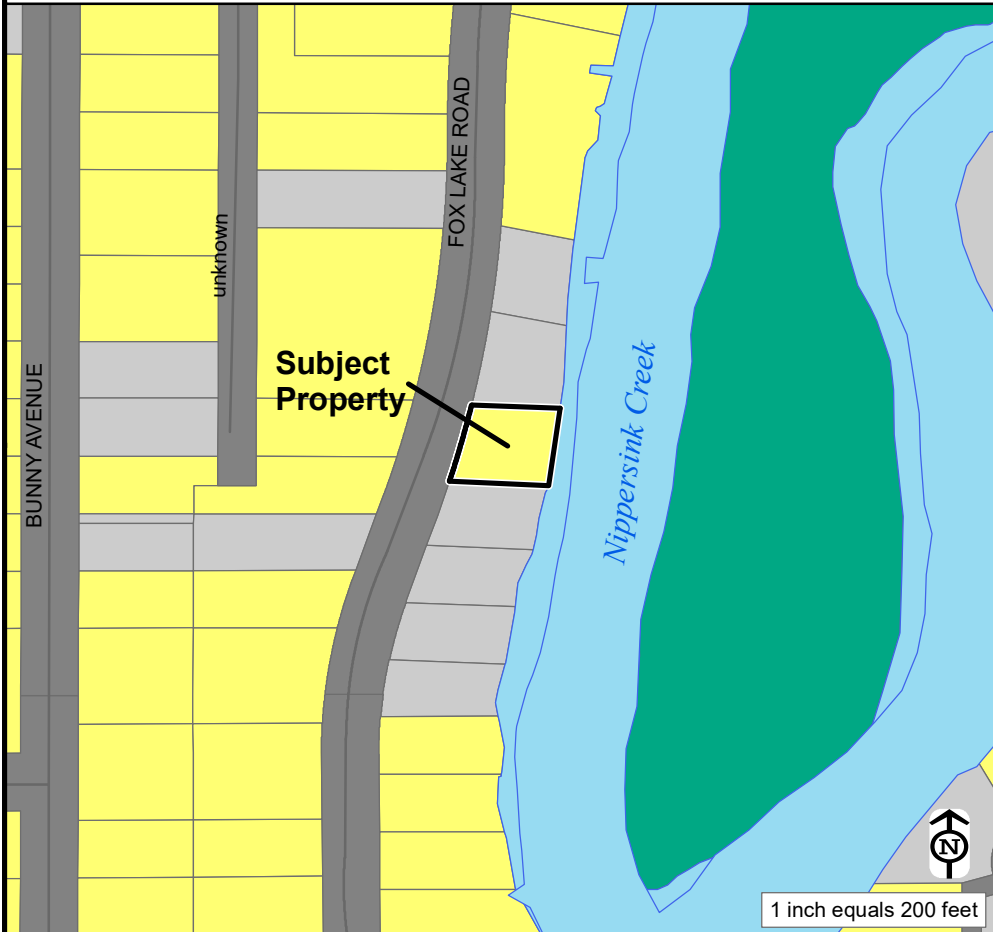
Historic Flood Zone



Prepared by the McHenry County
Department of Planning and Development



Current Land Use Map



Current Land Use

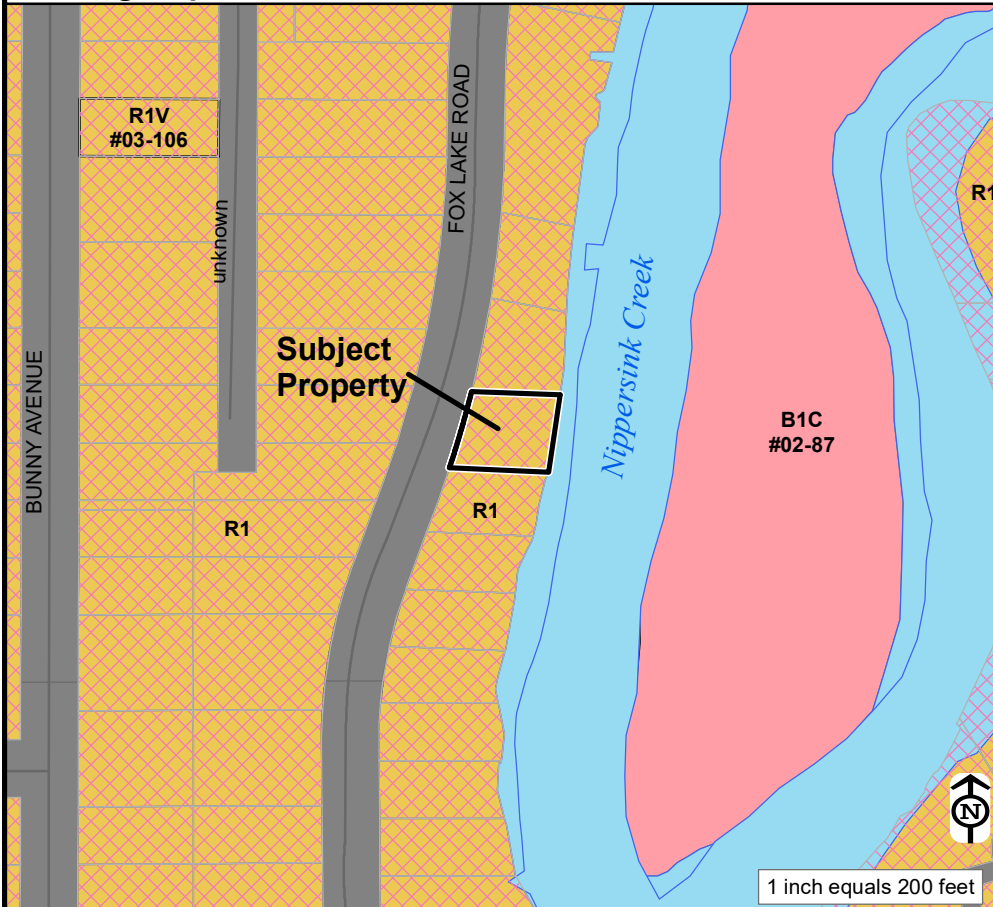
Single-Family Residential

Land Use Adjacent to the PIQ

North: Vacant
 South: Vacant
 East: Nippersink Creek
 West: Single-Family Residential

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities
- Under Review

Zoning Map



Current Zoning

R-1 Single-Family Residential/LN

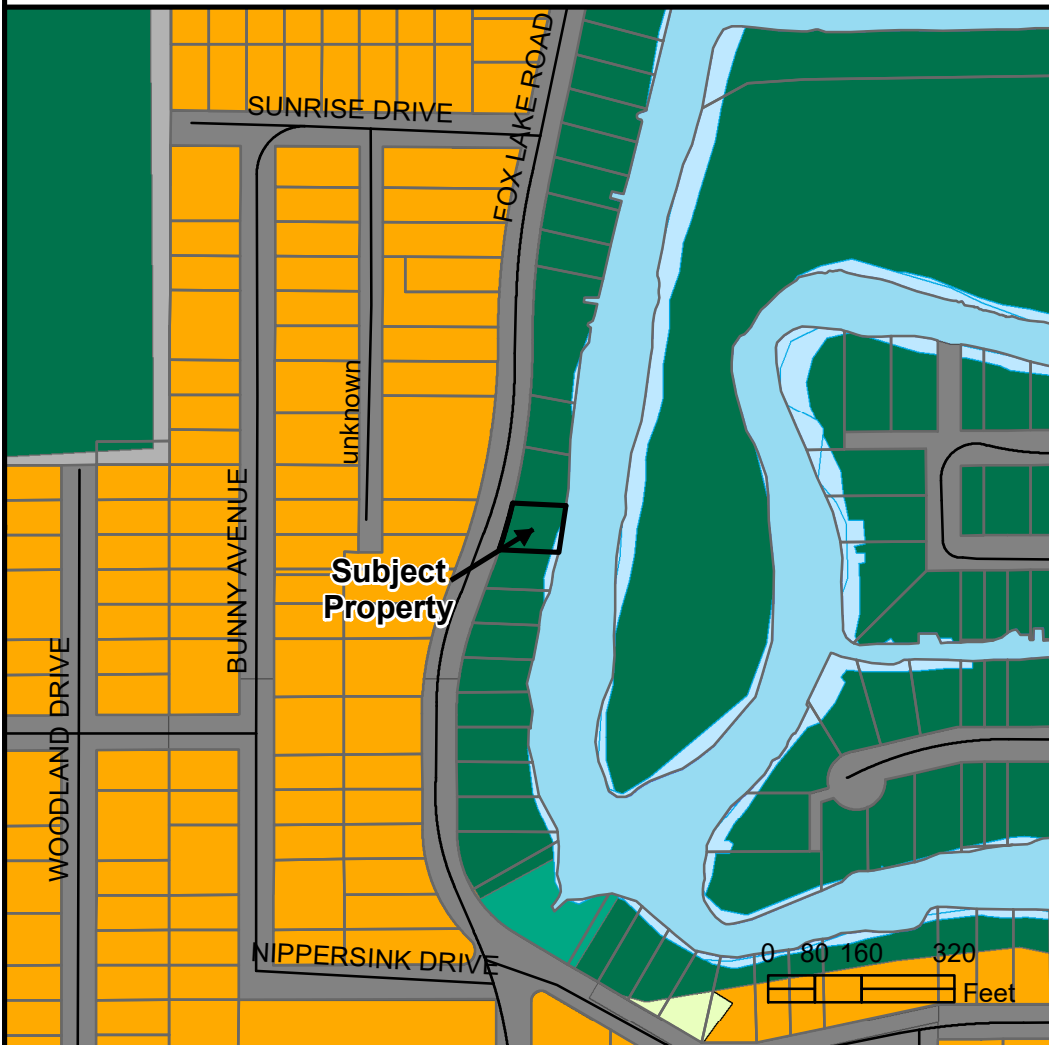
Adjacent Zoning

North: R-1 Single-Family Residential/LN
 South: R-1 Single-Family Residential/LN
 East: Nippersink Creek
 West: R-1 Single-Family Residential/LN

- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Neighborhood Business
- B-3 General Business
- O Office / Research
- I-1 Light Industrial
- I-2 Heavy Industrial
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated
- Legacy Neighborhood

McHenry County 2030 Comprehensive Plan Future Land Use Map

Future Land Use Map Designation



Environmentally Sensitive Area

- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/16 mile



Municipal/Township Plan Designations

McHenry Township: Environmentally Sensitive Area

Fox Lake: Low Density Residential

Johnsburg: Medium Density Residential

Spring Grove: High Density Residential

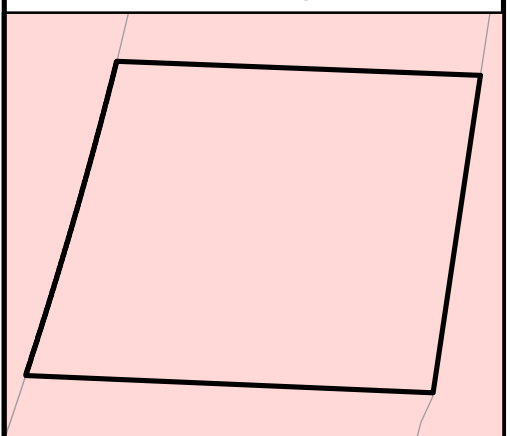
McHenry County 2030 Comprehensive Plan — Text Analysis Land Use

Environmentally Sensitive – includes existing floodplains, floodways, wetlands 10 acres and larger from the Advanced Identification (ADID) inventory, and most McHenry County Natural Area Inventory (MCNAI) sites.

Sensitive Aquifer Recharge Areas

The site 1S located in a zone with elevated contamination potential.

Sensitive Aquifer Recharge Areas (SARA)

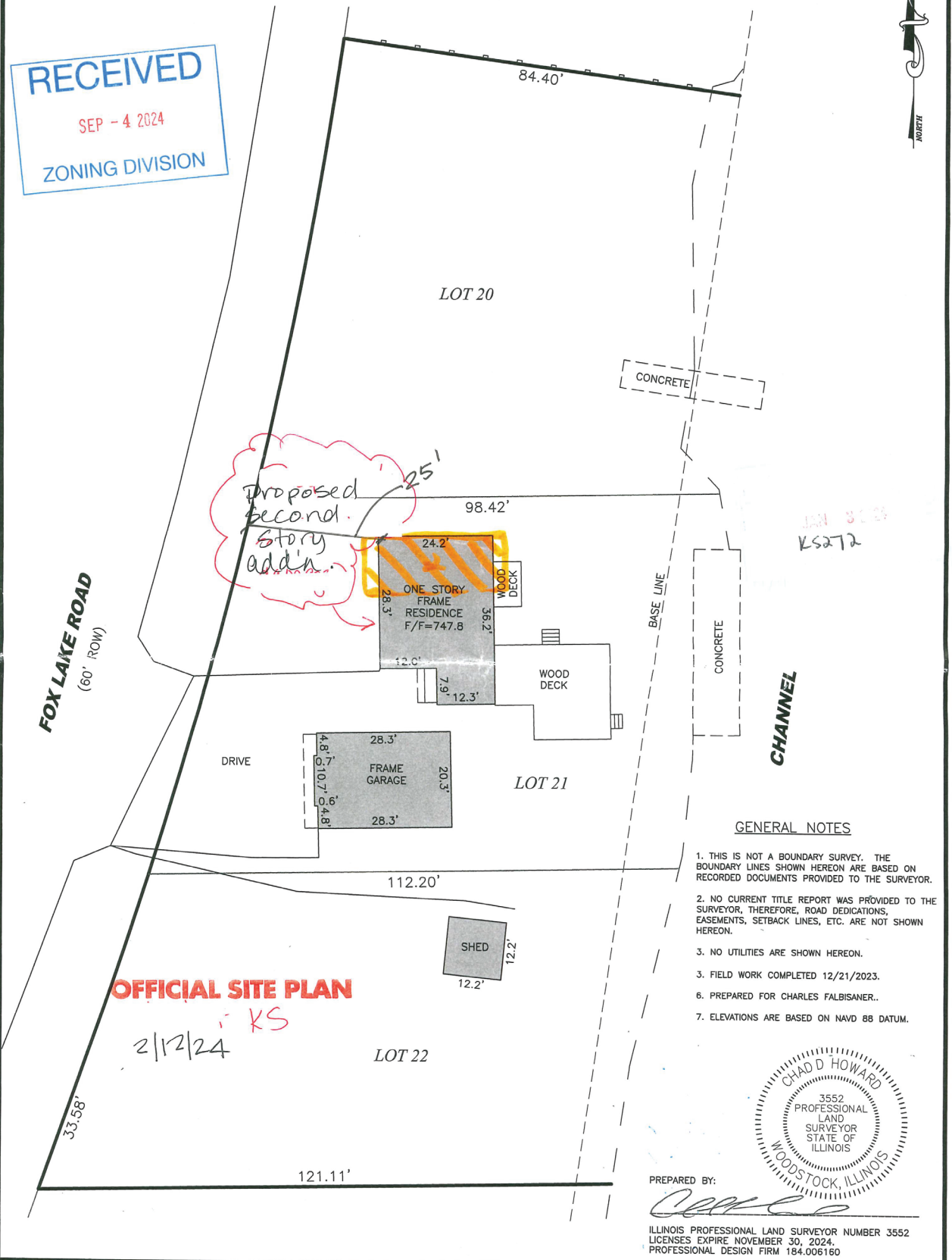


Sensitive Recharge Area

PLAT OF SURVEY

LOTS 20, 21 AND 22 IN BLOCK 6 IN NIPPERSINK CHANNEL ADDITION TO PISTAKEE HIGHLANDS, A SUBDIVISION OF PART OF SECTION 5, TOWNSHIP 45 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF, RECORDED AUGUST 11, 1954, AS DOCUMENT 281671, IN BOOK 12 OF PLATS, PAGE 1, IN MCHENRY COUNTY, ILLINOIS.

RECEIVED
SEP - 4 2024
ZONING DIVISION



GENERAL NOTES

1. THIS IS NOT A BOUNDARY SURVEY. THE BOUNDARY LINES SHOWN HEREON ARE BASED ON RECORDED DOCUMENTS PROVIDED TO THE SURVEYOR.
2. NO CURRENT TITLE REPORT WAS PROVIDED TO THE SURVEYOR, THEREFORE, ROAD DEDICATIONS, EASEMENTS, SETBACK LINES, ETC. ARE NOT SHOWN HEREON.
3. NO UTILITIES ARE SHOWN HEREON.
4. FIELD WORK COMPLETED 12/21/2023.
5. PREPARED FOR CHARLES FALBISANER..
6. ELEVATIONS ARE BASED ON NAVD 88 DATUM.



PREPARED BY: *[Signature]*
ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 3552
LICENSES EXPIRE NOVEMBER 30, 2024.
PROFESSIONAL DESIGN FIRM 184.006160

© COPYRIGHT 2023



MERIDIAN
Land Surveying Co.
2547 APPLEWOOD LANE
WOODSTOCK, IL
(815)861-3135

5810 FOX LAKE ROAD
MCHENRY, IL

PROJECT NO. 23-359
DATE 12/22/23
SCALE 1"=20'
DRAWN BY: CDH
CHECKED BY: CDH

PAGE
1
OF
1

**McHENRY-LAKE COUNTY
SOIL & WATER
CONSERVATION DISTRICT**



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0444 ext. 3 www.mchenryswcd.org

September 10, 2024

Charles Falbisaner
5810 Fox Lake Road
McHenry, IL 60051

Re: Parcel # 10-05-207-036
Common Location: 5810 Fox Lake Road, McHenry, IL 60051
NRI# L24-079-4635
Zoning Change: R1 to R1 Variance

Dear Mr. Falbisaner:

The McHenry-Lake County Soil and Water Conservation District has carefully reviewed your application for a Natural Resource Information Report on the Charles Falbisaner property as applied for in Report #L24-079-4635. Due to size of parcel being rezoned and minimal new construction on the site, the SWCD finds that impact to natural resources from the proposed use is minimal for the purposes of the NRI report. A full Natural Resource Information Report will not be necessary, but we would like to highlight a few resources on the property.

Earthwork in or near a wetland requires a permit from the Army Corps of Engineers or the McHenry County Department of Planning & Development. The McHenry County ADID Wetland Inventory indicates the presence of the Fox Rive adjacent to the parcel to the east. Please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information before any additional construction occurs.

Additionally, the FEMA Flood Insurance Rate Map (Panel 17111C0112J) indicates Zone AE, 100-year floodplain with a base flood elevation of 745 feet throughout the entirety of the parcel (see attached FEMA 100 yr. Floodplain Map). If additional construction is to occur it is recommended that you contact the McHenry County Department of Planning & Development for possible permitting requirements.

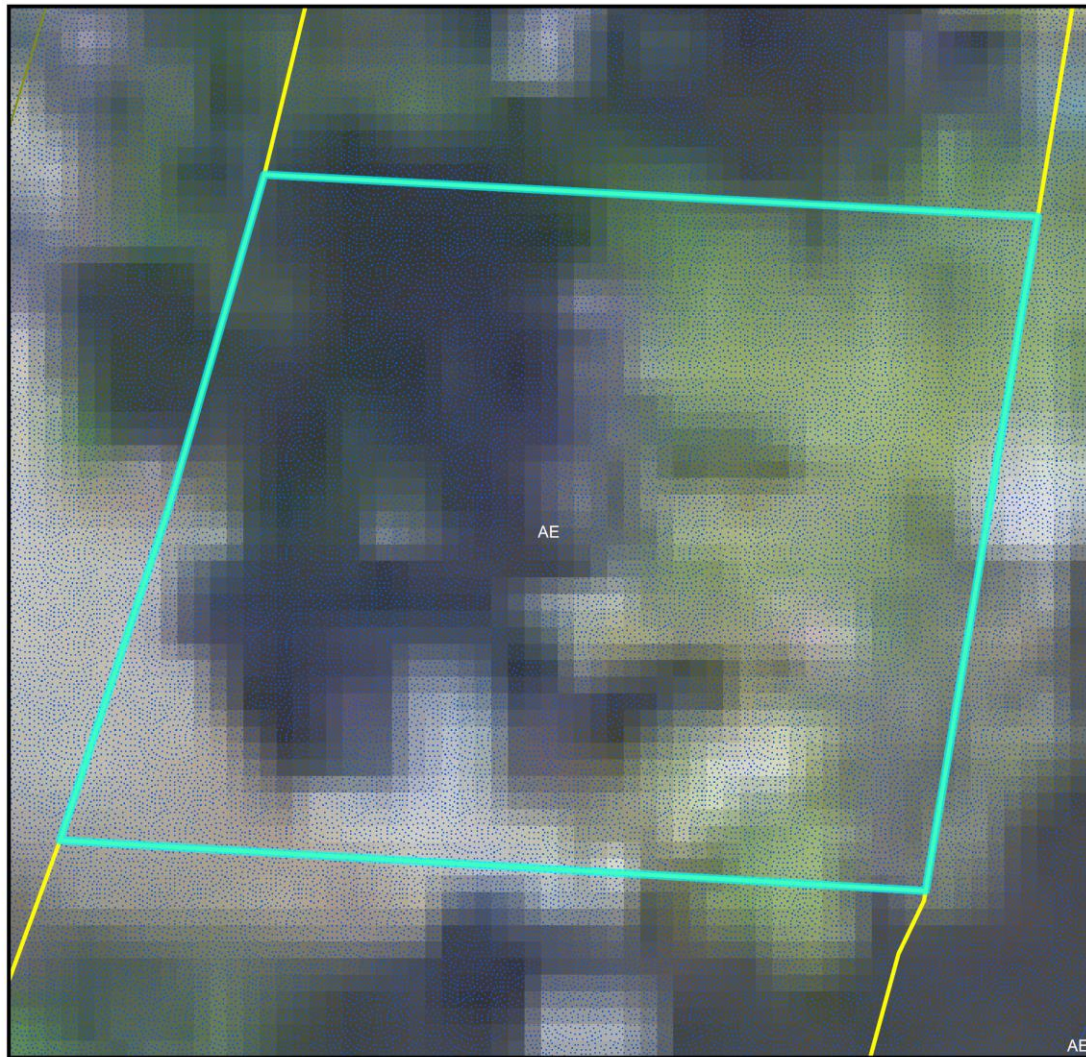
This letter fulfills your requirement to notify the SWCD of land use changes as per the Illinois Compiled State Statutes, Chapter 70, Par. 405/1 et seq. Illinois Revised Statutes, Ch. 5, Par 106 et seq. and the McHenry County Stormwater Ordinance. If you have any questions concerning this letter, feel free to call our office.

Sincerely,

Ryan Bieber
Urban Conservation Specialist

Cc: Kim Charlow, McHenry County Department of Planning and Development,
KBScharlow@mchenrycountyil.gov

FEMA Floodplain Locations



2019 Aerial Photograph

Produced By: McHenry-Lake County Soil & Water Conservation District






Legend

FEMA Floodplain

Flood Zone

0.2 PCT ANNUAL
CHANCE FLOOD
HAZARD

100 yr

-  100 yr with base flood elevations determined
-  100 yr with 1-3 ft. flood depths
-  100 yr usually sheet flow

Resources for the Future