

AGENDA
of the
Steele County Board of Adjustments

Tuesday, May 2nd, 2023
7:00 PM

Steele County Administration Center
Board Room
630 Florence Avenue
Owatonna, MN 55060

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Minutes (01-10-23)
5. Public Hearing: Variance #655 (Rypka – SSTS Inspection)
6. Adjourn

**Minutes
of the
Steele County Board of Adjustments
January 10th, 2023**

Call to Order:

The meeting was called to order by Chair Schmidt at 7:00 pm. Members present were Schmidt, Ulrich, Jaster, Nelson and staff member Oolman.

Agenda for 2023:

Motion by Jaster, second by Nelson to approve the agenda as amended. Motion passed 4 to 0.

Organization:

Motion by Jaster, Second by Nelson to reappoint Brian Schmidt as Chair. Motion passed unanimously.

Motion by Nelson, second by Schmidt to appoint Steve Jaster as Vice Chair. Motion passed unanimously.

Minutes:

Motion by Jaster, second by Nelson to approve the August 2nd, 2022, minutes with the corrections as noted. Motion passed 4 to 0.

Public Hearing – Variance #653 (Gardner- Side Yard Setback)

Anna Gardner has requested to locate a shed 10 feet from the side property line on property located in the SW ¼, Section 26, Aurora Township. The property address is 9584 74th Ave. SE.

Questions & Comments by board members:

- Schmidt – Is the lot line to the righthand side of the fence or between the fence and the shed?
Oolman – Between the fence and the shed.
- Schmidt – Then the shed is relatively close to ten feet rather than 13 to 15 feet to the lot line?
Oolman – It is 10 feet from the lot line, the fence is 5 feet beyond.
- Ulrich- How was this discovered that the shed was close to the property line?
Oolman- I received a call with a concern that the shed was over the property line.
- Schmidt – Does the applicant have anything to add?
Gardner – I would never intentionally done it that way (built the shed) if I had known it too close to the property line. We have a good relationship with the neighbors and would never done it intentionally
- Kruckeberg, neighboring property owner, indicated he supports the variance.

The public hearing was opened. As there were no comments the public hearing was closed.

The board reviewed the criteria for considering variance request #653

1) Is the variance in harmony with the intent of the comprehensive plan and ordinance?

All members felt the request met the intent of the comprehensive plan and ordinance.

- 2) **Is the property owner proposing to use the property in a reasonable manner?**
All members felt the property owner was using the property in a reasonable manner.
- 3) **The plight of the applicant is due to circumstances unique to the property.**
All members felt the uniqueness of the property contributed to the plight of the applicant.
- 4) **Were the unique circumstances created by someone other than the landowner?**
All members felt the circumstances were created by someone other than the landowner.
- 5) **Will the character of the locality remain the same after granting the variance?**
All members felt the character of the locality would remain the same.
- 6) **Does the practical difficulty involve more than economic considerations?**
All members did agreed economics were not the only reason for the request.
- 7) **Is construction completed?**
All members did agree that construction is complete.
- 8) **Are there similar structures in the area?**
All members did agree that there are similar structures in the area.
- 9) **Is the burden on the applicant greater than the benefit to the County?**
All members did agree that the burden on the applicant is greater than the benefit to the County.
- 10) **Was the violation un-intentional?**
All members felt that the violation was un-intentional.

Motion by Jaster, second by Nelson to grant variance request #653 based upon the findings of the board.

Motion to approve passed 4 to 0

Public Hearing – Variance #654 (Guse -Feedlot Setback)

This hearing is to consider a variance request from Jarod Guse to register a feedlot less than 1000 feet from 5 different neighboring residences. The site is in the East 1/4 of the NE 1/4 of the NW 1/4 of Section 10, Somerset Township. The property address is 887 58th St SE.

Questions & Comments by board members:

- The details regarding animal units were discussed and clarified.
- Ulrich – What about the manure plan, should one be followed?
Oolman – Feedlots under 100 units do not require a plan.

The public hearing was opened. As there were no comments the public hearing was closed.

The board reviewed the criteria for considering variance request #654

1) Is the variance in harmony with the intent of the comprehensive plan and ordinance?

All members felt the request met the intent of the comprehensive plan and ordinance.

2) Is the property owner proposing to use the property in a reasonable manner?

All members felt the property owner was using the property in a reasonable manner.

3) The plight of the applicant is due to circumstances unique to the property.

All members felt the uniqueness of the property contributed to the plight of the applicant.

4) Were the unique circumstances created by someone other than the landowner?

All members felt the circumstances were created by someone other than the landowner.

5) Will the character of the locality remain the same after granting the variance?

All members felt the character of the locality would remain the same.

6) Does the practical difficulty involve more than economic considerations?

All members did agreed economics were not the only reason for the request.

Motion by Ulrich, second by Nelson to approve variance request #654 based upon the findings of the board with the following conditions:

- 1) This site shall be limited to a maximum of 75 animal units as defined by the Steele Livestock Operation Ordinance. No more than 10 animal units shall be of a species other than beef cattle.
- 2) The open lots or buildings shall not be expanded or modified so that the feedlot becomes closer to the neighboring residences.
- 3) No liquid manure storage structures allowed.

Motion to approve passed by a 4 to 0.

Adjournment:

Motion by Jester, second by Nelson to adjourn. Motion passed.

Meeting adjourned at 07:48 PM.

**Staff Report
for
Appeal for a Variance #655
Rypka**

Applicant: David, Dann & Dixon Rypka

Property Owner: Jerome A. Rypka Testamentary Trust

Property Address:

1945 18th St. SE
Owatonna, MN 55060

Property Description:

All that part of the SW1/4, and SE1/4 of Section 14-T107N-R20W, and the E1/2 NW 1/4 and W1/2 NE1/4 of Section 14-T107N-R20W, Steele County, Minnesota; described as follows:
Commencing at the northwest corner of said NE1/4; thence North 00°10'13" East a distance of 89.49 feet, on an assumed bearing on the west line of said NE1/4, to the centerline of 18th Street being the point of beginning;
thence South 88°16'47" West a distance of 68.36 feet, on said centerline to the northeast corner of DIXON ADDITION, as the same is platted and recorded in the office of the Steele County Recorder, Steele County, Minnesota;
thence South 01°30'18" West a distance of 469.87 feet, on the east line and an extension of said DIXON ADDITION;
thence North 88°53'20" West a distance of 71.76 feet;
thence South 01°03'03" West a distance of 110/19 feet;
thence North 88°53'20" west a distance of 120.18 feet, to an easterly corner of OWATONNA PUBLIC SCHOOLS ADDITION, as the same is platted and recorded in said office;
thence South 00°36'30" West a distance of 159.18 feet, on an easterly line of said OWATONNA PUBLIC SCHOOLS ADDITION;
thence South 89°46'39" East a distance of 335.58 feet, on a northly line of said OWATONNA PUBLIC SCHOOLS ADDITION;
thence South 00°36'30" West a distance of 495.57 feet, on a west line of said OWATONNA PUBLIC SCHOOLS ADDITION;
thence South 89°03'54" East a distance of 797.88 feet, on a northerly line of said OWATONNA PUBLIC SCHOOLS ADDITION, to a west line of Minnesota Department of Transportation Right of Way Plat No. 74.26;
thence North 30°02'24" West a distance of 608.66 feet, on a west line of said Right of Way Plat;
thence North 59°57'36" East a distance of 25.00 feet, on a northwest line of said Right of Way Plat;
thence North 30°02'24" West a distance of 245.85 feet, to a west line of said Right of Way Plat;
thence South 89°03'24" East a distance of 145.79 feet, along the north line of said Right of Way Plat, to the west line of the Canadian Pacific Railroad;
thence North 30°02'43" West a distance of 548.97 feet, on the west line of said railroad, to the centerline of said 18th Street;
thence North 85°59'56" West a distance of 317.41 feet, to the point of beginning;
subject to easement and restrictions of record, if any.

Zoning District: Interim Agricultural

Ordinance:

Section 6.02 A of the Steele County Subsurface Sewage Treatment System Ordinance states that no owner of other person acting with legal authority on behalf of an owner of real property required to have an SSTS shall sell or transfer to another party said real property unless a compliance inspection has been completed and a valid Certificate of Compliance has been issued showing the SSTS is in compliance with the provisions of this ordinance.

Variance Request:

Transfer property from the Jerome A. Rypka Testamentary Trust to David Rypka, Dann Rypka, and Dixon Rypka individually without completing a septic compliance inspection.

Practical Difficulty in Complying with Ordinance:

The county is acquiring a portion of the NE corner of the Ripka's property to construct a roundabout on the intersection of SE 18th St and Bixby Road to improve safety on the road with the new High School opening next fall. The Ripka's have indicated a willingness to transfer the required road right-of-way but want to transfer the property from the Trust to the individual family members as part of the process. This transfer from the Trust to the family members will trigger the inspection requirement of the septic ordinance. They initially asked if they could receive a waiver from upgrading the septic because as they indicated, the house is used infrequently, and the property is likely to be sold and developed in the future. However, if the septic is non-compliant, it is State Rules that require it to be replaced or abandoned and the County has no authority to grant a waiver from a State Rule. The county can however, consider a variance from the requirement that it be inspected upon property transfer because that is strictly a County ordinance rather than a State Rule. We have no information on the septic system on file, so the status of the system is unknown at this time.

Criteria for Granting Variances:

The following criteria must be examined by the Board of Adjustments when considering a variance.

1) Is the variance in harmony with the intent of the comprehensive plan and ordinance?

The requirement for a compliance inspection of the septic system upon property transfer was put into place with the adoption of the Sanitation Ordinance in 1993. The intent was to put a mechanism into place to mitigate the pollution potential of non-conforming systems on wells and surface waters. It was felt that the time of property transfers was appropriate due to the fact that it could become a negotiated item in the sale of property, although no exemptions were provided for transfers not involving direct sales such as inherited property. For the first decade or so, administrative variances were routinely granted to properties in close proximity to municipalities especially Owatonna, that were "someday" going to be connected to the city system. A typical condition of those variances was that those properties were supposed to connect when the sewer service was available. Unfortunately, as the city grew, many property owners resisted connecting because it required annexation as well as a connection fee. For these reasons, we stopped giving these administrative variances and required septic systems to be upgraded or abandoned when they were found to be non-compliant. When the current

SSTS Ordinance was adopted in 2014, it eliminated the process for administrative variances and required all variances to go thru the Board of Adjustments. Since 2014, we have not had an official variance request from this section of the ordinance.

2) Is the property owner proposing to use the property in a reasonable manner?

The use of the property will not change from existing.

3) The practical difficulty is due to circumstances unique to the property.

The property is 17 acres and contains the original building site for the Ripka's farm. Most of the farm has been annexed into the City of Owatonna and developed with the most recent acquisition being for the new High School. The remain building site contains the original house, the barn, a shed, several smaller bins and some additional out-buildings. The applicant indicated the house is only occasionally used when one of the family members stays at when visiting the area. The applicant indicates the uniqueness of the property is its proximity to the City and the need for the county to acquire a portion of the property to complete the road project.

4) The practical difficulty was not created by the landowner.

The applicants did not create the acquisition of a portion of the land for the round-about which initiated the desire of the Ripka's to put the entire property in the individual's names instead of the trust.

5) The variance will not alter the essential character of the locality.

The character of area will not change if the variance is granted.

6) Economic considerations alone are not the only practical difficulty?

It is unclear if economics plays a role in this request. The County is not requiring the property to be in the individual's names for the County to acquiring it, but rather it is the Rypka's desire or need to handle the transaction is this way. Certainly, there is a financial consideration if the inspection is required and the septic would need to be upgraded but the Board will have to determine if it's the only consideration. Other options considered were:

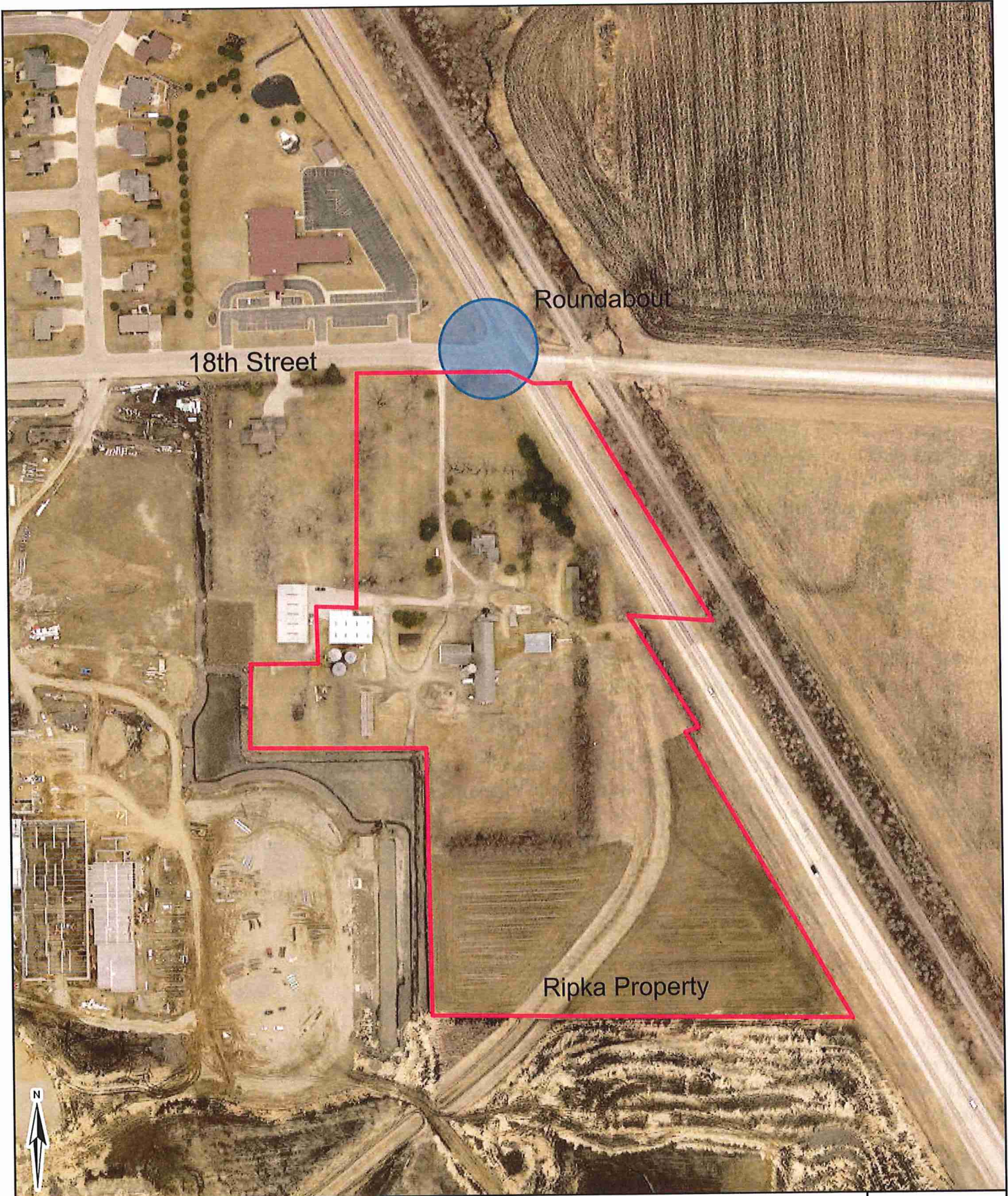
- Connecting to City sewer and potentially water, but this option would require annexation into the city and involve a connection fee.
- Disconnect the water from the house, but this option would be difficult because the well is located in the house and it would make the house unusable.
- Put in a holding tank to collect all wastewater. This is typically not a preferred option by the county when a drainfield is an option but could be considered given the circumstances.
- Transfer only that portion of the property that is needed for the road right of way and leaving the rest in the Trust.

Staff Comments:

The Board of Adjustments and the Rypka's should understand that if the variance is granted, it only allows the Rypka's to transfer the property without the required inspection. If the system was found to be non-compliant thru some other means, the Rypka's would still have to address non-compliance as required in the SSTs ordinance.

It's evident the property has development potential and it would seem unreasonable to require thousands of dollars to be put into a septic that may only be used on a limited bases and could be removed as part of a development in the near future. However, the Ripka's have not indicated there are any immediate plans to develop the property (for probably good reasons) and the property has had development potential for years. For example, the property north of 18th street was developed around 20 years ago.

For these reasons the Board should consider that if the variance is granted, the property transfer mechanism is the only requirement in place that would make the owners inspect the system. This property has been in the trust since 1991 even though Jerome Rypka passed away in 1999. So, it has been decades since this property technically transferred. Through the creation of trusts, LLC etc., it theoretically could be years before it transfers again and even though the house is only used sparingly now, there are no provisions that would limit its use in the future. For these reasons, if the variance is granted staff requests the board consider putting some limits on the variance such as an ending date.



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Ripka Variance

April 18, 2023



ATTACHMENT A
REASON FOR VARIANCE

Steele County has initiated eminent domain proceedings to obtain fee title and temporary easements to portions of the subject property as part of the project to construct a roundabout at the intersection of Bixby Road and 18th Street. A substantial amount of work will be performed on the Rypka Property to relocate the existing entrance to the property at 1945 SE 18th St. See the diagram attached as Exhibit 1.

The applicants are proposing a donation of the land and easements required by the County pursuant to the terms of a draft Donation Agreement, which will substantially benefit the County.

The land is presently titled in the name of the Estate of Dorothy B. Rypka ("Estate") and the Jerome A. Rypka Testamentary Trust ("Trust"). The applicants, Dixon Rypka, Dann Rypka, and David Rypka are the children of Jerome and Dorothy Rypka and the sole beneficiaries of the Estate and the Trust. In order to complete the donation to the County, the land must be transferred from the Estate and Trust to the above-named children.

The old Rypka homestead farmhouse is located on the land in question. The farmhouse is vacant (except for brief visits by David Rypka and his wife two-three weeks out of the year) and is serviced by a subsurface sewage treatment system ("SSTS"). Ultimately the applicants plan to demolish the farmhouse and develop the land. In the meantime, the water well system servicing the rest of the property is located in the basement of the farmhouse; this necessitates maintaining drainage from the house.

Section 8.03 of the Steele County Subsurface Sewage Treatment System Ordinance requires a compliance inspection prior to a transfer of real property. The applicants desire to delay a compliance inspection at this time until a future development plan is finalized and are seeking a variance from the requirement to perform a compliance inspection for that reason.

Our variance request meets the requirements and spirit of granting a variance for the following reasons:

1. The variance request is in harmony with the purpose and intent of the ordinance and consistent with the comprehensive plan.

The purpose and intent of the ordinance is to ensure that SSTS's are updated upon a transfer of property. The ordinance provides an exception for transfers between married persons. Similarly, the contemplated transfer here is between family members. The transfer will result in no change of use to the farmhouse and will have no impact on the discharges from the land.

The variance request is consistent with the comprehensive plan. There is no change proposed to the use of the land.

2. The property owner is proposing to use the property in a reasonable manner.

As stated, there is no proposed change to the use of the land. The property owners intend that the farmhouse shall remain vacant until such time as it is later demolished and the land is developed. At that time a development plan would be proposed, and the existing SSTS would be decommissioned.

3. The plight of the landowner is due to circumstances unique to the property.

The property is uniquely situated at the intersection of Bixby Road and 18th St. where Steele County is planning to construct a roundabout. This variance request is triggered by Steele County's commencement of eminent domain proceedings on a portion of the property. In order to complete a donation of the property interests to Steele County, a grant of this variance is necessary.

4. Granting the variance will not alter the essential character of the locality.

As stated, there is no proposed change of use for the property. A grant of the variance request will simply allow the transfer of the parcel to family members.

5. The considerations in granting this variance are not economic.

The only reason that the applicants are seeking to transfer ownership of the land to the children is as a direct result of Steele County's commencement of eminent domain proceedings. If Steele County was not constructing a roundabout adjacent to the property, this variance request would not be necessary.

The applicants will receive no economic benefit from a grant of the variance. The farmhouse will not be put to a different use, nor will there be any change in the discharges from the farmhouse. No increase in living space to the farmhouse is proposed, nor is a request to rezone the property proposed.

RIGHT OF WAY PARCEL LAYOUT

STEELE COUNTY



S.A.P. 074-648-007

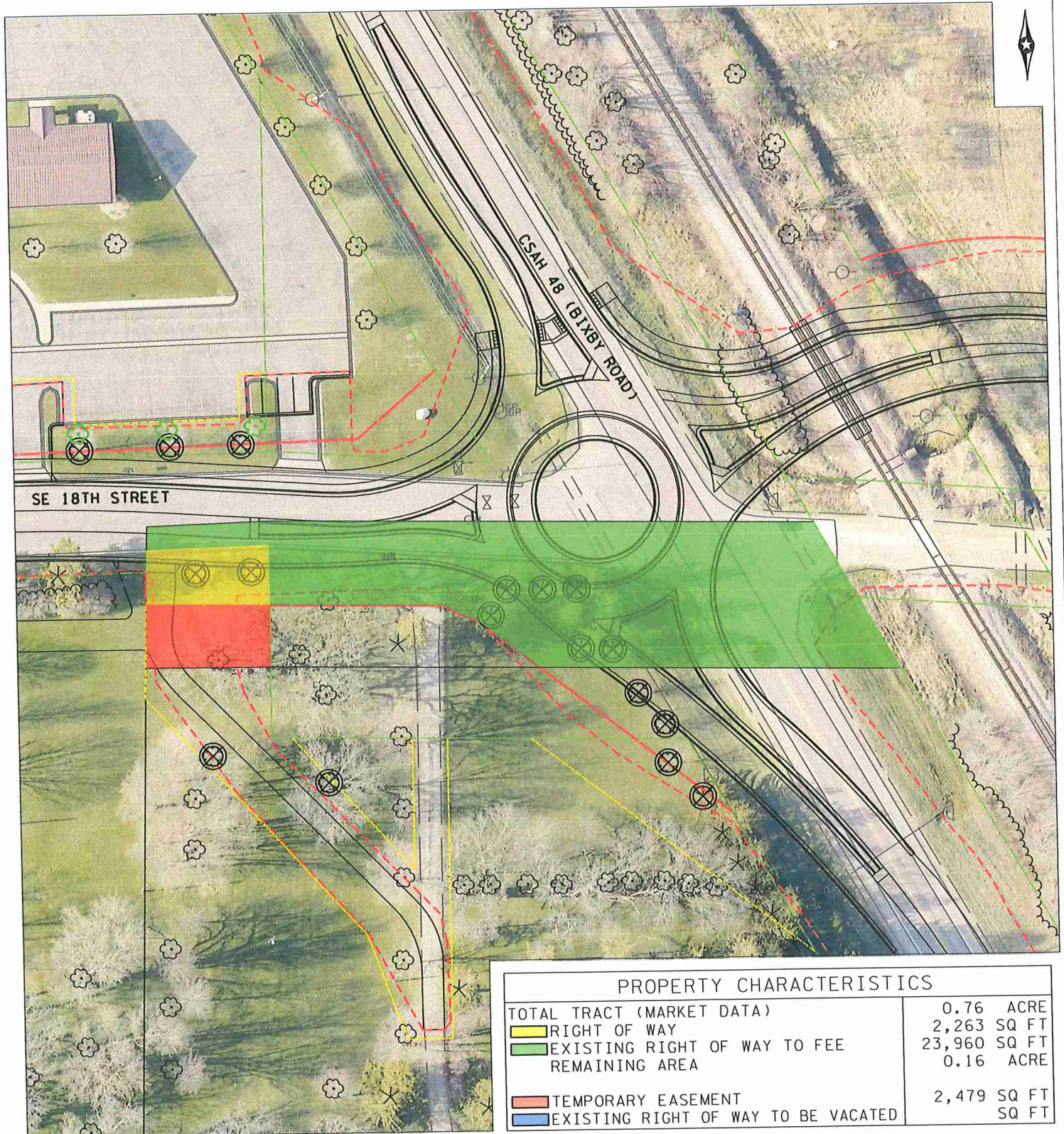
PROJECT: CSAH 48 & 18TH STREET ROUNDABOUT

OWNER: JEROME A. RYPKA TESTAMENTARY TRUST

ADDRESS: 1945 SE 18TH STREET

Scale 1" = 75'

PARCEL ID: 08-014-2302



Layout sketch by M. VanderBrug

Date: 3/9/2023

Parcel No.

5

RIGHT OF WAY PARCEL LAYOUT

STEELE COUNTY



S.A.P. 074-648-007

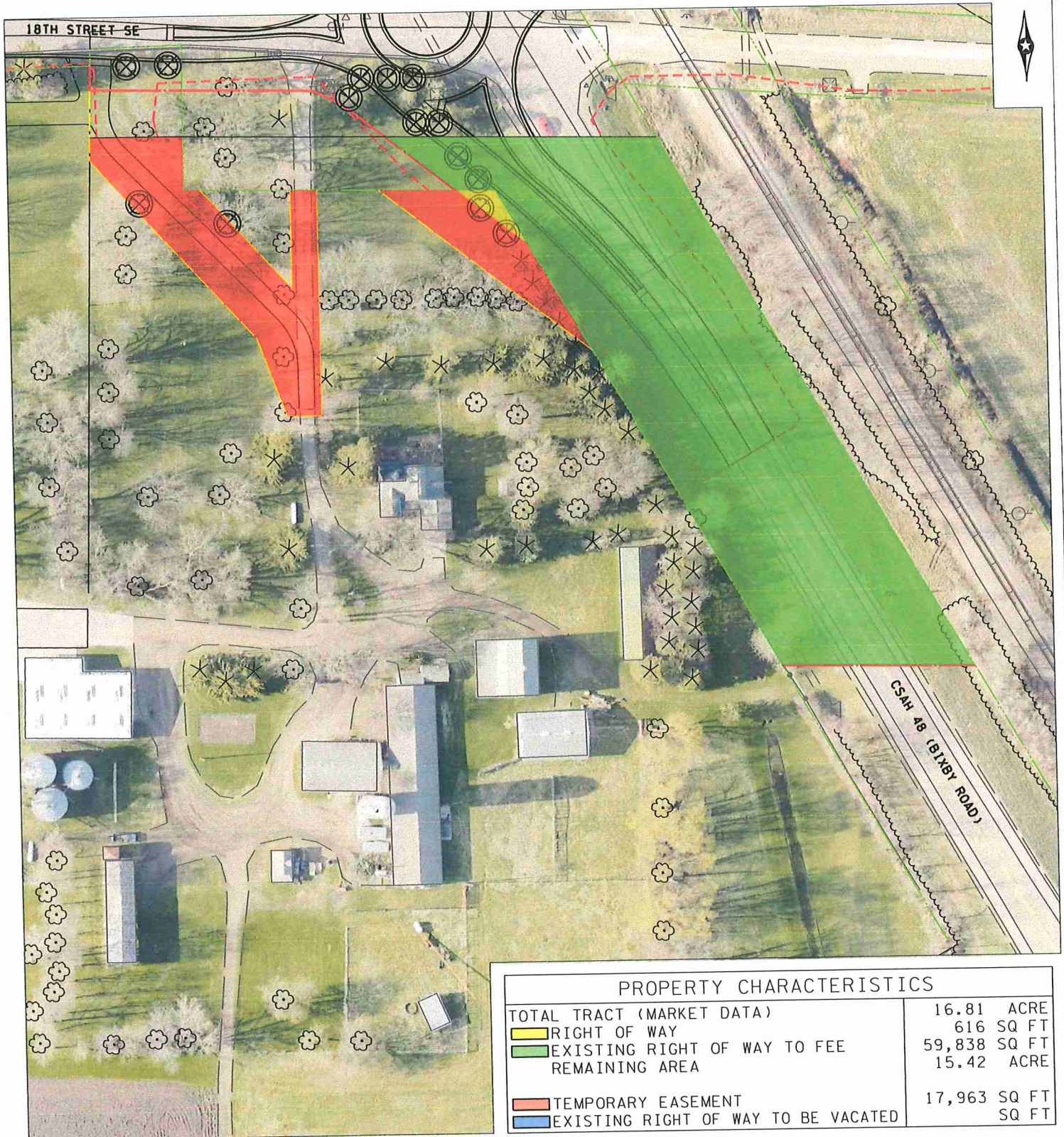
PROJECT: CSAH 48 & 18TH STREET ROUNDABOUT

OWNER: DOROTHY RYPKA & JEROME A. RYPKA TESTAMENTARY TRUST

ADDRESS: 1945 18TH STREET SE

Scale 1" = 100'

PARCEL ID: 08-023-1300



Layout sketch by M. VanderBrug

Date: 3/9/2023

Parcel No.

3

RIGHT OF WAY PARCEL LAYOUT

STEELE COUNTY



S.A.P. 074-648-007

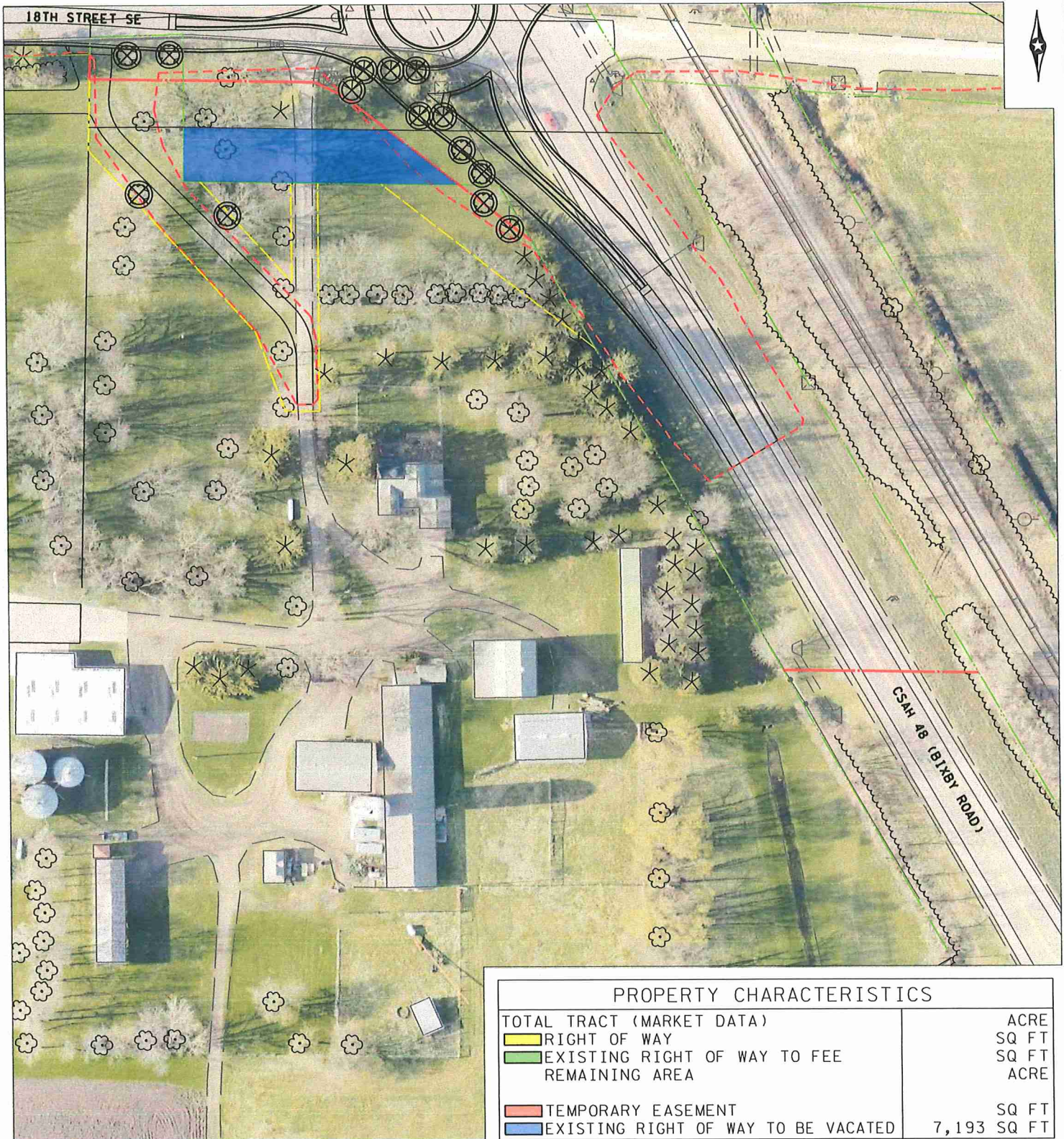
PROJECT: CSAH 48 & 18TH STREET ROUNDABOUT

OWNER: DOROTHY RYPKA & JEROME A. RYPKA TESTAMENTARY TRUST

ADDRESS: 1945 18TH STREET SE

Scale 1" = 100'

PARCEL ID: 08-023-1300



Layout sketch by M. VanderBrug

Date: 3/9/2023

Parcel No.

3A

RIGHT OF WAY PARCEL LAYOUT

STEELE COUNTY



S.A.P. 074-648-007

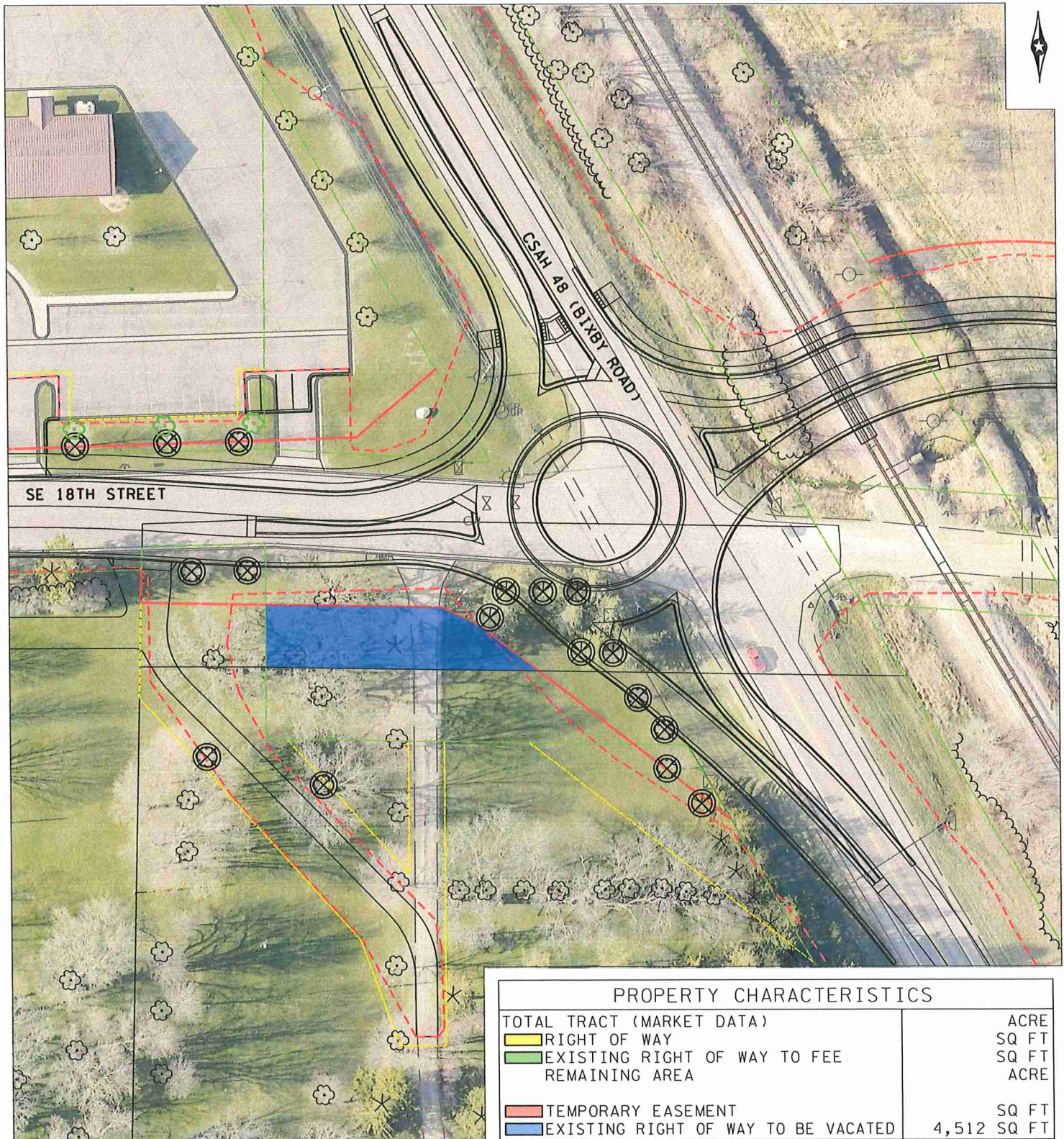
PROJECT: CSAH 48 & 18TH STREET ROUNDABOUT

OWNER: JEROME A. RYPKA TESTAMENTARY TRUST

ADDRESS: 1945 SE 18TH STREET

Scale 1" = 75'

PARCEL ID: 08-014-2302



Layout sketch by M. VanderBrug

Date: 3/9/2023

Parcel No.

5A

RECORD of FINDINGS

655

PARCEL #: 08-023-1300
DISTRICT: Interim Agricultural

PROP. ADDRESS: 1945 18th St. SE
Owatonna, MN 55060

APPLICANT: David, Dann, Dixon Rypka
ADDRESS: 1875 SE 18th St.
Owatonna, MN 55060

LANDOWNER: Jerome A. Rypka Testamentary Tr
ADDRESS:

RECORD of FINDINGS of the BOARD OF ADJUSTMENT

(to grant a variance the board of adjustments must answer yes to all of the following.)

- 1 Is the variance request in harmony with the purpose and intent of the ordinance and consistent with the comprehensive plan?

Schmidt	Yes	☐	No	☐	Why?	
Jaster	Yes	☐	No	☐	Why?	
Ulrich	Yes	☐	No	☐	Why?	
Nelson	Yes	☐	No	☐	Why?	
Lammers	Yes	☐	No	☐	Why?	

- 2 Is the owner proposing to use the property in a reasonable manner?

Schmidt	Yes	☐	No	☐	Why?	
Jaster	Yes	☐	No	☐	Why?	
Ulrich	Yes	☐	No	☐	Why?	
Nelson	Yes	☐	No	☐	Why?	
Lammers	Yes	☐	No	☐	Why?	

- 3 Is the plight of the land owner due to circumstances that are unique to the property?

Schmidt	Yes	☐	No	☐	Why?	
Jaster	Yes	☐	No	☐	Why?	
Ulrich	Yes	☐	No	☐	Why?	
Nelson	Yes	☐	No	☐	Why?	
Lammers	Yes	☐	No	☐	Why?	

- 4 Were the unique circumstances created by someone other than the landowner?

Schmidt	Yes	☐	No	☐	Why?	
Jaster	Yes	☐	No	☐	Why?	
Ulrich	Yes	☐	No	☐	Why?	
Nelson	Yes	☐	No	☐	Why?	
Lammers	Yes	☐	No	☐	Why?	

5 Will the character of the locality remain the same after granting the variance?

Schmidt	Yes	☐	No	☐	Why? _____
Jaster	Yes	☐	No	☐	Why? _____
Ulrich	Yes	☐	No	☐	Why? _____
Nelson	Yes	☐	No	☐	Why? _____
Lammers	Yes	☐	No	☐	Why? _____

6 Does the practical difficulty involve more than economic considerations?

Schmidt	Yes	☐	No	☐	Why? _____
Jaster	Yes	☐	No	☐	Why? _____
Ulrich	Yes	☐	No	☐	Why? _____
Nelson	Yes	☐	No	☐	Why? _____
Lammers	Yes	☐	No	☐	Why? _____

Motion _____
Second _____

Approve

☐

Deny

☐

Schmidt	Aye	☐	Nay	☐
Jaster	Aye	☐	Nay	☐
Ulrich	Aye	☐	Nay	☐
Nelson	Aye	☐	Nay	☐
Lammers	Aye	☐	Nay	☐

Approved

☐

Denied

☐

Date: _____

Information and testimony presented supporting this decision are hereby certified to be the Findings of the Steele County Board of Adjustments.

Chair, Steele County Board of Adjustments

Date

Document prepared by the Steele County Planning and Zoning Director.

Director, Steele County Planning and Zoning

Date