

Midway City Council
18 July 2023
Regular Meeting

Malinka Subdivision /
Amended Final Approval



Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: June 6, 2023
NAME OF PROJECT: Malinka Density Reduction Subdivision
NAME OF APPLICANT: Berg Engineering
PROPERTY OWNER: Peter and Emily Malinka
AGENDA ITEM: Revised Preliminary/Final Approval
LOCATION OF ITEM: 150 North 100 East
ZONING DESIGNATION: R-1-15

ITEM: 6

Berg Engineering, agent for Peter and Emily Malinka, is requesting revised preliminary/final approval of a 5-lot density reduction subdivision to be known as the Malinka Subdivision. The proposal is on 5.2 acres and is located at 150 North 100 East and is in the R-1-15 zone.

BACKGROUND:

During the June 6, 2023, City Council meeting, the City Council granted final approval for the Malinka Density Reduction Subdivision along with its accompanying development agreement. One of the main points of discussion was how to save a pine tree on the property that would need to be removed unless the proposed cul-de-sac plan is not adjusted. The following are the minutes and motion from the meeting:

8. Resolution 2023-16 / Malinka Subdivision Development Agreement
(City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-16 adopting a development agreement for the Malinka Subdivision located at 150 North 100 East (Zoning is R-1-15).

Corbin Gordon indicated that he would make the following changes to the development agreement:

- Add easements for the Midway Irrigation Company and Midway Sanitation District.
- **The cul-de-sac could be reduced from a diameter of 90 to 80 feet and be more symmetrical.**
- Evidence would be provided of agreements for any private easement for the Engfers' property.

Motion: Council Member Dougherty moved to approve Resolution 2023-16, adopting a development agreement for the Malinka Density Reduction Subdivision, with the modifications specified by the City Attorney and authorized the Mayor to sign it.

Second: Council Member Payne seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:
Council Member Dougherty Excused from the Meeting
Council Member Drury Aye
Council Member Orme Aye
Council Member Payne Aye
Council Member Simonsen Excused from the Meeting

The motion specifically stated that the diameter of the cul-de-sac could be reduced from 90' to 80' and be more symmetrical. Since the motion was made, an arborist has visited the site and arrived at the conclusion that more space is needed to save the tree. Paul Berg has designed a cul-de-sac that is more symmetrical (see attached) but to have the space needed to save the tree, the diameter of the cul-de-sac would be limited to 70'. The applicant is petitioning the City Council to revise preliminary/final approval to allow for a 70' diameter cul-de-sac.

Midway Fire Marshall, Tex Couch, reviewed the proposed plans with the 70' diameter cul-de-sac and agrees that the proposal will meet fire code requirements. Midway Engineer, Wes Johnson reviewed the proposed plans with the 70' diameter cul-de-sac and agrees that the proposal will meet engineering requirements for a low traffic count cul-de-sac.

The applicant has submitted the following explanation in an email dated June 26, 2023.

Michael, Wes, Kevin & Tex,

I am emailing in regards to the Malinka Subdivision and the request to further reduce the cul de sac to 70' in diameter.

In the June 6th city council meeting, the council provided preliminary and final approval for our density-reduction subdivision, contingent upon:

- 1. A certified arborist's opinion on the requisite space to save some trees that will be affected by the cul de sac, and*
- 2. My wife and I moving the center of the cul de sac west to make it more symmetrical.*

We have completed both tasks and need to get your approvals to shrink the cul de sac even further than expected. Rather than a 10 foot reduction (from 90' to 80'), it appears that we need to reduce it by 20' (to 70').

In regards to the first contingency, Daniel Allen, determined that a Tree Protection Zone (TPZ) of 20' around the tree would be needed.

Daniel's final comments were, "After visiting the tree in question today, I can speak with confidence that the tree protection zone (TPZ) needed for this spruce is a circular area with a 20' radius out from the trunk. Within a TPZ, NO construction related activities should take place. Ideally this area would be fenced off during construction. This coupled with supplemental watering (due to the stress of significant site changes) should keep the tree healthy."

In addition to the 20' TPZ, we need a 10' easement along the side of the cul de sac to run the utilities to the lots. To make room for this additional 10 feet, we agreed to move the cul de sac west by roughly 15 feet on the plans. Doing so makes it 100% symmetrical, which meets the requirement for contingency item #2 above.

Taking all of this into account, I asked Paul to prepare a Final Site Plan (see attached). It illustrates the 20' root ball/TPZ and the 10' utility easement and shows the cul de sac's change in location.

Lastly, see the attached sketch from Appendix D of the international fire code. The sketch uses the last alternative turnaround as a example for appropriate distances, but adds the cul de sac configuration to make it conform to a typical neighborhood.

It might be best to meet in person to discuss, but I thought that perhaps an email would suffice.

Additionally I have found 2 examples of cul de sacs in Midway that are only 60' in diameter. Both are located in the Meadow Creek Subdivision.

Please let me know how you would all like to proceed.

Thank you,

Peter Malinka

POSSIBLE FINDINGS:

- The proposed revised cul-de-sac will help save the pine tree that will need to be removed with the current approved plans.
- The proposed cul-de-sac design complies with fire code standards and engineering standards.
- The proposed lots meet the minimum requirements for the R-1-15 zone.
- The proposal does meet the intent of the General Plan for the R-1-15 zone.
- The proposal does comply with the requirements for the Density Reduction Subdivision code.
- The subdivision helps comply with the vision stated in the General Plan to preserve open space and a country/rural atmosphere.
- The lots will be deed restricted so it can never be further subdivided.
- The duration of Preliminary/Final Approval shall be for one year from the date of approval of the development by the City Council. If the Final Plat is not recorded with the County Recorder within the one-year period, the development's approval shall be voided, and both Preliminary/Final Approvals must be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for plat recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that:
 1. Construction must be conducted per any new City standards in effect at the time the plat is ultimately recorded;
 2. The property must be maintained in a clean, dust-free, and weed-free condition always;

3. Each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or
4. No more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

ALTERNATIVE ACTIONS:

1. Revised Approval (conditional). This action can be taken if the City Council finds that the proposal complies with the intent of the land use code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)

2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds the request does not comply with the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

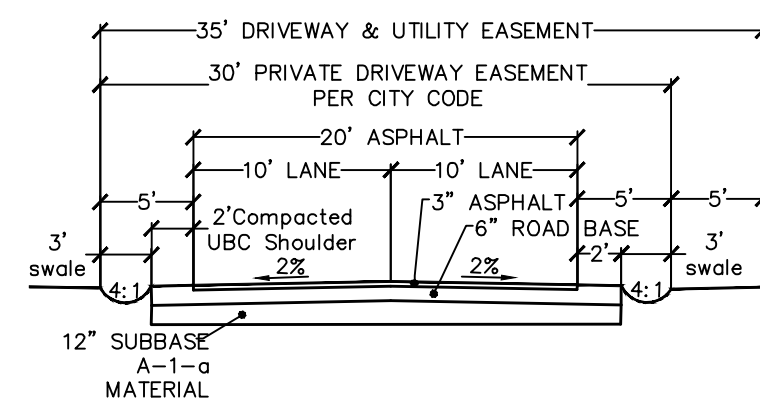
PROPOSED CONDITIONS:

1. The deed restrictions that will be recorded on the lots must be submitted to the City for review and recorded immediately after the plat is recorded.
2. A note on the plat is included with language that clearly states that subdividing the lots is prohibited.





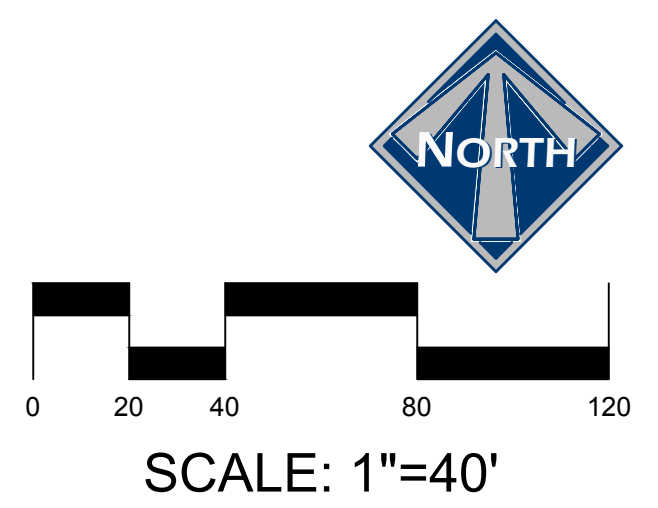
AREA
TOTAL PROJECT AREA 5.20 ACRES



SHARED DRIVEWAY CROSS SECTION
Scale: 1"=10'

NOTES:
INSTALL 6" OF TOPSOIL AND SEED IN ALL DISTURBED AREAS.

100 N Center LLC
 OMI-04-31-0-035-034
 JOHN W FINDERLE
 OMI-04-36-1-035-034
 CATHERINE ANN PHILPOT
 OMI-04-35-2-035-034
 CATHERINE ANN PHILPOT
 OMI-04-35-0-035-034
 RONALD J MEIK
 OMI-04-35-1-035-034
 DOUGLAS ENGER TRUST
 OMI-04-38-1-035-034
 SHARON D MILLER TRUST
 OMI-04-30-9-035-034
 WALKER
 WEBB
 CROSSWHITE
 MALINKA
 MALINKA
 JOHNSON
 COOPER
 100 NORTH
 100 EAST
 2023 | plotted by: STACEY-PC

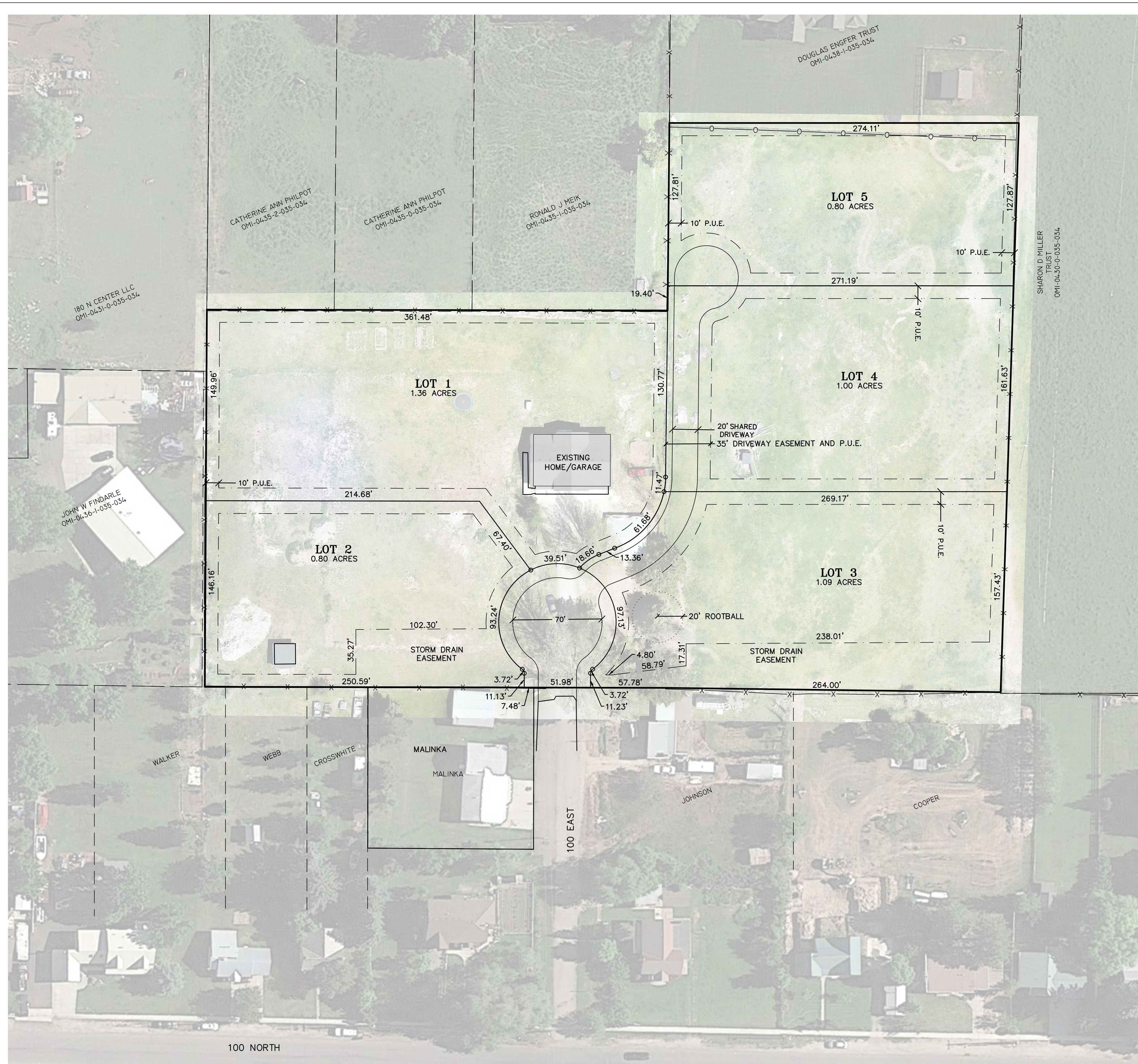


PETER MALINKA
MALINKA SUBDIVISION
SITE PLAN

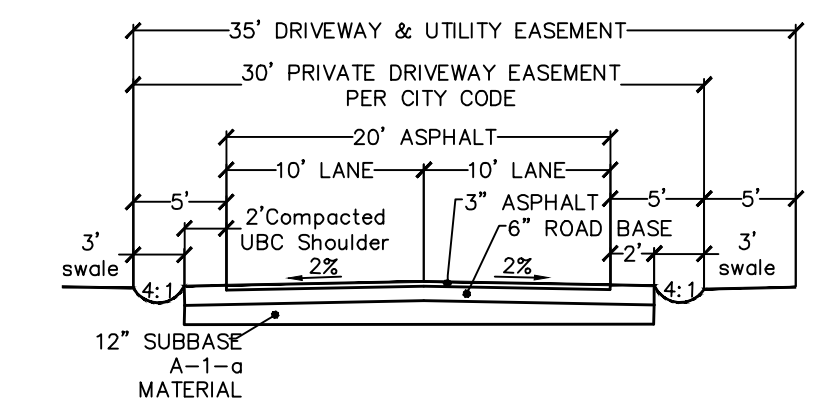
THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.
 PAUL D. BERG P.E.
 SERIAL NO. 295595
 DATE: 31 MAR 2023

DESIGN BY: PDB
DRAWN BY: SW
DATE: 31 MAR 2023
REV:
SHEET 2

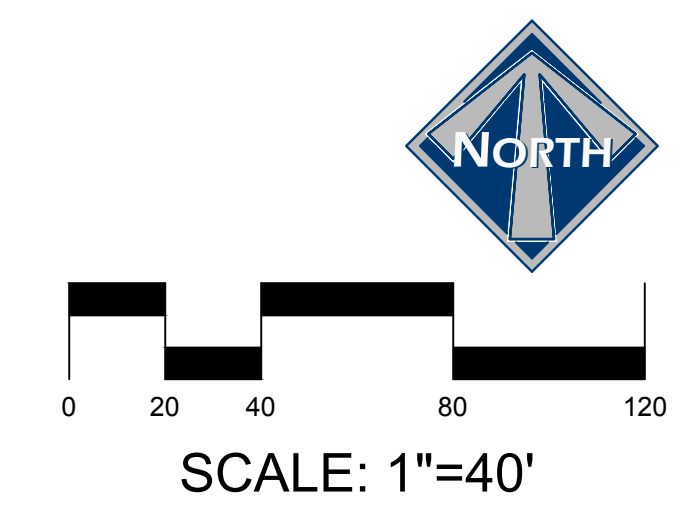
100 N. Main St., Suite 204, Midway, UT 84049
 Paul D. Berg, P.E.
 2023 JUN 21



AREA
TOTAL PROJECT AREA 5.20 ACRES



SHARED DRIVEWAY CROSS SECTION
Scale: 1"=10'
NOTES:
INSTALL 6" OF TOPSOIL AND SEED IN ALL DISTURBED AREAS.



PETER MALINKA
MALINKA SUBDIVISION
SITE PLAN

THIS DOCUMENT IS RELEASED FOR REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION UNLESS SIGNED AND SEALED.
PAUL D. BERG P.E.
SERIAL NO. 295595
DATE: 21 JUN 2023

DESIGN BY: PDB DATE: 21 JUN 2023 SHEET
DRAWN BY: SW REV: 2

APPENDIX D

FIRE APPARATUS ACCESS ROADS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance or legislation of the jurisdiction.

User note:

About this appendix: Appendix D contains more detailed elements for use with the basic access requirements found in Section 503, which gives some minimum criteria, such as a maximum length of 150 feet and a minimum width of 20 feet, but in many cases does not state specific criteria. This appendix, like Appendices B and C, is a tool for jurisdictions looking for guidance in establishing access requirements and includes criteria for multiple-family residential developments, large one- and two-family subdivisions, specific examples for various types of turnarounds for fire department apparatus and parking regulatory signage.

SECTION D101 GENERAL

D101.1 Scope. Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the *International Fire Code*.

SECTION D102 REQUIRED ACCESS

D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an *approved* fire apparatus access road with an asphalt, concrete or other *approved* driv-

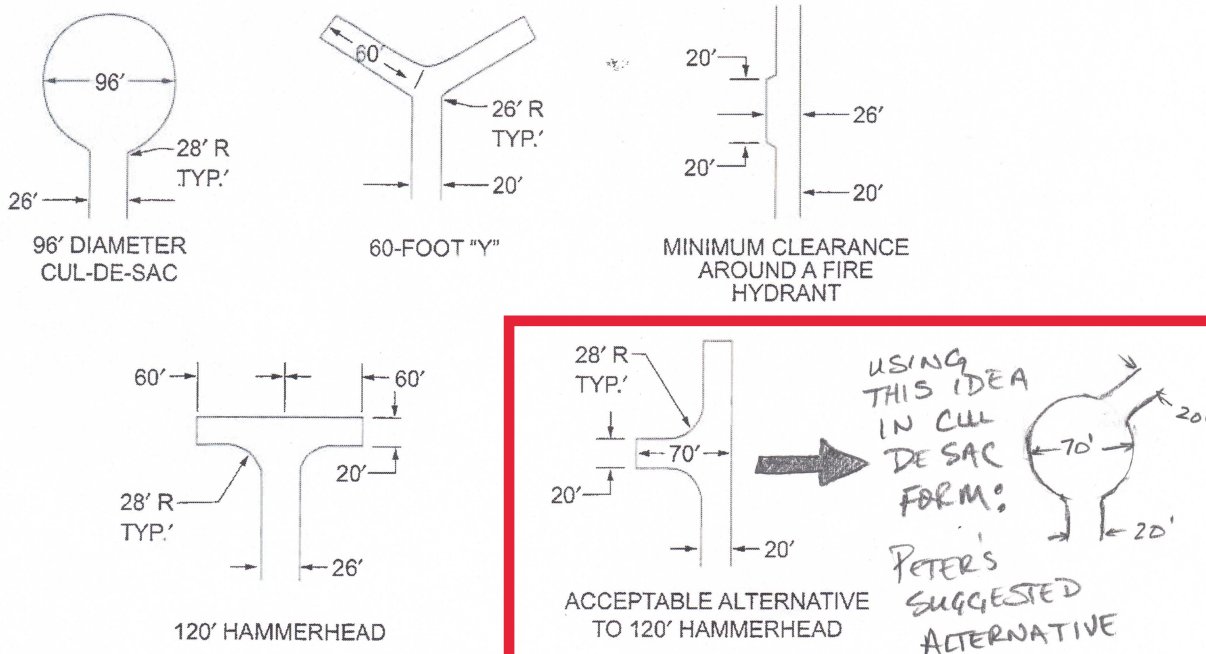
ing surface capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds (34 050 kg).

SECTION D103 MINIMUM SPECIFICATIONS

D103.1 Access road width with a hydrant. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

D103.2 Grade. Fire apparatus access roads shall not exceed 10 percent in grade.

Exception: Grades steeper than 10 percent as *approved* by the *fire code official*.



For SI: 1 foot = 304.8 mm.

FIGURE D103.1
DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND