



**Agenda
Minnetonka City Council
Regular Meeting
Monday, May 9, 2022
6:30 p.m.
Council Chambers**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Schack-Wilburn-Calvert-Schaeppi-Coakley-Kirk-Wiersum
4. Approval of Agenda
5. Approval of Minutes:
 - A. April 11, 2022 LBAE minutes
 - B. April 25, 2022 LBAE minutes
 - C. April 25, 2022 regular meeting minutes
6. Special Matters:
 - A. Hennepin County Update
Recommendation: No action needed, informational only
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None.
10. Consent Agenda - Items Requiring a Majority Vote:
 - A. Resolution to approve master partnership contract with MnDOT
Recommendation: Adopt the resolution (4 votes)
 - B. Approve traffic signal agreement at various intersections with Hennepin County
Recommendation: Adopt the agreement (4 votes)

Minnetonka City Council meetings are broadcast live on Comcast: channel 16 (SD), channel 859 (HD); CenturyLink Prism: 238 (SD), 1238 (HD).
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city's website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit <https://www.minnetonkamn.gov>

- C. Resolution committing Ice Arena special revenue fund revenues
Recommendation: Adopt the resolution (4 votes)
- D. Funding agreement for Metropolitan Council Local Housing Incentives Account (LHIA) Funds for Homes Within Reach
Recommendation: Approve the agreement and sub-recipient agreement (4 votes)
- 11. Consent Agenda - Items Requiring Five Votes: None.
- 12. Introduction of Ordinances:
 - A. Ordinance amending City Code 805 regarding swimming pools and spas
Recommendation: Introduce the ordinance and provide feedback (4 votes)
- 13. Public Hearings:
 - A. Temporary on-sale liquor licenses for Unmapped Brewing, LLC, 14625 Excelsior Blvd
Recommendation: Hold the public hearing and grant the licenses (5 votes)
 - B. Temporary on-sale liquor license for Immaculate Heart of Mary Church, 13505 Excelsior Blvd
Recommendation: Hold the public hearing and grant the license (5 votes)
- 14. Other Business:
 - A. Three Rivers Park District Regional Trails Master Plan
Recommendation: Adopt the resolution and letter of support (4 votes)
 - B. Appeal of planning commission denial of a floor area ratio and building height variances for a new home at 4299 Annika Court
Recommendation: Adopt the resolution (4 votes)
- 15. Appointments and Reappointments: None.
- 16. Adjournment

Minutes
2022 Minnetonka Local Board of Appeal and Equalization
Monday, April 11, 2022

1. **Call to Order**

Mayor Brad Wiersum called the meeting to order at 6:00 p.m.

2. **Roll Call**

Councilmembers Rebecca Schack, Kimberly Wilburn, Deb Calvert, Bradley Schaeppi, Kissy Coakley, Brian Kirk and Mayor Brad Wiersum were present.

3. **Introductory Report**

City Assessor Colin Schmit gave the introductory report.

Acting City Manager Mike Funk noted the addenda includes an updated agenda. Properties were added to sections 4A, 4B and 4C after the packet was distributed.

4. **Appeals to the board of review**

A. **Valuation changes being brought by the City Assessor to the Local Board of Appeal and Equalization for action:**

Wiersum read the following into the record:

| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Assessors' Recommendation |
|----|---|-----------------------------|-----------------------------|--------------------------------|
| 1) | Scott Edmundson Lana Edmundson 16004 Dawn Dr Minnetonka, MN 55345 PID 29-117-22-44-0012 | \$352,600 | \$560,400 | \$543,000 |
| 2) | Ashley Burgess 2143 Sheridan Hills Rd Wayzata, MN 55391 09-117-22-21-0013 | \$472,000 | \$651,000 | \$550,000 |
| 3) | Patrick Clint Cindy Clint 2967 Tonka Tr Wayzata, MN 55391 PID 17-117-22-11-0027 | \$766,100 | \$931,600 | \$850,000 |
| 4) | Philip Mason Monica Mason 625 City View Dr Minnetonka, MN 55305 PID 02-117-22-22-0065 | \$783,700 | \$887,100 | \$865,000 |
| 5) | John Louwers Claire Louwers 15000 Woodruff Rd Wayzata, MN 55391 PID 09-117-22-13-0035 | \$430,200 | \$573,600 | \$565,000 |

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| 6) | Jeffrey Norman Benjamin Peck 5157 Dominick Dr Minnetonka, MN 55343 PID 26-117-22-31-0029 | \$884,300 | \$1,144,600 | \$1,050,000 |
| 7) | Hugh Allan Joanne Allan 16528 Hidden Valley Rd Minnetonka, MN 55345 PID 20-117-22-12-0012 | \$451,800 | \$524,600 | \$495,000 |
| 8) | MSP Hutchins LLC 17809 Hutchins Dr Minnetonka, MN 55345 PID 30-117-22-41-0042 | \$1,566,000 | \$1,600,000 | \$1,495,000 |
| 9) | Mark Dillon Cecelia Dillon 3411 Fairlawn Dr Minnetonka, MN 55345 PID 17-117-22-42-0051 | \$365,800 | \$434,400 | \$415,000 |
| 10) | Jon Stone Linda Stone 1892 Yorkshire Ave S Minnetonka, MN 55305 PID 01-117-22-43-0060 | \$729,400 | \$834,300 | \$776,000 |
| 11) | Zachary Kaplan Marissa Kaplan 11674 Cedar Pass Minnetonka, MN 55305 PID 11-117-22-43-0056 | \$790,000 | \$952,200 | \$885,000 |
| 12) | James Field Martha Kudak 2630 Abbey Hill Dr Minnetonka, MN 55305 PID 10-117-22-41-0045 | \$535,500 | \$631,100 | \$600,000 |
| 13) | David Hovde Victoria Hovde 16614 Meadowbrook La Wayzata, MN 55391 PID 08-117-22-43-0038 | \$469,900 | \$536,000 | \$505,000 |
| 14) | Andrew Ward Stephanie Ward 5217 Westmill Rd Minnetonka, MN 55345 PID 29-117-22-34-0001 | \$524,600 | \$596,500 | \$555,000 |
| 15) | Stuart Nelson Sara Nelson 14910 McGinty Rd W Wayzata, MN 55391 PID 09-117-22-43-0018 | \$581,100 | \$687,100 | \$655,000 |

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| 16) | Daniel Zenk Emmy Zenk 2426 Bantas Point La Wayzata, MN 55391 PID 08-117-22-13-0030 | \$564,300 | \$721,600 | \$660,000 |
| 17) | Brandon Bolduc Jennifer Bolduc 16608 Meadowbrook La Wayzata, MN 55391 PID 08-117-22-43-0037 | \$567,400 | \$694,200 | \$610,000 |
| 18) | Darrin Grove Maria Requiron 19010 Old Excelsior Blvd Minnetonka, MN 55345 PID 30-117-22-32-0046 | \$724,600 | \$812,400 | \$740,000 |
| 19) | Nicklas Galanos Ursula Galanos 2650 Oakland Rd Minnetonka, MN 55305 PID 10-117-22-31-0013 | \$790,900 | \$920,600 | \$885,000 |
| 20) | Woodhill LLC 4323 Woodhill Rd Minnetonka, MN 55345 PID 22-117-22-32-0076 | \$465,300 | \$518,800 | \$495,000 |
| 21) | Kevin Shearer Katherine Shearer 3622 Farmington Rd Minnetonka, MN 55305 PID 15-117-22-44-0062 | \$474,900 | \$560,500 | \$530,000 |
| 22) | Stephen Roberts Genevieve Roberts 5418 Mayview Rd Minnetonka, MN 55345 PID 34-117-22-21-0004 | \$555,200 | \$649,800 | \$610,000 |
| 23) | Ronald Buchanan Lois Ebnet 3033 Chase Dr Minnetonka, MN 55305 PID 15-117-22-12-0012 | \$590,100 | \$721,700 | \$675,000 |
| 24) | Logan Reed Kelsey Kiefer 4721 Deerwood Dr Minnetonka, MN 55343 PID 27-117-22-12-0016 | \$279,400 | \$411,100 | \$390,000 |
| 25) | Brian Weitz Kara Bancroft 15849 Woodgate Rd N Minnetonka, MN 55345 PID 28-117-22-32-0064 | \$444,400 | \$517,400 | \$475,000 |

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| 26) | Mark Johnson Robin Johnson 4803 Chantrey Pl Minnetonka, MN 55345 PID 28-117-22-21-0028 | \$684,900 | \$786,500 | \$750,000 |
| 27) | Rotherick Tan Yen Peng Lim 18934 Radford St Minnetonka, MN 55345 PID 31-117-22-32-0002 | \$466,300 | \$539,300 | \$530,000 |
| 28) | Joan Nicol Hoium 2921 Bay St Wayzata, MN 55391 PID 17-117-22-22-0017 | \$244,900 | \$427,400 | \$395,000 |
| 29) | Travis Michels Carrie Michels 12713 Twelve Oaks Dr Minnetonka, MN 55305 PID 11-117-22-33-0018 | \$446,200 | \$553,100 | \$500,000 |
| 30) | Michael Oreck Susan Oreck 2091 Sherwood La Minnetonka, MN 55305 PID 11-117-22-22-0303 | \$602,000 | \$655,600 | \$625,000 |
| 31) | Steven Leventhal 11209 Fetterly Rd W Minnetonka, MN 55305 PID 11-117-22-14-0038 | \$587,300 | \$663,300 | \$645,000 |
| 32) | Lawrence Covin Rita Covin 2298 Sherwood Ct Minnetonka, MN 55305 PID 11-117-22-22-0249 | \$331,400 | \$359,200 | \$350,000 |
| 33) | David Hoffman Rachael Hoffman 14317 McGinty Rd W Wayzata, MN 55391 PID 15-117-22-23-0035 | \$703,900 | \$887,000 | \$840,000 |
| 34) | Lisa Lockwood 5113 Baker Rd Minnetonka, MN 55343 PID 27-117-22-41-0040 | \$824,200 | \$1,037,200 | \$885,000 |
| 35) | Michael Paddock Amber Paddock 15612 Willowood Dr Minnetonka, MN 55345 PID 33-117-22-32-0011 | \$532,600 | \$700,400 | \$685,000 |
| 36) | Robert Antonovich 17420 Bay La Wayzata, MN 553991 PID 17-117-22-22-0023 | \$322,900 | \$435,100 | \$420,000 |

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| 37) | Gerald Rosovitz Carol Rosovitz 5833 Whited Ave Minnetonka, MN 55345 PID 33-117-22-31-0033 | \$376,300 | \$440,400 | \$425,000 |
| 38) | Stephen Shanesy Renee Shanesy 2643 Snowmass Cir Minnetonka, MN 55305 PID 11-117-22-44-0015 | \$818,400 | \$940,800 | \$900,000 |
| 39) | Brooks Lambert Angela Lambert 12001 Golden Acre Dr Minnetonka, MN 55305 PID 11-117-22-31-0056 | \$360,200 | \$455,800 | \$435,000 |
| 40) | Brian Heijerman Sarah Jarrett 12825 Greenwood Tr Minnetonka, MN 55343 PID 22-117-22-44-0033 | \$388,200 | \$562,600 | \$535,000 |
| 41) | Michael Noble Kristi Noble 5937 Fairwood Dr Minnetonka, MN 55345 PID 33-117-22-32-0052 | \$455,800 | \$601,800 | \$580,000 |
| 42) | Janie Fink 3325 Creekview Ter Minnetonka, MN 55305 PID 15-117-22-13-0055 | \$680,100 | \$792,000 | \$777,000 |
| 43) | Peggy Kaplan 5592 Bristol La Minnetonka, MN 55343 PID 35-117-22-21-0047 | \$710,800 | \$803,200 | \$760,000 |
| 44) | Jay Sachetti Rebecca Sachetti 5926 Lone Lake Loop Minnetonka, MN 55343 PID 35-117-22-42-0101 | \$565,300 | \$696,700 | \$635,000 |
| 45) | Richard Bruce Deanna Bruce 3310 Hazelwood West Wayzata, MN 55391 PID 15-117-22-23-0019 | \$700,700 | \$966,000 | \$900,000 |
| 46) | Jeffrey Noyes 14618 Oakwood Rd Minnetonka, MN 55345 PID 21-117-22-14-0004 | \$414,500 | \$498,600 | \$450,000 |
| 47) | Veta Segal 12830 April La Minnetonka, MN 55305 PID 15-117-22-11-0029 | \$460,000 | \$541,500 | \$480,000 |

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| 48) | Jill Miyamoto 17208 Millwood Rd Minnetonka, MN 55345 PID 29-117-22-33-0006 | \$493,600 | \$564,800 | \$545,000 |
| 49) | Michael Flower Jillian Flower 5559 Bristol La Minnetonka, MN 55343 PID 35-117-22-21-0038 | \$656,900 | \$814,000 | \$790,000 |
| 50) | Daniel Mord Cynthia Mord 3108 Minnehaha Ct Wayzata, MN 55391 PID 16-117-22-11-0014 | \$574,100 | \$815,700 | \$735,000 |
| 51) | James Hiller Joan Hiller 5638 Glen Ave Minnetonka, MN 55345 PID 33-117-22-13-0036 | \$450,000 | \$546,700 | \$445,000 |
| 52) | Joshua Pettersen Kristen Stevens 17014 Patricia La Minnetonka, MN 55345 PID 29-117-22-34-0048 | \$500,100 | \$584,500 | \$575,000 |
| 53) | David Saarela Stephanie Neitz 17003 Sherwood Rd Minnetonka, MN 55345 PID 29-117-22-34-0073 | \$451,700 | \$589,900 | \$570,000 |
| 54) | Hale Lira Christina Lira 5025 Dominick Spur Minnetonka, MN 55343 PID 26-117-22-31-0004 | \$322,400 | \$382,200 | \$375,000 |
| 55) | Stuart Remick Clara Remick 18213 Hermitage Way Minnetonka, MN 55345 PID 30-117-22-13-0022 | \$554,200 | \$590,300 | \$567,000 |
| 56) | Duncan Malloch Kathleen Malloch 12701 Junction Rd Minnetonka, MN 55343 PID 23-117-22-33-0004 | \$381,900 | \$407,400 | \$390,000 |
| 57) | Bruce Smith Sita Thapa Smith 608 Park La S Minnetonka, MN 55305 PID 02-117-22-21-0019 | \$400,500 | \$556,100 | \$530,000 |
| 58) | Laurie Nelson 13808 Knollway Dr S Minnetonka, MN 55305 PID 03-117-22-24-0027 | \$299,300 | \$359,700 | \$335,000 |

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| 59) | Bradley Welberg 4133 Windridge Cir Minnetonka, MN 55305 PID 23-117-22-23-0058 | \$379,300 | \$470,400 | \$440,000 |
| 60) | Kristine O'Reilly 5700 Lake Rose Dr Minnetonka, MN 55345 PID 33-117-22-24-0021 | \$359,500 | \$434,300 | \$410,000 |
| 61) | David Nieting Beverly Nieting 12031 Townview Rd Minnetonka, MN 55343 PID 23-117-22-31-0040 | \$329,000 | \$392,400 | \$380,000 |
| 62) | Conan Crum Amy Crum 15809 White Pine Dr Wayzata, MN 55391 PID 04-117-22-33-0033 | \$528,800 | \$649,600 | \$615,000 |
| 63) | Zachary Elliott Morgan Fredrickson 12802 Linde La Minnetonka, MN 55305 PID 15-117-22-44-0001 | \$323,500 | \$395,300 | \$375,000 |
| 64) | Darryl Nelson Angela Nelson 4777 Hamilton Rd Minnetonka, MN 55345 PID 28-117-22-23-0027 | \$443,500 | \$512,000 | \$490,000 |
| 65) | Leslie Bork Lezlie Bork 16722 Grays Bay Blvd Wayzata, MN 55391 PID 08-117-22-43-0035 | \$2,487,000 | \$2,967,400 | \$2,800,000 |
| 66) | Robert Alm Jeanne Alm 2024 Vernon Dr S Minnetonka, MN 55305 PID 12-117-22-22-0031 | \$475,600 | \$574,700 | \$565,000 |
| 67) | Steven Wangstad 15509 Post Rd Wayzata, MN 55391 PID 09-117-22-21-0029 | \$499,300 | \$672,700 | \$595,000 |
| 68) | Jason Brown Sumika Brown 4724 Eastwood Rd Minnetonka, MN 55345 PID 30-117-22-22-0002 | \$502,500 | \$644,400 | \$625,000 |
| 69) | James Beatty 2311 Sherwood Hills Rd Minnetonka, MN 55305 PID 11-117-22-13-0045 | \$276,600 | \$429,600 | \$350,000 |

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| 70) | John Kilkelly Mary Kilkelly 4616 Oxford Pl Minnetonka, MN 55345 PID 29-117-22-12-0024 | \$432,700 | \$493,200 | \$475,000 |
| 71) | Tannen Loge Angela Loge 5922 Lone Lake Loop Minnetonka, MN 55343 PID 35-117-22-42-0099 | \$560,300 | \$643,200 | \$630,000 |
| 72) | Nicolas Horns Lynette Raichle 14325 Grenier Rd Minnetonka, MN 55345 PID 34-117-22-23-0021 | \$808,200 | \$979,200 | \$940,000 |
| 73) | Brent Gensler Marni Gensler 11614 Cedar Pass Minnetonka, MN 55305 PID 11-117-22-42-0043 | \$807,400 | \$899,000 | \$880,000 |

Schack moved, Calvert seconded a motion to approve the City Assessor's recommendations.

All voted "yes". Motion carried.

B. Petitions to the Local Board of Appeal and Equalization requiring advisors' recommendation

Wiersum read the following into the record:

| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Advisors' Recommendation |
|----|---|-----------------------------|-----------------------------|-------------------------------|
| 1) | Michael Gentz Elizabeth Gentz 14910 Woodruff Rd Wayzata, MN 55391 PID 09-117-22-13-0037 | \$453,800 | \$619,600 | |
| 2) | M. Tobak, I. Tobak and K. Tobak 2350 Crosby Rd Wayzata, MN 55391 PID 08-117-22-14-0031 | \$843,900 | \$1,041,800 | |
| 3) | Xuefeng Liu Jing Xu 12200 Hilloway Rd W Minnetonka, MN 55305 PID 11-117-22-21-0020 | \$830,900 | \$969,200 | |
| 4) | Matthew Griebie Jeannie Larson 16705 Grays Bay Blvd Wayzata, MN 55391 PID 17-117-22-12-0005 | \$1,087,400 | \$1,488,000 | |

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| 5) | Gregg Erickson Jan Erickson 2434 Sherwood Hills Rd Minnetonka, MN 55305 PID 11-117-22-13-0019 | \$683,800 | \$838,900 |
| 6) | Grays Bay Holdings LLC 16516 Grays Bay Blvd Wayzata, MN 55391 PID 08-117-22-43-0031 | \$1,429,000 | \$1,750,000 |
| 7) | Mario Goessl 16511 Black Oaks Cir Wayzata, MN 55391 PID 05-117-22-12-0026 | \$2,564,100 | \$2,834,700 |
| 8) | Saul Bernick Maureen Bernick 3530 Fairway La Minnetonka, MN 55305 PID 13-117-22-32-0069 | \$481,900 | \$642,900 |
| 9) | Thomas Johnson Jill Johnson 15001 Tammer La Wayzata, MN 55391 PID 04-117-22-43-0032 | \$582,700 | \$659,200 |
| 10) | Jennifer Berman 2723 Ashbourne Rd Wayzata, MN 55391 PID 09-117-22-44-0052 | \$620,500 | \$749,900 |
| 11) | Michael Zudov Snezhana Zudova 3615 Aspen Ridge Dr Minnetonka, MN 55305 PID 14-117-22-33-0045 | \$590,600 | \$646,900 |
| 12) | Brian Noah Dana Noah 5321 Michaele La Minnetonka, MN 55345 PID 30-117-22-43-0014 | \$339,200 | \$467,600 |
| 13) | Melissa Bardal 13228 Dahlgren Rd Minnetonka, MN 55305 PID 15-117-22-43-0033 | \$308,000 | \$367,400 |
| 14) | Iryna Shafir Stanislav Shafir 3502 Larchwood Dr Minnetonka, MN 55345 PID 17-117-22-31-0072 | \$397,900 | \$475,400 |
| 15) | Michael Kollar Mingyu Xiao 5928 Lone Lake Loop Minnetonka, MN 55343 PID 35-117-22-42-0102 | \$575,300 | \$666,200 |

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| 16) | Steven Stein Lori Stein 14900 Woodruff Rd Wayzata, MN 55391 PID 09-117-22-13-0038 | \$503,400 | \$675,500 |
| 17) | Twig Leininger 16440 Temple Dr S Minnetonka, MN 55345 PID 29-117-22-13-0051 | \$342,500 | \$388,600 |
| 18) | Dyanne Bauer 6161 Creek View Ridge Minnetonka, MN 55345 PID 31-117-22-34-0042 | \$247,400 | \$283,000 |
| 19) | Julien Baissat Christelle Baissat 4716 Fairhills Rd W Minnetonka, MN 55345 PID 28-117-22-22-0013 | \$732,400 | \$980,200 |
| 20) | Neng Xu Hui Wang 5202 Picha Rd Minnetonka, MN 55345 PID 29-117-43-0071 | \$482,900 | \$539,000 |

Calvert moved, Schack seconded a motion to refer the petitions for the listed properties to the advisors, with a recommendation to be presented at the April 25 meeting.

All voted "yes". Motion carried.

C. Petitions to the Local Board of Appeal and Equalization to be referred back to the Assessing staff for review

Wiersum read the following into the record:

| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Assessors' Recommendation |
|----|--|-----------------------------|-----------------------------|--------------------------------|
| 1) | Glen Lake Village LLC 14400 Excelsior Blvd Minnetonka, MN 55345 PID 28-117-22-44-0526 | \$6,081,000 | \$7,390,000 | |
| 2) | DV OC Minnetonka LLC 11700 Wayzata Blvd Minnetonka, MN 55305 PID 02-117-22-13-0370 | \$36,750,000 | \$47,690,000 | |
| 3) | Nordstrom Inc. 12441 Wayzata Blvd Minnetonka, MN 55305 PID 02-117-22-31-0008 | \$8,339,000 | \$8,339,000 | |

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| 4) | SELA Investments – Cedar Ridge LLC 10201 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0223 | \$7,848,000 | \$9,060,000 |
| 5) | SELA Investments – Cedar Ridge LLC 10111 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0224 | \$7,848,000 | \$9,060,000 |
| 6) | SELA Investments – Cedar Ridge LLC 10101 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0225 | \$7,848,000 | \$9,060,000 |

Calvert moved, Kirk seconded a motion to refer the petitions for the properties listed to the Assessing staff, with a recommendation to be presented at the April 25, 2022 meeting.

All voted “yes”. Motion carried.

Wiersum invited any residents who wished to make an appeal, and whose properties were not included on the agenda, to come forward and speak.

Jennifer Berman of 2723 Ashbourne Road addressed the council. She requested an explanation on how market values of properties are calculated. Schmidt indicated he could not give a brief answer to that question, but offered to have a conversation with Ms. Berman over the phone regarding how that calculation is made.

5. Recess and continue meeting to 6:00 p.m. on Monday, April 25, 2022.

Schmidt stated that due to the anticipated number of public speakers at the next meeting, the time in the motion to recess and continue on April 25 should be changed from 6:00 p.m. to 5:30 p.m.

Calvert moved, Schaeppi seconded a motion to recess and continue the meeting at 5:30 p.m. on Monday, April 25, 2022.

All voted “yes”. Motion carried.

Minutes
2022 Minnetonka Local Board of Appeal and Equalization
Monday, April 25, 2022

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 5:32 p.m.

2. Roll Call

Councilmembers Kimberly Wilburn, Deb Calvert, Bradley Schaeppi, Kissy Coakley, Brian Kirk, Rebecca Schack and Mayor Brad Wiersum were present.

3. Approval of Agenda

Schack moved, Calvert seconded a motion to accept the agenda as amended. All voted "yes." Motion carried.

4. Appeals to the board of review:

A. Valuation recommendations being brought by the City Assessor to the Local Board of Appeal and Equalization for action:

Wiersum read the following into the record:

| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Assessors' Recommendation |
|----|---|-----------------------------|-----------------------------|--------------------------------|
| 1) | David Penn Yuchan Chalupsky 22 Kingsview La N Plymouth, MN 55447 PID 04-117-22-12-0007 | \$653,900 | \$766,900 | \$766,900 |
| 2) | Gregg Erickson Jan Erickson 2434 Sherwood Hills Rd Minnetonka, MN 55305 PID 11-117-22-13-0019 | \$683,800 | \$838,900 | \$838,900 |
| 3) | Saul Bernick Maureen Bernick 3530 Fairway La Minnetonka, MN 55305 PID 13-117-22-32-0069 | \$481,900 | \$642,900 | \$642,900 |
| 4) | Jennifer Berman 2723 Ashbourne Rd Wayzata, MN 55391 PID 09-117-22-44-0052 | \$620,500 | \$749,900 | \$749,900 |

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| 5) | Dennis Mulvey Judith Mulvey 2620 Sylvan Rd S Minnetonka, MN 55305 PID 11-117-22-32-0019 | \$485,400 | \$593,900 | \$593,900 |
| 6) | Diana Hoyt 17609 Jennifer La Minnetonka, MN 55345 PID 31-117-22-11-0054 | \$430,700 | \$502,400 | \$502,400 |
| 7) | Mario Goessl 16511 Black Oaks Cir Wayzata, MN 55391 PID 05-117-22-12-0026 | \$2,564,100 | \$2,834,700 | \$2,650,000 |
| 8) | Glen Lake Village LLC 14400 Excelsior Blvd Minnetonka, MN 55345 PID 28-117-22-44-0526 | \$6,081,000 | \$7,390,000 | \$7,390,000 |
| 9) | DV OC Minnetonka LLC 11700 Wayzata Blvd Minnetonka, MN 55305 PID 02-117-22-13-0370 | \$36,750,000 | \$47,690,000 | \$47,690,000 |
| 10) | Nordstrom Inc. 12441 Wayzata Blvd Minnetonka, MN 55305 PID 02-117-22-31-0008 | \$8,339,000 | \$8,339,000 | \$8,339,000 |
| 11) | SELA Investments – Cedar Ridge LLC 10201 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0223 | \$7,848,000 | \$9,060,000 | \$9,060,000 |
| 12) | SELA Investments – Cedar Ridge LLC 10111 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0224 | \$7,848,000 | \$9,060,000 | \$9,060,000 |
| 13) | SELA Investments – Cedar Ridge LLC 10101 Cedar Lake Rd Minnetonka, MN 55305 PID 12-117-22-42-0225 | \$7,848,000 | \$9,060,000 | \$9,060,000 |
| 14) | Karissa Borchert 4144 Shady Oak Rd Minnetonka, MN 55343 PID 23-117-22-13-0013 | \$278,400 | \$278,400 | \$218,700 |
| 15) | David Fish 11620 Timberline Rd Minnetonka, MN 55305 PID 02-117-22-43-0002 | \$383,000 | \$467,000 | \$410,000 |

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| 16) | Orrin Kessel Judith Kessel 3415 Groveland La Minnetonka, MN 55345 PID 17-117-22-31-0088 | \$821,000 | \$927,800 | \$900,000 |
| 17) | Keith Waxelman Jennifer Bratton 4850 Timber Ridge Cir Minnetonka, MN 55345 PID 30-117-22-24-0061 | \$1,515,700 | \$1,710,300 | \$1,615,000 |
| 18) | M., I. and K. Tobak 2350 Crosby Rd Wayzata, MN 55391 PID 08-117-22-14-0031 | \$843,900 | \$1,041,800 | \$1,041,800 |
| 19) | Jeffrey Eckroth Michelle Weber 2604 Crosby Rd Wayzata, MN 55391 PID 08-117-22-42-0004 | \$1,631,200 | \$2,199,900 | \$2,095,000 |
| 20) | Steven Stein Lori Stein 14900 Woodruff Rd Wayzata, MN 55391 PID 09-117-22-13-0038 | \$503,400 | \$675,500 | \$675,500 |
| 21) | Michael Gentz Elizabeth Gentz 14910 Woodruff Rd Wayzata, MN 55391 09-117-22-13-0037 | \$453,800 | \$619,600 | \$619,600 |
| 22) | Holiday Station Stores Inc. 2801 Hopkins Crossroad Minnetonka, MN 55305 PID 12-117-22-33-0003 | \$1,274,000 | \$1,274,000 | \$1,274,000 |
| 23) | Heartland Mtka LLC 10005 Greenbrier Rd Minnetonka, MN 55305 PID 12-117-22-43-0002 | \$49,159,000 | \$55,150,000 | \$52,920,000 |
| 24) | Heartland Mtka LLC Address unassigned Vacant land PID 12-117-22-43-0006 | \$5,000 | \$5,000 | \$5,000 |
| 25) | Everett Weinstein Suzanne Weinstein 2035 Sherwood La Minnetonka, MN 55305 PID 11-117-22-22-0299 | \$545,500 | \$593,800 | \$593,800 |

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|-----|--|-------------|-------------|-------------|
| 26) | Robert Callan 3325 Breconwood Cir Wayzata, MN 55391 PID 18-117-22-14-0125 | \$445,600 | \$483,800 | \$483,800 |
| 27) | Joyce Leibman 12121 Orchard Ave W Minnetonka, MN 55305 PID 11-117-22-34-0003 | \$649,600 | \$778,300 | \$750,000 |
| 28) | Tristan Lundblad 1801 Welland Ave Minnetonka, MN 55305 PID 01-117-22-34-0026 | \$321,600 | \$359,300 | \$335,000 |
| 29) | Marian Altowitz 12717 Myrtle Cir Minnetonka, MN 55305 PID 23-117-22-23-0043 | \$307,400 | \$369,700 | \$336,000 |
| 30) | Cary Beil Kristine Beil 5342 Michaele La Minnetonka, MN 55345 PID 30-117-22-43-0011 | \$403,300 | \$485,800 | \$455,000 |
| 31) | Michael Zudov Snezhana Zudova 3615 Aspen Ridge Dr Minnetonka, MN 55305 PID 14-117-22-33-0045 | \$590,600 | \$646,900 | \$646,900 |
| 32) | Calm Bay LLC 16502 Grays Bay Blvd Wayzata, MN 55391 PID 08-117-22-42-0014 | \$1,464,800 | \$1,905,900 | \$1,905,900 |
| 33) | Wayne Johnson 4841 Diane Dr Minnetonka, MN 55343 PID 26-117-22-13-0006 | \$347,100 | \$418,500 | \$400,000 |
| 34) | Ebrima Dem Jahay Jallow Dem 3712 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0068 | \$287,200 | \$335,600 | \$320,000 |
| 35) | Ebrima Dem Jahay Jallow Dem 3714 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0069 | \$279,400 | \$328,300 | \$310,000 |
| 36) | Sarah Horst 4396 Woods Way Minnetonka, MN 55345 PID 21-117-22-43-0056 | \$392,900 | \$430,200 | \$420,000 |

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|-----|--|-----------|-----------|-----------|
| 37) | James Enoksen Lyn Enoksen 3531 Oakton Dr 3004 Minnetonka, MN 55305 PID 13-117-22-32-0052 | \$427,900 | \$501,500 | \$392,000 |
| 38) | Jason Londer Aryel Londer 16400 Blenheim Way Minnetonka, MN 55345 PID 20-117-22-42-0043 | \$545,800 | \$653,600 | \$600,000 |
| 39) | Peter Korolchuk Annette Korolchuk 15217 Glen Oak St Minnetonka, MN 55345 PID 33-117-22-21-0040 | \$367,000 | \$444,600 | \$430,000 |
| 40) | Tyler Gronli Miranda Gaugler 5944 Lone Lake Loop Minnetonka, MN 55343 PID 35-117-22-42-0110 | \$609,500 | \$703,100 | \$685,000 |
| 41) | JP Nicholas Strandberg Patricia Strandberg 14616 Woodhaven Rd Minnetonka, MN 55345 PID 21-117-22-11-0082 | \$359,500 | \$423,400 | \$385,000 |
| 42) | Martha Head 3700 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0070 | \$283,700 | \$324,300 | \$324,300 |
| 43) | Martha Head 3702 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0071 | \$290,400 | \$331,800 | \$331,800 |
| 44) | Martha Head 3616 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0072 | \$297,900 | \$331,200 | \$331,200 |
| 45) | Martha Head 3618 Westmark Cir Minnetonka, MN 55345 PID 16-117-22-44-0073 | \$294,000 | \$328,800 | \$328,800 |
| 46) | Dan Woodbury Shelley Woodbury 15140 Woodruff Rd Wayzata, MN 55391 PID 09-117-22-13-0028 | \$487,300 | \$674,500 | \$645,000 |
| 47) | Steven Engler Laura Engler 14600 Rocksborough Rd Minnetonka, MN 55345 PID 28-117-22-11-0009 | \$690,000 | \$779,700 | \$779,700 |

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|-----|---|-------------|-------------|-------------|
| 48) | Michael Ruesewald Sandra Ruesewald 15601 Dawn Dr Minnetonka, MN 55345 PID 28-117-22-33-0017 | \$500,000 | \$601,800 | \$601,800 |
| 49) | Matthew Epp Kristy Epp 4802 Timber Ridge Cir Minnetonka, MN 55345 PID 30-117-22-24-0064 | \$1,271,800 | \$1,429,500 | \$1,429,500 |
| 50) | Peter Armbrust Krista Armbrust 5007 Westmill Rd Minnetonka, MN 55345 PID 29-117-22-31-0048 | \$400,000 | \$446,400 | \$446,400 |

B. Petitions to the Local Board of Appeal and Equalization requiring advisors' recommendation

| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Advisors' Recommendation |
|----|---|-----------------------------|-----------------------------|-------------------------------|
| 1) | Moved to A | | | |
| 2) | Moved to A | | | |
| 3) | Xuefeng Liu Jing Xu 12200 Hilloway Rd W Minnetonka, MN 55305 PID 11-117-22-21-0020 | \$830,900 | \$969,200 | \$940,000 |
| 4) | Matthew Griebie Jeannie Larson 16705 Grays Bay Blvd Wayzata, MN 55391 PID 17-117-22-12-0005 | \$1,087,400 | \$1,488,000 | \$1,250,000 |
| 5) | Moved to A | | | |
| 6) | Grays Bay Holdings LLC 16516 Grays Bay Blvd Wayzata, MN 55391 PID 08-117-22-43-0031 | \$1,429,000 | \$1,750,200 | \$1,600,000 |

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|-----|--|--------------------------------|--------------------------------|-------------------------------------|
| 7) | Moved to A | | | |
| 8) | Moved to A | | | |
| 9) | Thomas Johnson Jill Johnson 15001 Tammer La Wayzata, MN 55391 PID 04-117-22-43-0032 | \$582,700 | \$659,200 | \$659,200 |
| 10) | Moved to A | | | |
| 11) | Moved to A | | | |
| 12) | Brian Noah Dana Noah 5321 Michaele La Minnetonka, MN 55345 PID 30-117-22-43-0014 | \$339,200 | \$467,600 | \$435,000 |
| | Petitioner | 2021 Estimated Market Value | 2022 Estimated Market Value | 2022 Advisors' Recommendation |
| 13) | Melissa Bardal 13228 Dahlgren Rd Minnetonka, MN 55305 PID 15-117-22-43-0033 | \$308,000 | \$367,400 | \$335,000 |
| 14) | Iryna Shafir Stanislav Shafir 3502 Larchwood Dr Minnetonka, MN 55345 PID 17-117-22-31-0072 | \$397,900 | \$475,400 | \$475,400 |
| 15) | Michael Kollar Mingyu Xiao 5928 Lone Lake Loop Minnetonka, MN 55343 PID 35-117-22-42-0102 | \$575,300 | \$666,200 | \$635,000 |
| 16) | Moved to A | | | |

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|-----|--|-----------|-----------|-----------|
| 17) | Twig Leininger 16440 Temple Dr S Minnetonka, MN 55345 PID 29-117-22-13-0051 | \$342,500 | \$388,600 | \$375,000 |
| 18) | Dyanne Bauer 6161 Creek View Ridge Minnetonka, MN 55345 PID 31-117-22-34-0042 | \$247,400 | \$283,000 | \$283,000 |
| 19) | Julien Baissat Christelle Baissat 4716 Fairhills Rd W Minnetonka, MN 55345 PID 28-117-22-22-0013 | \$732,400 | \$980,200 | \$960,000 |
| 20) | Neng Xu Hui Wang 5202 Picha Rd Minnetonka, MN 55345 PID 29-117-22-43-0071 | \$482,900 | \$539,000 | \$539,000 |

- A. Calvert moved, Coakley seconded a motion to accept the advisors' recommendations.
All votes "yes". Motion carried.
- B. Schaepfi moved, Kirk seconded a motion to accept the advisors' recommendations.
All votes "yes". Motion carried.

5. Adjournment

Kirk moved, Calvert seconded a motion to adjourn the meeting at 6:18 p.m. All voted "yes".
Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk

**Minutes
Minnetonka City Council
Monday, April 25, 2022**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Brian Kirk, Rebecca Shack, Kimberly Wilburn, Deb Calvert, Bradley Schaeppi, Kissy Coakley and Brad Wiersum were present.

4. Approval of Agenda

Kirk moved, Calvert seconded a motion to accept the agenda with addenda to Items 14.B and 14.C. All voted "yes." Motion carried.

5. Approval of Minutes:

A. April 4, 2022 study session minutes

Calvert moved, Kirk seconded a motion to approve the minutes. All voted "yes." Motion carried.

B. April 11, 2022 regular meeting minutes

Calvert moved, Kirk seconded a motion to approve the minutes. All voted "yes." Motion carried.

6. Special Matters:

A. Bike Month Proclamation

Schaeppi read a proclamation in full for the record declaring May to be Bike Month in the city of Minnetonka.

Wiersum encouraged Minnetonka residents to get out and take advantage of the city's extensive trail system.

B. Retirement recognition for Senior Services and Activities Manager Steve Pieh

Wiersum recognized Senior Services and Activities Manager Steve Pieh and thanked him for his years of dedicated service to the City of Minnetonka. He wished him a long and healthy retirement. He presented Mr. Pieh with a plaque and a round of applause was offered by all in attendance.

Steve Pieh stated it was a pleasure to be here and explained it has been his honor to be an employee of the City of Minnetonka. He discussed how blessed the seniors programming has been by its volunteers, staff members and community partners. He shared statistics as to the number of seniors in the community and the state of Minnesota. He indicated he would miss his work and thanked the city council for their tremendous support over the years. He thanked his friends and family for being in attendance this evening. He stated he appreciated his wife and children and thanked them for all of their support over the years. He wished the city much continued success in its senior programming. Another round of applause and standing ovation was offered by all in attendance.

Calvert thanked Mr. Pieh for his tremendous service to the city's seniors. She understood seniors were the fastest growing demographic in the community and she appreciated all Mr. Pieh had done for Minnetonka's seniors. She wished Mr. Pieh all the best in his retirement.

Schack thanked Mr. Pieh for all of his efforts to keep seniors engaged throughout the pandemic and throughout his career.

Schaeppi stated it has always been a pleasure to see Mr. Pieh in action. He thanked him for his tremendous service to the community.

Kirk discussed the great reputation Mr. Pieh had in the community. He stated he appreciated all of Mr. Pieh's efforts on behalf of the City of Minnetonka and wished him a long and healthy retirement.

Wiersum explained it has been a pleasure to get to know Mr. Pieh over the years. He reported Mr. Pieh was loved and well respected by the seniors in the community. He thanked Mr. Pieh for the numerous programs he has in place, especially the Dementia Friends.

7. Reports from City Manager & Council Members

Acting City Manager Mike Funk reported on upcoming city events and council meetings.

Schack thanked Mayor Wiersum for his presentation at the State of the City event last week.

Calvert stated today she attended a virtual National League of Minnesota Cities Energy, Environment and Natural Resources Committee meeting.

Calvert encouraged residents to keep the people of Ukraine in their thoughts and prayers and to give generously if they are able.

Calvert discussed the employee recognition event that was held last week and thanked all who were able to attend this meaningful event.

Coakley thanked the fire department and Captain Derek for allowing her husband to tour the fire station.

Wiersum commented on the State of the City address he gave last week. He discussed the employee recognition event and stated he believed the city had outstanding employees. He thanked the city's employees for all of their efforts throughout the pandemic and for providing him with help while he was putting the State of the City program together.

8. Citizens Wishing to Discuss Matters not on the Agenda: None.

9. Bids and Purchases:

A. Bids for the 2022 Mill and Overlay Project

Public Works Director Will Manchester gave the staff report.

Kirk moved, Coakley seconded a motion to award the contract. All voted "yes."
Motion carried.

B. Bids for the Burwell House and Outbuildings Project

Public Works Director Will Manchester gave the staff report.

Schack moved, Calvert seconded a motion to award the contract and amend the CIP. All voted "yes."
Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

A. Resolution for the Burchlane Lift Station Rehabilitation Project

Kirk moved, Calvert seconded a motion to adopt Resolution 2022-033. All voted "yes."
Motion carried.

B. Resolution for the Opus Lift Station Rehabilitation Project

Kirk moved, Calvert seconded a motion to adopt Resolution 2022-034. All voted "yes." Motion carried.

C. Conditional use permit for an accessory structure in excess of 1,000 square feet at 15518 Minnetonka Blvd

Kirk moved, Calvert seconded a motion to adopt Resolution 2022-035. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes:**A. 2022-2026 CIP Amendment – Fire Engine Purchase**

Schack thanked staff and the fire chief for bringing this item forward in order to provide savings to the city.

Calvert moved, Coakley seconded a motion to amend the CIP. All voted "yes." Motion carried.

12. Introduction of Ordinances: None.**13. Public Hearings: None.****14. Other Business:****A. Appeal of peddler/solicitor license denial for Daniel Paul Oelfke**

Community Development Director Julie Wischnack gave the staff report.

Dan Oelfke, Arbor Gold, Inc., introduced himself to the council stating he has been door knocking for various companies in numerous cities for the past 10 years. He stated the application process for the City of Minnetonka has been over 16 months and he has not received one call back from Ms. Wischnack. He discussed the numerous emails he sent to the council and questioned why he was not receiving answers. He noted in the past 16 months he has received peddlers licenses in 17 other cities. He reviewed the 17 cities that he had been approved to be a solicitor and questioned why Minnetonka had such strict restrictions. He clarified for the record, that the complaint against him in Maple Plain was removed, because he was operating with a permit.

Schaeppi asked if Mr. Oelfke has had any consumer complaints while peddling in other communities. Mr. Oelfke stated this could occur noting he knocked on 100

doors each day six days a week. He commented he may get the police called on him once per month.

Wiersum questioned how the council wanted to proceed with this item.

Schack explained she appreciated the comments that were made. She understood this was a sensitive topic and noted the council received a very detailed, confidential packet of information on this matter. She indicated she was troubled by this information. She stated on these types of issues, she would defer to the staff expert and noted she would be supporting the decision made by staff.

Schaeppi asked if this license were denied, would there be a waiting period and could the applicant apply for a solicitors license again in the future. Wischnack stated for this applicant there would be a three year look back due to the denial in Eden Prairie. She explained the ordinance does not regulate reapplication.

Kirk stated the process seems very critical. He indicated he appreciated the fact the applicant had come in to argue his position. He noted he was leaning towards staff because it was their obligation to protect the citizens of Minnetonka. While the standards may seem rigid, he supported staff's recommendation.

Calvert commented she has knocked on thousands of doors in Minnetonka as a candidate for city council. She noted many homes have "No Solicitor" signs. She explained it was not easy to connect to the public and she understood how dearly the residents of Minnetonka held their privacy. She indicated staff did not take this denial lightly, but rather was looking to protect the residents of Minnetonka. She thanked Mr. Oelfke for coming in and pleading his case, but noted she would be supporting staff's recommendation.

Schaeppi stated this was a tough decision for him. He explained he appreciated small businesses and understood some people had to hustle and make cold calls on a day to day basis. However, with that being said, there were processes in place and rules had to be followed. For this reason, he would be following staff's recommendation.

Wiersum indicated the authority to deny the application is granted to the Community Development Director but this was not based on arbitrary factors, but rather was based on specific items that were outlined in ordinances. He explained there was little room for interpretation but rather staff was to apply the ordinances as written. He discussed his experiences door knocking when he was running for mayor and stated he would be upholding the recommendation from staff.

Kirk moved, Calvert seconded a motion to adopt Resolution 2022-036. All voted "yes." Motion carried.

B. Approval of the Parks, Open Space, and Trail System Plan

Assistant Recreation Director Sara Woeste and Jeff McMenimen with Damon Farber Landscape gave the staff report.

Kirk asked if it was unique for Minnetonka to have a passionate group of volunteers interested in restoration and preservation. Woeste stated the city was very fortunate to have a group of people interested in restoration and preservation. She commented further on the trends occurring in Minnetonka.

Kirk explained 20% of the city's land was preserves and open space. He questioned if there was other land that was not included in this. He noted there was 60 acres of land just north of Lone Lake Park that was city owned and was not included in the map. Woeste commented the map showed the city's park system and did not include all other city owned property.

Kirk stated after working with the friends groups for the past three years he understood the city needed to be clear on what was being preserved. Woeste indicated this was a high level plan and noted more detailed preservation plans would be addressed during a master planning process.

Schaeppi thanked staff, Damon Farber and all of the community members that assisted with this plan. He requested further comment on what the master planning process will look like in the future for a given park. Woeste stated she did not have an exact timeline, but noted the new park and trail planner was looking at what parks should be master planned in the next few years. She anticipated one or two parks could be master planned each year.

Schaeppi encouraged staff to consider permitted and unpermitted uses within the city's parks, such as off leash dogs. Woeste indicated this matter, along with others will be considered within each parks master planning process.

Wilburn commented there was some concerns with parks being designated as preserves and vice versa. She requested further information on why there has been a designation change. Woeste reported the previous plan had a community preserve designation and this has been changed to preserve. She noted parks have been standardized to mini park, neighborhood park and community park.

Calvert thanked everyone that was involved in this project. She agreed it would be helpful to better understand where the open spaces are located in the city. She understood there was a disagreement about certain definitions such as active versus passive, preserve and balance. She feared this document would be picked at if more concrete definitions were not found. She stated she was looking forward to the master planning phase.

Schack indicated this was an impressive document and she stated she appreciated all of the community members and staff that worked on this plan. She asked if there were council level policy issues that should be discussed to assist with future master planning. Woeste explained dogs were a high level issue that would have to be considered in the future. In addition, some informal trails would have to be shut down and people would have to be directed to main trails to assist with how much the land was being disturbed.

Wiersum reported Minneapolis was known for its world class park system. He inquired how Minnetonka compared to Minneapolis. Woeste stated she could investigate this further and would report back to the council.

Wiersum thanked staff for all of their efforts on this document. He believed it was a valuable strategic long-range plan for the city's parks. He stated he was curious to learn more about how much land the city owns that was being held as open space, even if it was not included within the park system. He explained there may be some things that could be done to enhance or preserve these spaces. He indicated he was proud of the city's natural resources staff. He stated he would like the city to consider corporate level "adopt a park" programs in order to assist the city with preserving its park system.

Coakley asked if the council could discuss partnering with the community to refurbish the barn. Woeste stated the red barn was on the city's radar and noted Purgatory Park would be the first park going through the master planning process.

Wiersum opened the meeting for public comments, there were none at this time.

Schack moved, Calvert seconded a motion to approve the plan.

Wiersum thanked the public for their love of the city's parks and for their level of engagement on this project.

All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

C. Concept plan for Mills Church at 13215 Minnetonka Drive

Wiersum recused himself from consideration of this item due to fact he was a board member on Homes Within Reach.

Kirk explained this would be a concept review for the Mills Church and noted answers would not be provided to questions this evening. He reported residents would be allowed to speak for two to three minutes on this matter after staff and the applicant were allowed to make presentations.

City Planner Loren Gordon gave the staff report.

David Lant, Mills Church representative, explained he has been the senior pastor at Mills Church for the past 17 years and he was also a 20 year resident of Minnetonka at 13713 Favorite Lane. He reported his campus was located at the corner of Baker Road and Minnetonka Boulevard, one block east of I-494. He thanked the council for reviewing his concept plan and thanked the public for being engaged in this project. He discussed the why behind the concept plan and then reviewed the concept plan in detail with the council. He noted Mills Church was founded in 1898 and reported the campus has 5.5 acres of land and serves Mills Church, Small World Preschool, Spirit of Peace Congregation and St. David's Center. He commented on how his congregation has been discussing the need for home-ownership affordable housing in the community and how the Mills Church campus could be used to meet this need. He stated restorative grants were being pursued for the proposed innovative and transformative space and it was noted the church was looking to partner with Habitat for Humanity. The benefits of offering home-ownership on the affordable housing units was discussed. He explained he was looking forward to participating in this endeavor, as was his congregation. It was noted the apple orchard and tree grove would be maintained on the site, along with the playground and community garden. He explained more dense plans were considered and in the end he was proud of the concept plan which included 12 affordable townhomes. He indicated the small lot size was being proposed to assist with keeping property taxes low for the affordable townhomes and noted Mills Church would be subsidizing the sale of the land. He finished his comments by stating his congregation was committed to this neighborhood and to providing affordable housing for this community. He stated it was very important that this process be done well and he thanked the city for its efforts to address diversity, equity, inclusion and affordable housing.

Chad Dipman, Twin Cities Habitat for Humanity, reported his organization brings people together to create, preserve and promote affordable homeownership and to advance racial equity in housing. He commented on Minnesota's racial gap in homeownership based on race noting Minnesota's gap is much wider than the national average. He discussed the families who buy homes with Habitat for Humanity. The zoning and land designation for this property was discussed, along with the proposed plans for the townhomes. The city's housing goals were further reviewed with the council. He commented further on the proposed townhome building height and parking. The development costs were discussed

Kirk opened the meeting for public comments.

Holly Beyer, 10306 Inverness Road, stated she could only have afforded her home with the help of her parents and because it was in foreclosure. She explained up until four years ago she was a single parent and she understood the need for affordable housing. However, she did not believe this block was the Opus center and she strongly encouraged the city to reconsider this plan. She indicated she lived in a diverse neighborhood that spanned all generations. She discussed the unique history of her neighborhood and stated this block was where Minnetonka was founded. She commented the visual was important to her, but noted the building mass did not fit with the neighborhood. She encouraged the council to visit this neighborhood in order to better understand its unique qualities.

Mel Koenig, 13108 Inverness Road, stated he moved to his home 40 years ago. He explained he liked the historical nature of the neighborhood. He indicated the church was proposing to build a house on less than .25 acre. He encouraged the city to hold the church to the same standards that all other residents have to follow. He expressed concern with the entrance to the church property and its setback from his property. He discussed how the church had cut into the bank and noted he was no longer able to mow his grass due to the grade and had to hire a lawn service. He indicated he and his wife fully supported affordable single family homes on approved lot sizes. He stated he did not support two rows of townhomes being built within the middle of a single family home neighborhood. He understood the goal of the church, but commented he had concerns with how this development would impact traffic. He noted he had 35 young children in his neighborhood and stated the proposed development would add 84 more car trips to an already busy Inverness intersection. He encouraged the council to consider the historical nature of his neighborhood. He reiterated that he was not against affordable housing, but rather was against high density affordable housing.

Jackie Kenpianan, 3502 Baker Road, noted she lived across from the Town Hall. She stated the one thing that was missing from this area was the historical part of Minnetonka. She recalled Governor Ramsey coming to the area years ago and signed into law this was Minnetonka Mills. She was of the opinion townhouses did not belong in in this historical area, rather this area should be preserved. She indicated she was 92 years old and she had lived in this neighborhood since she was 8 years old. She encouraged the council to really consider what will be developed on this historical site.

Joyce Block, 13705 Minnetonka Drive, stated she has visited with Jackie over the years and had several more stories to share. She reported Jackie had visited with Mrs. Burwell growing up and Mrs. Burwell was all about keeping the character of the neighborhood intact. She indicated this neighborhood was where Minnetonka was named. She explained Jackie would like to see one-level senior patio homes built in the community because this would allow seniors to age in

place. She noted Jackie was very proud of her neighborhood and would like the character to remain. She reported in the past few days she has gathered 107 names and signatures that were against the Mills Church development and noted she would be turning this into staff.

David Foster Bolton, 3624 Plymouth Road, explained he has lived in this community for close to 30 years. He indicated he lives in an affordable home that allowed him to move into the neighborhood. He stated he did not have much when he moved into his home but he was greatly impacted by the fact he could purchase a home in this neighborhood in order to allow his family to grow both personally and professionally was impactful to him. He commented on how difficult it was to find affordable housing these days. He stated this was a problem that needed a solution. He discussed how Mills Church had worked over the past two years to make affordable housing an option for this neighborhood. He believed the church has done this in a respectful manner and appreciated the fact that they have scaled down the project. He discussed the variety of homes that were located in his neighborhood, but noted most if not all were unaffordable to families just starting out. He supported the 12 townhomes moving forward because it would allow new families to start a journey in the community and that it was a step in the right direction.

Brian McNitt, 11302 Royzell Lane, thanked the councilmembers for their willingness to serve on the city council. He noted he supported the proposed affordable housing project. He understood it was not perfect and may need some adjustments. He commended the church and their partners for being willing to take this project on. He reported affordable housing was an important issue and he feared Minnetonka was already turning young families away because of the price of housing. He understood change was not easy and he encouraged residents to keep an open mind regarding this project.

Carol Johnson, 12611 Orchard Road, noted she has lived in her neighborhood for 30 years. She indicated she walks past Mills Church often and she sees a variety of homes in this neighborhood. She commented it would be impossible to construct affordable townhomes, unless there was some density. She discussed how this neighborhood was changing and was turning into high priced homes. She reported two homes on Orchard Road were recently listed and she anticipated these homes would be torn down in order to make way for new, larger homes. She indicated she was impressed with how Mills Church and Habitat for Humanity have worked over the past two years to create a plan for affordable townhomes. She encouraged the city to welcome affordable townhomes and larger expensive homes in this neighborhood. She wanted to see new families having the same opportunity as her at home ownership in this community.

Julie Sjoldal, Golden Valley resident, explained she was the Chief Executive Officer for the St. David's Center. She reported she was proud to have her headquarters on the Mills Church campus. She discussed the number of people served from the metro area on an annual basis. She commented on how having access to safe housing led to a child's success in school and mental well-being. She expressed her support for the Mills Church affordable housing. She believed the 12 townhomes and two single family homes was reasonable and appropriately fitting for this neighborhood. She encouraged the city to do what was right and offer support for the proposed affordable housing.

Amy O'Brien, 3514 Baker Road, noted she lived across the street from the playground on the Mills Church campus. She noted she did not have a problem with Habitat for Humanity building homes on this site, but explained she did have concerns with the proposed density and height for the townhomes. She believed 12 townhomes was too much and recommended the number be reduced.

Dawnette Scott, 2805 Maryland Avenue South, St. Louis Park, stated she was a transplant from Oregon and has lived in Minnesota for the past 15 years. She indicated she was an Associate Dean at Northwestern College, was single and has never been married. She reported even working at a private college as an associate dean, she fell within the low income bracket. She reported she was able to qualify for an affordable housing unit from Homes Within Reach. She stated she has been in her home since 2013. She explained from 2006 to 2013 she moved 10 times. She indicated she was a member of Mills Church and she fully supported the proposed affordable housing project.

David Hoyt, 3629 Farmington Road, explained he supported the idea of affordable housing, but he disliked the idea of multi-family housing. He feared something this big and out of character with the neighborhood would adversely impact his home value. He worried the city would set a precedent if this project were approved and that R-3 could then be approved anywhere in the city for affordable housing. He explained he has worked on Habitat for Humanity projects and he supported them working on this site, but encouraged the church to reconsider the proposed density and that smaller single family homes be considered.

Jesse Eckhart, 3733 Farmington Road, stated eight years ago he and his wife purchased the home his grandparents built in 1964. He explained this lot was purchased from their great grandparents who lived next door. He indicated for over 70 years his family has been a part of this neighborhood. He stated he has great passion for this unique and special neighborhood. He thanked Mayor Wiersum for stepping out and handling this situation professionally. He reported the Konig's would be greatly impacted by the proposed project. He discussed how this housing project has evolved over the past two years and commented on the hiring of LISK. He commented on a meeting he attended in February of 2020

for the Mills Church project noting the historic nature of this neighborhood was stressed, along with traffic concerns. He believed the community was not being heard because these same concerns are being spoken again tonight. He reported the neighbors support affordable housing on the Mills Church property, but the neighbors do not support rezoning the property to allow for high density housing. He requested the council to consider if the proposed plan was congruent or keeping with the character of the surrounding neighborhood.

David Pitera, 3740 Farmington Road, asked the councilmembers to weigh carefully further plans for a project like this. He anticipated there was a problem with the scale of the proposed plans. He feared that the height of the buildings would be more obvious than was being shown on the plans. He indicated the proposed townhome buildings were incongruent with the surrounding neighborhood. He stated he lived in a unique and charming neighborhood. He commended the church for their goals towards affordable housing, but recommended single-family homes be pursued instead of townhomes.

James Palm, 14816 Highland Lane, stated he has worked at the ICA Food Shelf as the Associate Director for five years. He noted he spends a lot of time with Minnetonka families that were in need. He explained affordable housing was a concern for all of his families. He believed the proposed plan was reasonable and would help benefit 14 families. He hoped that those that lived here 100 years ago, would support the way the space would be used to help families in need of affordable housing.

Scott Roeber, 3715 Farmington Road, encouraged the council to listen intently to the comments being made by the immediate neighbors to the Mills Church. He explained 10 of the 12 people offering support for this project lived two or more miles away from the church on the other side of I-494. He indicated the people speaking against the project tonight were the immediate neighbors and their comments should carry more weight. He reported there were rules in place and this property was zoned R-1. He indicated zoning laws were in place to protect property rights. He stated the neighbors supported the construction of single family homes on the Mills Church property and suggested additional single-family homes be built versus the proposed townhomes. He finished his comments by discussing how the proposed townhome development would adversely impact traffic in the neighborhood.

Jerry Nystuen, 6008 Wyngate Lane, noted he and his wife moved to their home in 1964. He stated he was an advocate for affordable housing. He understood smaller lots would be required along with density. He supported the city offering opportunities for young families to move into Minnetonka to allow them to be his neighbors.

Aili Langseth, 3514 Kohnens Circle, stated she lived near St. David's Church. She explained she just celebrated her five year anniversary of buying her house. She indicated Minnetonka was a great city to live in and purchasing a home in this community was out of reach for some families. She reported as she learned more about the Mills Church project she read the 2040 Comprehensive Plan and was surprised to learn there was no rental housing in the Minnetonka Mills neighborhood that was considered affordable. She appreciated the affordable housing aspirations within the plan and believed the Mills Church plan would assist the city with reaching some of these aspirations. She believed the proposed plan was a great use of the Mills Church campus and would provide 14 families with affordable housing.

Linda Halley, 18600 Clear View Drive, noted she has been a resident of Minnetonka for the past 45 years. She indicated she was not a neighbor to the Mills Church but used to live in this neighborhood and sent her children to the Small Wonders Preschool. She explained she represented the Minnetonka Community Housing Team. She stated she supported the proposed plan to build 14 affordable housing units on the Mills Church property and commended the church on their efforts and partnership with Habitat for Humanity. She thanked the city for working to provide affordable housing options in the community. She was of the opinion the proposed units fit well into the neighborhood and would provide community involvement. She stated she was excited for all this project would provide to the community.

Kevin Ringhoefer, 2200 Indian Road West, noted he was a member of the Mills Church and stated he visited some of the Habitat Homes in other communities. He believed these homes fit well into their neighborhoods and were well maintained. He stated he was disappointed by the negative comments that were presented at the Planning Commission meeting. He thought the concept plan addressed the concerns that were raised by the neighbors in 2020. He reported the density had been brought down and the Town Hall would be protected. He stated he was bothered by the comments being made by the neighbors and asked who was speaking on behalf of the residents that would live within the affordable housing units. He understood the neighbors were concerned about having change but asked where affordable housing was supposed to come from in Minnetonka. He feared that the city would continue to be segregated by race if more affordable housing was not pursued. He discussed the housing disparity that was occurring in Minnesota and throughout the country. He commented on how demographics were changing and questioned if the city was keeping in alignment with these changes. He reported of the 40,000 workers in Minnetonka, very few lived in Minnetonka and this was due to the price of housing. He stated there should be a sense of urgency in order to provide more affordable housing. He argued that the proposed affordable housing should be more dense rather than less dense in order to meet the needs of the community. He explained after

living in Minnetonka for the past 35 years, he has come to accept the fact that his daughter would not be able to live in Minnetonka due to the price of housing.

Corey Wright, 3720 Farmington Road, commended Pastor David on what he was doing. He understood affordable housing was a complicated issue and he appreciated all of his efforts. He indicated he was one of the only minority families that lived in his neighborhood. He stated his dad grew up in the projects and he knew about affordable housing. He reported he spends his professional career helping families get into affordable housing. He explained there were other options, such as ADU's to consider, versus simply pursuing high-density residential for affordable housing. He believed the density of the townhomes was not in keeping with the neighborhood. He reported he has small children as do his neighbors and he feared how the new development would impact traffic in the neighborhood.

Edward Soltis, 13801 Minnetonka Drive, encouraged the church to consider other options for the affordable housing, such as single-family homes. He discussed how challenging traffic was along Baker Road and noted this development would add to this problem.

Michael Wilder, 3712 Farmington Road, thanked the council for their public service. He stated the Mills Church has been on this property since 1898. He indicated he understood the surrounding property owners have been invested in this area for quite some time as well. However, he also understood that change was inevitable. He explained he supported the proposed affordable housing and thanked the Mills Church for amending their plans and for hearing the concerns of the neighbors. He believed the current concept plan would be the lowest impact for the neighborhood. He discussed what could have been located on this property, whether it was a megachurch or a large apartment complex. He encouraged the council to support to proposed plans.

Mike Ullisich, 4128 Pepper Wood Trail, stated he was the church administrator at Mills Church for 16 years. He discussed the traffic around the church noting there were four entities using the Mills Church campus. He commented on how a passageway would be blocked off which would assist with traffic flow.

Tim Greeley, 3723 Farmington Road, noted he sent a message to the planning commission. He explained he supported affordable housing, but he was concerned about the character of the neighborhood. He stated 20 years ago he wanted to build a garage and after two years of permitting, he finally received approval. He discussed how his barn garage was being brought into question and that it may not be in keeping with the character of the neighborhood. He encouraged the council to consider if the proposed townhomes were in keeping with the character of the neighborhood. He recommended the Mills Church pursue more single-family affordable homes on their property.

Mike Mahady, 3700 Baker Road, stated he moved to this neighborhood because of the historical aspects of the site. He indicated he was concerned about the additional traffic that would be generated by this development. He reported the narrowing of Baker Road led to more congestion during peak times. He requested the council honor the request of the neighbors. He summarized several comments made by the planning commission members at their last meeting noting they had concerns regarding the size and mass of the proposed townhomes.

Larry Sharpe, 3726 Farmington Road, thanked Pastor Lant for bringing Habitat for Humanity in on this project. He explained he believed affordable housing was a good thing. He discussed how when an individual invests in a home, the surrounding zoning in an R-1 zoning district should be protected. He discussed how more affordable housing could be built on the Mills Church property if this project were approved.

Peter Haakonson, 3739 Farmington Road, stated moving from R-1 to PUD for this property was a concern to him and was outside the realm for the surrounding properties. In addition, this project would bring a great deal of extra traffic to the neighborhood. He thanked Pastor David for offering the property \$200,000 below market value. He indicated he has worked with Habitat for Humanity in the past and he was pleased to see them working with Mills Church on this project.

Debbie Ramsden, 13627 Inverness Road, stated she has lived in her home since 1967. She asked who will manage the affordable townhomes. She questioned what would happen to the rest of the land, if the church were to move or disband. She discussed how traffic in the area has continued to increase and noted this development would compound these concerns. She reported she was concerned how her property value would be impacted by the proposed project. She understood the church had 5.5 acres and asked how much of this land was being placed into the land trust. She indicated she had no objection to the single-family affordable homes and recommended Mills Church pursue additional single-family, single level homes that were either affordable or for the elderly. She discussed how strict the city was with lot size and setbacks and encouraged the council to keep these same requirements in place for the church. She did not believe high density housing was suitable for this neighborhood. She then commented on how the neighborhood would be adversely impacted by the proposed project due to the building size and mass. She encouraged the council to take into consideration the comments that are being made by the immediate neighbors as they are the ones that will be impacted by this project.

Ian Sendi, 13215 Minnetonka Drive, reported he was a member of the Mills Church. He explained he respected the comments and concerns that were being raised by the neighbors. He understood changing the zoning to high density was

a fear along with affordable housing and the people this would bring to this neighborhood. He stated he worked 18 hours a day and he lived in Minnetonka through an affordable housing program. He indicated he cut his hours short today in order to speak in favor of the Mills Church affordable housing project. He stated even working 18 hours a day seven days a week he would never be able to afford a home in Minnetonka, but he loved Minnetonka and went to church in this community. He reported he did not want to move. He indicated he wanted more people to have the same opportunity as him, to be able to call Minnetonka home. He encouraged the council to think hard about this project, and noted there were families out there that could use some help. He hoped that the council and the neighbors would be able to come together to find the good in helping another human being find a home.

Kirk closed the meeting for public comments.

Schack stated the median home value was \$465,000 in Minnetonka. She explained she could not have afforded this when she was just starting out and she understood she has had a great deal of privilege along the way. She reported she liked this project and understood the city had to get uncomfortable with different housing types, especially townhouses in Minnetonka that were along arterial roads. She noted she lived three-fourths of a mile from this property and she understood the character was eclectic. She believed the proposed townhomes would meet the housing diversity in the neighborhood. She was of the opinion some tweaks needed to be made to the plan, especially when considering the property to the east. She wanted to see the city working with that neighbor in order to provide a proper buffer. She stated she appreciated all of the neighbors that have been on their property for 70 to 100 years, but noted she was focused on providing this legacy to new residents in Minnetonka as well. She stated she valued all of the input that was provided and she honored the fact that this was a wonderful neighborhood. However, she also believed there was room or space to have affordable townhomes as well. She trusted staff would work on the design of the townhomes and she appreciated the fact the church was being respectful of the trees.

Schaeppi reported he was a Ward 3 councilmember. He explained the council was not deciding anything tonight, but rather was providing direction to staff. He thanked the neighbors for coming forward and speaking tonight. He indicated he would walk the neighborhood in order to better understand the traffic and pedestrian safety concerns. He looked forward to meeting with the neighbors and taking a look at the site. He reported he wanted to know more about if a precedent would be sent if this property were rezoned to R-3. He discussed how infield development would continue going forward and increased density should be considered along highways. He reported he was not afraid of the proposed density noting there was a lot of families that could no longer afford to live in the community. He indicated he supported the proposed project, even if it were to

occur in his backyard. He commented on the townhomes that were built in his neighborhood and stated his property value was not impacted. He stated he looked forward to seeing an application in the future.

Coakley indicated she represented Ward 4. She explained she lived in affordable housing as a single parent from Homes Within Reach. She stated she has lived in Minnetonka for quite some time and wants to remain in the community. She appreciated the fact Mills Church wanted to provide affordable housing. She recalled Pastor David's comments regarding social justice and reparations, and questioned if there was another way to give back to the community to provide affordable housing without partnering with Habitat for Humanity. She explained she liked the idea that Habitat would bring brand new homes, but suggested single-family homes be considered.

Wilburn stated affordable housing was anything 80% AMI or below. She indicated she wanted to know more about what it would mean to change the density on this property and if a precedent would be set. However, she understood that if the city supports affordable housing, density would be required.

Calvert indicated this was her neighborhood. She noted she lives on Baker Road and she walked this neighborhood almost every single day. She explained she attended the first two listening sessions two years ago and she appreciated all of the community involvement. She stated this was the council's opportunity to shape the type of project that comes forward. She indicated she was thinking about things like density, mass, traffic flow, stormwater management and shaping. She explained she appreciated what Mr. Ullisich said about traffic flow in order to protect the children at the preschool. She commented she appreciated the fact the site would have improved stormwater management through the proposed project. She agreed one of the buildings should be moved to the west in order to provide a buffer to the neighbor. She questioned if this was the only configuration for the townhomes that was considered, or could other ideas be considered in order to lessen the impact on the neighbors. She stated she fully appreciated the concerns that were raised about changing the zoning and would like to learn more from staff on this matter and if a precedent would be set. She understood that change was hard and discussed how hard it was to achieve affordable housing in Minnetonka without density. She commented it was not the job of the council to make any entity or project economically viable. She appreciated the efforts to preserve the trees and apple orchard. She explained there was a need for single level houses in Minnetonka, but noted this was an eclectic neighborhood that had a mix of different housing types. She feared the city was losing on out young families that could populate the schools. She stated at this time she was in support of the proposed affordable housing.

Kirk thanked Pastor Lant and his congregation being mission driven. In addition, he thanked the community for all of their input. He stated he appreciated how the church had considered the previous comments of the neighborhood noting the Town Hall had been saved, and the density had been reduced. He discussed how infield projects would continue to come before the city council. He explained he supported the townhouse concept, but noted he was concerned with the elevation of the townhomes and how this view would impact the surrounding neighborhoods. He indicated he was concerned about how the trees would be impacted on the site. He commended the church for saving the Town Hall but recommended more green space be considered surrounding the townhomes. He stated he looked forward to seeing an application for this project.

Kirk discussed the next steps for this project, noting an application would have to be received from the Mills Church for the townhome development. He thanked all of the members of the public who were in attendance for being respectful to one another in their comments.

15. Appointments and Reappointments: None.

16. Adjournment

Wilburn moved, Calvert seconded a motion to adjourn the meeting at 11:11 p.m.
All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk



**City Council Agenda Item 10A
Meeting of May 9, 2022**

Title: Resolution to approve master partnership contract with MnDOT

Report From: Phil Olson, P.E., City Engineer

Submitted through: Moranda Dammann, Acting Assistant City Manager
Will Manchester, P.E., Public Works Director
Darin Nelson, Finance Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

This master partnership contract allows the city and MnDOT to complete various work services in a quick and efficient manner.

Recommended Action

Adopt the attached resolution authorizing a master partnership contract with the Minnesota Department of Transportation.

Strategic Profile Relatability

- | | |
|---|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Environment | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The master partnership contract simplifies processes needed for the city and MnDOT to maintain infrastructure throughout the city.

Financial Consideration

Is there a financial consideration? No Yes
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: Work services are completed on an as-needed basis and funded through appropriate budgeted funds.

Background

On May 22, 2017, the city council approved a master partnership contract with the Minnesota Department of Transportation (MnDOT). The master partnership contract is essentially a housekeeping agreement related to services between MnDOT and the city of Minnetonka. The contract is needed to allow MnDOT to work on various services for the city, and then invoice the city for their work. An example of this work arrangement would include MnDOT's maintenance operations for a number of our traffic signal systems throughout the city.

The attached contract simply replaces and supersedes the existing master contract agreement with updated language modifications and does not impact existing practices, procedures or costs which are currently in place. The agreement has been approved by the city attorney.

Resolution No. 2022-XXX

Resolution authorizing a master partnership contract with the Minnesota Department of Transportation

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. The Minnesota Department of Transportation (MnDOT) wishes to cooperate closely with local units of government to coordinate the delivery of transportation services and maximize the efficient delivery of such services at all levels of government.
- 1.02. MnDOT and local governments are authorized by Minnesota Statutes sections 471.59, 174.02, and 161.20, to undertake collaborative efforts for the design, construction, maintenance and operation of state and local roads.
- 1.03. The parties wish to be able to respond quickly and efficiently to such opportunities for collaboration, and have determined that having the ability to write “work orders” against a master contract would provide the greatest speed and flexibility in responding to identified needs.

Section 2. Council Action.

- 2.01. The city of Minnetonka enter into a Master Partnership Contract with the Minnesota Department of Transportation, a copy of which was presented to the council at its meeting on May 9, 2022.
- 2.02. The mayor and city manager are authorized to execute this contract and any amendments thereto.
- 2.03. The city engineer is authorized to negotiate work order contracts pursuant to the Master Contract, which work order contracts may provide for payment to or from MnDOT, and that the city engineer may execute such work order contracts on behalf of the city without further approval by this council if the amount of the work order does not exceed \$175,000.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 9, 2022.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 9, 2022.

Becky Koosman, City Clerk

**STATE OF MINNESOTA
MASTER PARTNERSHIP CONTRACT**

This master contract is between the State of Minnesota, acting through its Commissioner of Transportation in this contract referred to as the “State” and the Minnetonka City, acting through its City Council, in this contract referred to as the “Other Party.”

Recitals

1. The parties are authorized to enter into this contract pursuant to Minnesota Statutes, §§15.061, 471.59 and 174.02.
2. Minn. Stat. § 161.20, subd. 2, authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.
3. Each party to this contract is a “road authority” as defined by Minn. Stat. §160.02, subd. 25.
4. Minn. Stat. § 161.39, subd. 1, authorizes a road authority to perform work for another road authority. Such work may include providing technical and engineering advice, assistance and supervision, surveying, preparing plans for the construction or reconstruction of roadways, and performing roadway maintenance.
5. Minn. Stat. §174.02, subd. 6, authorizes the Commissioner of Transportation to enter into contracts with other governmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services, or that further development of innovation in transportation for the benefit of the citizens of Minnesota.
6. Each party wishes to occasionally purchase services from the other party, which the parties agree will enhance the efficiency of delivering governmental services at all levels. This Master Partnership Contract (MPC) provides a framework for the efficient handling of such requests. This MPC contains terms generally governing the relationship between the parties. When specific services are requested, the parties will (unless otherwise specified) enter into a “Work Order” contracts.
7. After the execution of this MPC, the parties may (but are not required to) enter into “Work Order” contracts. These Work Orders will specify the work to be done, timelines for completion, and compensation to be paid for the specific work.
8. The parties are entering into this MPC to establish terms that will govern all of the Work Orders subsequently issued under the authority of this Contract.

Contract

1. Term of Master Partnership Contract; Use of Work Order Contracts; Survival of Terms

- 1.1. **Effective Date:** This contract will be effective on July 1st, 2022, or upon the date last signed by all State officials as required under Minn. Stat. § 16C.05, subd. 2, whichever occurs last. The Other Party must not begin work under this Contract until ALL required signatures have been obtained and the Other Party has been notified in writing to begin such work by the State’s Authorized Representative.
- 1.2. **Expiration Date.** This Contract will expire on June 30, 2027.
- 1.3. **Exhibits.** Exhibit A is attached and incorporated into this agreement.
- 1.4. **Work Order Contracts.** A work order contract must be negotiated and executed (by both the State and the Other Party) for each particular engagement, except for Technical Services provided by the State to the Other Party as specified in Article 2. The work order contract must specify the detailed scope of work and deliverables for that project. A party must not begin work under a work order until the work order is fully

executed. The terms of this MPC will apply to all work orders contracts issued, unless specifically varied in the work order. The Other Party understands that this MPC is not a guarantee of any payments or work order assignments, and that payments will only be issued for work actually performed under fully-executed work orders.

- 1.5. **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 12. Liability; 13. State Audits; 14. Government Data Practices and Intellectual Property; 17. Publicity; 18. Governing Law, Jurisdiction, and Venue; and 22. Data Disclosure. All terms of this MPC will survive with respect to any work order contract issued prior to the expiration date of the MPC.
- 1.6. **Sample Work Order.** A sample work order contract is available upon request from the State.
- 1.7. **Definition of “Providing Party” and “Requesting Party”.** For the purpose of assigning certain duties and obligations in the MPC to work order contracts, the following definitions will apply throughout the MPC. “Requesting Party” is defined as the party requesting the other party to perform work under a work order contract. “Providing Party” is defined as the party performing the scope of work under a work order contract.

2. Technical Services

- 2.1. Technical Services include repetitive low-cost services routinely performed by the State for the Other Party. If requested and authorized by the Other Party, these services may be performed by the State for the Other Party without the execution of a work order, as these services are provided in accordance with standardized practices and processes and do not require a detailed scope of work. Exhibit A – Table of Technical Services is attached.
 - 2.1.1. Every other service not falling under the services listed in Exhibit A will require a work order contract (If you have questions regarding whether a service is covered under 2.1.1, please contact Contract Management).
- 2.2. The Other Party may request the State to perform Technical Services in an informal manner, such as by the use of email, a purchase order, or by delivering materials to a State lab and requesting testing. A request may be made via telephone, but will not be considered accepted unless acknowledged in writing by the State.
- 2.3. The State will promptly inform the Other Party if the State will be unable to perform the requested Technical Services. Otherwise, the State will perform the Technical Services in accordance with the State’s normal processes and practices, including scheduling practices taking into account the availability of State staff and equipment.
- 2.4. **Payment Basis.** Unless otherwise agreed to by the parties prior to performance of the services, the State will charge the Other Party the State’s then-current rate for performing the Technical Services. The then-current rate may include the State’s normal and customary additives. The State will invoice the Other Party upon completion of the services, or at regular intervals not more than once monthly as agreed upon by the parties. The invoice will provide a summary of the Technical Services provided by the State during the invoice period.

3. Services Requiring a Work Order Contract

- 3.1. **Work Order Contracts:** A party may request the other party to perform any of the following services under individual work order contracts.
- 3.2. **Professional and Technical Services.** A party may provide professional and technical services upon the request of the other party. As defined by Minn. Stat. §16C.08, subd. 1, professional/technical services “means services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation; and result in the production of a report or completion of a task.” Professional and technical services do not include providing supplies or materials except as incidental to performing such services. Professional and technical services include (by way of example and without limitation) cultural resources, engineering services, surveying, foundation recommendations and reports, environmental documentation, right-of-way assistance (such as performing appraisals or providing

relocation assistance, but excluding the exercise of the power of eminent domain), geometric layouts, final construction plans, graphic presentations, public relations, and facilitating open houses. A party will normally provide such services with its own personnel; however, a party's professional/technical services may also include hiring and managing outside consultants to perform work provided that a party itself provides active project management for the use of such outside consultants.

- 3.3. **Roadway Maintenance.** A party may provide roadway maintenance upon the request of the other party. Roadway maintenance does not include roadway reconstruction. This work may include but is not limited to snow removal, ditch spraying, roadside mowing, bituminous mill and overlay (only small projects), seal coat, bridge hits, major retaining wall failures, major drainage failures, and message painting. All services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work.
- 3.4. **Construction Administration.** A party may administer roadway construction projects upon the request of the other party. Roadway construction includes (by way of example and without limitation) the construction, reconstruction, or rehabilitation of mainline, shoulder, median, pedestrian or bicycle pathway, lighting and signal systems, pavement mill and overlays, seal coating, guardrail installation, and channelization. These services may be performed by the Providing Party's own forces, or the Providing Party may administer outside contracts for such work. Construction administration may include letting and awarding construction contracts for such work (including state projects to be completed in conjunction with local projects). All contract administration services must be performed by an employee with sufficient skills, training, expertise or certification to perform such work.
- 3.5. **Emergency Services.** A party may provide aid upon request of the other party in the event of a man-made disaster, natural disaster or other act of God. Emergency services includes all those services as the parties mutually agree are necessary to plan for, prepare for, deal with, and recover from emergency situations. These services include, without limitation, planning, engineering, construction, maintenance, and removal and disposal services related to things such as road closures, traffic control, debris removal, flood protection and mitigation, sign repair, sandbag activities and general cleanup. Work will be performed by an employee with sufficient skills, training, expertise or certification to perform such work, and work must be supervised by a qualified employee of the party performing the work. If it is not feasible to have an executed work order prior to performance of the work, the parties will promptly confer to determine whether work may be commenced without a fully-executed work order in place. If work commences without a fully-executed work order, the parties will follow up with execution of a work order as soon as feasible.
- 3.6. When a need is identified, the State and the Other Party will discuss the proposed work and the resources needed to perform the work. If a party desires to perform such work, the parties will negotiate the specific and detailed work tasks and cost. The State will then prepare a work order contract. Generally, a work order contract will be limited to one specific project/engagement, although "on call" work orders may be prepared for certain types of services, especially for "Technical Services" items as identified section 2.1.. The work order will also identify specific deliverables required, and timeframes for completing work. A work order must be fully executed by the parties prior to work being commenced. The Other Party will not be paid for work performed prior to execution of a work order contract and authorization by the State.

4. Responsibilities of the Providing Party

- 4.1. **Terms Applicable to ALL Work Order Contracts.** The terms in this section 4.1 will apply to ALL work order contracts.
 - 4.1.1. Each work order will identify an Authorized Representative for each party. Each party's authorized representative is responsible for administering the work order, and has the authority to make any decisions regarding the work, and to give and receive any notices required or permitted under this MPC or the work order.
 - 4.1.2. The Providing Party will furnish and assign a publicly employed licensed engineer (Project Engineer), to be in responsible charge of the project(s) and to supervise and direct the work to be performed under each work order contract. For services not requiring an engineer, the Providing Party will

furnish and assign another responsible employee to be in charge of the project. The services of the Providing Party under a work order contract may not be otherwise assigned, sublet, or transferred unless approved in writing by the Requesting Party's authorized representative. This written consent will in no way relieve the Providing Party from its primary responsibility for the work.

- 4.1.3. If the Other Party is the Providing Party, the Project Engineer may request in writing specific engineering and/or technical services from the State, pursuant to Minn. Stat. Section 161.39. The work order Contract will require the Other Party to deposit payment in advance. The costs and expenses will include the current State additives and overhead rates, subject to adjustment based on actual direct costs that have been verified by audit.
- 4.1.4. Only the receipt of a fully executed work order contract authorizes the Providing Party to begin work on a project. Any and all effort, expenses, or actions taken by the Providing Party before the work order contract is fully executed are considered unauthorized and undertaken at the risk of non-payment.
- 4.1.5. In connection with the performance of this contract and any work orders issued, the Providing Agency will comply with all applicable Federal and State laws and regulations. When the Providing Party is authorized or permitted to award contracts in connection with any work order, the Providing Party will require and cause its contractors and subcontractors to comply with all Federal and State laws and regulations.
- 4.2. **Additional Terms for Roadway Maintenance.** The terms of section 4.1 and this section 4.2 will apply to all work orders for Roadway Maintenance.
 - 4.2.1. Unless otherwise provided for by contract or work order, the Providing Party must obtain all permits and sanctions that may be required for the proper and lawful performance of the work.
 - 4.2.2. The Providing Party must perform maintenance in accordance with MnDOT maintenance manuals, policies and operations.
 - 4.2.3. The Providing Party must use State-approved materials, including (by way of example and without limitation), sign posts, sign sheeting, and de-icing and anti-icing chemicals.
- 4.3. **Additional Terms for Construction Administration.** The terms of section 4.1 and this section 4.3 will apply to all work order contracts for construction administration.
 - 4.3.1. Contract(s) must be awarded to the lowest responsible bidder or best value proposer in accordance with state law.
 - 4.3.2. Contractor(s) must be required to post payment and performance bonds in an amount equal to the contract amount. The Providing Party will take all necessary action to make claims against such bonds in the event of any default by the contractor.
 - 4.3.3. Contractor(s) must be required to perform work in accordance with the latest edition of the Minnesota Department of Transportation Standard Specifications for Construction.
 - 4.3.4. For work performed on State right-of-way, contractor(s) must be required to indemnify and hold the State harmless against any loss incurred with respect to the performance of the contracted work, and must be required to provide evidence of insurance coverage commensurate with project risk.
 - 4.3.5. Contractor(s) must pay prevailing wages pursuant to applicable state and federal law.
 - 4.3.6. Contractor(s) must comply with all applicable Federal, and State laws, ordinances and regulations, including but not limited to applicable human rights/anti-discrimination laws and laws concerning the participation of Disadvantaged Business Enterprises in federally-assisted contracts.
 - 4.3.7. Unless otherwise agreed in a work order contract, each party will be responsible for providing rights of way, easement, and construction permits for its portion of the improvements. Each party will, upon the other's request, furnish copies of right of way certificates, easements, and construction permits.

- 4.3.8. The Providing Party may approve minor changes to the Requesting Party's portion of the project work if such changes do not increase the Requesting Party's cost obligation under the applicable work order contract.
- 4.3.9. The Providing Party will not approve any contractor claims for additional compensation without the Requesting Party's written approval, and the execution of a proper amendment to the applicable work order contract when necessary. The Other Party will tender the processing and defense of any such claims to the State upon the State's request.
- 4.3.10. The Other Party must coordinate all trunk highway work affecting any utilities with the State's Utilities Office.
- 4.3.11. The Providing Party must coordinate all necessary detours with the Requesting Party.
- 4.3.12. If the Other Party is the Providing Party, and there is work performed on the trunk highway right-of-way, the following will apply:
 - a. The Other Party will have a permit to perform the work on the trunk highway. The State may revoke this permit if the work is not being performed in a safe, proper and skillful manner, or if the contractor is violating the terms of any law, regulation, or permit applicable to the work. The State will have no liability to the Other Party, or its contractor, if work is suspended or stopped due to any such condition or concern.
 - b. The Other Party will require its contractor to conduct all traffic control in accordance with the Minnesota Manual on Uniform Traffic Control Devices.
 - c. The Other Party will require its contractor to comply with the terms of all permits issued for the project including, but not limited to, National Pollutant Discharge Elimination System (NPDES) and other environmental permits.
 - d. All improvements constructed on the State's right-of-way will become the property of the State.

5. Responsibilities of the Requesting Party

- 5.1. After authorizing the Providing Party to begin work, the Requesting Party will furnish any data or material in its possession relating to the project that may be of use to the Providing Party in performing the work.
- 5.2. All such data furnished to the Providing Party will remain the property of the Requesting Party and will be promptly returned upon the Requesting Party's request or upon the expiration or termination of this contract (subject to data retention requirements of the Minnesota Government Data Practices Act and other applicable law).
- 5.3. The Providing Party will analyze all such data furnished by the Requesting Party. If the Providing Party finds any such data to be incorrect or incomplete, the Providing Party will bring the facts to the attention of the Requesting Party before proceeding with the part of the project affected. The Providing Party will investigate the matter, and if it finds that such data is incorrect or incomplete, it will promptly determine a method for furnishing corrected data. Delay in furnishing data will not be considered justification for an adjustment in compensation.
- 5.4. The State will provide to the Other Party copies of any Trunk Highway fund clauses to be included in the bid solicitation and will provide any required Trunk Highway fund provisions to be included in the Proposal for Highway Construction, that are different from those required for State Aid construction.
- 5.5. The Requesting Party will perform final reviews and inspections of its portion of the project work. If the work is found to have been completed in accordance with the work order contract, the Requesting Party will promptly release any remaining funds due the Providing Party for the Project(s).
- 5.6. The work order contracts may include additional responsibilities to be completed by the Requesting Party.

6. Time

- 6.1. In the performance of project work under a work order contract, time is of the essence.

7. Consideration and Payment

- 7.1. **Consideration.** The Requesting Party will pay the Providing Party as specified in the work order. The State's normal and customary additives will apply to work performed by the State, unless otherwise specified in the work order. The State's normal and customary additives will not apply if the parties agree to a "lump sum" or "unit rate" payment.
- 7.2. **State's Maximum Obligation.** The total compensation to be paid by the State to the Other Party under all work order contracts issued pursuant to this MPC will not exceed \$500,000.00.
- 7.3. **Travel Expenses.** It is anticipated that all travel expenses will be included in the base cost of the Providing Party's services, and unless otherwise specifically set forth in an applicable work order contract, the Providing Party will not be separately reimbursed for travel and subsistence expenses incurred by the Providing Party in performing any work order contract. In those cases where the State agrees to reimburse travel expenses, such expenses will be reimbursed in the same manner and in no greater amount than provided in the current "MnDOT Travel Regulations" a copy of which is on file with and available from the MnDOT District Office. The Other Party will not be reimbursed for travel and subsistence expenses incurred outside of Minnesota unless it has received the State's prior written approval for such travel.

7.4. Payment

- 7.4.1. **Generally.** The Requesting Party will pay the Providing Party as specified in the applicable work order, and will make prompt payment in accordance with Minnesota law.
- 7.4.2. **Payment by the Other Party.**
 - a. The Other Party will make payment to the order of the Commissioner of Transportation.
 - b. IMPORTANT NOTE: PAYMENT MUST REFERENCE THE "MNDOT CONTRACT NUMBER" SHOWN ON THE FACE PAGE OF THIS CONTRACT AND THE "INVOICE NUMBER" ON THE INVOICE RECEIVED FROM MNDOT.
 - c. Remit payment to the address below:
MnDOT
Attn: Cash Accounting
RE: MnDOT Contract Number 1050183W[XX] and Invoice Number: 00000[#####]
(see note above)
Mail Stop 215
395 John Ireland Blvd
St. Paul, MN 55155
- 7.4.3. **Payment by the State.**
 - a. Generally. The State will promptly pay the Other Party after the Other Party presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted as specified in the applicable work order, but no more frequently than monthly.
 - b. Retainage for Professional and Technical Services. For work orders for professional and technical services, as required by Minn. Stat. § 16C.08, subd. 2(10), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order contract has been reviewed by the State's authorized representative. The balance due will be paid when the State's authorized representative determines that the Other Party has satisfactorily fulfilled all the terms of the work order contract.

8. Conditions of Payment

- 8.1. All work performed by the Providing Party under a work order contract must be performed to the Requesting Party's satisfaction, as determined at the sole and reasonable discretion of the Requesting Party's Authorized Representative and in accordance with all applicable federal and state laws, rules, and

regulations. The Providing Party will not receive payment for work found by the Requesting Party to be unsatisfactory or performed in violation of federal or state law.

9. State's Authorized Representative and Project Manager

- 9.1. The State's Authorized Representative for this master contract is the District State Aid Engineer, who has the responsibility to monitor the State's performance.
- 9.2. The State's Project Manager will be identified in each work order contract.

10. Other Party's Authorized Representative and Project Manager

- 10.1. The Other Party's Authorized Representative for administering this master contract is the Other Party's Engineer, and the Engineer has the responsibility to monitor the Other Party's performance. The Other Party's Authorized Representative is also authorized to execute work order contracts on behalf of the Other Party without approval of each proposed work order contract by its governing body.
- 10.2. The Other Party's Project Manager will be identified in each work order contract.

11. Assignment, Amendments, Waiver, and Contract Complete

- 11.1. **Assignment.** Neither party may assign or transfer any rights or obligations under this MPC or any work order contract without the prior consent of the other and a fully executed Assignment Contract, executed and approved by the same parties who executed and approved this MPC, or their successors in office.
- 11.2. **Amendments.** Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.
- 11.3. **Waiver.** If a party fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or the party's right to subsequently enforce it.
- 11.4. **Contract Complete.** This master contract and any work order contract contain all negotiations and contracts between the State and the Other Party. No other understanding regarding this master contract or any work order contract issued hereunder, whether written or oral may be used to bind either party.

12. Liability

- 12.1. Each party will be responsible for its own acts and omissions to the extent provided by law. The Other Party's liability is governed by Minn. Stat. chapter 466 and other applicable law. The State's liability is governed by Minn. Stat. section 3.736 and other applicable law. This clause will not be construed to bar any legal remedies a party may have for the other party's failure to fulfill its obligations under this master contract or any work order contract. Neither party agrees to assume any environmental liability on behalf of the other party. A Providing Party under any work order is acting only as a "Contractor" to the Requesting Party, as the term "Contractor" is defined in Minn. Stat. §115B.03 (subd. 10), and is entitled to the protections afforded to a "Contractor" by the Minnesota Environmental Response and Liability Act. The parties specifically intend that Minn. Stat. §471.59 subd. 1a will apply to any work undertaken under this MPC and any work order issued hereunder.

13. State Audits

- 13.1. Under Minn. Stat. § 16C.05, subd. 5, the party's books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the parties and by the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this MPC.

14. Government Data Practices and Intellectual Property

- 14.1. **Government Data Practices.** The Other Party and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State under this MPC and any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Other Party under this MPC and any work order contract. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Other Party or the State.
- 14.2. **Intellectual Property Rights**

14.2.1. Intellectual Property Rights. The Requesting Party will own all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under work order contracts. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Providing Party, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this master contract or any work order contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Providing Party, its employees, agents, or contractors, in the performance of a work order contract. The Documents will be the exclusive property of the Requesting Party and all such Documents must be immediately returned to the Requesting Party by the Providing Party upon completion or cancellation of the work order contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Providing Party Government assigns all right, title, and interest it may have in the Works and the Documents to the Requesting Party. The Providing Party must, at the request of the Requesting Party, execute all papers and perform all other acts necessary to transfer or record the Requesting Party's ownership interest in the Works and Documents. Notwithstanding the foregoing, the Requesting Party grants the Providing Party an irrevocable and royalty-free license to use such intellectual property for its own non-commercial purposes, including dissemination to political subdivisions of the state of Minnesota and to transportation-related agencies such as the American Association of State Highway and Transportation Officials.

14.2.2. Obligations with Respect to Intellectual Property.

- a. **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Providing Party, including its employees and subcontractors, in the performance of the work order contract, the Providing Party will immediately give the Requesting Party's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.
- b. **Representation.** The Providing Party must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the Requesting Party, and that neither Providing Party nor its employees, agents or contractors retain any interest in and to the Works and Documents.

15. Affirmative Action

- 15.1. The State intends to carry out its responsibility for requiring affirmative action by its Contractors, pursuant to Minn. Stat. §363A.36. Pursuant to that Statute, the Other Party is encouraged to prepare and implement an affirmative action plan for the employment of minority persons, women, and the qualified disabled, and submit such plan to the Commissioner of the Minnesota Department of Human Rights. In addition, when the Other Party lets a contract for the performance of work under a work order issued pursuant to this MPC, it must include the following in the bid or proposal solicitation and any contracts awarded as a result thereof:
- 15.2. **Covered Contracts and Contractors.** If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A Contractor covered by Minn. Stat. § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

- 15.3. **Minn. Stat. § 363A.36.** Minn. Stat. § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights (“Commissioner”) as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.
- 15.4. **Minn. R. Parts 5000.3400-5000.3600.**
- 15.4.1. **General.** Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor’s compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.
- 15.4.2. **Disabled Workers.** The Contractor must comply with the following affirmative action requirements for disabled workers:
- a. The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - b. The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - c. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - d. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
 - e. The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- 15.4.3. **Consequences.** The consequences for the Contractor’s failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.
- 15.4.4. **Certification.** The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

16. Workers’ Compensation

- 16.1. Each party will be responsible for its own employees for any workers compensation claims. This MPC, and any work order contracts issued hereunder, are not intended to constitute an interchange of government employees under Minn. Stat. §15.53. To the extent that this MPC, or any work order issued hereunder, is determined to be subject to Minn. Stat. §15.53, such statute will control to the extent of any conflict between the contract and the statute.

17. Publicity

- 17.1. **Publicity.** Any publicity regarding the subject matter of a work order contract where the State is the Requesting Party must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Other Party individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from a work order contract.
- 17.2. **Data Practices Act.** Section 17.1 is not intended to override the Other Party's responsibilities under the Minnesota Government Data Practices Act.

18. Governing Law, Jurisdiction, and Venue

- 18.1. Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract or any work order contracts, or the breach of any such contracts, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

19. Prompt Payment; Payment to Subcontractors

- 19.1. The parties must make prompt payment of their obligations in accordance with applicable law. As required by Minn. Stat. § 16A.1245, when the Other Party lets a contract for work pursuant to any work order, the Other Party must require its contractor to pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the Other Party for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

20. Minn. Stat. § 181.59.

- 20.1. The Other Party will comply with the provisions of Minn. Stat. § 181.59 which requires: Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the Contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

21. Termination; Suspension

- 21.1. **Termination by the State for Convenience.** The State or commissioner of Administration may cancel this MPC and any work order contracts at any time, with or without cause, upon 30 days written notice to the Other Party. Upon termination, the Other Party and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.
- 21.2. **Termination by the Other Party for Convenience.** The Other Party may cancel this MPC and any work order contracts at any time, with or without cause, upon 30 days written notice to the State. Upon termination,

the Other Party and the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

- 21.3. **Termination for Insufficient Funding.** The State may immediately terminate or suspend this MPC and any work order contract if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination or suspension must be by written or fax notice to the Other Party. The State is not obligated to pay for any services that are provided after notice and effective date of termination or suspension. However, the Other Party will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the master contract or work order is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the Other Party notice of the lack of funding within a reasonable time of the State's receiving that notice.

22. Data Disclosure

- 22.1. Under Minn. Stat. §270C.65, subd. 3, and other applicable law, the Other Party consents to disclosure of its federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Other Party to file state tax returns and pay delinquent state tax liabilities, if any.

23. Defense of Claims and Lawsuits

- 23.1. If any lawsuit or claim is filed by a third party (including but not limited to the Other Party's contractors and subcontractors), arising out of trunk highway work performed pursuant to a valid work order issued under this MPC, the Other Party will, at the discretion of and upon the request of the State, tender the defense of such claims to the State or allow the State to participate in the defense of such claims. The Other Party will, however, be solely responsible for defending any lawsuit or claim, or any portion thereof, when the claim or cause of action asserted is based on its own acts or omissions in performing or supervising the work. The Other Party will not purport to represent the State in any litigation, settlement, or alternative dispute resolution process. The State will not be responsible for any judgment entered against the Other Party, and will not be bound by the terms of any settlement entered into by the Other Party except with the written approval of the Attorney General and the Commissioner of Transportation and pursuant to applicable law.

24. Additional Provisions

- 24.1. NONE

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OTHER PARTY

The Other Party certifies that the appropriate person(s) have executed the contract on behalf of the Other Party as required by applicable articles, bylaws, resolutions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

COMMISSIONER OF TRANSPORTATION

By: _____

Date: _____

Title: _____

COMMISSIONER OF ADMINISTRATION

By: _____

Date: _____

| Source Code | Title | Description |
|-------------|--|---|
| 1735 | Bituminous Plant Inspection | Performing QA/QC physical testing at the plant; sampling and transporting of materials from the plant to the lab for lab testing, plant reviews, and operations; investigating plant discrepancies; and other technical services in the plant or office associated with bituminous plant inspection. |
| 2830 | Bridge Bearing Assemblies | All tasks related to the repair and maintenance of fixed or expansion-bearing assemblies on bridges. Includes related traffic |
| 2819 | Bridge Curb, Walk And Railing | Repairing and maintaining bridge curb, walk, rail, coping, and fencing connected to the rail. Includes glare screen and median barriers on bridges. Includes related traffic control. |
| 2820 | Bridge Deck | Work associated with bridge deck and slab repair regardless of removal depth or type of material used for patching. Includes deck or slab overlays and replacements and underside deck delamination. Includes related traffic control. |
| 2838 | Bridge Deck Crack Sealing | All tasks related to deck crack sealing. Includes related traffic control. |
| 2827 | Bridge Expansion, Relief Joints | All maintenance tasks associated with bridge expansion joints, except joint reestablishment. Includes tightening expansion device bolts and replacing seal glands. Includes related traffic control. |
| 2855 | Bridge Inspection Direct Support | Activities that support bridge inspection, but are not direct production (i.e., leadership, technical, administrative assistance. |
| 2828 | Bridge Inspection-Federal Fund | All bridge inspection tasks for non-MnDOT bridges funded by the federal Fracture-Critical Bridge Program (Project Code will begin with TSL and with the local bridge number). Includes related inspection reports. For MnDOT Trunk Highway bridges (Project Code begins with TSO followed by the bridge number) and local and Department of Natural Resources (DNR) (bridge number begins with 9A follow by bridge number) bridge inspections to be billed to the local government or Department of Natural Resources (DNR) use Source Code 2824. |
| 2824 | Bridge Inspection-Non-Federal | All tasks related to inventory, inspection, and load capacity rating work done on trunk highway bridges to meet the requirements of the National Bridge Inspection System and/or Minnesota Bridge Safety Inspection Program or for billing to local governments. Includes related inspection reports and deck condition surveys. |
| 1421 | Bridge Management System Operation/Administration/Data | Use for tasks related to the Bridge Management System, including operations, administration, or data entry. |
| 2847 | Bridge Poured/ Relief Joint Seal | All tasks associated with resealing bridge construction joints. Includes related traffic control. Related source type codes: Activities that support bridge inspection, but are not direct production (i.e., leadership, technical, administrative assistance). |
| 2829 | Bridge Superstructure | All tasks to repair any bridge component above the bridge seat that is not included in other source codes. Includes repairs to all types of bridge superstructure elements such as girders, beams, floor beams, trusses, stringers, t-beams, precast channels, and box girders. Includes related traffic control. |
| 2316 | Brush & Tree Removal | Maintaining, watering, trimming, and removing highway right of way tree and brush. Includes chipping of tree limbs and stump removal/grinding. Includes related traffic control. |
| 0032 | Business Unit Management | All expenses of business/office managers for general management and administration of support functions. includes administering central facilities maintenance and facilities capital budgets. |
| 3000 | Class Of Frequency Coordination | Use for frequency coordination done with APCO, AASHTO or FCCA. |

| Source Code | Title | Description |
|-------------|--------------------------------------|--|
| 1733 | Concrete Plant Inspections | Performing QA/QC physical testing at the plant; sampling and transporting of materials from the plant to the lab for lab testing, plant reviews, and operations; investigating plant discrepancies; and other technical services in the plant or office associated with stationary concrete plants or mobile concrete paving plant inspection. |
| 1734 | Construction Materials Inspections | Performing construction phase material inspection and engineering, for structural steel, precast and pre-stressed concrete, reinforcement steel, and electrical products and related technical services in the field and office for materials to be used in multiple projects. Includes travel time, sampling, and sample delivery. Includes tasks related to reviewing shop drawings furnished by suppliers or fabricators and contractor working drawings or calculations, and for tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering, and technical services in the field and offices). |
| 1802 | Construction Surveying | Use for surveys to provide staking for the contractor's operations and for any other construction phase surveying |
| 2106 | Crack Sealing | All surface crack sealing, crack filling, or rout and seal operations. Includes related materials, hauling, stockpiling, and traffic control. |
| 3023 | Elec Comm Eq Rep - Miles | |
| 0400 | Equipment Calibration-Mat Insp | Use when performing periodic equipment calibration for equipment used in the materials lab or on construction projects. |
| 1800 | Field Inspection | All construction project field inspection (not cyclical inspection of assets), including preparatory plans & spec review, measurement, and verification other than environmental monitoring. Includes field inspection of materials such as gradations, densities/DCP, proctors, compaction, slump tests, and field air tests. Witnessing claims, determination and computation of pay quantities, materials control and certification for progress vouchers, but not for final payments. Includes collecting and transporting samples for lab tests, but not the actual laboratory verifications. Includes all construction phase project related activities for project and resident engineers such as problem resolution, guidance and direction to field technicians. Includes all miscellaneous field engineering expenses used by district offices such as space rental, utilities, or other costs charged to the construction project Includes all work associated with evaluation of implementation of intelligent compaction devices to determine if construction contract terms have been met. |
| 1040 | Final Design Surveys | All district field and office tasks needed to respond to supplemental "Requests for Survey Data" and add the data to the surveys base map or DTM. |
| 0601 | Gen Training Preparation - Delivery | Use for time, materials, and travel expenses when developing or delivering training. includes course preparation, designing materials, and managing training records. |
| 2210 | Guardrail-Install/Repair/Maintenance | Install, repair, or maintain low tension cable, plate beams, and end treatments; cable tension adjustments; and reflector replacement. includes related traffic control. |
| 2624 | Indirect Expense | Indirect shop expenses and shop equipment. Allocate to mobile equipment. |
| 1871 | Lighting Maintenance & Utilities | All work related to installing, maintaining, restoring, or removing highway lighting systems and fixtures. Includes repairing, maintaining, or replacing supports necessary for roadway lighting luminaries. Includes patrol highway lighting, inspect lighting structures, electrical service for highway lighting, re-lamping, pump stations, anti-icing systems, truck roll-over warning systems and electrical repairs. Includes traffic control in support of roadway lighting activities. Use for tasks related to public inquiries/complaints, review utility billings, provide data, and conduct field reviews. |

| Source Code | Title | Description |
|-------------|--|---|
| 1875 | Locate One Call | Finding and marking locations of buried conduit, cables, hand holes, loops, etc. in order to maintain or repair the traffic management system, signal systems, or roadway lighting systems. |
| 1732 | Material Testing & Inspection | Performing construction phase and research physical and chemical laboratory testing, and related technical services in the districts and central labs, and for performing research and construction phase non-destructive testing materials surveys, and related technical services in the field and offices. Includes detour surveys. Non-destructive tests include, skid resistance and falling weight deflectometer (FWD) testing. |
| 2660 | Misc Revenue | Used only by Office of Financial Management for billing and deposit transactions and to record payments to the department for gravel sold to contractors and others. |
| 2822 | Miscellaneous Bridge Maintenance | Miscellaneous maintenance tasks performed on a specific bridge or structure not covered by other source codes. Includes work on items such as stairways, drains, fencing, light bases, transient guards, and access doors. Includes transient removal, ordering materials, and picking up equipment. Includes related traffic control. |
| 3049 | On Call Electronic Communications Infrastructure Maintenance | To be used by Statewide Radio Communications personnel to record on-call time. |
| 2142 | Overhead Sign Panel Maintenance | Work related to the repair and replacement of overhead sign panels, extruded sign panels mounted on I-beams, and overhead sign structures. Includes related cable locates and traffic control. Does not include structural work. |
| 2102 | Patching | Related source type codes: 2103-Heavy patching, 2104-Bituminous paving, 2105-Blow patching |
| 1520 | Pavement Management System | For tasks related to the operation of the pavement management system, including development and maintenance/technical support. Includes tasks to meet needs external to MnDOT. |
| 2406 | Plowing & Material Application | Shoulder to shoulder snow removal operation, winging back, snow blowing drifts, and the application of de-icing chemicals using mobile equipment. Includes changing cutting edges during event and related traffic control. |
| 3005 | Radio - Mobile Equipment | Use for the repair and preventative maintenance of all equipment associated with wireless two-way radio communications systems (includes mobile radios, portable radios, base stations, console workstations, recorders, etc.). Non-MnDOT equipment - Must use Project number assigned to requesting agency (State Patrol, DNR, BCA, Fire Marshall). See OSRC Project Code list. |
| 3027 | Radio Programming | Creating or modifying radio frequency programs and programming mobile and portable radios. Does not include mobile radios used as fixed base radios as part of the Inter-OP System (Use 3009). |
| 3002 | Radio/Electronic Infrastructure | Use for the repair and preventative maintenance of all equipment associated with wireless two-way radio communications systems (includes mobile radios, portable radios, base stations, console workstations, recorders, etc.). Non-MnDOT equipment - Must use Project number assigned to requesting agency; Department of Public Safety (DPS) includes State Patrol (SP) Bureau of Criminal Apprehension (BCA), Fire Marshall); does not include Department of Natural Resources (DNR). See OSRC Project |
| 3007 | Radio/Electronic System Engineering | Use for design of microwave, radio and miscellaneous electronic systems. |
| 3009 | Radio/Electronic System Upgrade & Installation | Use for the installation and other services needed to provide major system upgrades or improvements to wireless or electronic systems. Use for all work performed to correct or repair deficiencies found in a new installation. |
| 1716 | Record Sampling | Used by Materials and Research Section and district materials staff to verify inspector" sampling and testing procedures and checking inspectors' equipment during project construction as required by FHWA. Use when performing field tests on split sample. |

| Source Code | Title | Description |
|-------------|---|--|
| 2222 | Sign/Delineation/Marker Repair | Replacing, repairing, and washing signs (including temporary stop signs). Includes re-sequencing intersection signing and repair/replace overhead and extrude signs mounted on I-beams. Includes related cable locates and traffic control. |
| 1182 | Soils/Foundation Field/Laboratory Tests | All laboratory testing necessary to provide geotechnical information to complete roadway soils recommendations and approvals for use in the development of Final Design Plans and Special Provisions. Lab work includes R-value, resilient modulus, soil classification, gradation, proctor testing, unconfined compression, consolidation, direct simple shear, direct shear, permeability and triaxial tests. |
| 1879 | State Furnished Materials | Use to record labor hours, equipment usage, and material costs to supply state furnished materials to a state road construction project with federal participation. |
| 1738 | State Project - Specific Materials Inspection | Performing material inspection and engineering for materials designated for a specific construction project (SP). Generally applies to inspection of such things as structural steel, prestressed concrete items, and most precast concrete items and related technical services in the field and offices when related to a particular SP. Use for SP specific tasks related to performing the review of shop drawings furnished by suppliers or fabricators and contractor working drawings or calculations, and for tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering and technical services in the field and offices). |
| 1434 | Structural Metals Inspection-Non DOT | Reviewing shop drawings furnished by suppliers, fabricators, and contractors (working drawing or calculations), and for tasks related to structural metals inspection (materials surveys, physical and chemical laboratory testing, material inspection and engineering, and technical services in the field and offices) for local agency projects. |
| 2629 | Supplies & Small Tools | Shop tools, small equipment, and supplies that cannot be directly charged to a mobile equipment unit. |
| 0152 | Support Services | Work that supports general office management, system management such as entering data into SWIFT, PPMS, PUMA and other MnDOT systems, attending staff meetings and other indirect support activities. |
| 1312 | Tech Assist-Outside MnDOT | Use when providing technical assistance to an organization external to MnDOT. |
| 3025 | Tower/Building Maintenance | Use for all tasks related to the maintenance of a tower building or site. Includes towers, buildings, generators, LP system, fencing, landscaping, grounding, ice bridge, cable management, climbing ladders, card key systems, and HVAC. |
| 1876 | Traffic Counting | Use to record labor, equipment usage, and material costs for activities related to traffic counts made for statewide traffic monitoring or traffic operations. Includes all activities related to traffic counting, such as taking requests, assigning priorities, collecting field data, processing data, and developing new techniques for collection. |
| 1501 | Traffic Management System (TMS) | Used by traffic operations staff for all tasks that support the RTMC's operations center (or TOCC) providing traveler information, managing incidents and monitoring the FMS. Includes dynamic message sign maintenance, ramp meter maintenance, camera maintenance, and loop detection activities. Includes maintenance activities related to any ITS or TMS device such as RTMC cables, monitor wall, switchers, routers, or modems. Use to record all costs for maintenance activities related to traffic management fiber optics. Use for tasks related to maintaining traffic operations software including minor software enhancements and fixes. Use when providing traffic operations technical assistance external to MnDOT. Use with |

| Source Code | Title | Description |
|-------------|---|---|
| 1513 | Traffic Management System (TMS) Integration | For tasks associated with the incorporation of new and existing TMS devices (cameras, loops, DMS, and other ITS devices) into existing infrastructure to ensure proper operation. Use with the Construction/Program Delivery Appropriation. |
| 1500 | Traffic Mgt System Maintenance | Used by staff to maintain various Intelligent Transportation System (ITS) devices such as dynamic message signs, ramp meters, cameras, detection, cables, RICWS, video wall monitors, switches, routers or modems. Used to record all costs for maintenance activities related to traffic management fiber optics. Not to be used for Lighting or Traffic Signal maintenance. |
| 1721 | Traffic Sign Work Orders | Use for work involved in preparing work orders for traffic signs. Use only with Maintenance Operations appropriation (T790081). |
| 2863 | Traffic Signal Inspection | Work related to cyclical structural and electrical inspection and preventive maintenance checks of traffic signal systems/structures. Includes labor, equipment, materials, and traffic control. |
| 1870 | Traffic Signal Maintenance | Work related to the structural repair and replacement of traffic signal system structures and all electrical maintenance for traffic signal systems including electrical power, labor, equipment materials, GSOC locates, traffic control and responses to public inquiries. |
| 2834 | Waterway Maintenance | All tasks related to waterway maintenance for deck bridges. Includes debris removal, waterway cleanup, channel repair, and channel protection repair that is not part of slope protection. Includes related traffic control. |



**City Council Agenda Item 10B
Meeting of May 9, 2022**

Title: Approve traffic signal agreement at various intersections with Hennepin County

Report From: Phil Olson, P.E., City Engineer

Submitted through: Moranda Dammann, Acting Assistant City Manager
Will Manchester, P.E., Public Works Director
Darin Nelson, Finance Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

This traffic signal maintenance agreement defines city and Hennepin County responsibilities to effectively operate and maintain various traffic signal systems within Minnetonka.

Recommended Action

Approve the traffic signal maintenance agreement with Hennepin County.

Strategic Profile Relatability

- | | |
|---|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Environment | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The cooperative agreement establishes maintenance responsibilities for traffic signals to ensure safe and reliable infrastructure on the local street system.

Financial Consideration

Is there a financial consideration? No Yes
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: Work services are completed on an as-needed basis and funded through appropriate budgeted funds.

Background

The city has traffic control signal agreements with Hennepin County for all signals on the county roadway system pertaining to maintenance and ownership responsibilities. Recently, MnDOT transferred the below traffic signals on county roadways to Hennepin County at the following intersections:

- Plymouth Road at Wayzata Boulevard (North Frontage Road)
- Plymouth Road at Cartway Lane
- Hopkins Crossroad at Wayzata Boulevard (North Frontage Road)
- Hopkins Crossroad at Wayzata Boulevard (South Frontage Road)

Since MnDOT released these traffic signals to Hennepin County, the county has been working to update their agreements which define maintenance responsibilities (painting, luminaire replacement, power supply, etc.) to the city, consistent with current responsibilities of other county-owned traffic signals throughout the city.

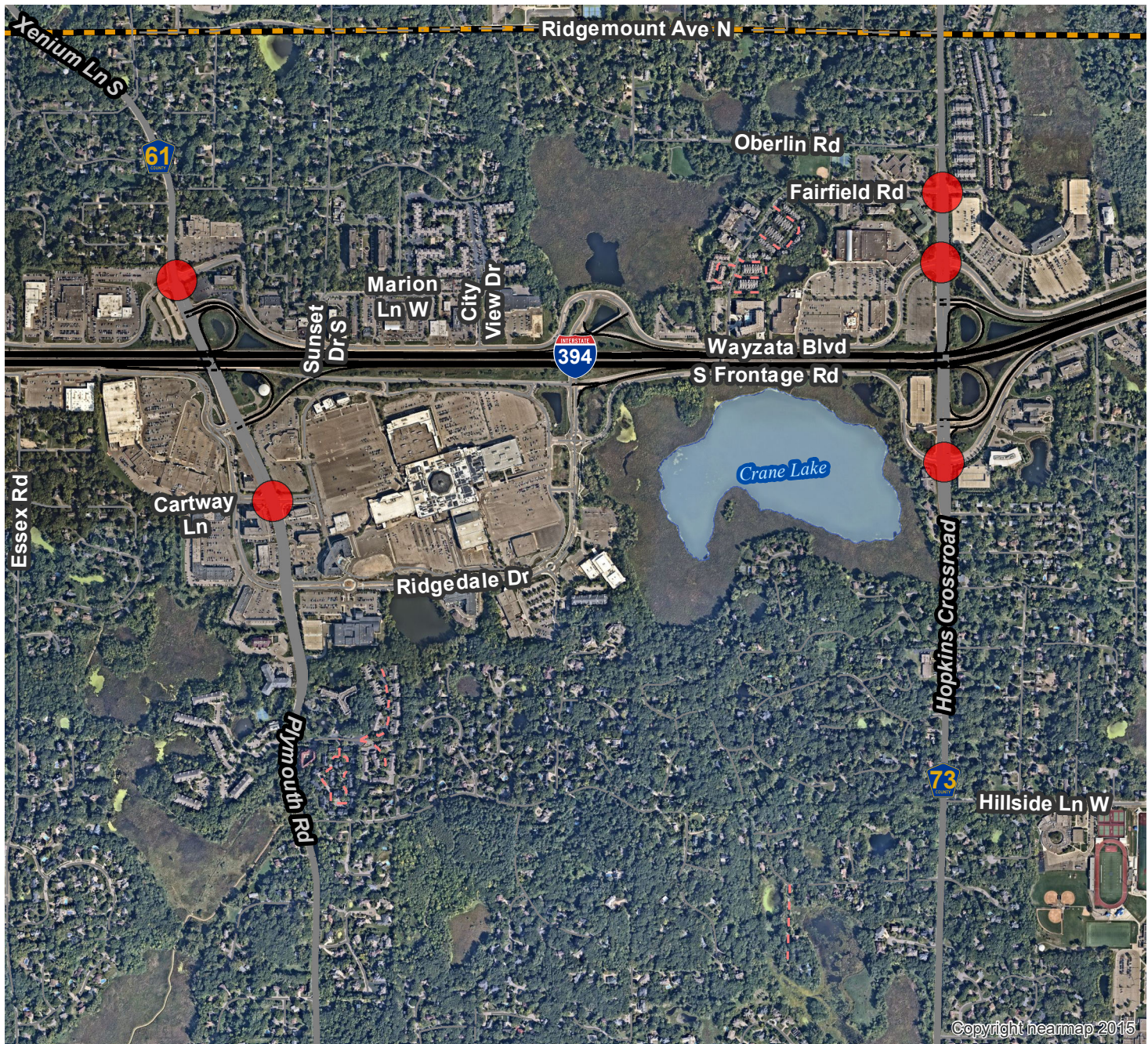
As part of the above coordination of traffic signals in the area, MnDOT also terminated the signal agreement for the traffic signal at the following intersection:

- Hopkins Crossroad and Fairfield Road

This signal, currently owned by the city, was approved by city council in 1999 and at that time, the agreement established that MnDOT would perform all traffic signal operation and maintenance activities invoicing the city for their work.

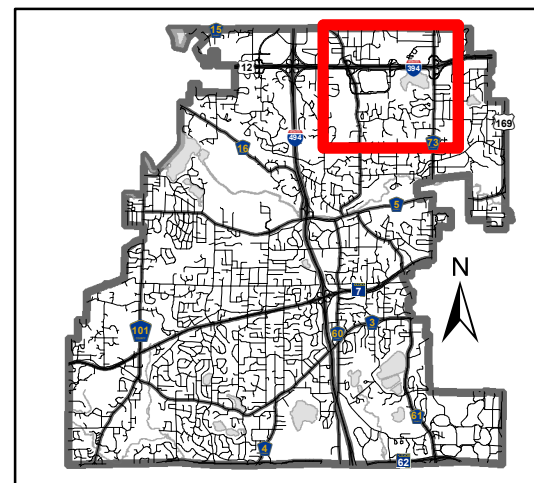
During the efforts to update the traffic signal agreements, Hennepin County staff approached the city and both parties agreed on Hennepin County taking ownership of the traffic signal at Hopkins Crossroad at Fairfield Road. City staff are supportive of this change as the signal is on a county roadway and would be connected to the other adjacent county owned and operated signals. Under the agreement, the county will operate and perform all major maintenance activities at county expense. The city will continue to perform minor maintenance activities at city expense per agreement.

The attached agreement defines the city and Hennepin County maintenance responsibilities of the above traffic signals as well as the formal transfer of ownership of the Fairfield Road traffic signal from the city to Hennepin County. The agreement has been approved by the city attorney.



Traffic Signal Agreement

 Signal Location



This map is for illustrative purposes only.

**Traffic Signal Maintenance
(A2211220)
Agreement No. PW 31-15-21
County State Aid Highway 61 & 73
City of Minnetonka
County of Hennepin**

**TRAFFIC SIGNAL
MAINTENANCE AGREEMENT**

This Agreement is made between the **County of Hennepin**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the “County”, and the **City of Minnetonka**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the “City.” The County and the City collectively are referred to as the “Parties.”

Recitals

1. There exist four traffic signal systems on intersections of County State Aid Highway (CSAH) 61 (Plymouth Road) at Wayzata Boulevard (Trunk Highway (TH) 394 North Frontage Road), CSAH 61 at Cartway Lane (TH 394 South Frontage Road), CSAH 73 (Hopkins Crossroad) at Wayzata Boulevard, and CSAH 73 at TH 394 South Frontage Road within the corporate limits of the City.
2. The County entered into a Traffic Control Signal Maintenance Agreement PW 43-40-14 with the Minnesota Department of Transportation (MnDOT) (State Contract No. 98639) on 04/21/2015 establishing maintenance responsibilities of the above-mentioned four traffic signal systems for the County which under the agreement’s terms may be transferred to the City. The above-mentioned four traffic signal systems will be referred to collectively as the “MnDOT Released Signal Systems”.
3. The City, in coordination with the County, is leading a project to upgrade the traffic signal system on the intersection of CSAH 73 at Fairfield Road (“CSAH 73 at Fairfield Signal System”) to the County’s standards, and which shall hereinafter be referred to as the “Project”.
4. The MnDOT Released Signal Systems and the CSAH 73 at Fairfield Signal System will be referred to collectively as the “Signal Systems”.
5. The Parties desire to enter into this Agreement No. PW 31-15-21 to memorialize the partnership and to establish each party’s maintenance responsibilities and their associated costs to maintain the Signal Systems and their roles and responsibilities in the Project.
6. The Project will be carried out by the Parties under the provisions of Minnesota Statutes, Section 162.17, Subdivision 1, and Section 471.59.

Agreement

NOW, THEREFORE, the Parties agree as follows:

1. Term of Agreement, Survival of Terms, and Exhibit.

- 1.1. **Effective Date.** This Agreement is effective as of the date of the final signature.
- 1.2. **Expiration Date.** This Agreement will expire after the date in which all obligations have been satisfactorily fulfilled.
- 1.3. **Survival of Terms.** Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such provisions include but are not limited to: Maintenance Responsibilities, Records/Audits, Indemnification, Insurance, Worker Compensation Claims, Cancellation, Termination, and Minnesota Laws Govern.
- 1.4. **Exhibits.** All Exhibits are attached and incorporated into this Agreement.
 - 1.4.1. **Exhibit A (Maps of MnDOT Released Signal Systems)**
 - 1.4.2. **Exhibit B (Map of CSAH 73 at Fairfield Signal System)**

2. Project Construction.

- 2.1. **Project Design, Construction, and Administration.** The City or its agents, at its sole cost, shall be responsible for Project design, construction, and administration.
- 2.2. **Construction Supervision and Inspection.** The City or its agents will administer the construction contract, and perform all necessary engineering, inspection and testing of all the Project work. The County Engineer or a designated representative shall have the right, as the work progresses, to enter upon the job site to make any inspections deemed necessary and shall cooperate with the City Engineer and staff at their request to the extent necessary, but will have no responsibility for the supervision of the work.
- 2.3. **The Signal Systems.**
 - 2.3.1. **Power.** The City, at no cost to the County, shall: (1) install, cause the installation of, or perpetuate the existence of an adequate three wire, 120/240 volt, single phase, alternating current electrical power connection to the Signal Systems and luminaires above the traffic signals; and (2) shall provide the electrical energy for the operation of the Signal Systems and luminaires above the traffic signals.
 - 2.3.2. **The Signal Systems Adjustment.** The City shall not revise by addition or

deletion, nor alter or adjust any component, part, sequence, or timing of the traffic control signals covered by the Project, however, nothing herein shall prohibit prompt, prudent action by properly constituted authorities in situations where a part of such traffic control signals may be directly involved in an emergency.

3. City and County Supplied Equipment. The City provided various signal components, including a traffic control cabinet, indications, pedestrian indications, and luminaires, at no cost to the County (“City Supplied Equipment”), and the County provided County supplied equipment consisting of video detection equipment, davit, and other required accessories (“County Supplied Equipment”), collectively “Supplied Equipment”. The County is providing labor to install the Supplied Equipment for the CSAH 73 at Fairfield Signal System.

3.1. Cost of County Supplied Equipment. For informational purposes only, the total estimated cost for the County Supplied Equipment is \$60,000.00. The County agrees to absorb this cost and provide the equipment along with County forces to install the cabinet and terminate the connections for the Project without any cost to the City.

4. Cost Participation. The County Supplied Equipment and labor costs to install the City Supplied Equipment and terminate its connections constitute the only cost participation from the County for the Project. The Parties understand and agree that there shall not be any additional cost participation or monetary reimbursement to the City from the County for this Project.

5. The City’s Maintenance Responsibilities for the MnDOT Released Signal Systems.

5.1. Minor System Maintenance. This Agreement shall operate to transfer the maintenance responsibilities assigned to the County via agreement PW 43-40-14 (MnDOT Contract No. 98639) to the City. The City agrees to maintain the MnDOT Released Signal Systems and luminaires above the traffic signals at its sole cost and expense. Maintenance includes monthly power expenses including minor signal and luminaire maintenance responsibilities which includes the cables to the load side of the meter sockets. Minor maintenance includes signal re-lamping or replacing the L.E.D. indications, signal cleaning and painting, luminaire re-lamping, luminaire maintenance and all its components including replacement of the luminaire, cleaning and painting the luminaire mast arm extensions, and cleaning the service and control cabinets.

5.2. Road Closure.

5.2.1. Partially Block County Road for Signal Maintenance Work.

The City may partially block the highways within its corporate limits at such times as it becomes necessary for the performance of the services under this Agreement, and in cases of emergency where it is required, the City may totally block such highways and prevent the passage of traffic thereon. At no time, however, shall the City continue to obstruct the free passage of traffic on the highways for a longer period of time than is reasonably required for making the necessary traffic signal repairs. The City shall not cause any portions of the highways on which traffic control signals are to be maintained

to be closed to traffic for any reason other than those above without receiving prior written approval from Hennepin County and in no event for a time longer than shall be necessary. In the event of the total blocking or closing of any such County State Aid Highways, the City shall provide a suitable detour during such time.

5.2.2. Signage. The City shall be responsible for proper signing, marking, barricading and such other warning devices as may be required to adequately protect the pedestrian and vehicular traffic.

6. The City's Maintenance Responsibilities for the CSAH 73 at Fairfield Signal System.

6.1. Traffic Signal Components. In addition to the City's responsibility to provide the electrical energy for the operation of the Signal Systems and luminaires above the traffic signals as provided in Subsection 2.3.1, the City shall be responsible for routine maintenance of permanent traffic control signals and interconnect reconstructed under the Project, including the lamp on the luminaire extension, the fuse and the wire from the lamp to the load side of the meter socket of traffic signal systems, and EVP components.

7. The County's Maintenance Responsibilities for the MnDOT Released Signal Systems.

7.1. Major System Maintenance, Interconnects, and Others. Major signal system maintenance, interconnects, Emergency Vehicle Preemption (EVP), and Gopher One Call Locating responsibilities are to be performed by the County at its sole expense per the maintenance provisions in agreement PW 43-40-14 (MnDOT Contract No. 98639).

8. The County's Maintenance Responsibilities for the CSAH 73 at Fairfield Signal System. Upon completion of the Project, the City shall, at no cost to the County, via this Agreement transfer ownership of the CSAH 73 at Fairfield Signal System to the County, and the County shall provide year-round maintenance at its sole cost as outlined below:

8.1. Traffic Signal Components. The County shall thereafter retain ownership of and maintain and repair the CSAH 73 at Fairfield Signal System and their components at the expense of the County except for those items identified as City's responsibilities in Subsection 2.3.1 and Section 5 and 6 above.

9. Authorized Representatives. In order to coordinate the services of the County with the activities of the City and vice versa so as to accomplish the purposes of this Agreement, the Engineers for Hennepin County and the City or their designated representatives shall manage this Agreement on behalf of the County and the City.

County of Hennepin:
Nick Erpelding, P.E.
Division Manager, Traffic Operations
Hennepin County Public Works
1600 Prairie Drive, Medina, MN 55340

Office: 612-596-0578
nicholas.erpelding@hennepin.us

City of Minnetonka:

Name: Phil Olson, P.E.
Title: City Engineer
14600 Minnetonka Boulevard, Minnetonka, MN 55345
Office: 952-939-8239
polson@minnetonkamn.gov

10. Assignment, Amendments, Default, Waiver, Agreement Complete, Cancellation or Termination.

- 10.1. Assignment.** The City shall not assign, subcontract, transfer or pledge this Agreement and/or the services to be performed hereunder, whether in whole or in part, without the prior written consent of the County.
- 10.2. Amendments.** Any alterations, variations, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement and signed by the Parties hereto.
- 10.3. Default.** If the City fails to perform any of the provisions of this Agreement or fails to administer the work so as to endanger the performance of the Agreement, this shall constitute a default. Unless the City's default is excused by the County, the County may upon written notice immediately cancel this Agreement in its entirety.
- 10.4. Waiver.** The County's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.
- 10.5. Agreement Complete.** The entire Agreement between the Parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
- 10.6. Cancellation or Termination.** This Agreement may be terminated or cancelled by either party with or without cause upon thirty (30) days' written notice. This Agreement shall be terminated or cancelled by either party upon a material breach by the other party.

11. Indemnification.

- 11.1. The City Indemnifies the County.** The City agrees to defend, indemnify and hold harmless the County, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses,

including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the City or the City's consultant or sub-consultant, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this contract, and against all loss by reason of the failure of the City to perform fully, in any respect, all obligations under this contract. The City's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

11.2. The County Indemnifies the City. The County agrees to defend, indemnify and hold harmless the City, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the County or the County's consultant or sub consultant, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of the services required by this contract, and against all loss by reason of the failure of the County to perform fully, in any respect, all obligations under this contract. The County's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

12. Insurance. The City also agrees that any future contract let by the City for the performance of any of the work included hereunder shall include clauses that will: 1) Require the contractor to indemnify and hold the County, its commissioners, officers, agents and employees harmless from any liability, claim, demand, judgments, expenses, action or cause of action of any kind or character arising out of any act or omission of the contractor, its officers, employees, agents or subcontractors; 2) Require the contractor to be an independent contractor for the purposes of completing the work provided for in this Agreement; and 3) Require the Contractor to provide and maintain enough insurance so as to assure the performance of its indemnification and hold harmless obligation.

13. Worker Compensation Claims.

13.1. The City's Employees. Any and all employees of the City and all other persons engaged by the City in the performance of any work or services required or provided for herein to be performed by the City shall not be considered employees of the County, and any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of the employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of the employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the County.

13.2. The County's Employees. Any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the City, and any and all claims that may or might arise under the Workers' Compensation Act or the Unemployment Compensation Act of the State of Minnesota on behalf of the

employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of the employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the City.

- 14. Records/Audits.** The City and the County mutually agree that the other party, the State Auditor, or any of their duly authorized representatives at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt and transcribe any books, documents, papers, records, etc., which are pertinent to the maintenance work and the accounting practices and procedures which involve transactions relating to this Agreement.
- 15. Nondiscrimination.** The provisions of Minnesota Statute Section 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.
- 16. Counterparts/Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals.
- 17. Minnesota Laws Govern.** The laws of the State of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the Parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, State of Minnesota. Litigation, however, in the federal courts involving the Parties will be in the appropriate federal court within the State of Minnesota.

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IN TESTIMONY WHEREOF, The Parties hereto have caused this Agreement to be executed by their respective duly authorized officers and agree to be bound by the provisions herein set forth.

CITY OF MINNETONKA

By: _____
Mayor

Date: _____

**REVIEWED AND APPROVED BY
THE CITY ATTORNEY:**

By: _____
Acting City Manager

Date: _____

By: _____
City Attorney
Date: _____

COUNTY OF HENNEPIN

**REVIEWED BY
THE COUNTY ATTORNEY'S
OFFICE:**

By: _____
County Administrator

By: _____
Assistant County Attorney

Date: _____

Date: _____

And: _____
Assistant County Administrator, Public Works

Date: _____

RECOMMENDED FOR APPROVAL

By: _____
Department Director, Transportation
Operations

Date: _____

EXHIBIT A
Maps of MnDOT Released Signal Systems

FINAL DRAFT

Traffic Signal Maintenance
(A2211220) Agreement No. PW 32-15-21
CSAH No. 61 & 73

Note:

Yellow to City
Orange to County

Release No. 1474

Trunk Highway No. 394

Traffic Control Signals
Within the Release

Page 1 of 2

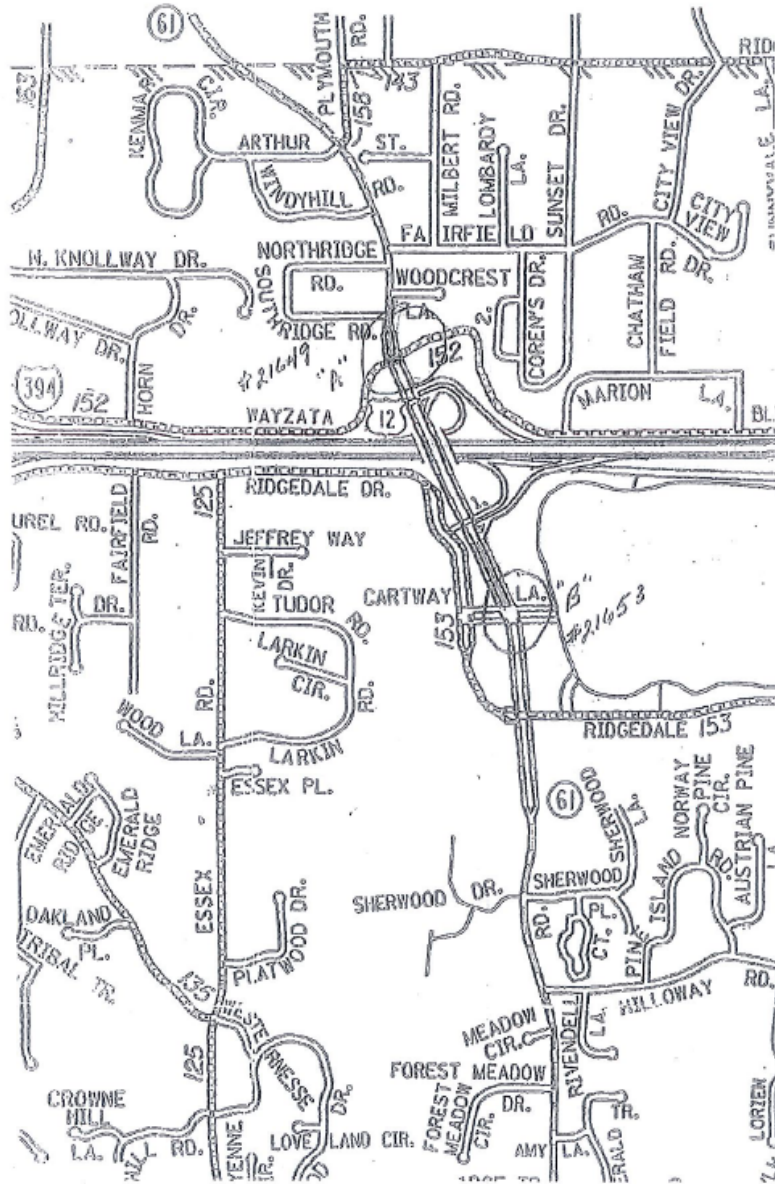


EXHIBIT "A"

Agreement No. 98639

Note:

Yellow to City
 Orange to County

Release No. 1474
 Trunk Highway No. 394

Traffic Control Signals
 Within the Release

Page 2 of 2

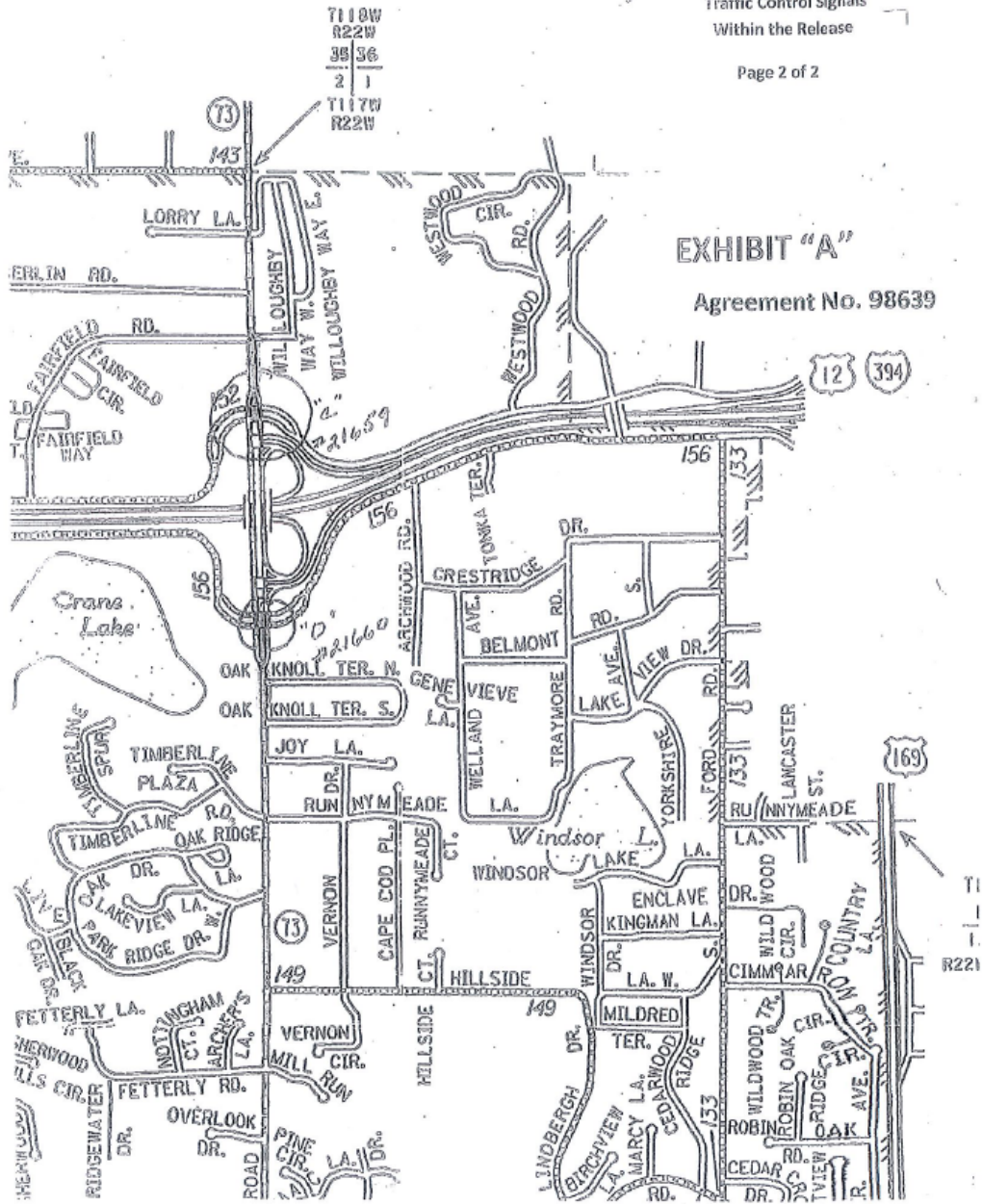


EXHIBIT B

Map of CSAH 73 at Fairfield Signal System

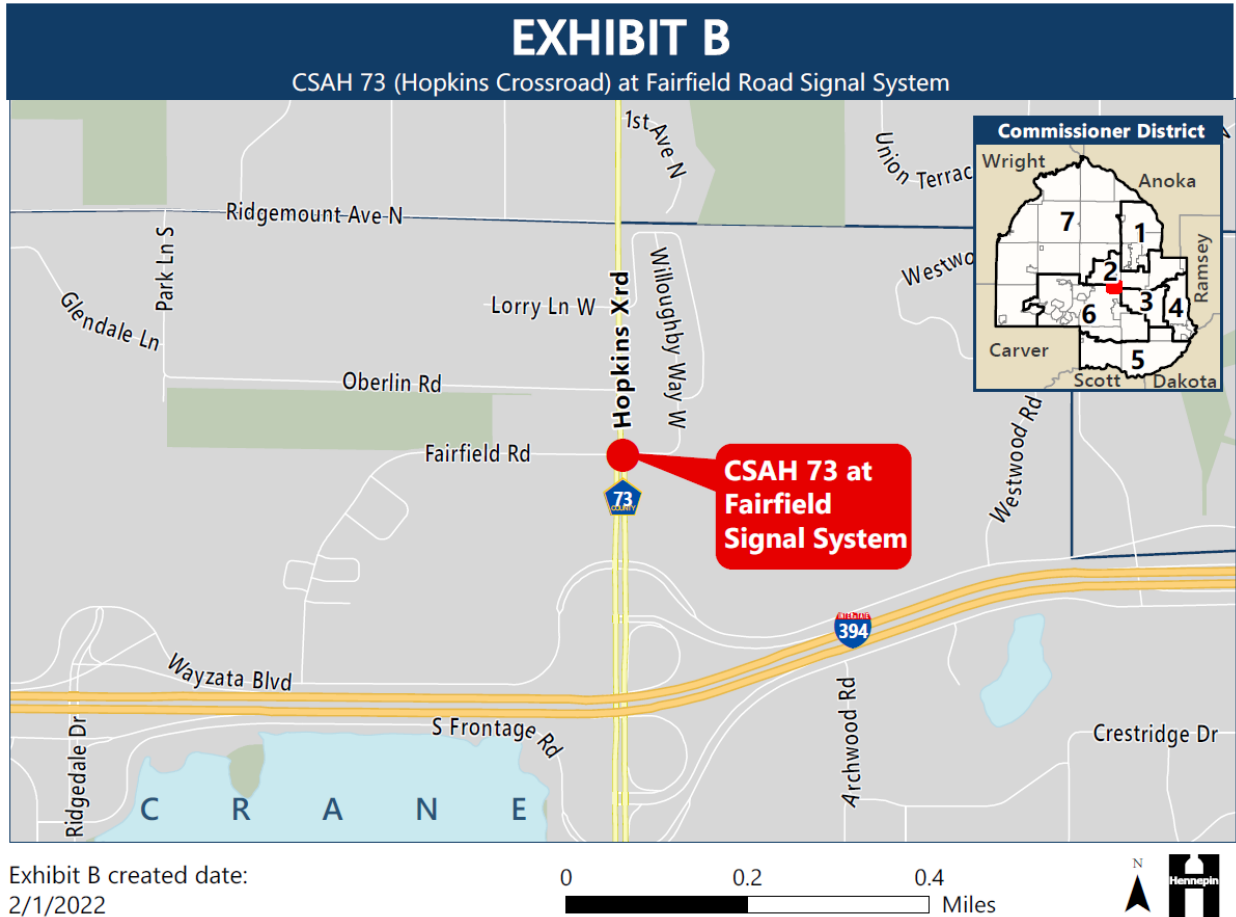


Exhibit B created date:
2/1/2022

FENVA



**City Council Agenda Item 10C
Meeting of May 9, 2022**

Title: Resolution committing Ice Arena special revenue fund revenues.
Report From: Joel Merry, Assistant Finance Director
Submitted through: Moranda Dammann, Acting Assistant City Manager
Darin Nelson, Finance Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The city's ice arena operations are moving to a special revenue fund from an enterprise fund. Due to this change in accounting, revenues of the ice arena operations need to be designated as committed to expenditures of the Ice Arena operations for costs other than debt service or capital projects, namely operating costs of the city's ice arenas.

Recommended Action

Adopt the resolution committing the Ice Arena special revenue fund revenues for the operation of the city's ice arenas.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

Financial Consideration

Is there a financial consideration? No Yes
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other

Background

After completion of the city's 2020 audit, discussions occurred with the city's audit firm Bergan KDV about the city's Ice Arena operations being accounted as an enterprise fund. Specifically, changing the fund type and associated accounting to a Special Revenue Fund as it was not truly operating as an enterprise fund. Historically, the Ice Arena has operated as an enterprise fund since its inception back in the 1970s. Enterprise funds are intended to operate in a similar manner to private businesses. They should be self-sustaining by providing revenue to cover both operations and capital expenses. The city's Utility and Williston Center are good examples of true enterprise funds as they are completely self-sufficient paying for all operating and capital costs.

The Ice Arena fund on the other hand has historically had all of its capital expenses funded through the Capital Improvement Fund or the Community Investment Fund and has also been receiving a small operating subsidy for the last several years. The city's philosophy over the years is that the ice arenas are valuable community assets that the city should preserve and maintain. This philosophy is perfectly acceptable, but the capital contributions from other funds skews the enterprise fund designation. The recommended financial reporting designation for the Ice Arena Fund would be a special revenue fund.

Special revenue funds are governmental funds that have a specific revenue source, which the ice arena has with its ice rental fees. This change in reporting between fund types does not change the financial position of the ice arena. The city would continue to provide capital contributions and a small operating subsidy. The financial reporting of the ice arena will be the only difference. Special revenue funds do not report depreciation. Whereas, enterprise funds require depreciation to be reported as an operating expense. Depreciation is a non-cash operating expense, so it does not affect the fund's cash position, but it does affect the fund's operating income. Since the ice arena receives capital contributions from other funds, it is essentially reporting depreciation on assets it did not contribute to the facility, which skews the bottom line of the fund.

During development of the 2022 budget, this topic was discussed with the city council at the Nov. 15, 2021 budget study session to receive direction on making this accounting change for the ice arena operations. Through these discussions and the adoption of the 2022 budget, the plan was to close out the Ice Arena enterprise fund at the end of 2021 and convert it to a Special Revenue Fund beginning on Jan. 1, 2022.

The city is currently working on finalizing its 2021 financial statements and audit. In order to designate the city's ice arena operations as a special revenue fund according to required Governmental Accounting Standards Board (GASB) Statement No. 54, the city council needs to commit the revenues from the operation of the city's ice arenas to expenditures of the Ice Arena operations for costs other than debt service or capital projects.

Resolution No. 2022-

Resolution committing Ice Arena special revenue fund revenues.

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. City staff has determined and Council approved in the 2022 budget that the city's ice arena operations should no longer be accounted for as an enterprise fund, but instead as a special revenue fund.

1.02. The Governmental Accounting Standards Board (GASB) Statement No. 54, requires the Council to commit the revenues from the operation of the city's ice arenas to expenditures of the ice arena operations in the new Ice Arena Special Revenue fund for costs other than debt service or capital projects.

Section 2. Council Action.

2.01. Council commits the revenues of the Ice Arena special revenue fund for the operation of the city's ice arenas.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 9, 2022.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 9, 2022.

Becky Koosman, City Clerk



**City Council Agenda 10D
Meeting of May 9, 2022**

Title: Funding Agreement for Metropolitan Council Local Housing Incentives Account (LHIA) Funds for Homes Within Reach

Report From: Rob Hanson, Economic Development Coordinator

Submitted through: Moranda Dammann, Acting Assistant City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The Met Council solicits applications annually for the Livable Communities Act Local Housing Incentives Program, which provides grants to cities. One of these grant programs, the Local Housing Incentives Account (LHIA) awards funding to communities for projects that create or preserve affordable owner-occupied or rental units.

Recommended Action

Approve the agreement and sub recipient agreement

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: The city serves as a fiscal agent and would pass through grant funds to Homes Within Reach from the Metropolitan Council.

Background

In the summer of 2021, The West Hennepin Affordable Housing Land Trust, dba Homes Within Reach (HWR), submitted a grant application through the consolidated Single Family Request for Proposal managed by Minnesota Housing, in partnership with Greater Minnesota Housing Fund, Metropolitan Council and other organizations.

The HWR application included a request to acquire and rehab 12 single-family homes in Minnetonka and other western Hennepin County Communities. HWR received an award for \$180,000 on Feb. 23, 2022, as a multi-community grant. Should the entirety of the funds not be spent, they will expire on Dec. 31, 2024.

While this is a multi-community grant, and funds could be spent outside Minnetonka, the city serves as the government fiscal agent for HWR and is identified as the grantee. Therefore, the Metropolitan Council's grant agreement must be executed with the city rather than HWR. The city has served as the government fiscal agent for HWR since 2002.

Grantees are required to provide a 1:1 match of the funds. The funding match will come from previously approved HRA Levy Funds for homes purchased within Minnetonka. For homes purchased outside of Minnetonka, the funding match would come from funds of those respective cities.

HWR has acquired 60 homes in Minnetonka and assisted 207 families to purchase homes throughout western Hennepin County. In addition to the funds received by the Metropolitan Council and the city, HWR has leveraged these dollars into other funding awards through Minnesota Housing, Hennepin County Affordable Housing Incentive Fund (AHIF), HOME funds, Community Development Block Grant (CDBG), and other sources.

Attachments

Metropolitan Livable Communities Act Grant Agreement
Sub-Recipient Funding Agreement

LOCAL HOUSING INCENTIVES ACCOUNT

| | |
|--|---|
| GRANTEE: City of Minnetonka | GRANT NO. SG- 17443 |
| PROJECT: Homes Within Reach | |
| GRANT AMOUNT: \$180,000 | FUNDING CYCLE: 2021 |
| COUNCIL ACTION: February 23, 2022 | EXPIRATION DATE: December 31, 2024 |

METROPOLITAN LIVABLE COMMUNITIES ACT GRANT AGREEMENT

THIS GRANT AGREEMENT (“Agreement”) is made and entered into by the Metropolitan Council (“Council”) and the Municipality or Development Authority identified above as “Grantee.”

WHEREAS, Minnesota Statutes section 473.251 creates the Metropolitan Livable Communities Fund, the uses of which fund must be consistent with and promote the purposes of the Metropolitan Livable Communities Act (“LCA”) and the policies of the Council’s Metropolitan Development Guide; and

WHEREAS, Minnesota Statutes sections 473.251 and 473.254 establish within the Metropolitan Livable Communities Fund a Local Housing Incentives Account and require the Council to annually distribute funds in the account to Participating Municipalities that have not met their affordable and life-cycle housing goals and are actively funding projects designed to help meet the goals, or to Development Authorities for projects located in Participating Municipalities; and

WHEREAS, the Grantee is a Municipality that has negotiated affordable and life-cycle housing goals pursuant to Minnesota Statutes section 473.254, subdivision 2 and has elected to participate in the Local Housing Incentives Account program, or is a Development Authority; and

WHEREAS, the Grantee seeks funding in connection with an application for Local Housing Incentives Account funds submitted in response to a Request for Proposals issued by the Metropolitan Housing Implementation Group for the “Funding Cycle” identified above and will use the grant funds made available under this Agreement to help fund the “Project” identified in the application; and

WHEREAS, the Council awarded Local Housing Incentives Account grant program funds to the Grantee subject to any terms, conditions, and clarifications stated in its Council Action, and with the understanding that the Project identified in the application will proceed to completion in a timely manner, all grant funds will be expended prior to the “Expiration Date” identified above and Project construction will have “commenced” before the Expiration Date.

NOW THEREFORE, in reliance on the above statements and in consideration of the mutual promises and covenants contained in this Agreement, the Grantee and the Council agree as follows:

I. DEFINITIONS

1.01. Definition of Terms. The terms defined in this section have the meanings given them in this section unless otherwise provided or indicated by the context.

- (a) **Commenced.** For the purposes of Sections 2.09 and 5.03, “commenced” means significant physical improvements have occurred in furtherance of the Project (e.g., a foundation is being constructed or other tangible work on a structure has been initiated). In the absence of significant physical improvements, visible staking, engineering, land surveying, soil testing,

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cleanup site investigation, or pollution cleanup activities are not evidence of Project commencement for the purposes of this Agreement.

- (b) **Council Action.** “Council Action” means the action or decision of the governing body of the Metropolitan Council, on the meeting date identified at Page 1 of this Agreement, by which the Grantee was awarded Local Housing Incentives Account funds.
- (c) **Development Authority.** “Development Authority” means a housing and redevelopment authority, economic development authority, or port authority.
- (d) **Metropolitan Area.** “Metropolitan Area” means the seven-county metropolitan area as defined by Minnesota Statutes section 473.121, subdivision 2.
- (e) **Municipality.** “Municipality” means a statutory or home rule charter city or town in the Metropolitan Area.
- (f) **Participating Municipality.** “Participating Municipality” means a Municipality electing to participate in the Local Housing Incentives Account program under Minnesota Statutes section 473.254.
- (g) **Project.** Unless clearly indicated otherwise by the context of a specific provision of this Agreement, “Project” means the development or redevelopment project identified in the application for Local Housing Incentives Account funds for which grant funds were requested. Grant-funded activities typically are components of the Project.

II. GRANT FUNDS

2.01. Source of Funds. The grant funds made available to the Grantee under this Agreement are from the Local Housing Incentives Account of the Metropolitan Livable Communities Fund. The grant funds are derived from property taxes authorized by Minnesota Statutes sections 473.249, 473.253 and 473.254, subdivision 5 and are not from State or federal sources.

2.02 Total Grant Amount. The Council will grant to the Grantee the “Grant Amount” identified at Page 1 of this Agreement. Notwithstanding any other provision of this Agreement, the Grantee understands and agrees that any reduction or termination of Local Housing incentives Account funds made available to the Council, or any reduction or termination of the dollar-for-dollar match amount required under Section 2.03, may result in a like reduction in the Grant Amount made available to the Grantee.

2.03. Match Requirement. Pursuant to Minnesota Statutes section 473.254, subdivision 6, the Grantee shall match on a dollar-for-dollar basis the total Grant Amount received from the Council under Section 2.02. The source and amount of the dollar-for-dollar match are identified in the Project Summary attached to and incorporated into this Agreement as Attachment A. With prior approval of the Council’s grant administrator the Grantee may change the source of the required match without a formal amendment to this Agreement, provided the change of match source is memorialized in a revised Project Summary.

2.04. Authorized Use of Grant Funds. The Grant Amount made available to the Grantee under this Agreement shall be used only for the purposes and Project activities described in the application for Local Housing Incentives Account funds. A Project summary that identifies eligible uses of the grant funds as approved by the Council is attached to and incorporated into this Agreement as

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Attachment A. Grant funds must be used for purposes consistent with Minnesota Statutes section 473.25(a), in a Participating Municipality.

2.05. Ineligible Uses. Grant funds must be used for costs directly associated with the specific proposed Project activities and shall not be used for “soft costs” such as: administrative overhead; travel expenses; legal fees; insurance; bonds; permits, licenses, or authorization fees; costs associated with preparing other grant proposals; operating expenses; planning costs, including comprehensive planning costs; and prorated lease and salary costs. Grant funds may not be used for costs of Project activities that occurred prior to the grant award, unless specifically included in the Project Summary or otherwise approved by Council Action. A detailed list of ineligible and eligible costs is available from the Council’s Livable Communities program office. Grant funds also shall not be used by the Grantee or others to supplant or replace: (a) grant or loan funds obtained for the Project from other sources; (b) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee; or (c) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized by the Council. The Council shall bear no responsibility for cost overruns which may be incurred by the Grantee or others in the implementation or performance of the Project activities. The Grantee agrees to comply with any “business subsidy” requirements of Minnesota Statutes sections 116J.993 to 116J.995 that apply to the Grantee’s expenditures or uses of the grant funds.

2.06. Loans for Low-Income Housing Tax Credit Projects. If consistent with the application and the Project activities described or identified in Attachment A, or if requested in writing by the Grantee, the Grantee may structure the grant assistance to the Project as a loan so the Project Owner can take advantage of federal and state low-income housing tax credit programs. The Grantee may use the grant funds as a loan for a low-income housing tax credit Project, subject to the terms and conditions stated in Sections 2.04 and 2.05 and the following additional terms and conditions:

- (a) The Grantee covenants and represents to the Council that the Project is a rental housing project that received or will receive an award of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another designated housing credit agency that sub-allocates low-income housing tax credits in the Metropolitan Area.
- (b) The Grantee will execute a loan agreement with the Project Owner. Prior to disbursing any grant funds for the Project, the Grantee will provide to the Council a copy of the loan agreement between the Grantee and the Project Owner.
- (c) The Grantee will submit annual written reports to the Council that certify: (1) the grant funds continue to be used for the Project for which the grant funds were awarded; and (2) the Project is a “qualified low-income housing project” under Section 42 of the Internal Revenue Code of 1986, as amended. This annual reporting requirement is in addition to the reporting requirements stated in Section 4.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 5.01, the Grantee will submit the annual certification reports during the initial “compliance period” and any “extended use period,” or until such time as the Council terminates this annual reporting requirement by written notice to the Grantee.
- (d) The grant funds made available to the Grantee and disbursed to the Project Owner by the Grantee in the form of a loan may be used only for the grant-eligible activities and Project

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components for which the Grantee was awarded the grant funds. For the purposes of this Agreement, the term “Project Owner” means the current Project Owner and any Project Owner successor(s).

- (e) Pursuant to Section 2.05, the grant funds made available to the Grantee and disbursed to the Project Owner in the form of a loan shall not be used by the Grantee, the Project Owner or others to supplant or replace: (1) grant or loan funds obtained for the Project from other sources; or (2) Grantee contributions to the Project, including financial assistance, real property or other resources of the Grantee; or (3) funding or budgetary commitments made by the Grantee or others prior to the Council Action, unless specifically authorized by the Council. The Council will not make the grant funds available to the Grantee in a lump sum payment but will disburse the grant funds to the Grantee on a reimbursement basis pursuant to Section 2.11.
- (f) By executing this Agreement, the Grantee: (1) acknowledges that the Council expects the loan will be repaid so the grant funds may be used to help fund other activities consistent with the requirements of the Metropolitan Livable Communities Act; (2) covenants, represents and warrants to the Council that the Grantee’s loan to the Project Owner will meet all applicable low-income housing tax credit program requirements under Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”), and the low-income housing tax credit program administered by the Minnesota Housing Finance Agency or a program administered by the Minneapolis/Saint Paul Housing Finance Board or another designated housing credit agency that sub-allocates low-income housing tax credits in the metropolitan area; and (3) agrees to administer its loan to the Project Owner consistent with federal and state low-income housing tax credit program requirements.
- (g) The Grantee will, at its own expense, use diligent efforts to recover loan proceeds: (1) when the Project Owner becomes obligated to repay the Grantee’s loan or defaults on the Grantee’s loan; (2) when the initial thirty-year “compliance period” expires, unless the Council agrees in writing that the Grantee may make the grant funds available as a loan to the Project Owner for an “extended use period”; and (3) if noncompliance with low-income housing tax credit program requirements or some other event triggers the Project Owner’s repayment obligations under its loan agreement with the Grantee. The Grantee must repay to the Council all loan repayment amounts the Grantee receives from the Project Owner. The Grantee shall not be obligated to repay the grant funds to the Council except to the extent the Project Owner repays its loan to the Grantee, provided the Grantee has exercised the reasonable degree of diligence and used administrative and legal remedies a reasonable and prudent housing finance agency would use to obtain payment on a loan, taking into consideration (if applicable) the subordinated nature of the loan. At its discretion, the Council may: (1) permit the Grantee to use the loan repayment from the Project Owner to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.
- (h) If the Grantee earns any interest or other income from its loan agreement with the Project Owner, the Grantee will: (1) use the interest earnings or income only for the purposes of implementing the Project activities for which the grant was awarded; or (2) remit the interest earnings or income to the Council. The Grantee is not obligated to earn any interest or other income from its loan agreement with the Project Owner, except to the extent required by any applicable law.

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2.07. Revolving or Deferred Loans. If consistent with the application and the Project summary or if requested in writing by the Grantee, the Grantee may use the grant funds to make deferred loans (loans made without interest or periodic payments), revolving loans (loans made with interest and periodic payments) or otherwise make the grant funds available on a “revolving” basis for the purposes of implementing the Project activities described or identified in Attachment A. The Grantee will submit annual written reports to the Council that report on the uses of the grant funds. The Council will determine the form and content of the report. This annual reporting requirement is in addition to the reporting requirements stated in Section 4.03. Notwithstanding the Expiration Date identified at Page 1 of this Agreement and referenced in Section 5.01, the Grantee will submit the annual reports until the deferred or revolving loan programs terminate, or until the Council terminates this annual reporting requirement by written notice to the Grantee. At its discretion, the Council may: (1) permit the Grantee to use loan repayments to continue supporting affordable housing components of the Project; or (2) require the Grantee to remit the grant funds to the Council.

2.08. Restrictions on Grants and Loans by Subrecipients. The Grantee shall not permit any subgrantee or subrecipient to use the grant funds for grants or loans to any subgrantee or subrecipient at any tier unless the Grantee obtains the prior written consent of the Council. The requirements of this Section 2.08 shall be included in all subgrant and subrecipient agreements.

2.09. Project Commencement and Changes. The Project for which grant funds were requested must be “commenced” prior to the Expiration Date. The Grantee must promptly inform the Council in writing of any significant changes to the Project for which the grant funds were awarded, as well as any potential changes to the grant-funded activities described or identified in Attachment A. Failure to inform the Council of any significant changes to the Project or significant changes to grant-funded components of the Project, and use of grant funds for ineligible or unauthorized purposes, will jeopardize the Grantee’s eligibility for future LCA awards. Grant funds will not be disbursed prior to Council approval of significant changes to either the Project or grant-funded activities described or identified in Attachment A.

2.09 Budget Variance. The Grantee may reallocate up to twenty percent (20%) of the Grant Amount among the grant-funded activities, provided: (a) the grant funds may be used only for Project activities for which the Council awarded the grant funds; (b) the reallocation does not significantly change the Project deliverables; and (c) the Grantee receives written permission from Council staff prior to reallocating any grant funds. Council staff may administratively approve budget reallocation requests that exceed twenty percent (20%) of the Grant Amount only if the reallocation does not significantly change the Project deliverables. Notwithstanding the aggregate or net effect of any variances, the Council’s obligation to provide grant funds under this Agreement shall not exceed the Grant Amount identified at Page 1 of this Agreement.

2.10. Loss of Grant Funds. The Grantee agrees to remit to the Council in a prompt manner: any unspent grant funds, including any grant funds that are not expended prior to the Expiration Date identified at Page 1 of this Agreement; any grant funds that are not used for the authorized purposes; any grant funds that are not matched on a dollar-for-dollar basis as required by Section 2.03; and any interest earnings described in Section 2.12 that are not used for the purposes of implementing the grant-funded Project activities described or identified in Attachment A. For the purposes of this Agreement, grant funds are “expended” prior to the Expiration Date if the Grantee pays or is obligated to pay for expenses of eligible grant-funded Project activities that occurred prior to the Expiration Date and the eligible expenses were incurred prior to the Expiration Date. Unspent or unused grant funds and other funds remitted to the Council shall revert to the Council’s Local Housing Incentives

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Account for distribution through application processes in future Funding Cycles or as otherwise permitted by law.

2.11. Payment Request Forms, Documentation, and Disbursements. The Council will disburse grant funds in response to payment requests submitted by the Grantee through the Council's online grant management system and reviewed and approved by the Council's authorized agent. Payment requests shall be made using payment request forms, the form and content of which will be determined by the Council. Payment request and other reporting forms will be provided to the Grantee by the Council. The Council will disburse grant funds on a reimbursement basis or a "cost incurred" basis. To obtain reimbursement under this Agreement, the Grantee shall provide the Council with evidence that the eligible grant-funded Project activities (or a portion thereof) for which reimbursement has been requested have been satisfactorily completed. The Grantee shall describe the grant-eligible activities for which reimbursement is requested and shall provide sufficient documentation of grant-eligible expenditures, invoices and payment documents, and such other information as the Council reasonably requests. The Council will make the final determination whether the expenditures are eligible for reimbursement under this Agreement, and verify the total amount requested from the Council. Reimbursement of any costs does not constitute a waiver by the Council of any Grantee noncompliance with this Agreement. Payment requests must include the following documentation:

Consultant/contractor invoices showing the time period covered by the invoice; the specific grant-funded Project activities conducted or completed during the authorized time period within which eligible costs may be incurred; and documentation supporting expenses including subcontractor and consultant invoices showing unit rates, quantities, and a description of the good or services provided. Subcontractor markups shall not exceed ten percent (10%).

The Council shall disburse grant funds for all grant-eligible expenditures within thirty-five (35) days of the receipt of satisfactory documentation from the Grantee. **NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 2.11, THE COUNCIL WILL NOT DISBURSE ANY GRANT FUNDS TO THE GRANTEE UNLESS PARTICIPATING MUNICIPALITY HAS ADOPTED A FAIR HOUSING POLICY AS REQUIRED BY SECTION 3.04.**

2.12. Interest Earnings. If the Grantee earns any interest or other income from the grant funds received from the Council under this Agreement, the Grantee will use the interest earnings or income only for the purposes of implementing the Project activities described or identified in Attachment A.

2.13. Effect of Grant. Issuance of this grant neither implies any Council responsibility for contamination, if any, at the Project site nor imposes any obligation on the Council to participate in any pollution cleanup of the Project site if such cleanup is undertaken or required.

2.14. Resale Limitations. The Grantee must impose resale limitations regarding the disposition of any equity realized by the purchasers of "affordable" units if grant funds received from the Council under this Agreement are used for homeownership affordability gap financing in the Project described or identified in Attachment A. The intent of this resale limitation is to protect the public investment in the Project and ensure that a proportion of the affordability gap provided by the public investment in the form of grant funds received from the Council is recaptured for reuse in conjunction with other affordable housing efforts and does not become a windfall for any purchaser who might sell the home prior to expiration of a predetermined resale limitation period. If a purchaser sells the "affordable" home prior to expiration of the resale limitation time period, an equitable proportion of the affordability gap filled by grant funds received from the Council under this Agreement must be

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recaptured by the Grantee within twenty-four (24) months of the triggering resale event and applied to a similar affordable housing project within the Participating Municipality or returned to the Council. Unless otherwise agreed to by the Council and the Grantee, the length of the resale limitation time period and the proportion of the affordability gap to be recovered will be consistent with resale limitation time periods and repayment schedules stated in the Project application. These resale limitations do not apply when the grant funds are used for homeownership value gap financing.

III. AFFORDABILITY; AFFIRMATIVE FAIR HOUSING

3.01 Affordability Term. If the Project for which the grant funds were awarded includes affordable housing units, the Grantee shall, through written instruments or otherwise, ensure the affordable units will remain affordable for a minimum period of fifteen (15) years. The Grantee's obligation under this section may be satisfied if other Project funding sources (*e.g.*, the Minnesota Housing Finance Agency or the U.S. Department of Housing and Urban Development ("HUD") or state or federal laws (*e.g.*, low-income housing tax credit programs) require an affordability term of at least fifteen (15) years. For the purposes of this section, "affordable housing unit" means a unit that is affordable to households at sixty percent (60%) or less of the Area Median Income ("AMI"), as established by HUD, unless the Grantee's application stated an affordability standard lower than sixty percent (60%) of AMI, in which case the Grantee's lower affordability standard shall apply. The affordability requirements of this section shall survive the expiration or termination of this Agreement. If the affordable housing units are made available for homeownership then they are subject to the resale limitations specified in section 2.14 and the affordability requirements of this section only apply if Council funds pay more than half of the housing unit's affordability gap stated in the Project application.

3.02 Affirmative Fair Housing Marketing Plans. If the Project for which the grant funds were awarded is a housing project or includes housing units (whether market rate or affordable), the Grantee shall, through written instruments or otherwise, ensure the Project owner (and any subsequent owner(s)) adopts and implements an affirmative fair housing marketing plan for all Project housing units. For the purposes of this section, "affirmative fair housing marketing plan" means an affirmative fair housing marketing plan that substantially conforms to affirmative fair housing marketing plans published by the U.S. Department of Housing and Urban Development ("HUD") or sample affirmative fair housing marketing plans published by the Minnesota Housing Finance Agency. The affirmative fair housing marketing plan requirement under this section shall continue for the minimum affordability term specified in Section 3.01 and shall survive the expiration or termination of this Agreement.

3.03 Section 8 Housing Choice Vouchers. If the Project is a housing project, or includes housing units (whether market rate or affordable) and the Grantee stated in its application that the Project housing units would be made available to households participating in the federal Housing Choice Voucher program, the Grantee shall, through written instruments or otherwise, ensure the Project owner (and any subsequent owner(s)) adopts and implements a policy under which the Project owner will not refuse to lease Project units to households or individuals participating in the Housing Choice Voucher program because those households or individuals are Housing Choice Voucher program participants. The Housing Choice Voucher requirement under this section shall continue for the minimum affordability term specified in Section 3.01 and shall survive the expiration or termination of this Agreement.

3.04. Fair Housing Policy. If the Project will include a housing component, the governing body of the participating Municipality must have adopted a Fair Housing Policy. For the purposes of this

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section, the term “Fair Housing Policy” means a written statement regarding the participating Municipality’s commitment to fair housing that substantively includes at least the following elements: a purpose statement; procedures for responding to fair housing concerns and complaints; and a designated individual or staff position responsible for fair housing issues. A best practices guide, as well as a copy of a model local fair housing policy is available at: <https://metro council.org/Handbook/Files/Resources/Best-Practices/Fair-Housing-Policy-Guide.aspx>.

IV. ACCOUNTING, AUDIT, AND REPORT REQUIREMENTS

4.01. Accounting and Records. The Grantee agrees to establish and maintain accurate and complete accounts and records relating to the receipt and expenditure of all grant funds received from the Council. Notwithstanding the expiration and termination provisions of Sections 5.01 and 5.02, such accounts and records shall be kept and maintained by the Grantee for a period of six (6) years following the completion of the Project activities described or identified in Attachment A or six (6) years following the expenditure of the grant funds, whichever occurs earlier. For all expenditures of grant funds received pursuant to this Agreement, the Grantee will keep proper financial records and other appropriate documentation sufficient to evidence the nature and expenditure of the dollar-for-dollar match funds required under Section 2.03. Accounting methods shall be in accordance with generally accepted accounting principles.

4.02. Audits. The above accounts and records of the Grantee shall be audited in the same manner as all other accounts and records of the Grantee are audited and may be audited or inspected on the Grantee’s premises or otherwise by individuals or organizations designated and authorized by the Council at any time, following reasonable notification to the Grantee, for a period of six (6) years following the completion of the Project activities or six (6) years following the expenditure of the grant funds, whichever occurs earlier. Pursuant to Minnesota Statutes section 16C.05, subdivision 5, the books, records, documents and accounting procedures and practices of the Grantee that are relevant to this Agreement are subject to examination by the Council and either the Legislative Auditor or the State Auditor, as appropriate, for a minimum of six (6) years.

4.03. Reporting and Continuing Requirements. The Grantee will report to the Council on a semi-annual basis by January 31 (for the period of July 1 through December 31) and July 31 (for the period January 1 through June 30) of each calendar year during the term of this Agreement. The Grantee reports shall describe the status of the Project activities described or identified in Attachments A. The report shall also describe the Project spending for the current reporting period and projected spending for the future reporting periods. The Grantee also must complete and submit to the Council a Final Report before the final disbursement of grant funds will be approved. The form and content of the semi-annual status reports and the Final Report will be determined by the Council. These reporting requirements and the reporting requirements of Sections 2.06 and 2.07 shall survive the expiration or termination of this Agreement.

4.04. Environmental Site Assessment. The Grantee represents that a Phase I Environmental Site Assessment or other environmental review has been or will be carried out, if such environmental assessment or review is appropriate for the scope and nature of the Project activities funded by this grant, and that any environmental issues have been or will be adequately addressed.

LOCAL HOUSING INCENTIVES ACCOUNT

V. AGREEMENT TERM

5.01. Term. This Agreement is effective upon execution of this Agreement by the Council. Unless terminated pursuant to Section 5.02, this Agreement expires on the Expiration Date identified at Page 1 of this Agreement. The term of this agreement shall extend from the Effective Date of this Agreement to a date one hundred and twenty (120) calendar days following the end of the Project Period Expiration Date to permit close out of this Agreement.

5.02. Termination. This Agreement may be terminated by the Council for cause at any time upon fourteen (14) calendar days' written notice to the Grantee. Cause shall mean a material breach of this Agreement and any amendments of this Agreement. If this Agreement is terminated prior to the Expiration Date, the Grantee shall receive payment on a pro rata basis for eligible Project activities described or identified in Attachment A that have been completed prior to the termination. Termination of this Agreement does not alter the Council's authority to recover grant funds on the basis of a later audit or other review and does not alter the Grantee's obligation to return any grant funds due to the Council as a result of later audits or corrections. If the Council determines the Grantee has failed to comply with the terms and conditions of this Agreement and the applicable provisions of the Metropolitan Livable Communities Act, the Council may take any action to protect the Council's interests and may refuse to disburse additional grant funds and may require the Grantee to return all or part of the grant funds already disbursed.

5.03. Amendments and Extension. The Council and the Grantee may amend this Agreement by mutual agreement. Amendments or an extension of this Agreement shall be effective only on the execution of written amendments signed by authorized representatives of the Council and the Grantee. If the Grantee needs a change to the Project, additional time within which to complete grant-funded activities and commence the Project, a change in the budget, or a change in the grant-funded activities the Grantee must submit to the Council **AT LEAST NINETY (90) CALENDAR DAYS PRIOR TO THE EXPIRATION DATE**, a complete, written amendment request. All requirements must be met for a request to be considered complete. **THE EXPIRATION DATE MAY BE EXTENDED, BUT THE PERIOD OF ANY EXTENSION(S) SHALL NOT EXCEED TWO (2) YEARS BEYOND THE ORIGINAL EXPIRATION DATE IDENTIFIED AT PAGE 1 OF THIS AGREEMENT.**

VI. GENERAL PROVISIONS

6.01. Equal Opportunity. The Grantee agrees it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, sexual orientation, or age and will take affirmative action to insure applicants and employees are treated equally with respect to all aspects of employment, rates of pay and other forms of compensation, and selection for training.

6.02. Conflict of Interest. The members, officers, and employees of the Grantee shall comply with all applicable state statutory and regulatory conflict of interest laws and provisions.

6.03. Liability. Subject to the limitations provided in Minnesota Statutes chapter 466, to the fullest extent permitted by law, the Grantee shall defend, indemnify, and hold harmless the Council and its members, employees, and agents from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the conduct or implementation of the Project activities funded by this grant, except to the extent the claims, damages, losses and expenses arise from the Council's own negligence. Claims included in this indemnification include, without

LOCAL HOUSING INCENTIVES ACCOUNT

limitation, any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes chapter 115B, the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended, United States Code, Title 42, sections 9601 *et seq.*, and the federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, sections 6901 *et seq.* This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which otherwise would exist between the Council and the Grantee. The provisions of this section shall survive the expiration or termination of this Agreement. This indemnification shall not be construed as a waiver on the part of either the Grantee or the Council of any immunities or limits on liability provided by Minnesota Statutes chapter 466, or other applicable state or federal law.

6.04. Acknowledgments and Signage. The Grantee will acknowledge the financial assistance provided by the Council in promotional materials, press releases, reports, and publications relating to the Project. The acknowledgment will contain the following or comparable language:

Financing for this project was provided by the Metropolitan Council Metropolitan Livable Communities Fund.

Until the Project is completed, the Grantee shall ensure the above acknowledgment language, or alternative language approved by the Council's authorized agent, is included on all signs (if any) located at Project or construction sites that identify Project funding partners or entities providing financial support for the Project. The acknowledgment and signage should refer to the "Metropolitan Council" (not "Met Council" or "Metro Council").

6.05. Permits, Bonds, and Approvals. The Council assumes no responsibility for obtaining any applicable local, state, or federal licenses, permits, bonds, authorizations, or approvals necessary to perform or complete the Project activities described or identified in Attachment A. The Grantee and its developer(s), if any, must comply with all applicable licensing, permitting, bonding, authorization, and approval requirements of federal, state, and local governmental and regulatory agencies, including conservation districts.

6.06. Subgrantees, Contractors and Subcontractors. The Grantee shall include in any subgrant, contract, or subcontract for Project activities appropriate provisions to ensure subgrantee, contractor, and subcontractor compliance with all applicable state and federal laws and this Agreement. Along with such provisions, the Grantee shall require that contractors and subcontractors performing work covered by this Agreement comply with all applicable state and federal Occupational Safety and Health Act regulations. The Grantee's subgrant agreement(s) shall expressly include the affordability and affirmative fair housing marketing plan requirements of Sections 3.01 and 3.02.

6.07. Stormwater Discharge and Water Management Plan Requirements. If any grant funds are used for urban site redevelopment, the Grantee shall at such redevelopment site meet or require to be met all applicable requirements of:

- (a) Federal and state laws relating to stormwater discharges including, without limitation, any applicable requirements of Code of Federal Regulations, title 40, parts 122 and 123; and
- (b) The Council's *2040 Water Resources Policy Plan* and the local water management plan for the jurisdiction within which the redevelopment site is located.

6.08. Authorized Agent. Payment request forms, written reports, and correspondence submitted to the Council pursuant to this Agreement shall be directed to the Authorized Agent named below

LOCAL HOUSING INCENTIVES ACCOUNT

or their successor through the Council's online grants administration portal or to the below contact information:

Attn: Samuel F Johnson
Metropolitan Council
CD & MTS Finance and Administration
390 Robert Street North
Saint Paul, Minnesota 55101-1805
Samuel.johnson@metc.state.mn.us

6.09. Non-Assignment. Minnesota Statutes section 473.254, subdivision 6 requires the Council to distribute the grant funds to eligible "municipalities" or "development authorities" for projects in municipalities participating in the Local Housing Incentives Account program. Accordingly, this Agreement is not assignable and shall not be assigned by the Grantee.

6.10. Authorization to Reproduce Images. The Grantee certifies that the Grantee: (a) is the owner of any renderings, images, perspectives, sections, diagrams, photographs, or other copyrightable materials (collectively, "copyrightable materials") that are in the Grantee's application or are submitted to the Council as part of the grant application review process or after grant award, or that the Grantee is fully authorized to grant permissions regarding the copyrightable materials; and (b) the copyrightable materials do not infringe upon the copyrights of others. The Grantee agrees the Council has a nonexclusive royalty-free license and all necessary permissions to reproduce and publish the copyrightable materials for noncommercial purposes, including but not limited to press releases, presentations, reports, and on the internet. The Grantee also agrees the Grantee will not hold the Council responsible for the unauthorized use of the copyrightable materials by third parties.

6.11. Warranty of Legal Capacity. The individuals signing this Agreement on behalf of the Grantee and on behalf of the Council represent and warrant on the Grantee's and the Council's behalf respectively that the individuals are duly authorized to execute this Agreement on the Grantee's and the Council's behalf respectively and that this Agreement constitutes the Grantee's and the Council's valid, binding, and enforceable agreements.

6.12. Counterparts. This Agreement may be executed in counterpart, each of which counterpart constitutes an original, but both of which together constitute one instrument.

6.13. Electronic Signatures. The electronic signatures of the Council's and the Grantee's authorized representatives shall be valid as an original signature of the authorized representatives and shall be effective to bind the Council and the Grantee under this Agreement. This Agreement containing, or to which there is affixed, an electronic signature shall be deemed to: (a) be "written" or "in writing"; (b) have been signed; and (c) constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. "Electronic signature" also means a manually signed original signature that is then transmitted by any electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g., via PDF) of an original signature. The Council's or the Grantee's failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

LOCAL HOUSING INCENTIVES ACCOUNT

IN WITNESS WHEREOF, the Grantee and the Council have caused this Agreement to be executed by their duly authorized representatives. This Agreement is effective on the date of final execution by the Council.

CITY OF MINNETONKA

METROPOLITAN COUNCIL

By: _____

By: _____

Title: _____

LisaBeth Barajas, Executive Director
Community Development Division

Date: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Approved as to form:

LOCAL HOUSING INCENTIVES ACCOUNT

ATTACHMENT A

PROJECT SUMMARY

This attachment comprises this page and the succeeding page(s) which contain(s) a summary of the Project identified in the application for Local Housing Incentives Account grant funds submitted in response to a Request for Proposals issued by the Metropolitan Housing Implementation Group for the Funding Cycle identified at Page 1 of this Agreement. The summary reflects the proposed Project for which the Grantee was awarded grant funds by the Council Action, and may reflect changes in Project funding sources, changes in funding amounts, or minor changes in the proposed Project that occurred subsequent to application submission. The application is incorporated into this Agreement by reference and is made a part of this Agreement as follows. If the application or any provision in the application conflicts with or is inconsistent with the Council Action, other provisions of this Agreement, or the Project summary contained in this Attachment A, the terms, descriptions, and dollar amounts reflected in the Council Action or contained in this Agreement and the Project summary shall prevail. For the purposes of resolving conflicts or inconsistencies, the order of precedence is: (1) the Council Action; (2) this Agreement; (3) the Project summary; and (4) the grant application.

Livable Communities Project Summary

Grant # SG-17443
Type: Local Housing Incentives Account
Applicant: City of Minnetonka
Project Name: Homes Within Reach
Project Location: Bloomington, Eden Prairie, Edina, Golden Valley, Crystal, Maple Grove, Minnetonka, Plymouth, Richfield, St. Louis Park
Council District: District 1 – Judy Johnson
 District 3 – Christopher Ferguson
 District 5 – Molly Cummings
 District 6 – Vacant

| Project Detail | |
|----------------------------------|---|
| Project Overview | This project supports the acquisition, rehabilitation, and resale of eight homes in suburban Hennepin County. West Hennepin Affordable Housing Land Trust will place the homes developed through this project in its community land trust (CLT), Homes Within Reach. Homes Within Reach operates in Suburban Hennepin County communities. |
| Total housing units | 12 |
| Affordability | At/below 80% AMI |
| Bedrooms | 12 Five Bedrooms |
| Est. total development cost | \$5,094,396 |
| Est. private funds leveraged | \$807,000 |
| Est. public funds leveraged | \$3,711,556 |
| Consolidated RFP Partner Funding | |
| \$180,000 | LHIA |
| \$720,000 | Minnesota Housing |
| LHIA Match | City of Minnetonka |
| \$1,169,000 | Previous LHIA Awards |

**SUB-RECIPIENT FUNDING AGREEMENT BETWEEN
CITY OF MINNETONKA
AND
WEST HENNEPIN AFFORDABLE HOUSING LAND TRUST
(D/B/A HOMES WITHIN REACH)
FOR THE
METROPOLITAN COUNCIL
METROPOLITAN LIVABLE COMMUNITIES FUND
LOCAL HOUSING INCENTIVES GRANT PROGRAM
(Scattered Sites Acquisition and Rehabilitation)**

THIS CONTRACT, is entered into this ____ day of _____, 2022, by and between the CITY OF MINNETONKA, a Minnesota municipal corporation (the "City"), and WEST HENNEPIN AFFORDABLE HOUSING LAND TRUST, d/b/a Homes Within Reach, a Minnesota non-profit corporation (the "Grantee").

WHEREAS, in cooperation with Grantee, the City applied to and received approval for funds in the amount of \$180,000 from the Metropolitan Council ("Council") under its Metropolitan Livable Communities Fund, Local Housing Incentives grant program (the "Housing Grant"); and

WHEREAS, the City desires to award proceeds of the Housing Grant in the amount of \$180,000 (the "Subgrant") to Grantee, to assist the Grantee with the overall goal of acquisition and rehabilitation of 12 scattered sites in western Hennepin County (the "Housing Program").

NOW, THEREFORE, the parties agree to the following terms:

1. **AWARD.** The City awards the Subgrant to Grantee for the acquisition and rehabilitation of eight scattered sites as are described in Grant Agreement No. SG-17443 between the City and the Council attached to this Contract as **Exhibit A** (the "Metropolitan Livable Communities Act Grant Agreement") of which is incorporated into this Contract (the "Project"). The Subgrant must be used exclusively to pay or reimburse only expenses authorized under Metropolitan Livable Communities Act Agreement. Administration costs incurred by the Grantee are not eligible for reimbursement via this Contract. Notwithstanding anything to the contrary, the Grantee understands and agrees that any reduction or termination of the Metropolitan Livable Communities Act Grant Agreement may result in a like reduction or termination of the Subgrant, and that any material change in the timeline or scope of the Project in the Metropolitan Livable Communities Act Grant Agreement must be approved in writing by the City and the Council.
2. **PERFORMANCE.** The Grantee must comply with all requirements applicable to the City in the Metropolitan Livable Communities Act Grant Agreement. Grantee's default under the Metropolitan Livable Communities Act Grant Agreement will constitute noncompliance with this Contract. If the City finds that there has been a failure to comply with the provisions of this Contract or that reasonable progress on the Project has not been or will not be made, the City may take action to protect its interests, including refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed. If action to correct substandard performance is not taken by the Grantee within 60 calendar days (or such longer period specified by the City) after written notice by the City, the City may terminate this Contract.
3. **TIME OF PERFORMANCE.** Grantee must start the Project upon execution of this Contract and complete the Project and the Housing Program on or before December 31, 2024. The City is not obligated to pay for any Project costs incurred after that date or any earlier termination, whichever occurs first.

4. **CONDITIONS PRECEDENT TO DISBURSEMENT.** The following requirements are conditions precedent to the City's disbursement of any of the Subgrant proceeds.
 - A. The Grantee must have provided evidence satisfactory to the City showing that Grantee has title in fee simple and site control of the property acquired.
 - B. The Grantee must have provided the City with evidence of compliance with the insurance requirements of Section 7(E) herein.
 - C. The Grantee must have provided to the City such evidence of compliance with all of the provisions of this Contract as the City may reasonably request.

5. **DISBURSEMENT.** It is expressly agreed and understood that the total amount to be paid by the City under this Contract will not exceed \$180,000. The City will make disbursements only upon receipt of a written disbursement request in the form provided by the Council (the "Disbursement Request") from Grantee acceptable to the City and the Council. Payment requests may be made no more than once per month and must be accompanied by supporting invoices that relate to Project costs. The City will, upon its approval of the Disbursement Request, forward the Disbursement Request to the Council for approval. Upon Council approval of the Disbursement Request and disbursement of the approved amounts of Housing Grant funds, the City will disburse the approved amount of Subgrant funds in accordance with the information provided in the Disbursement Request.

6. **NOTICES.** Communication and details concerning this Contract must be directed to the following Contract representatives:

| | |
|-----------------|--|
| City: | City of Minnetonka Community Development Department 14600 Minnetonka Blvd. Minnetonka, MN 55345 Attn: Alisha Gray Phone: (952) 939-8285 |
| Grantee: | West Hennepin Affordable Housing Land Trust (dba Homes Within Reach) 5101 Thimsen Ave, Suite 200 Minnetonka, MN 55345 Attn: Brenda Lano-Wolke, Executive Director |

7. **GENERAL CONDITIONS.**
 - A. **General Compliance.** The Grantee agrees to comply with all applicable federal, state, and local laws and regulations governing the Project and funds provided under this Contract.

 - B. **Subcontracts.**
 1. *Selection Process.* The Grantee must undertake to ensure that all contracts and subcontracts let in the performance of this Contract are awarded on a fair and open competition basis. Executed copies of all contracts and subcontracts

along with documentation concerning the selection process must be forwarded to the City upon request.

2. **Monitoring.** The City may monitor contracted and subcontracted services on a regular basis to ensure contract compliance. Results of monitoring efforts will be summarized in written reports and provided to the Grantee. The Grantee must provide documented evidence of follow-up actions taken to correct areas of noncompliance noted in the monitoring reports.
 3. **OSHA.** Grantee must require that contractors performing work being paid with the Subgrant funds be in compliance with all applicable OSHA regulations.
- C. **Anti-discrimination.** The Grantee agrees during the life of this Contract not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. The Grantee must include a similar provision in all contracts and subcontracts entered into for the performance of this Contract. This Contract may be cancelled or terminated by the City, and all money due or to become due under the Contract may be forfeited for a second or subsequent violation of the terms or conditions of this paragraph.
- D. **Equal Opportunity.** The Grantee recognizes the City is an equal opportunity employer and agrees during the life of this Contract to take affirmative action to provide equal employment opportunities without regard to race, color, sex, creed, national origin, religion, disability, age, marital status, sexual preference, or status with regard to public assistance.
- E. **Independent Contractor.** Nothing contained in this Contract is intended to, or may be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee will at all times remain an independent contractor with respect to the services to be performed under this Contract. The Grantee represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota or other employment laws on behalf of Grantee's personnel, shall in no way be the responsibility of the City. The Grantee agrees to carry Workers' Compensation Insurance as required by Minnesota Statutes, Section 176.181, subd. 2; except that Grantee is excluded from the foregoing clause if Grantee is excluded by Minnesota Statutes, Section 176.041 from the requirement to provide workers' compensation insurance.
- F. **Indemnification and Hold Harmless.** The Grantee must hold harmless, defend and indemnify the City and the Council from any and all liability, claims, actions, suits, charges, damages, losses, costs, expenses, and judgments whatsoever, including reasonable attorney's fees, that arise directly or indirectly out of the Grantee's, its contractors or subcontractors performance or nonperformance of the services or subject matter called for in this Contract. This clause may not be construed to bar any legal remedies Grantee may have for the City's or the Council's failure to fulfill its obligations pursuant to this Contract.

Claims included in this indemnification include any claims asserted pursuant to the Minnesota Environmental Response and Liability Act (MERLA), Minnesota Statutes,

Chapter 115B, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) as amended, United States Code, title 42, Sections 9601 et. seq., and the Federal Resource Conservation and Recovery Act of 1976 (RCRA) as amended, United States Code, title 42, Sections 6901 et. seq. This indemnification cannot be construed as a waiver on the part of either the City or the Council of any immunities or limits on liability provided by Minnesota Statutes Chapter 466 or other applicable state or federal law.

8. **ADMINISTRATIVE REQUIREMENTS.**

A. **Accounting Standards.** The Grantee agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this Contract.

B. **Records.**

1. *Retention.* The Grantee must retain all records pertinent to expenditures incurred under this Contract until conclusion of the latest of (a) six years after the Grantee has completed the Housing Program; (b) six years after the Grantee has expended all proceeds of the Subgrant; (c) six years after the resolution of all audit findings; or (d) six years after Metropolitan Livable Communities Act Grant Agreement termination or cancellation. Records for nonexpendable property acquired with funds under this Contract must be retained for six years after final disposition of such property.
2. *Inspections.* All Grantee records with respect to any matters covered by this Contract must be made available to the City, the Council or their designees at any time during normal business hours, as often as the City or the Council deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.
3. *Audits.* If requested by the City, the Grantee must have an annual financial compliance audit conducted in accordance with the City's requirements. The Grantee must submit two copies of such audit report to the City. Any deficiencies noted in such an audit report or an audit/monitoring report issued by the City or its designees must be fully resolved by the Grantee within a reasonable time period after a written request from the City. Failure of the Grantee to comply with the provisions of this paragraph will constitute a violation of this Contract and may result in the withholding of future payments or the requirement for Grantee to return all or part of the funds already disbursed.
4. *Data Practices Act* the Grantee must comply with the Minnesota Government Data Practices Act, Chapter 13.
5. *Close-Outs.* The Grantee's obligation to the City does not end until all close-out requirements are completed. Activities during this close-out period include: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program

income balances, and receivable accounts to the City), determining the custodianship of records and resolving audit findings.

- C. **Payments.** The City will pay to the Grantee funds available under this Contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. Payments may be adjusted at the option of the City in accordance with advance funds and program income balances available in Grantee accounts.
- D. **Procurement.** The Grantee must maintain an inventory record of all nonexpendable personal property procured with funds provided under this Contract. All unexpended program income must revert to the City upon termination of this Contract.

9. **MISCELLANEOUS.**

- A. **Assignability.** The Grantee may not assign or transfer any interest in this Contract (whether by assignment or novation) without the prior written consent of the City; provided, however, that claims for money due or to become due to the Grantee from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer must be furnished promptly to the City.
- B. **Religious Organization.** The Grantee agrees that funds provided under this Contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization.
- C. **Governing Law.** This Contract will be governed by, and construed in accordance with, the laws of the State of Minnesota.
- D. **Counterparts.** This Contract may be executed in two or more counterparts, each of which is deemed an original, but all of which taken together constitute one and the same agreement.

CITY OF MINNETONKA

By _____
It's Mayor

And _____
It's Acting City Manager

WEST HENNEPIN AFFORDABLE HOUSING LAND TRUST

By _____
It's President

And _____
It's Executive Director

Exhibit A

Metropolitan Livable Communities Grant Agreement



**City Council Agenda Item 12A
Meeting of May 9, 2022**

Title: Ordinance amending City Code 805 regarding swimming pools and spas

Report From: Caitlin Ebner, RS, Environmental Health Specialist

Submitted through: Moranda Dammann, Acting Assistant City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Staff is proposing amendments to City Code 805 regarding swimming pools and spas to reflect updates to the [Minnesota Pool Code, MN Rules 4717](#), as adopted by reference.

Recommended Action

Introduce the ordinance and provide feedback.

Strategic Profile Relatability

- | | |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input checked="" type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Background

The city last updated the swimming pool and spa code in 2012. Staff is proposing amendments to the pool and spa ordinance to reflect updates to the [Minnesota Pool Code, MN Rules 4717](#).

as adopted by reference. The amendments remove outdated code language and clarify definitions to match the required language as a delegated enforcement agency of the Minnesota Department of Health. The revised code language updates permitting procedures for new construction and remodeled facilities to match the Minnesota Building Code for both public and private swimming pools, and additional Minnesota Department of Health construction guidelines for public pools.

The purpose of introducing an ordinance is to allow the city council the opportunity to review the ordinance and provide feedback before bringing it back for a final decision. Introducing an ordinance does not constitute approval. Staff has tentatively scheduled the matter for city council final review on May 23, 2022.

Ordinance No. 2022-

An ordinance amending Minnetonka City Code 805 regarding Pools and Spas

The City of Minnetonka Ordains:

Section 1. Section 805 of the Minnetonka City Code is amended to read as follows:

SECTION 805. POOLS AND SPAS

805.005. Short Title.

This ordinance will be known as the ~~swimming pool~~ and spa ordinance of the city of Minnetonka.

805.010. Definitions.

Unless the context clearly indicates otherwise, certain words are defined for the purpose of this section as follows.

1. ~~"Swimming pool" means a permanent structure, basin, chamber, or tank containing an artificial body of water for swimming, diving or recreational bathing, more than 75 square feet in area or over 24 inches in depth.~~ "Pool" means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use including special purpose pools and wading pools

2. ~~"Public swimming pool" means a swimming pool other than a private single family residential swimming pool, intended to be used collectively by numbers of people for swimming or bathing, regardless of whether a fee is charged for use. Included in this definition are swimming pools located in or adjacent to apartment buildings, condominiums, townhouses and other multiple dwelling residential complexes, public and private schools, public and private recreational sports facilities, and commercial property unless used only for the purpose of sales or display or both.~~ any pool other than a private residential pool, that is: (1) open to the public generally, whether for a fee or free of charge; (2) open exclusively to members of an organization and their guests; (3) open to residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area; (4) open to patrons of a hotel or lodging or other public accommodation facility; or (5) operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, club, condominium, manufactured home park, or political subdivision with the exception of swimming pools at family day care homes licensed under section 245A.14, subdivision 11, paragraph (a).

3. ~~"Private single family residential swimming pool" means a swimming pool that is located on private property zoned and being used for single family residential use and that is being used for swimming or bathing only by the residents of the property or their invited guests but not for commercial purposes.~~ "Private residential pool" means a pool connected with a single-family residence or owner-occupied duplex, located on private

property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. A private residential pool is not a pool used as part of a business.

805.015. Permit; Plans and Specifications for Private Residential Pools

1. Private residential pools.

a. A person must not construct, alter or reconstruct a swimming private residential pool without first obtaining a permit from the city to do so. The application for a permit must be on forms prescribed by the city. The application must be accompanied by the permit fee established in chapter 710, two sets of plans and specifications prepared by a registered architect or engineer, and with plans and other supporting data that may be required for proper review of the plans.

b2. The plans must be drawn to scale, accompanied by sufficient specifications to permit a comprehensive review of the plans, and must include:

(1)a. plan and sectional views with all necessary dimensions of both the pool and surrounding area; The construction site plan must be provided on a survey, showing size and location of new pool, existing structures onsite, and distances from lot lines and according to the state building code.

(2)b. a piping diagram showing pertinent elevation data and all appurtenances including treatment facilities in sufficient detail to permit a hydraulic analysis of the system; and

(3)c. details on all treatment equipment, including catalog identification of pumps, chlorinators, and related equipment.

c3. A permit is valid only for the work and location specified in the permit. A permit authorizes construction of appurtenances to the pool, with the exception of the electrical and gas piping work, which require additional permits.

d.4. A person must obtain a permit required by this chapter either before or during the day that work starts, or on the next succeeding business day when work starts on a Saturday, Sunday, or holiday. If the person fails to do so, he/she will be required to pay double the fee specified in chapter 710 and will be subject to the penalty provisions of this code. If work for which a permit is required by the code has commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for the work according to the state building code.

e5. A permit issued expires upon completion of the work or one year from the date of issuance, whichever is sooner. If a permit has expired, it may be renewed for an additional one-year period as long as no changes have been or will be made to the original plans for the work. The fee for renewal is 50 percent of the original permit fee applicable to the work uncompleted. Any permit issued becomes invalid if the work authorized by the permit is suspended or abandoned for more than 180 days. The 180 days commences the first day the work was suspended or abandoned according to the state building code.

f6. A permit may be revoked or worked stopped following the procedure in the state buil city-building code.

2. Public Pools.

a. Plans for public pools must be submitted and approved as specified in Minnesota Rules part 4717.0450 and amendments thereto. The plans and specifications for public pools not requiring submission to the state department of health must be reviewed by the city and include:

(1) A survey showing proper setbacks, easements, pool placement, equipment placement, fence location, deck location, impervious surface coverage of the lot, and location of overhead electrical wires;

(2) The proposed equipment types, manufacturers, model numbers, dimensions, performance capabilities and installation specifications; and

(3) Fencing plan including type, material, height, gate location and latching mechanism.

805.020. Construction Requirements

1. Private residential pools.

a. New and existing outdoor private residential swimming pools, containing water more than 24 inches in depth, must be completely enclosed by a fence or wall barrier that complies with Section 303.2 of the International Property Maintenance Code.. Openings or points of entry into the pool area enclosure must be equipped with gates. The wall or fence and gates must be at least 5 feet in height. A fence must be constructed of at least a number eleven gauge woven wire mesh corrosion-resistant material or other materials approved by the building inspector. Gates must be equipped with self-closing and self-latching devices capable of being locked, placed on top of the gate or another place inaccessible to small children. Fence posts must be decay- or corrosion-resistant and must be set in concrete bases or other suitable material. The opening between the bottom of the fence and the ground or other surface may not be more than three inches. As an alternative, the building official may approve an alternative latching system for spas, hot tubs, whirlpools, or other covered pools that comply with ASTM Standard F1346 for safety.

b2. Swimming P-pools must be located on the premises in compliance with the zoning ordinance requirements.

c3. A swimming-pool and its appurtenances must be located at least 10 feet from an existing portion of a sewage system. The water supply line for a swimming-pool must be at least 15 feet from an existing portion of a sewage system.

d4. The pool and related facilities must be built in accordance with plans approved by the city, except as otherwise approved by the city. The pool may not be placed in operation until city inspections show compliance with the requirements of this section and a license has been issued to its operator under this section if required.

2. Public pools:

a. Plans for public pools must be submitted and approved as specified in Minnesota Rules part 4717.0450 and amendments thereto. Public pool remodeling projects that do not require submission of plans to the state department of health must be submitted to the city for approval prior to commencing construction or equipment replacement.

b. Fencing for public pools must conform with Minnesota Rules part 4717.1550.

805.025. Inspection.

A person who does or causes to be done any of the work covered by this section must notify the city at specific predetermined stages of construction and at the time of completion to permit adequate inspection of the pool and related equipment. The city must be notified before any portion of the work is connected with a building, and must be given reasonable time and opportunity to inspect the work before it progresses to a point where it can no longer be inspected. No work may be covered until it has been inspected and accepted by the city inspector. This includes all underground piping conduits, grounding of electrical materials, grounding of mesh in concrete and grounding of pool structure in addition to any additional requirements listed in the state building code.

805.030. Public ~~Swimming~~-Pools - Licenses.

1. A person wishing to operate a public ~~swimming~~-pool must first make an application to the city, pay the required fee, and receive approval from the city for a license to operate and from the Minnesota department of health for plan review. A license issued expires on December 31 of each year unless otherwise revoked for cause. A license applicant and licensee must comply with this section and applicable Minnesota department of health rules in order to receive and retain a license. A license is valid only for the person or entity to whom it is issued, and no licensee may transfer or attempt to transfer its license to another person or entity.

2. The fee for a license to operate and maintain a public ~~swimming~~-pool is specified in section 710. No fee is required for the operation of a public ~~swimming~~-pool by the city, schools, YMCA, YWCA or ~~another~~ non-profit organizations, except those operating pools at multiple dwelling facilities.

3. A license is subject to the requirements of section 700 of this code, except section 700.015(2).

4. A separate license must be obtained for each pool and water recirculation system as defined in Minnesota Rules part 4717.2550 and amendments thereto.

~~805.035. Public Swimming Pools – Health and Safety.~~

~~1. A person having a communicable disease must not be employed or work at a public swimming pool. A person suspected of having an infectious disease must be excluded from the swimming pool and its immediate area including locker or changing rooms.~~

~~2. Appropriate facilities must be provided for the safety of bathers as may be required by the city. These include lifesaving equipment, safety devices, lifebuoys, lifehooks, first aid kits, and telephone.~~

~~3. A public swimming pool must be under the supervision of the licensee who is responsible for compliance with this section.~~

~~4. When the swimming pool is not open for use, access to the pool must be prohibited.~~

~~5. No more than the maximum designed bather load may be permitted in a public swimming pool at any time.~~

805.040. Public Swimming Pools - Operation.

~~1. The licensee of each public swimming pool must keep a daily record of operational information including disinfectant residuals, pH, maintenance procedures, recirculation, and other data as may be required by the city. This data must be kept on file by the licensee for six months and must be made available for review by the city upon request.~~

~~2. The pumps, filter, disinfectant and chemical feeders, and related appurtenances must be kept in operation whenever the public swimming pool is in use and for such additional periods as needed to keep the pool water clear and of satisfactory bacterial quality. For swimming pools having a capacity of 200,000 gallons or more, this equipment must be continually operated during periods of regular use.~~

~~1.3. When any of the following conditions are found, a public swimming pool must be immediately closed and access restricted: when ordered by the city and placarded to indicate that it has been closed:~~

~~a. the proper number of safety equipment units are not provided closure criteria per Minnesota Rules 7417.3970 or amendments thereto;~~

~~b. the water clarity is such that a black disc, 6 inches in diameter, is not readily visible when placed on a white field at the deepest point of the pool failure to possess a license as required by this section 805; or~~

~~c. the disinfectant residual is found to be below the acceptable levels established in the Minnesota department of health rules; or~~

~~d. another condition which endangers the health, safety, or welfare of the public, as determined by the health authority.~~

~~The pool must remain closed and access restricted until the conditions are corrected and this has been verified by the city health authority.~~

805.045. Public Swimming Pools - Inspections.

The city has the right of entry at any reasonable hour to inspect ~~a public~~ the swimming pool, its related equipment, and the adjacent areas to ensure compliance with all provisions of this section.

805.046. Additional Provisions.

1. The provisions contained in Minn. Stat. section 144.1222, ~~except subdivisions 1 and 4a,~~ and the provisions contained in Minnesota Rules parts 4717.0150 through 4717.3970~~5~~, including all future revisions of them, are adopted by reference as part of this ordinance.

2. The provisions of Minn. Stat. section 157.20, including all future revisions of them, are adopted by reference as part of this ordinance.

~~805.050. Installer's License Required.~~

~~1. A person must not engage in the business of installing, altering, repairing, or extending a swimming pool, whirlpool, hot tub, or similar recreational or health facilities~~

~~without first obtaining an installer's license from the city and paying the fee required in section 710.~~

~~2. Each license application and license is subject to the requirements of section 700 of this code.~~

805.055. Drainage.

A person who drains, allows or causes the drainage of water from a public or private pool, including an accumulation of precipitation or runoff, must do so only across the person's own property to the edge of the public street pavement immediately adjacent to the property or to the nearest storm sewer inlet, unless otherwise required or approved by the city engineer. The person who drains a pool must regulate the volume and rate of the discharge to prevent damage to public or private property. Swimming pools operated on a year-round basis may be drained to the public sanitary sewer system if approved by the public works director.

805.060. Enforcement.

The community development director and delegate(s) ~~and his/her agents~~ are authorized to enforce the provisions of this ~~chapter~~section.

Section 2. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction:

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

Certified Copy:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on

Becky Koosman, City Clerk



**City Council Agenda Item 13A
Meeting of May 9, 2022**

Title: Temporary on-sale liquor licenses for Unmapped Brewing, LLC,
14625 Excelsior Blvd

Report From: Fiona Golden, Community Development Coordinator

Submitted through: Moranda Dammann, Acting Assistant City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The city has received an application for three temporary on-sale liquor licenses from Unmapped Brewing, LLC, for outdoor events at 14625 Excelsior Blvd. Beer will be sold outside of the licensed premise in the parking lot, which requires the approval of three temporary liquor licenses.

Recommended Action

Hold the public hearing and grant the licenses.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Events

Unmapped Brewing is requesting three temporary liquor licenses for outdoor events. The area surrounding the events will be marked off with a temporary safety fence.

June 18, 2022 – Five Year Anniversary Party. The free event will see several special release beers, merchandise, and posters to celebrate five years of business. The event will feature live music starting at 1 p.m. and ending at 10 p.m. Food trucks, games, and an outdoor beer tent.

Aug. 6, 2022 - Unmapped Block Party. The event will be held in conjunction with the Glen Lake Business Association. The event will be from 10 a.m. – 11 p.m. The event will feature live music, food trucks, outdoor games, and activities. Outdoor activities will be done at 10:00 p.m.

Oct. 15, 2022 - Flannel Roots Music & Beer Festival. The event will be held from 11 a.m. – 11:00 p.m. in the Unmapped Brewing parking lot. This is the fifth year that Unmapped has hosted this event. The festival will feature live music, a mountain bike ride, food trucks, a chili cook-off, and outdoor games/activities. Unmapped is also partnering with a local greenhouse to set up a pumpkin patch.

Parking and Security

Unmapped Brewing has secured parking at Bethlehem Lutheran Church, Prestige Preschool Academy, First Minnetonka City Bank, and Glen Lake Optimists field. With site parking and the agreements, there are approximately 350 spaces available at those sites. Unmapped Brewing is recommending that local residents walk or bike to the events.

The entrance will have employees/volunteers in charge of checking identifications and issuing a wristband to those patrons age 21 and older. Staff at the event will only serve to those wearing a wristband.

Outdoor Activity Including Intoxicating Liquor

Minnesota State Statute 340A.404 subd 10(c) states that a brewery that manufactures fewer than 3,500 barrels of malt liquor in a year is eligible for a temporary liquor license for social events upon city approval.

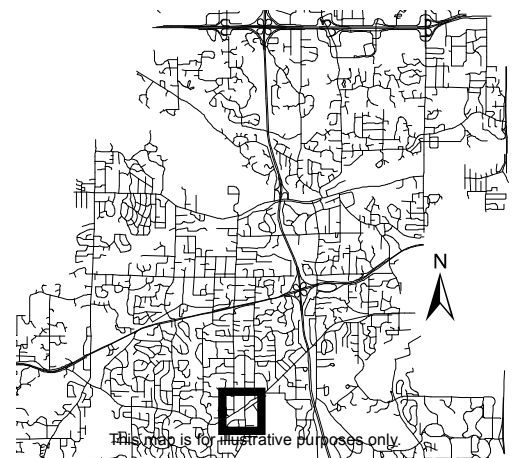
Unmapped Brewing has completed the license applications and provided proof of insurance. Unmapped Brewing notified neighbors within 400 feet of the brewery of the events.

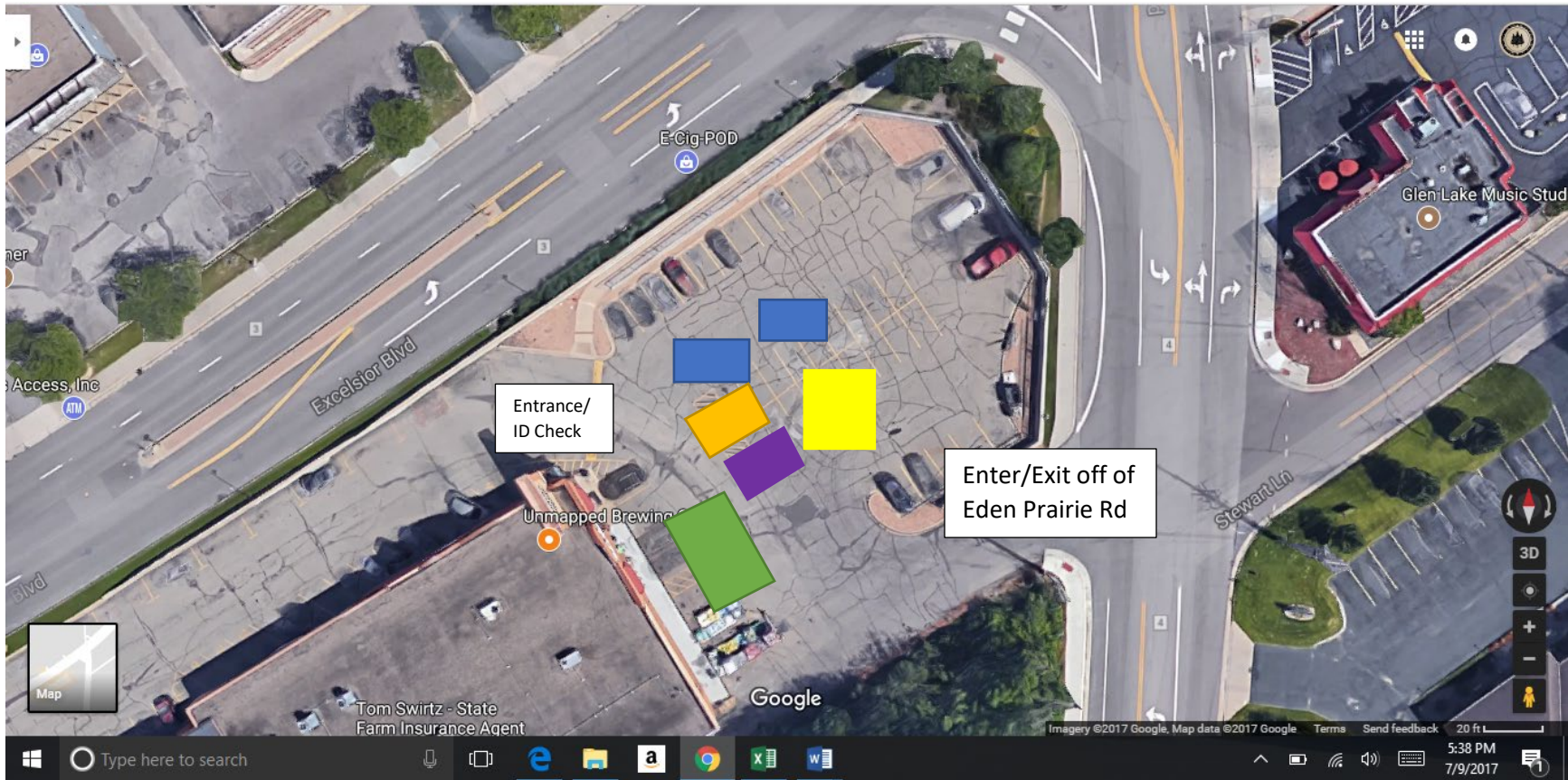
Unmapped has successfully hosted 11 temporary liquor events since opening in 2017. Staff has not received any complaints from residents about the events. Staff recommends the council hold the public hearing and grant the temporary liquor licenses for the events.



Location Map

Unmapped Brewing
14625 Excelsior Blvd.





KEY:

-  Food Trucks
-  Stage/Music
-  Outdoor Bar
-  Merchandise
-  Outdoor Games



UNMAPPED BREWING CO

April 14, 2022

Dear Neighbor,

This letter is to inform you of a request that we, Unmapped Brewing Co., have made application to the City of Minnetonka for an event at the address of 14625 Excelsior Blvd, Minnetonka, MN, 55345. You are receiving this letter as the city requires us to notify everyone within 400 feet of the address above when we request an outdoor activity includes the serving or sale of liquor as described below:

Name of event: Unmapped Anniversary Party, Glen Lake Block Party & Flannel Roots Festival

Date(s) of event: 06/18/22, 08/06/22, 10/15/22

Time of event: 11:00 AM – 11:00 PM (10:00 PM for outdoor activities), 11:00 AM – 11:00 PM (10:00 PM for outdoor activities)

Type of liquor served: Beer

Outdoor activities planned: We will be serving beer in an outdoor tent, in addition to hosting live music, food, and outdoor activities/games.

This letter serves as your notice that the city will review this application/request at a regular City Council Meeting. The tentative date for the public hearing before the city council is **May 9, 2022**. The meeting begins at 6:30 p.m. in the Council Chambers of the Minnetonka Community Center at 14600 Minnetonka Boulevard.

If you have any comments, you may contact Fiona Golden, Community Development Coordinator, City of Minnetonka, at (952) 939-8274 or by e-mail to: fgolden@minnetonkamn.gov

Most Sincerely,

Megan Park
Founder
Unmapped Brewing Co.

Unmapped Brewing Co. – Five-Year Anniversary Party

Date: Saturday, June 18, 2022

Time: 11:00 AM – 11:00 PM (10:00 PM outdoors)

Agenda: Unmapped's anniversary party will celebrate five years of business! We will be bringing back several of our most popular beers via a "March Unmappedness" vote. We will be creating special posters and merchandise for the event.

Unmapped will feature live music from 1:00 – 10:00 PM, food trucks, games, and an outdoor beer tent. The outdoor area will be marked with a safety fence.

Bands – The Rattlers, Static Jones, two more TBD

Food Trucks – Fused, Bad Rooster

Parking: Unmapped has received permission from Bethlehem Lutheran Church, Prestige Academy, and First Minnetonka City Bank for additional parking, similar to our previous events.

Unmapped Brewing Co. – Glen Lake Block Party

Date: Saturday, August 6, 2022

Time: 11:00 AM – 11:00 PM (10:00 PM outdoors)

Agenda: Unmapped Brewing Co. is excited to host the Glen Lake Block Party in conjunction with the Business Association of Glen Lake.

Several Glen Lake businesses will be setting up tables and activities for the Glen Lake community from 11:00 AM – 1:00 PM. We will be featuring live music (starting at 1:00 PM and lasting until 10:00 PM), games, and an outdoor beer tent. The outdoor area will be marked with a safety fence.

Bands: The Rattlers, Southern Resident Killer Whales

Parking: Unmapped has received permission from Bethlehem Lutheran Church, Prestige Academy, and First Minnetonka City Bank for additional parking, similar to our previous events.

Unmapped Brewing Co. – Flannel Roots Festival

Date: Saturday, October 15, 2022

Time: 11:00 AM – 11:00 PM (10:00 PM outdoors)

Agenda: Unmapped Brewing Co. is excited to host our annual fall festival. We kick-off the day with a mountain bike ride around LLP, pumpkin painting for young and old alike, and of course, the chili cook-off! We'll have outdoor games and activities and plenty of new beer releases to celebrate the changing of the seasons!

Bands: TBD

Parking: Unmapped has received permission from Bethlehem Lutheran Church, Prestige Academy, and First Minnetonka City Bank for additional parking, similar to our previous events.

From: [Tony Rammer](#)
To: info@unmappedbrewing.com; [Fiona Golden](#)
Subject: unmapped events
Date: Monday, May 2, 2022 3:51:10 PM

We support unmapped brewing events in our community per notice received.

Thank you

Tony Rammer
6 [REDACTED] cell

Glen Lake Mobil
Glen Lake Bp



**City Council Agenda Item 13B
Meeting of May 9, 2022**

Title: Temporary on-sale liquor license for Immaculate Heart of Mary Church, 13505 Excelsior Blvd

Report From: Fiona Golden, Community Development Coordinator

Submitted through: Moranda Dammann, Acting Assistant City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The city has received an application for a temporary one-day, on-sale liquor license from Immaculate Heart of Mary Church (IHMC) for an outdoor “75th Anniversary - Block Party Celebration” event at 13505 Excelsior Blvd.

Recommended Action

Hold the public hearing and grant the temporary liquor license.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: N/A

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Event

IHMC is requesting approval for an all-day block party to celebrate its 75th anniversary on Saturday, June 25, 2022. The event will be held in their east parking lot and consist of several activities including:

- 5K Run
- Food Trucks
- Kids games & inflatables
- A beer garden, including wine, in a roped-off area, with a tent and tables
- Bingo
- Classic Car Show
- Corn-hole Tournament
- Live music, including a Teddy Bear Band & Rich & The Resistors

Outdoor Activity Including Intoxicating Liquor

City liquor ordinances allow temporary on-sale liquor licenses to be issued to clubs and other charitable, religious, or not-for-profit organizations, subject to application, public hearing, and approval by the city council.

In addition, city liquor ordinances allow an outdoor event that includes on-sale liquor if approved by the city council. IHMC notified neighbors within 450 feet of the event. The police department has also been notified of the event and worked with IHMC staff to develop a parking plan. Temporary “no parking” signs will be placed on the right-side of the west parking lot roads. By allowing parking on the left side of the road, attendees will have direct access to the sidewalk and property without crossing the street. Volunteers will also direct traffic to parking spaces in the west parking lot.

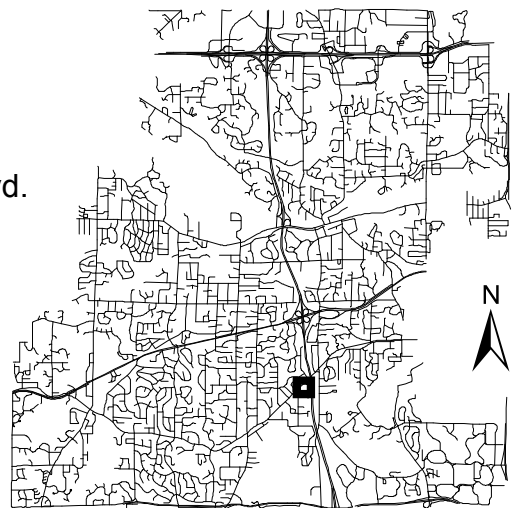
The beer garden will serve wine and tap beer in a fenced-off area under a tent. There will be one entrance to the beer garden monitored by IHMC staff. Only adults over 21 will be permitted in the area. All IDs will be checked and wristbands issued to people wishing to access the tent. Staff will stop serving alcohol by 7 p.m., with all the event activities ending by 8 p.m.

IHMC has not held this type of event since 2014. Staff is not anticipating any issues and recommends granting the temporary liquor license.



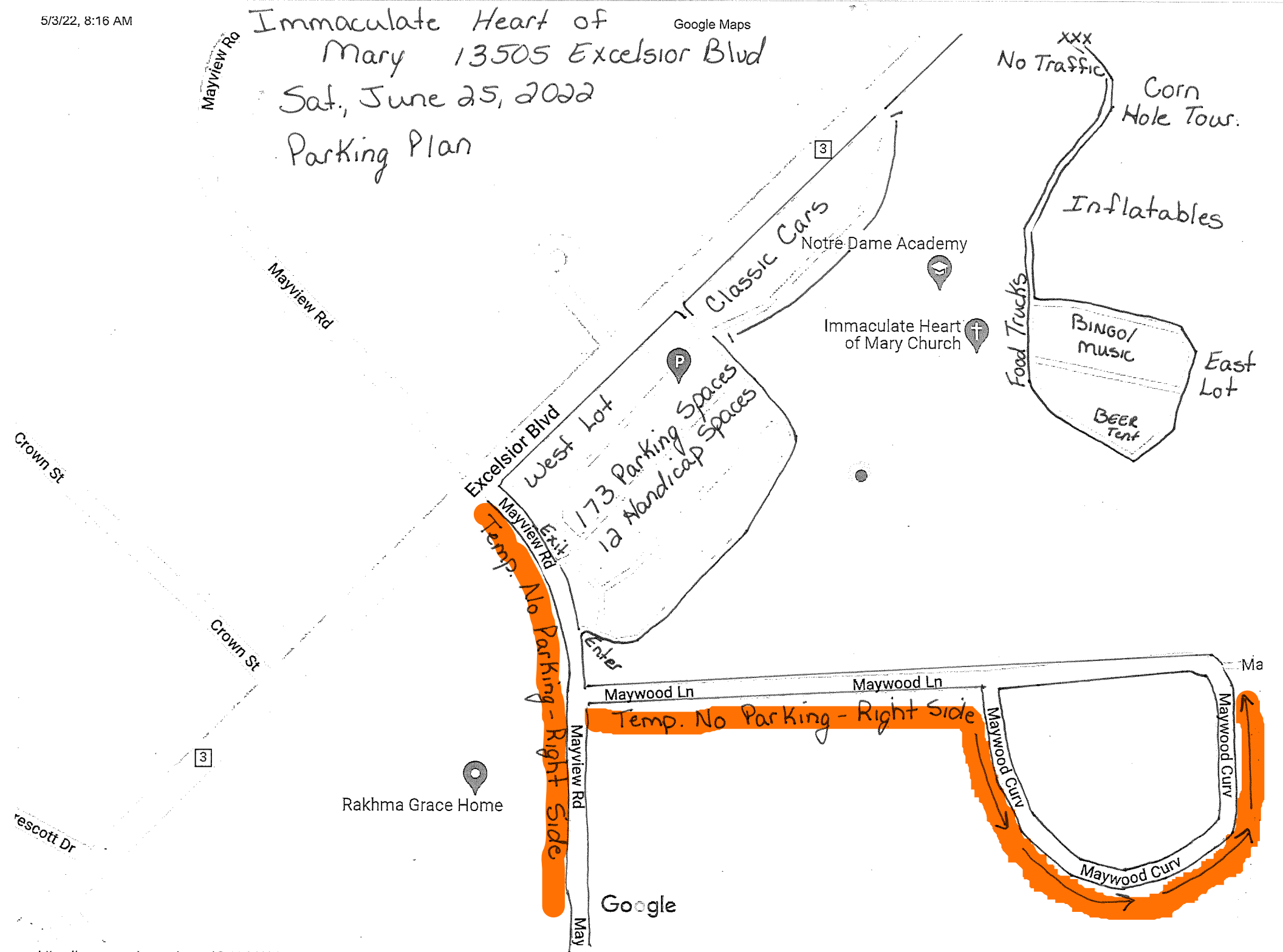
Location Map

Immaculate Heart of Mary—13505 Excelsior Blvd.



This map is for illustrative purposes only.

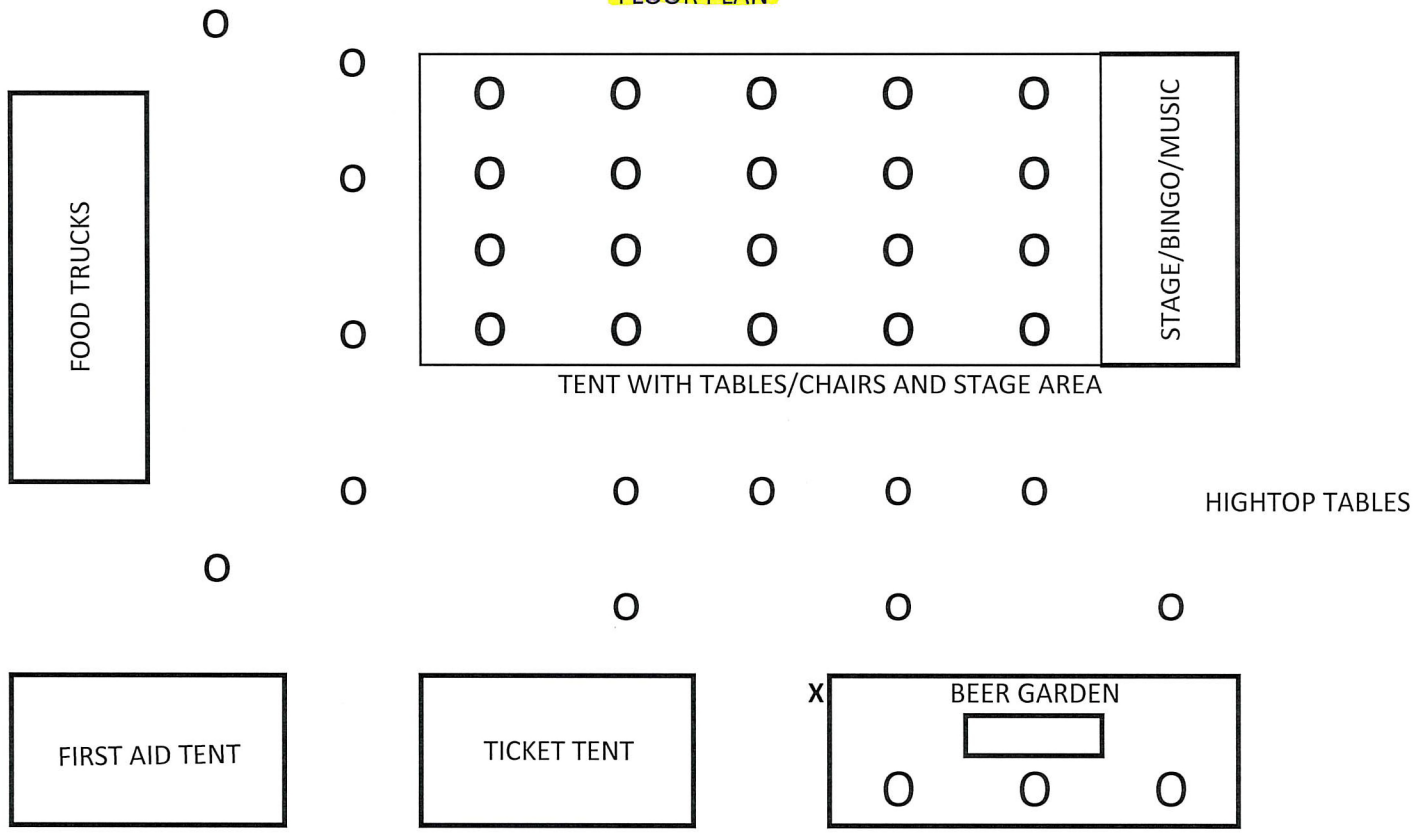
Immaculate Heart of Mary 13505 Excelsior Blvd
 Sat., June 25, 2022
 Parking Plan



Immaculate Heart of Mary Building
NDA School

2022 75th ANNIVERSARY BLOCK PARTY, IMMACULATE HEART OF MARY CHURCH
EAST PARKING LOT - BEHIND THE BUILDING

FLOOR PLAN



X=ID CHECK, WRIST BAND, ENTRANCE/EXIT



13505 Excelsior Boulevard
Minnetonka, Minnesota 55345
952-935-1432 • www.ihm-cc.org

April 15, 2022

Neighbors of IHM:

I would like to advise you of an upcoming event to be held at Immaculate Heart of Mary Church on Excelsior Boulevard. We will be hosting a 75th Anniversary Block Party on our property Saturday, June 25th from 9:30 a.m. to 8:00 p.m.

The event will include a 5K fun run/walk, live music from the Teddy Bear Band (11:00 am to noon) and Rich & the Resistors (5:30 -8:00 pm), Food Trucks, beer garden, BINGO, kids games and inflatables, and a classic car show. This event will be sanctioned and licensed in accordance with all city and state laws with the goal of being a fun community-building event for everyone.

This letter is not only to advise you of the event, but also to invite you, your family and friends to join our parish community in celebrating our 75th Anniversary at a social and fun event for the entire family.

IHM respects you, our neighbor, and looks forward to our continued partnership in developing a community that we are all proud to call home.

We look forward to meeting you on June 25th.

Sincerely

Kellie Dennehy

Immaculate Heart of Mary Business Administrator



**City Council Agenda Item 14A
Meeting of May 9, 2022**

Title: Three Rivers Park District Regional Trails Master Plan

Report From: Matthew Kumka, Park and Trail Project Manager

Submitted through: Moranda Dammann, Acting Assistant City Manager
Will Manchester, P.E., Public Works Director
Leslie Yetka, Natural Resources Manager

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The Three Rivers Park District is requesting a resolution of support from the City of Minnetonka for the Three Rivers Park District Nine Regional Trails Master Plan.

Recommended Action

Adopt the resolution and letter of support for the Three Rivers Park District Nine Regional Trails Master Plan.

Strategic Profile Relatability

- | | |
|--|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input checked="" type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Environment | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The master plan provides a full range of recreational programs, services and amenities to the community.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N/A

Background

The City of Minnetonka has been asked to review and comment on the Three Rivers Park District Nine Regional Trails Master Plan, which may be viewed on [the city's website](#). The city has a history of a collaborative partnership with Three Rivers Park District along with strong support of the two regional trails (Lake Minnetonka LRT Regional Trail and the Minnesota River Bluffs LRT Regional Trail) that are located within Minnetonka. The proposed master plan supports Minnetonka's ongoing effort to provide residents access to a broad range of recreational opportunities and bolsters the multi-modal transportation goals of the city's own Trail Improvement Master Plan.

The master plan document describes the thorough outreach and engagement strategy and its results, including a focus on equity consideration and underrepresented groups, and outlines a series of trail improvement themes based on those findings.

The master plan specifically proposes a variety of additional way-finding, rest-stops and safety updates, including ADA enhancements to the regional trails operated by Three Rivers Park District within the city. Several trail drainage improvements and the installation of additional benches and trash receptacles are also included. The only trail resurfacing proposed is a portion of the Minnesota River Bluffs LRT Regional Trail between Shady Oak Road and the Hopkins border, which will be converted from gravel to asphalt. Being this is a planning document, these items will be incorporated into the Three Rivers Park District's funding program in the future.

Three Rivers Park District is requesting a letter and a resolution of support. These items are attached for consideration.

Resolution No. 2022-XXX

Resolution of support for the Three Rivers Park District Nine Regional Trails Master Plan

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. The City of Minnetonka (City) recognizes the Lake Minnetonka LRT Regional Trail and the Minnesota River Bluffs LRT Regional Trail included in the Nine Regional Trails Master Plan, as an important component of the regional parks system providing a desirable recreational and non-motorized transportation amenity to the residents of the city and the region.
- 1.02. The Lake Minnetonka LRT Regional Trail and the Minnesota River Bluffs LRT Regional Trail will continue to provide safe, off-street non-motorized access to existing regional recreation amenities.
- 1.03. The City of Minnetonka recognizes that Three Rivers Park District (Park District) and the directly affected cities, have gathered significant public input in the development of the Nine Regional Trails Master Plan.
- 1.04. The city recognizes that the Park District has drafted the Nine Regional Trails Master Plan and accepted and responded to public comments appropriately.
- 1.05. The Nine Regional Trails Master Plan is consistent with other approved local and regional plans.
- 1.06. The City supports the acquisition, design, implementation, and operation of the Nine Regional Trails pursuant to the Master Plan.

Section 2. Council Action.

- 2.01. The City of Minnetonka supports the Nine Regional Trails Master Plan.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 9, 2022.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:
Abstained:
Absent:
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 9, 2022.

Becky Koosman, City Clerk



14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | eminnetonka.com

May 9, 2022

Ms. Kelly Grissman
Director of Planning
Three Rivers Park District
3000 Xenium Avenue North
Plymouth, MN 55441

Dear Ms. Grissman,

The City of Minnetonka supports the efforts of Three Rivers Park District to develop a master plan for nine existing regional trails, which includes the Lake Minnetonka and Minnesota River Bluffs LRT Regional Trails located within Minnetonka, to meet the requirements of the Metropolitan Council's 2040 Regional Parks Policy Plan.

These trails are fully developed existing facilities that have operated for many years without a master plan and serve as the backbone to our local community's trail network. The city supports the Nine Regional Trails Master Plan's envisioned improvements that will ultimately increase the safety, usability, connectivity, and quality of the nine regional trails, including the regional trail segments located within our community.

The regional trails and envisioned improvements are consistent with the city's 2040 Comprehensive Plan and Parks and Trail Plan. As such, the city looks forward to working collaboratively with Three Rivers to implement the envisioned improvements and further enhance regional recreation and non-motorized amenities located within our community and directly serving our residents.

Sincerely,

Brad Wiersum
Mayor
City of Minnetonka

Minnetonka...where quality is our nature



**City Council Agenda Item 14B
Meeting of May 9, 2022**

Title: Appeal of planning commission denial of a floor area ratio and building height variances for a new home at 4299 Annika Court

Report From: Ashley Cauley, Senior Planner

Submitted through: Moranda Dammann, Acting Assistant City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The applicant proposes constructing a home at 4299 Annika Court, located in the HIGHVIEW PLACE subdivision. The proposed house would be 4,500 square feet in size, have a walkout basement, and a building height of 26 feet. It requires variances to exceed FAR and maximum height as outlined in the R-1A ordinance and the subdivision approval.

The planning commission (5-0) denied the variance requests on April 7, 2022. The applicant has appealed the planning commission's decision.

Recommended Action

Adopt the resolution upholding the planning commission's denial of variances to exceed the maximum building height and floor area ratio for a new home at 4299 Annika Court.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Statement: NA

Financial Consideration

- Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: N A

Background

In Sept. 2014, the city adopted the residential alternative (R-1A) ordinance. This is a traditional zoning district that allows for a smaller-lot, single-family residential development option. In addition to lot standards and setbacks, the ordinance also includes maximum height and floor area ratio to regulate the size of homes in comparison to the lots:

Floor Area Ratio:

- Lot area has less than 17,500 square feet: 0.24
- Lot area 17,500 square feet or greater: 0.22

Building height:

- Full basement or slab on grade: 35 feet
- Walkout or lookout basement: 25 feet

In 2016, two properties at the intersection of I-394 and Highway 7 were rezoned to R-1A and platted into a nine-lot subdivision, HIGHVIEW PLACE. Since then, staff has issued permits for eight of the nine lots within the development.

Planning Commission Meeting

The planning commission considered the applicant's variance requests on April 7, 2022. Staff recommended denial of the requests finding:

- The intent of the R-1A zoning district is to provide for a diversity of single-family housing options with an option for smaller lot sizes. Essentially, a smaller lot would "get" a smaller home. While appearing to be small deviations from code, the requested variances would severely erode the intent and effectiveness of the R-1A ordinance.
- The requested variances directly result from the applicant's home size and design choice. Slight revisions to the plans would bring the home into conformance with the ordinance.
- Many new homes within the development with a walkout basement were originally submitted, exceeding the maximum building height and floor area ratio requirements for their respective lots. Staff worked with each applicant to reduce the size and was, therefore, able to administratively approve the permit.
- The proposed variance would increase the floor area ratio from 0.22 to 0.24 and would allow for a home larger than allowed by ordinance and the development approvals. This requirement was established to ensure the new home would integrate into the newly created development and the surrounding neighborhood.
- Approval of the variance could encourage similar requests from other property owners within the development.
- Strict enforcement of the ordinance would not deny reasonable use of the property. Staff acknowledges that revisions to the plans or modifications to the grading of the site would result in additional costs for the property owner. However, a variance may be granted

only when the applicant establishes practical difficulties in complying with the ordinance, and economic considerations alone do not constitute practical difficulties.

At the commission meeting, a public hearing was opened to take comment, but no residents appeared to speak. The commissioners sympathized with the applicant and discussed how the lot's floor area ratio calculation would apply.

On April 15, 2022, the applicant submitted a notice to the city appealing the commission's decision to deny the requests.

MINNETONKA PLANNING COMMISSION
April 7, 2022

| | |
|--------------------------|--|
| Brief Description | Floor area ratio and building height variances for a new home at 4299 Annika Court |
| Recommendation | Adopt the resolution denying the request |

Background

In September 2014, the city adopted the residential alternative (R-1A) ordinance. Unlike the planned unit development (PUD) zoning – which is considered a flexible zoning district – R-1A is a traditional zoning classification that allows for a smaller-lot, single-family residential development option. In addition to lot standards and setbacks, the ordinance also includes maximum height and floor area ratio:

Floor Area Ratio¹:

- Lot area has less than 17,500 square feet: 0.24
- Lot area 17,500 square feet or greater: 0.22

Building height²:

- Full basement or slab on grade: 35 feet
- Walkout or lookout basement: 25 feet.



¹ By City Code Sec. 300.02, "floor area" is for single-family and two-family dwellings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.

"Floor Area Ratio" is the floor area of a building as defined by this ordinance, divided by area of the lot on which the building is located. Area zoned as wetland, floodplain, or below the ordinary high water level of a public water is excluded from the lot area for purposes of the floor area ratio calculation unless it can be demonstrated that there will be minimal hydrologic, aesthetic and ecological impacts to the relevant area as determined by the city.

² By City Code Sec. 300.02, "building height" is the vertical distance between the ground elevation abutting a building and the midpoint elevation of the highest gable of a pitched or hipped roof, the deck line of a mansard roof, or the highest point of a flat roof or a parapet wall. The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height:

a) When the change in grade within the footprint of the building is equal to or less than 10 feet, the highest ground elevation abutting the building will be used.

b) When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet higher than the lowest ground elevation abutting the building will be used.

In 2016, two properties at the intersection of I-494 and Highway 7 were rezoned to R-1A and platted into the nine-lot subdivision, Highview Place.

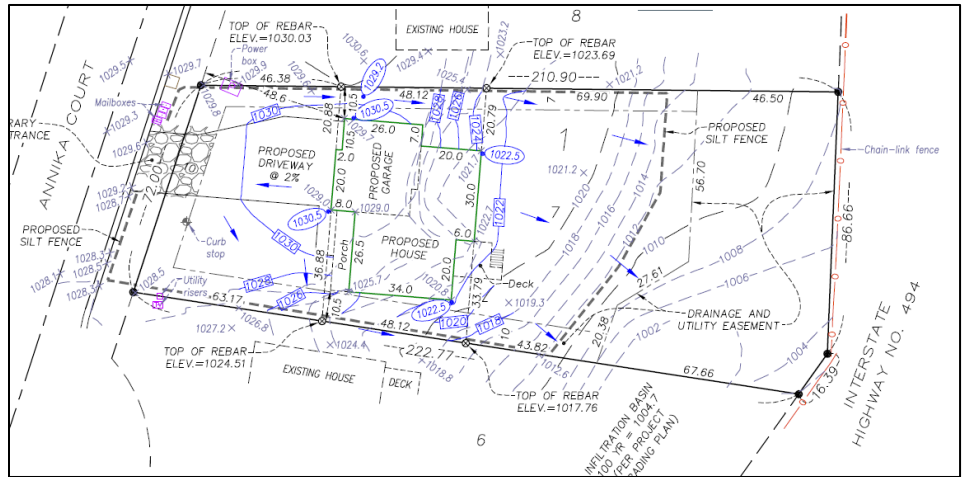
The city has issued permits for eight of the nine lots within the development.

Proposal

The city recently received a building permit for the remaining 18,852 square foot lot at 4299 Annika Court.

As proposed, the new home would be 4,500 square feet in size, have a walkout basement, and would have a code-defined building height of 26 feet.

The proposal requires variances to exceed maximum height and floor area ratio allocations for the property.

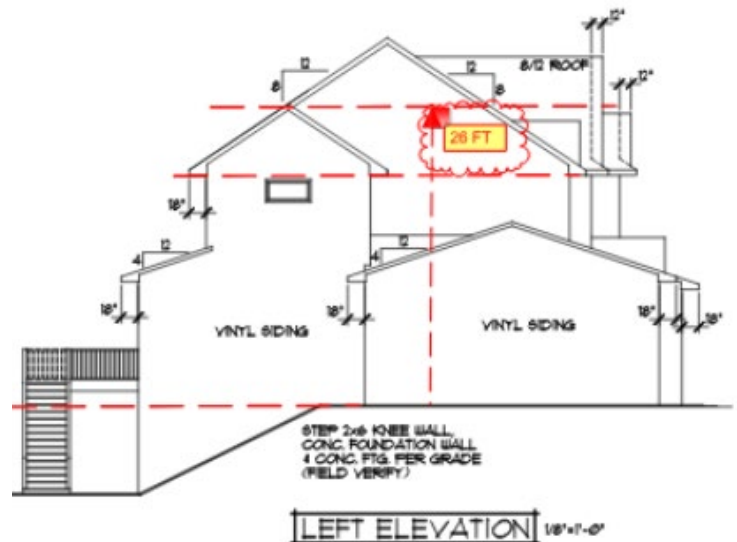


Staff Analysis

A land-use proposal is comprised of many details. These details are reviewed by members of the city's economic development, engineering, fire, legal, natural resources, planning, and public works departments and divisions. These details are then aggregated into a few primary questions or issues. The analysis and recommendations outlined in the following sections of this report are based on the collaborative efforts of this larger staff review team.

Staff does not find the variances reasonable as:

- The intent of the R-1A zoning district is to provide for a diversity of single-family housing options with an option for smaller lot sizes. Essentially, a smaller lot would "get" a smaller home. While appearing to be small deviations from code, the requested variances would severely erode the intent and effectiveness of the R-1A ordinance.
- The requested variances directly result from the applicant's home size and design choice. Slight revisions to the plans would bring the new home into conformance with the ordinance.



- Many of the new homes within the development with a walkout basement were originally submitted, exceeding the maximum building height and floor area requirements for their respective lot. Staff worked with each applicant to reduce the size and, therefore able to administratively approve the permit.
- The proposed variance would increase the floor area ratio from 0.22 to 0.24 and would allow for a home larger than allowed by ordinance and the development approvals. This requirement was established to ensure the new home would integrate into the newly created development and the surrounding neighborhood.
- Approval of the variance could encourage similar requests from other property owners within the development.

Summary Comments

City staff finds the request unreasonable. Strict enforcement of the ordinance does not deny reasonable use of the property. Staff would be able to approve the permit administratively – without a variance – if the applicant were to make one of the following changes to the plan:

- Option One: Revise the plans, and regrade the site, to indicate a full basement instead of a walk-out.
- Option Two: Reduce the code-defined height of the new home by one foot and remove 310 square feet from the floor plan.

Staff acknowledges that revisions to the plan or modifications to the grading of the site would result in additional costs for the property owner. However, a variance may be granted only when the applicant establishes that there are practical difficulties in complying with the ordinance and economic considerations alone do not constitute practical difficulties.

Staff Recommendation

Recommend the planning commission adopt the resolution denying the floor area ratio and building height variances for a new home at 4299 Annika Court.

Originator: Ashley Cauley, Senior Planner
Through: Loren Gordon, AICP, City Planner

Supporting Information

Project No. 22003.22a
Property 4299 Annika Court
Applicant Aaron Clark and Raquel Sanchez, property owners

Surrounding Properties

| | North | South | East | West | Subject Property | |
|------------------------|---------------------------|-----------------------------------|-----------------------------------|---------------------------|------------------|---------------------------|
| | | | | | Existing | Proposed |
| Use | Single family residential | Single family residential and ROW | Single family residential and ROW | Single family residential | Vacant | Single family residential |
| Zoning | R-1A | R-1A | R-1 | R-1A | R-1A | No change |
| Guide Plan Designation | Low density | Low Density | Low density | Low Density | Low density | No change |

Highview Place

The Highview Place development was approved with specific house sizes for each lot. The following chart is intended to summarize what was allowed and what was approved by a building permit for each lot within the development:

| | Address | FAR | | Building Height | |
|--|-------------------|---|-------------|-----------------|----------|
| | | By Code | Approved | By Code | Approved |
| R-1 | 4301 Annika Court | Not applicable based on zoning classification | | | |
| R-1A | 4302 Annika Court | 3,914 sf | 2,781 | 35 ft | 15.38 ft |
| | 4306 Annika Court | 4,925 sf | 4,852 sf | 25 ft | 24.85 ft |
| | 4310 Annika Court | 4,230 sf | 4,208 sf | 25 ft | 25 ft |
| | 4307 Annika Court | 3,800 sf | 3,760 sf | 25 ft | 24.5 ft |
| | 4303 Annika Court | 4,035 sf | 4,892 sf* | 25 ft | 24.25 ft |
| | 4299 Annika Court | 4,190 sf | 4,500 sf ** | 25 ft | 26 ft ** |
| | 4295 Annika Court | 3,760 sf | 3,748 sf | 25 ft | 24.5 ft |
| | 4291 Annika Court | 3,905 sf | 3,877 sf | 25 ft | 24.85 ft |
| * This permit was issued in error ** This requires a variance | | | | | |

Previous Decisions

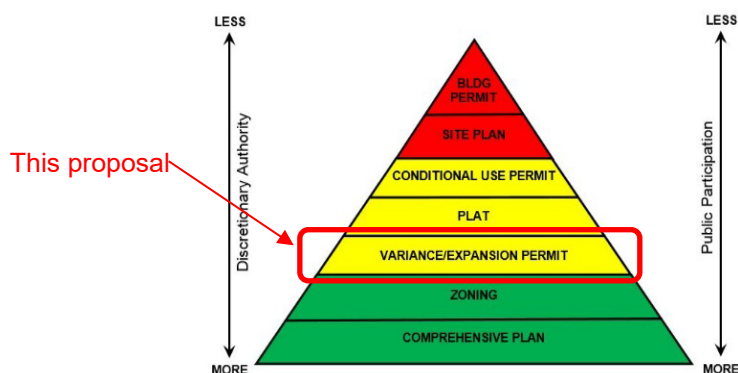
A building permit for a lot within the development was issued in error and inadvertently that allowed for a home larger than what was

approved for the lot. The city attorney has long advised that a previous administrative error is not a justification for a variance.

Variance Standard

A variance may be granted from the requirements of the zoning ordinance when: (1) it is in harmony with the general purposes and intent of the ordinance; (2) it is consistent with the comprehensive plan; and (3) when an applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties mean that the applicant proposes to use a property in a reasonable manner not permitted by the ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and, the variance if granted, would not alter the essential character of the locality. (City Code §300.07)

Pyramid of Discretion



Motion options

The planning commission action on the applicant's request is final subject to appeal. Approval of the variances requires the affirmative vote of five commissioners. The planning commission has the following motion options:

1. Concur with staff's recommendation. In this case, a motion should be made adopting the resolution denying the variances.
2. Disagree with the staff's recommendation. In this case, a motion should be approving the request. The motion should include findings as to how the variance standard is met.
3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Appeals

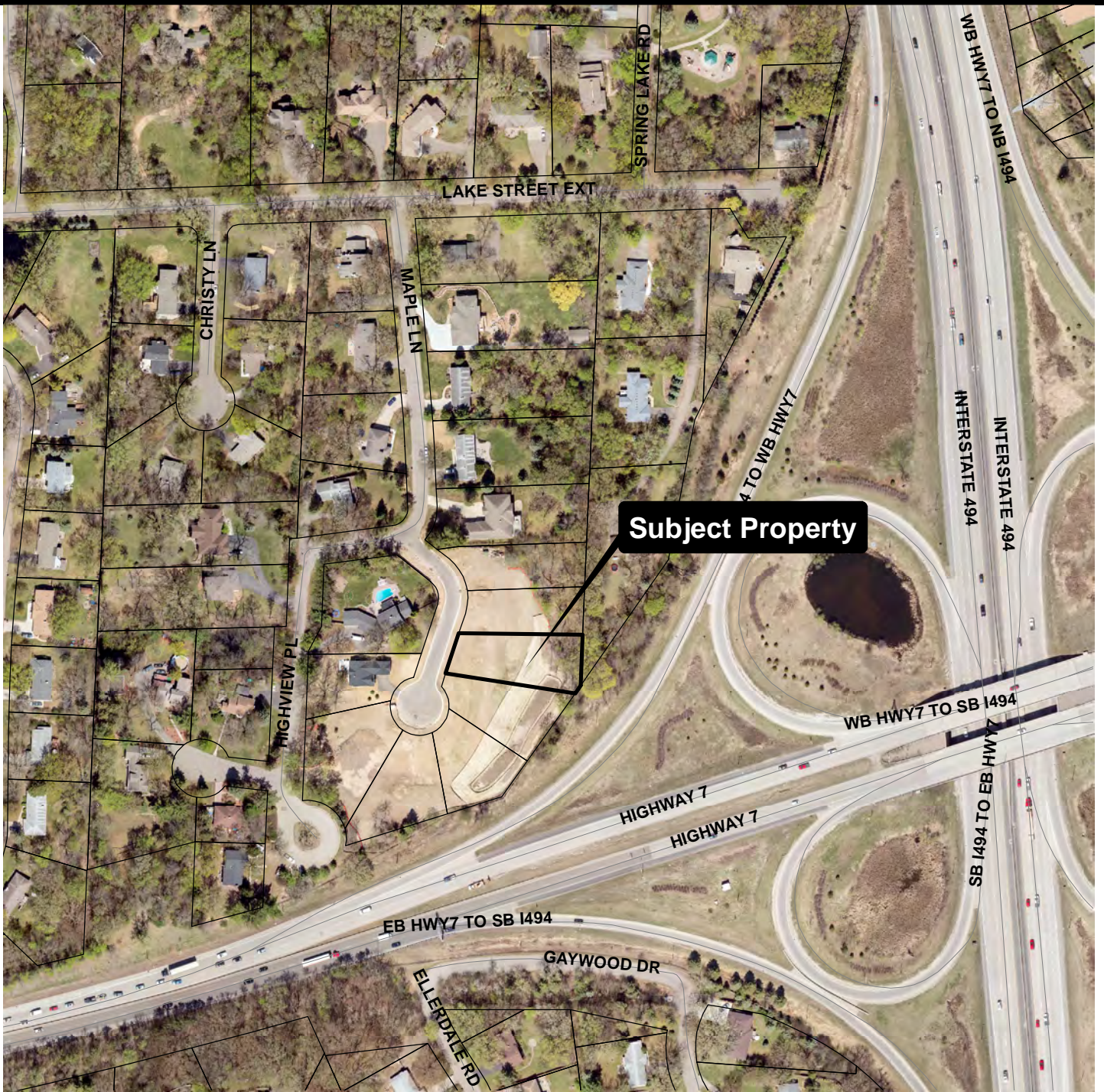
Any person aggrieved by the planning commission's decision about the requested variances may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

**Neighborhood
Comments**

The city sent notices to 17 area property owners and received no comments.

**Deadline for
Decision**

June 9, 2022



LOCATION MAP

Project: Clark and Sanchez Residence
Location: 4299 Annika Court





LA VOI

CUSTOM HOMES & REMODELING

Lavoicustomhomes.com

Recipient Name

4299 Annika Court Minnetonka MN

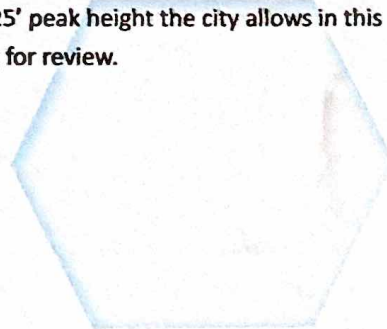
Dear Recipient Name,

In response to your email sent on March 18th 2022 regarding changing your current lot at 4299 Annika Court in Minnetonka from a walk out lot to a full basement styled lot I spoke with my surveyor Trace McCoy from Meyer Rohlin Land Surveying about this option. After reviewing the survey there is an opportunity to do this but it comes with a substantial amount of extra costs in imported fill, excavation work, foundation concrete, waterproofing, foundation insulation and landscaping requirements to do so. The landscaping alone will require retaining walls, French drains and or swales. The final numbers to go this route but it would be in excess of \$150k to do so. His other concern was drainage to neighboring properties as well as still being able to capture a desirable/ usable back yard. The yards adjacent to this property are all walk out lots and to raise said lot would put the final grade significantly higher than the neighboring properties and create a high level of run off onto these properties.

Also in response to the current house design having the roof height requirement to not exceed the maximum allowable height in this development I have Croix Design working on that but not yet completed. They will be dropping the roof pitch slightly so it doesn't change the overall look of the house but still falls in line with the allowable 25' peak height the city allows in this development. As soon as I have that I will pass along for review.

Warm regards,

Nathan LaVoi
OWNER



612-382-3805



nathan@lavoicustom
homes.com



NATHAN LAVOI



Variance Application
Written Statement

Applicant: Aaron Clark and Raquel Sanchez

The intended use of the proposed structure is a single-family home. The reasons for the variance request are related to the lot, the lot topography, and the requirement that the house on the lot be a walkout-style home.

The proposed variance is in harmony and general purpose and intent of the Minnetonka zoning ordinance (the “Ordinance”) to keep the houses in the neighborhood and general area of similar type, size, and character. The architectural plans of the home would be acceptable and comply with the Ordinance, except for the mere fact that the lot purchased by the Applicant requires a walkout basement. The lot was graded in accordance with the developer’s plans approved by the City and to the Applicant purchasing the lot. The lot cannot be regraded, or the topography altered to accommodate a house design without a walkout basement. Any regrading or altering of the topography will change stormwater drainage pathways and could negatively impact the surrounding properties by creating an unnecessary stormwater burden on the surrounding properties. This circumstance was not created by the Applicant, and it is a condition that cannot be changed without significant and potentially detrimentally altering stormwater draining in the area.

The proposed variance is consistent with the Comprehensive Plan. The Comprehensive Plan guides much of surrounding area and the neighborhood as low-density residential.

There are practical difficulties in complying with the Ordinance:

- The proposed use is reasonable – Applicant’s proposed use as a single-family home is reasonable and consistent with the other homes in the neighborhood. The proposed square footage of Applicant’s home is actually smaller than the FAR of the surrounding homes. Additionally, the lot was graded for the design of a home with a walkout basement. The design of the home considered by Applicant was in process prior to the purchase of this specific lot. Prior to completing the purchase of the lot, Applicant was shown other homes in the neighborhood and completed the design to be of similar look, feel, and character of the surrounding homes. If the lot was not graded as a walkout lot, the home as designed would be acceptable under the City’s zoning code. The fact that the design now has a walkout basement (consistent with the grading of the lot), means the home as designed is over the FAR by approximately 300 square feet. Applicant has worked with the architect for several months to try to reduce the FAR as much as possible. Without a complete redesign, significant increased costs to the Applicant, and completely altering the look and feel of the proposed home, the overall FAR has been reduced as far as possible within the confines of this design.

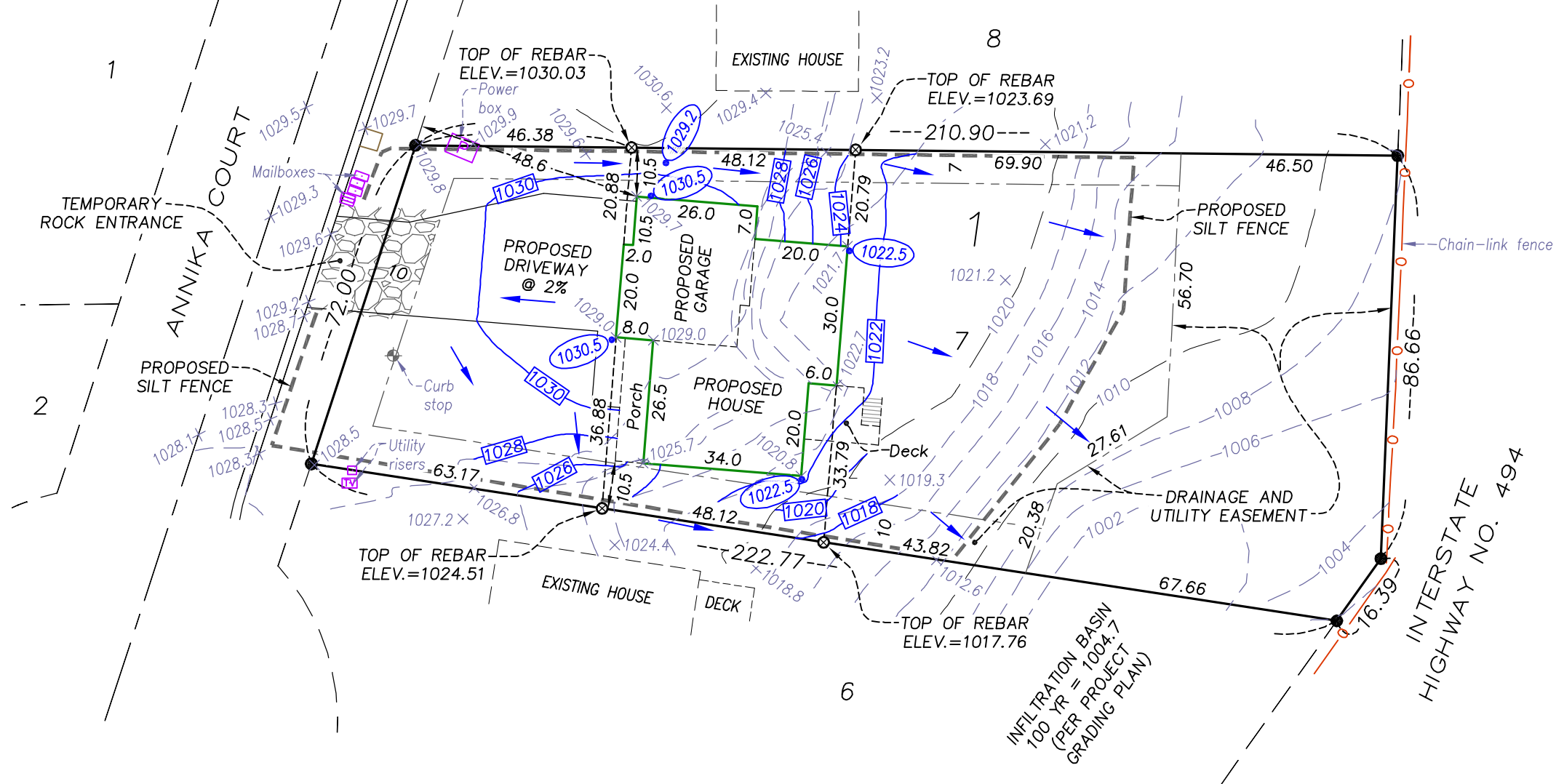
- The need for the variance is caused by circumstances unique to the property. As noted, the lot was graded as a walkout lot, which is consistent with the developer's development plan approved by the City. Applicant did not purchase this lot until after it had been completed as a walkout lot and was not actively seeking a walkout basement home design. The lot is in the area the Applicant was seeking to purchase and/or build. Once the lot was purchased, Applicant submitted the proposed house design to the City and was informed by the City of the FAR concern. Following that, Applicant explored numerous options, including redesigning the home and reconfiguring the lot to accommodate a home without a walkout basement. Applicant was advised by contractors that any attempts to regrade the lot could and likely would alter the stormwater drainage pathways for the subject lot and surrounding properties. The potential detrimental impact to the surrounding properties makes this option unfeasible. If the lot wasn't a walkout lot, Applicant's proposed design of the house would not need a variance. Further, the house design is like other houses in the neighborhood, albeit slightly smaller in proposed finished square feet.
- The proposed use does not alter the essential character of the surrounding area. The homes in the neighborhood are actually larger than the home proposed by Applicant. Additionally, as designed, the home is similar in character to the homes in the neighborhood. Applicant has worked with the architect to reduce the home's FAR and to keep the design similar to the other homes in the neighborhood.
- 4867-8035-7901, v. 1

CERTIFICATE OF SURVEY FOR LAVOI CUSTOM HOMES AND REMODELING, LLC

LOT 7 BLOCK 1
HIGHVIEW PLACE
HENNEPIN COUNTY, MN
Address: 4299 Annika Court Minnetonka, MN



- DENOTES IRON MONUMENT FOUND
- ⊗ DENOTES REBAR SET (HOUSE CORNER OFFSET)



PROPOSED ELEVATIONS

TOP OF FOUNDATION = 1031.0
 GARAGE FLOOR ELEV. = 1030.6
 LOWEST FLOOR ELEV.(walkout) = 1023.0

LEGEND

× 963.5 EXISTING GROUND ELEVATION
 990.9 PROPOSED GROUND ELEVATION
 → DIRECTION OF DRAINAGE
 - - 976 - - EXISTING GROUND CONTOUR
 - - 978 - - PROPOSED GROUND CONTOUR

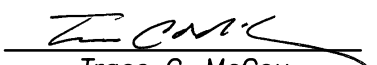
- SURVEYORS NOTES:**
- BUILDER AND/OR OWNER SHALL VERIFY THAT SOIL CONDITIONS ARE SUITABLE FOR THE PROPOSED CONSTRUCTION
 - BUILDER AND/OR OWNER SHALL VERIFY PROPOSED TOP OF FOUNDATION & FLOOR ELEVATION SEPARATION DIMENSIONS AND HOUSE FOOTPRINT DIMENSIONS. NOTIFY MEYER-ROHLIN LAND SERVICES OF ANY DISCREPANCIES PRIOR TO BEGINNING EXCAVATION.
 - THIS SURVEY IS PROVIDED ONLY FOR USE BY THE CLIENT NAMED HEREON, FOR THE PURPOSE OF OBTAINING A BUILDING PERMIT FOR THE PROPOSED HOUSE SHOWN HEREON.
 - TITLE DOCUMENTATION WAS NOT PROVIDED BY THE CLIENT. EASEMENTS ARE SHOWN ONLY ACCORDING TO THE RECORDED PLAT. EASEMENTS / ENCUMBRANCES MAY EXIST WHICH ARE NOT SHOWN HEREON.
 - BENCHMARK: MN/DOT GEODETIC MONUMENT "ELLER MNDT RM 2". ELEV.=1057.06 (NAVD 88 DATUM)

LOT AREA: 18,852 s.f. +/-

APPROX. IMPERVIOUS SURFACE AREAS

| | |
|-------------------|------------|
| HOUSE | 1,428 s.f. |
| GARAGE | 815 s.f. |
| PORCH | 159 s.f. |
| SIDEWALK/DRIVEWAY | 1,439 s.f. |

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

Date 08/25/2021 
 Trace C. McCoy
 License No. 44531

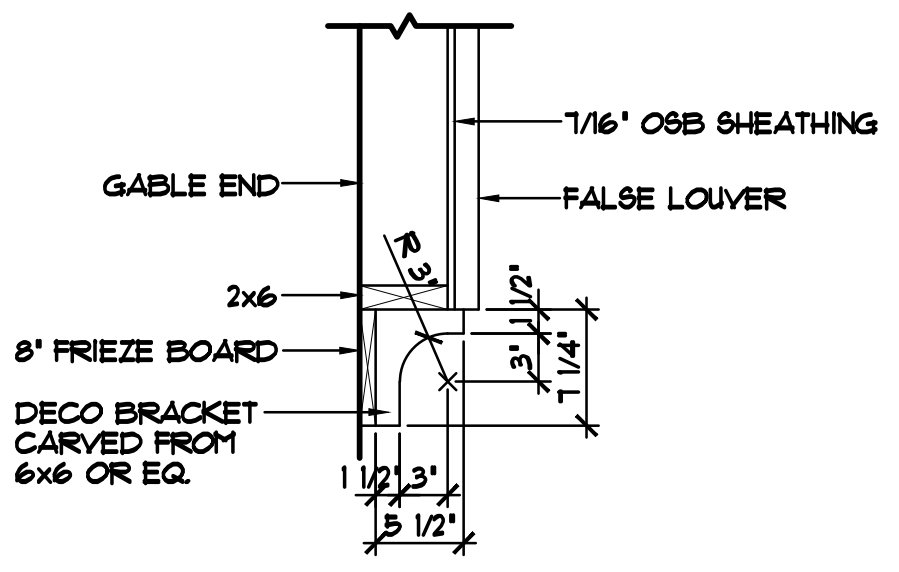
| | |
|---|-----------------------------------|
|  708 1ST AVENUE NE, #1 BUFFALO, MN 55313 PH. 763.682.1781 WWW.MEYERROHLIN.COM | REVISIONS |
| | SHEET <u>1</u> OF <u>1</u> SHEETS |
| DRAWN BY <u>AAN</u> | DATE <u>08/25/2021</u> |
| FILE NO. <u>21378</u> | |

| REVISIONS | BY |
|-----------|--------|
| 15231 | N.F. |
| 16021 | W.L.C. |
| 16220 | W.L.C. |

NOTE!!!
 PROVIDE STANDARD
 ENERGY HEEL • ALL
 ROOF TRUSSES (U.N.O.)

| LEVEL HEIGHT INFORMATION TABLE | | |
|--------------------------------|-----------|--------------------|
| LEVEL | R.C.H. | TOP OF WINDOW R.O. |
| BASEMENT | 8'-2" | 6'-10 1/2" |
| MAIN LEVEL | 9'-1 1/8" | 7'-10 1/2" |
| UPPER LEVEL | 8'-1 1/8" | 6'-10 1/2" |

- CRAFTSMAN WINDOW SPEC'D.
- WINDOWS w/GRIDS WHERE SHOWN
- LP SMART SIDING/CORNER TRIM
- ALUMINUM SOFFITS & FASCIA
- STONE VENEER WHERE SHOWN



BUILT OUT LOUVER DETAIL 1"=1'-0"



STANDARD FRONT ELEVATION 1/4"=1'-0"

1445 SQ. FT. FIRST FLOOR
 1459 SQ. FT. SECOND FLOOR
 2904 SQ. FT. TOTAL
 88 SQ. FT. STAIRS (NOT INCLUDED)

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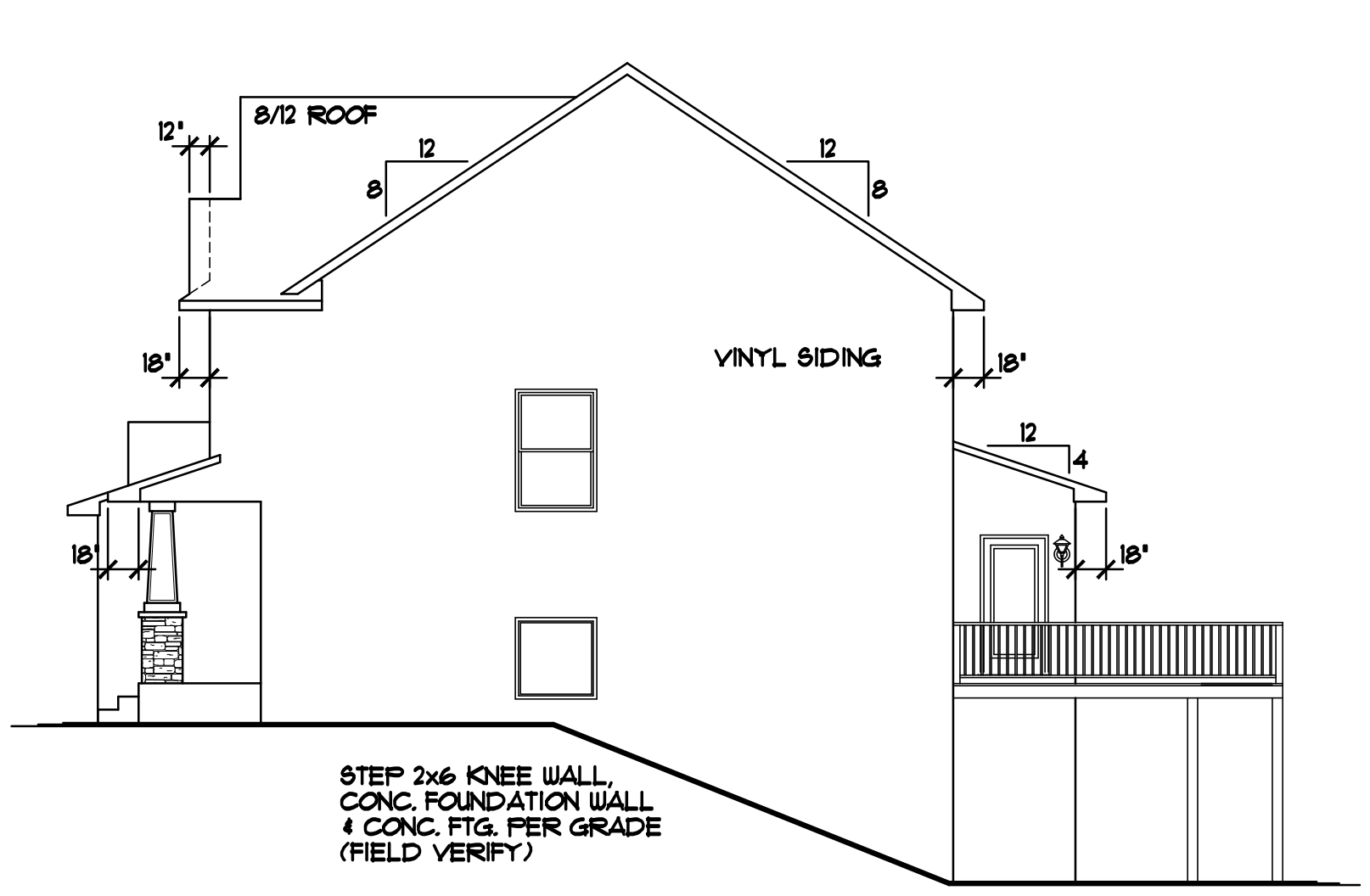


ARCHITECTURAL DESIGN and DRAFTING SERVICE •
 HOME PLAN SERVICE • CUSTOM HOMES • REMODELING •
 PHONE: 763.757.5997 • ANDOVER, MINNESOTA •
 WWW.CROIXDESIGN.COM

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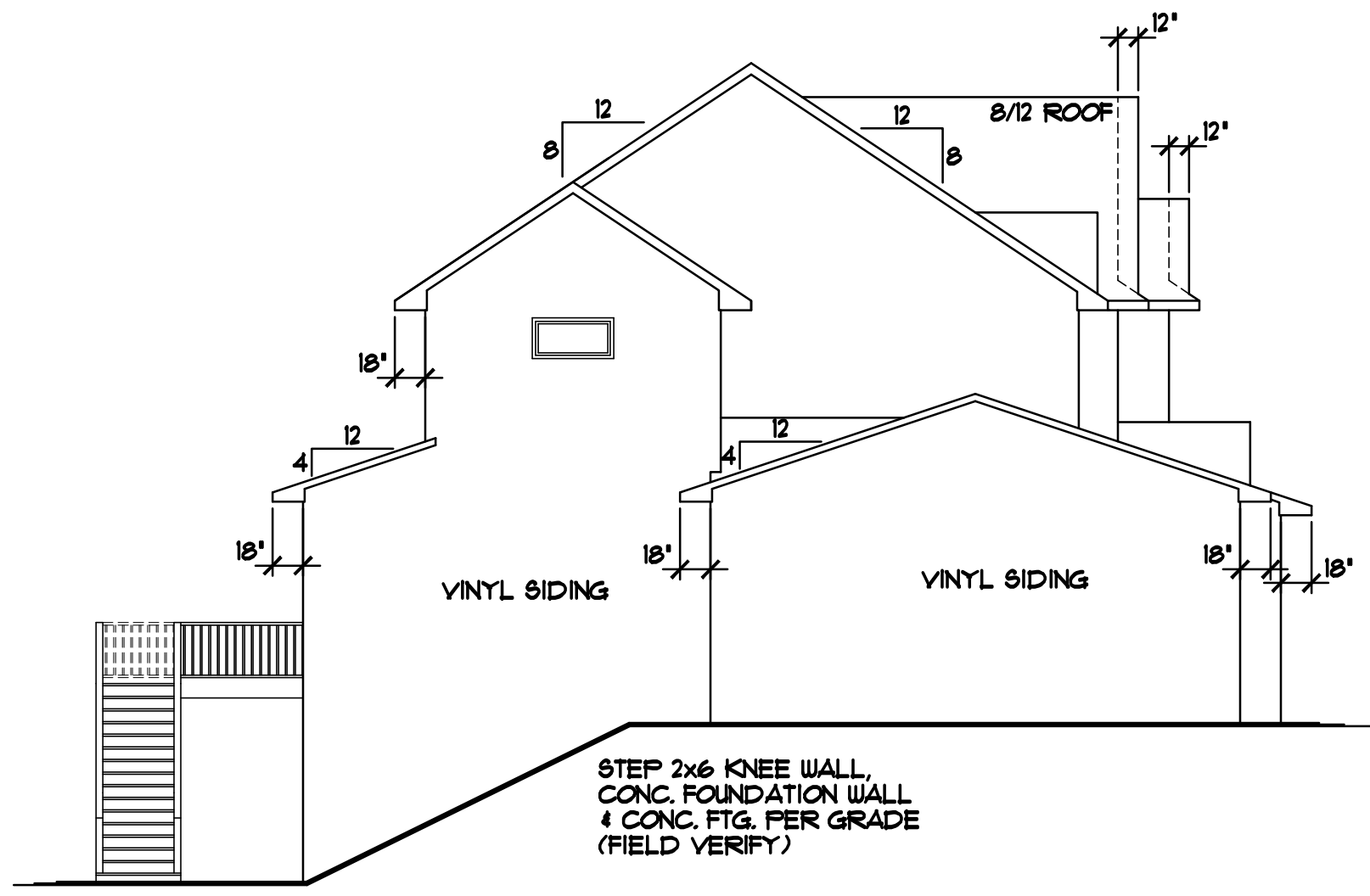
LAYOI CUSTOM HOMES

| | |
|-------------|------------|
| DRAWN | JK |
| CHECKED | RB |
| DATE: | 08/03/2021 |
| SCALE: | AS NOTED |
| CADD FILE # | 21175 |

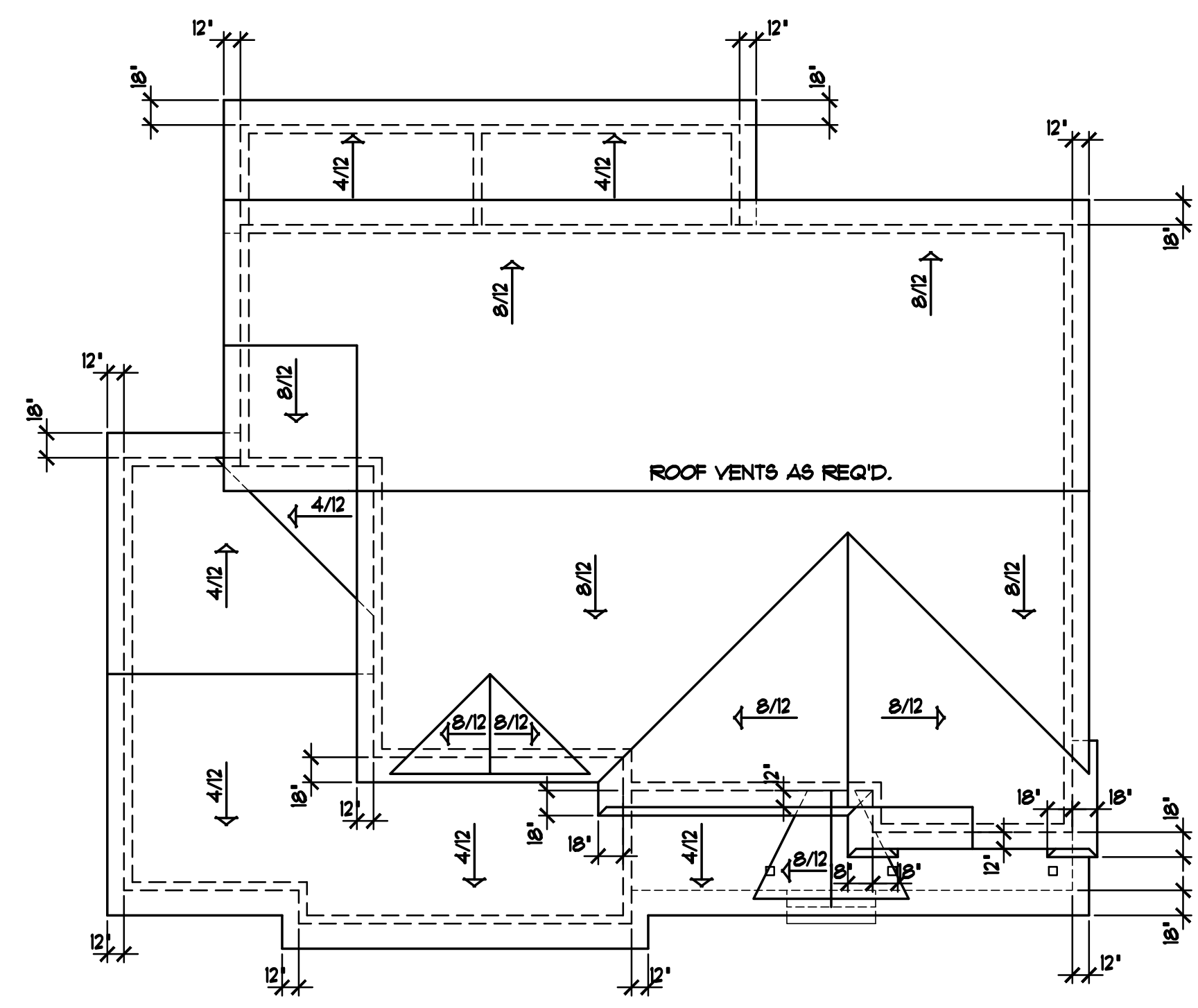


RIGHT ELEVATION 1/8"=1'-0"

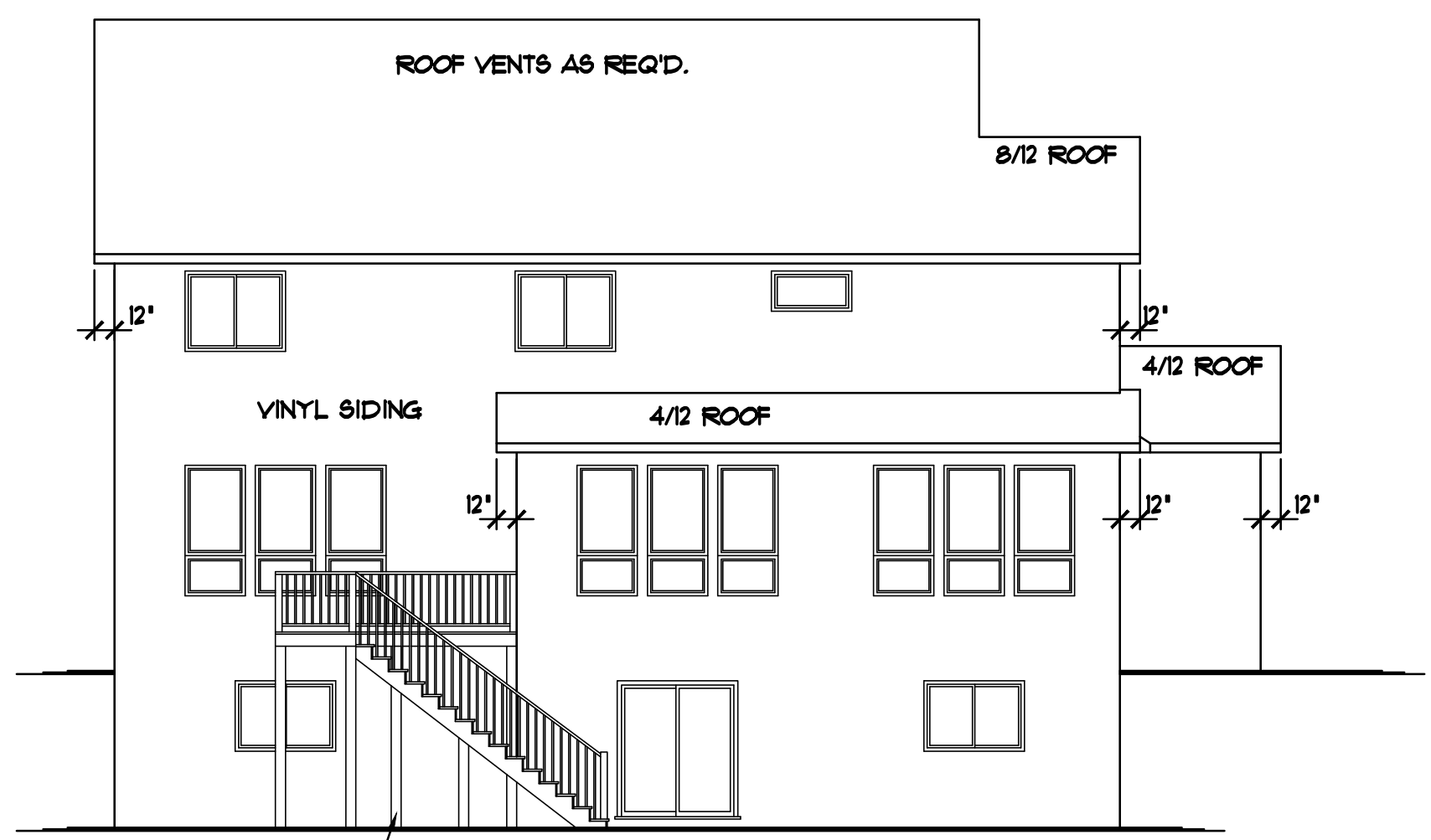
NOTE III
 PROVIDE STANDARD ENERGY HEEL @ ALL ROOF TRUSSES (U.N.O.)



LEFT ELEVATION 1/8"=1'-0"



BIRD'S-EYE ROOF PLAN 1/8"=1'-0"



NOTE III
 PROVIDE TWO 6x6 POSTS ON A 12' RND. x 48" DEEP CONC. POST FTG. AT MID SPAN OF OUTER STRINGERS (TYP.)

REAR ELEVATION 1/8"=1'-0"

| REVISIONS |
|----------------|
| 00000 BY:XX |
| 00000 BY:XX |

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OFFICE: 763.757.5987
 FAX: 763.757.4383
 ANDOVER, MINNESOTA
 WWW.CROIXDESIGN.COM



BUILT BY:
LAYOI CUSTOM HOMES

NOTE III
NO SILL OVERHANG @
REAR FOUNDATION WALKOUT
WALLS (TYP)

FRAMING & CONSTRUCTION NOTES

- 8'-2" PLATE HEIGHT @ ENTIRE LOWER LEVEL (UNLESS NOTED OTHERWISE)
- PROVIDE 1/2" GYP. BD. @ BASEMENT CEILING & ALLOW 80 SQFT. (MAX) OPEN CLG. AREA FOR MECHANICAL, FIRE BLOCK TRUSS SPACE
- PERIMETER OF OPEN AREA

| REVISIONS |
|---------------------------|
| XX/XX/XX 0000 BY:XX |
| XX/XX/XX 0000 BY:XX |

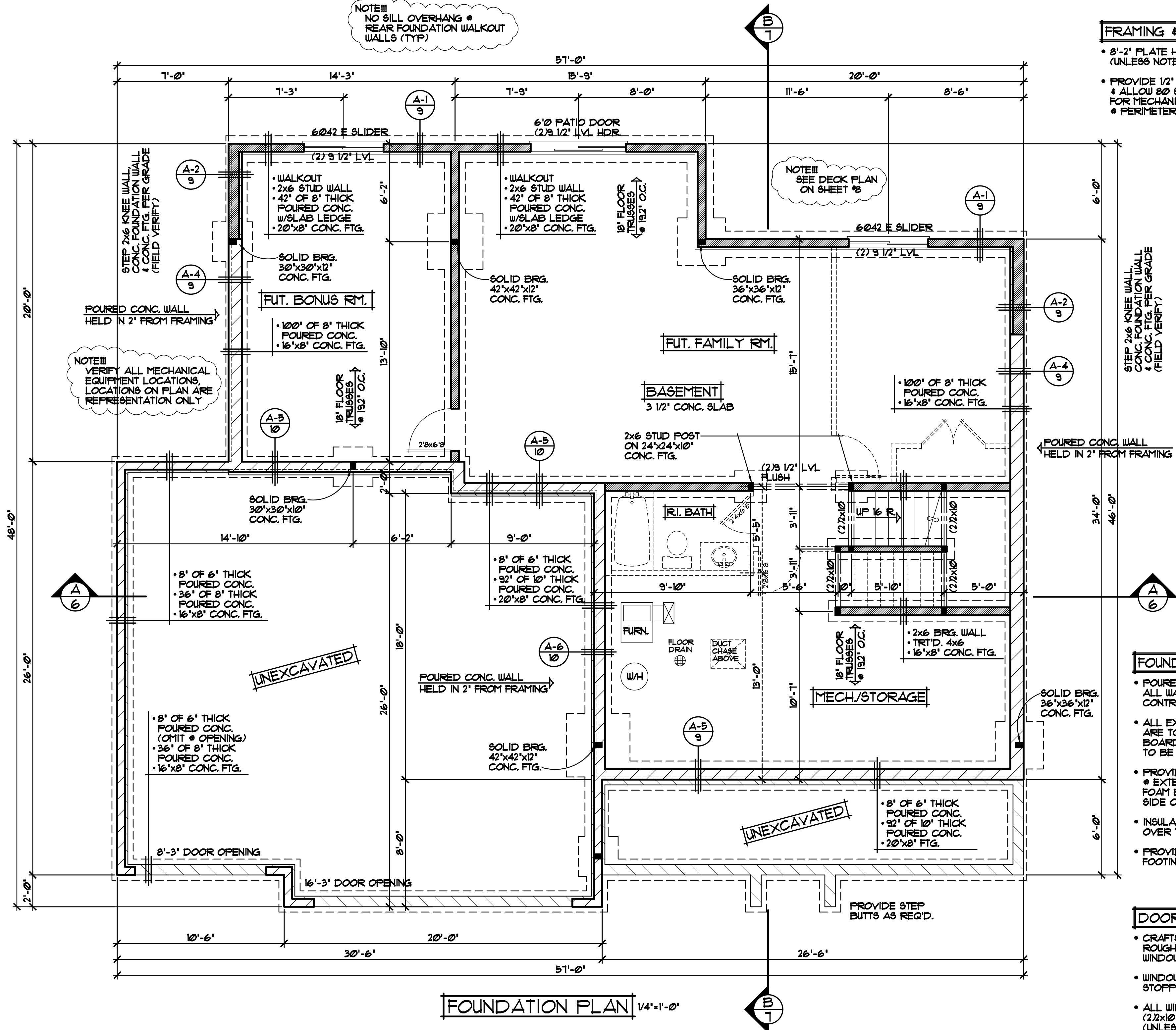
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SHEET
3
OF 10
CADD FILE #
21179



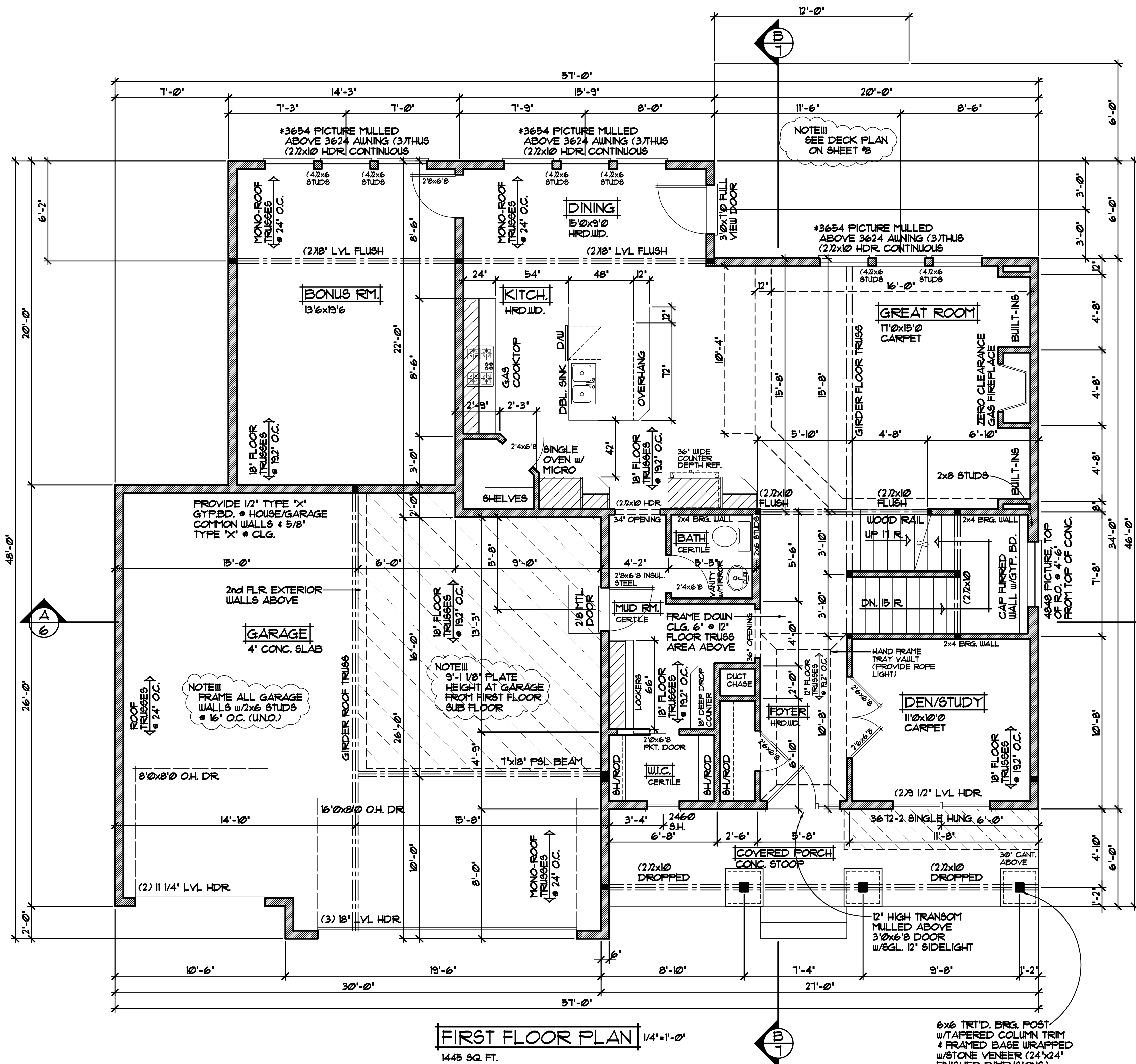
FOUNDATION PLAN 1/4" = 1'-0"

FOUNDATION CONST. NOTES

- POURED CONCRETE FOUNDATION, VERIFY ALL WALL DIMENSIONS w/ FOUNDATION CONTRACTOR
- ALL EXTERIOR FOUNDATION DIMENSIONS ARE TO OUTSIDE OF EXTERIOR FOAM BOARD INSUL. OR SHEATHING, FOUNDATION TO BE HELD IN WHERE NOTED/SHOWN
- PROVIDE 2" R10 FOAM BOARD INSULATION @ EXTERIOR FOUNDATION WALLS & 1" R5 FOAM BOARD INSULATION AT INTERIOR SIDE OF FOUNDATION WALLS (TYP.)
- INSULATION & AIR BARRIER TO BE CONT. OVER TOP OF FOUNDATION WALLS (TYP.)
- PROVIDE (2) #4 BAR AT ALL CONC. FOOTINGS (TYP.)

DOOR & WINDOW NOTES

- CRAFTSMAN WINDOWS SPECIFIED, VERIFY ROUGH OPENING SIZES FOR DOORS & WINDOWS w/ MANUFACTURER
- WINDOWS with 'x' REQUIRE A SASH STOPPER (TYP.)
- ALL WINDOW & DOOR OPENINGS TO HAVE (2) 2x10 @ 2 GRADE HEADER or BETTER (UNLESS NOTED OTHERWISE)
- TOP OF R.O. FOR ALL WINDOWS ON LOWER LEVEL TO BE 6'-10 1/2" FROM FLOOR (UNLESS NOTED OTHERWISE)



FIRST FLOOR PLAN 1/4"=1'-0"
1445 SQ. FT.

FRAMING NOTES

- 9'-1 1/8" PLATE HEIGHT • ENTIRE MAIN LEVEL (UNLESS NOTED OTHERWISE)
- FRAME ALL GARAGE STUDS w/ 2x6 STUDS • 16" O.C. (TYP.)

DOOR & WINDOW NOTES

- CRAFTSMAN WINDOWS SPECIFIED, VERIFY ROUGH OPENING SIZES FOR DOORS & WINDOWS w/ MANUFACTURER
- WINDOWS with '*' REQUIRE A SASH STOPPER (TYP.)
- ALL WINDOW & DOOR OPENINGS TO HAVE (2) 2x10 #2 GRADE HEADER or BETTER (UNLESS NOTED OTHERWISE)
- TOP OF RO. FOR ALL WINDOWS ON MAIN LEVEL TO BE 7'-10 1/2" FROM SUB-FLOOR (UNLESS NOTED OTHERWISE)

6x6 TRTD. BRG. POST w/ TAPERED COLUMN TRIM & FRAMED BASE WRAPPED w/ STONE VENEER (24"x24" FINISHED DIMENSIONS) CAPPED w/ STONE • 42" FROM DECKING, (3) THUS

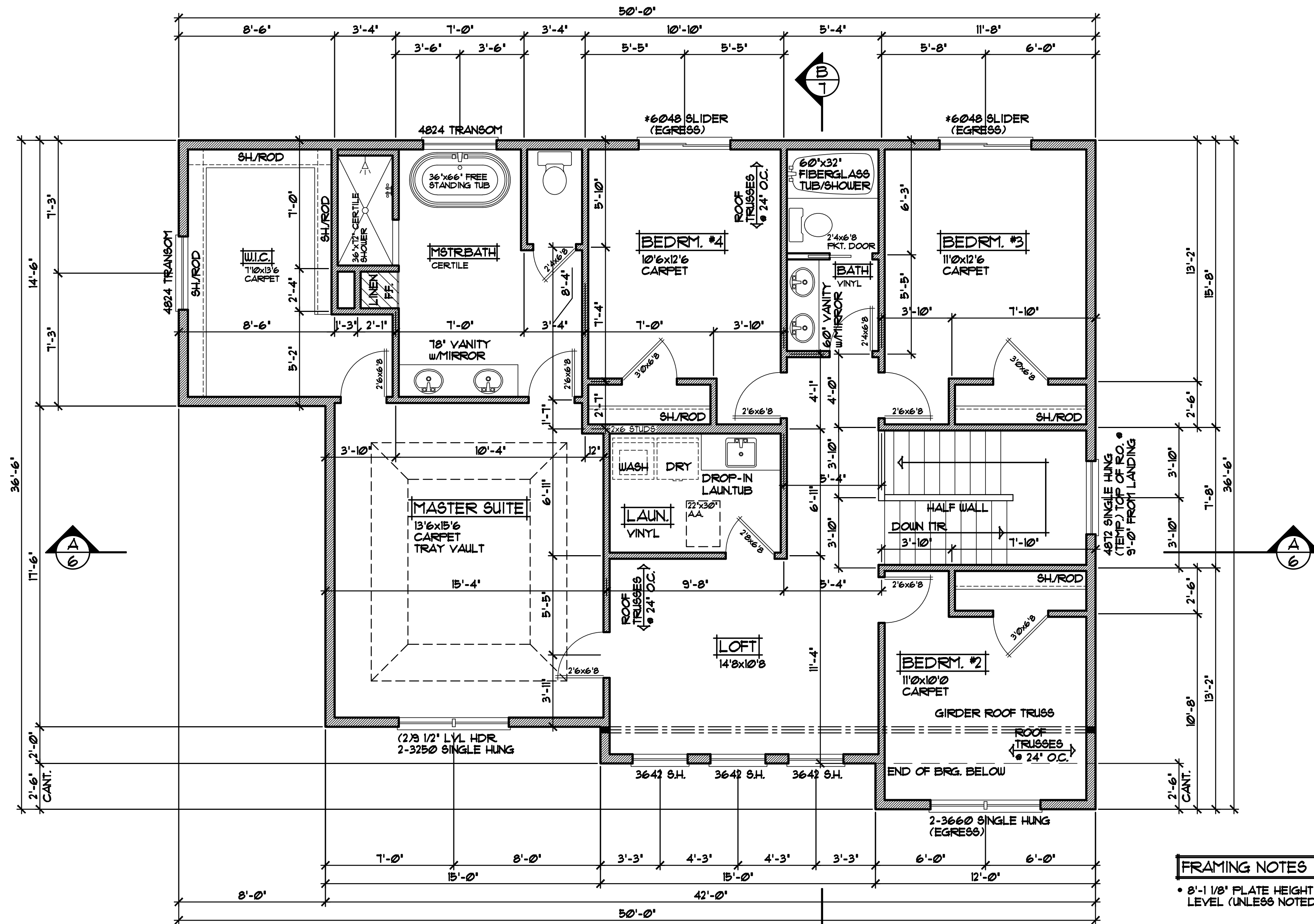
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SECOND FLOOR PLAN 1/4" = 1'-0"
 1459 SQ. FT.
 88 SQ. FT. STAIRS (NOT INCLUDED)

FRAMING NOTES

- 8'-1 1/8" PLATE HEIGHT • ENTIRE UPPER LEVEL (UNLESS NOTED OTHERWISE)

DOOR & WINDOW NOTES

- CRAFTSMAN WINDOWS SPECIFIED, VERIFY ROUGH OPENING SIZES FOR DOORS & WINDOWS w/ MANUFACTURER
- WINDOWS with 'x' REQUIRE A SASH STOPPER (TYP.)
- ALL WINDOW & DOOR OPENINGS TO HAVE (2)2x10 #2 GRADE HEADER or BETTER (UNLESS NOTED OTHERWISE)
- TOP OF R.O. FOR ALL WINDOWS ON UPPER LEVEL TO BE 6'-10 1/2" FROM SUB-FLOOR (UNLESS NOTED OTHERWISE)

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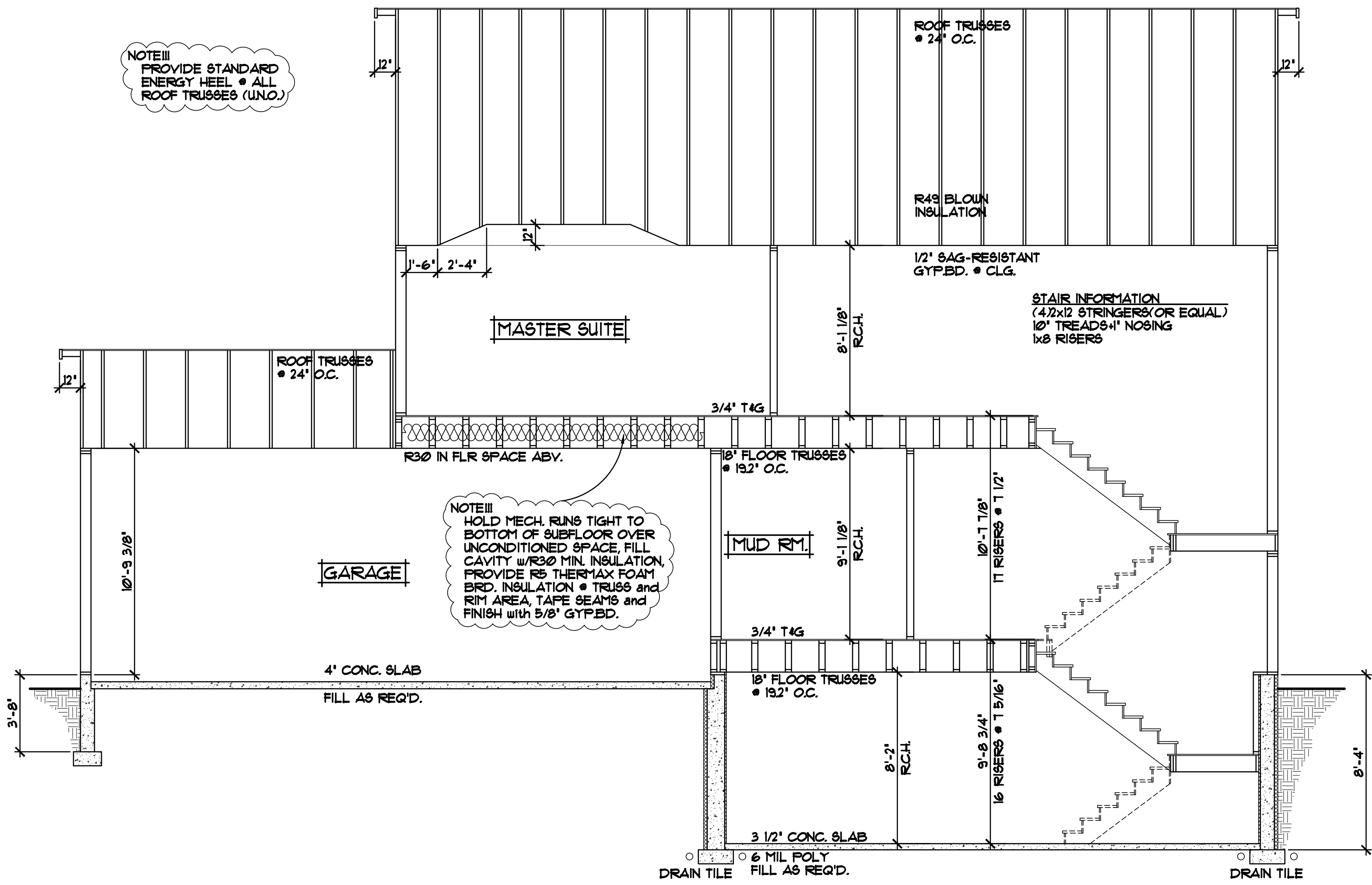


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NOTE!!!
PROVIDE STANDARD ENERGY HEEL @ ALL ROOF TRUSSES (U.N.O.)

NOTE!!!
HOLD MECH. RUNS TIGHT TO BOTTOM OF SUBFLOOR OVER UNCONDITIONED SPACE, FILL CAVITY w/R30 MIN. INSULATION, PROVIDE R5 THERMAX FOAM BRD. INSULATION @ TRUSS and RIM AREA, TAPE SEAMS and FINISH with 5/8" GYP.BD.



- ROOF CONSTRUCTION:**
- PREMANUFACTURED ROOF TRUSSES - ENGINEERED BY SUPPLIER - SLOPES VARY - SEE PLAN
 - R49 BLOWN FIBERGLASS INSULATION
 - 1/150 ROOF VENT AT SOFFITS, 1/150 VENT AT RIDGE
 - AIR CHUTE AT EACH TRUSS SPACE
 - 15/32" ROOF SHEATHING
 - ICE & WATER MEMBRANE APPLIED 24" FAST EXTERIOR WALL
 - ASPHALT SHINGLES,

- SOFFIT / FASCIA:**
- 2x6 SUB-FASCIA
 - MAINTENANCE FREE FASCIA COVER
 - MAINTENANCE FREE VENTED SOFFIT

- WALL CONSTRUCTION:**
- HOUSE WRAP
 - 1/16" OSB SHEATHING
 - 2x6 STUDS @ 16" O.C.
 - WINDOWS PER SPEC'S.
 - R-20 F.G. BATT INSULATION
 - 4 MIL POLY VAPOR BARRIER
 - 1/2" GYPSUM BOARD

- RIM AREA CONSTRUCTION:**
- CLOSED CELL SPRAYED FOAM INSUL. R20 (MINIMUM) @ RIM AREA AND R30 (MINIMUM) @ CANTS.

- WALL CONSTRUCTION:**
- HOUSE WRAP
 - 1/16" OSB SHEATHING
 - 2x6 STUDS @ 16" O.C.
 - WINDOWS PER SPEC'S.
 - R-20 F.G. BATT INSULATION
 - 4 MIL POLY VAPOR BARRIER
 - 1/2" GYPSUM BOARD

- SILL CONSTRUCTION:**
- 2x8 SILL PLATE & SEALER (2x6 PLATE @ WALKOUT AREAS)
 - 1/2" ANCHOR BOLTS @ 48" O.C.

- FOUNDATION INSULATION:**
- FOUNDATION EXTERIOR- 2" R-10 RIGID FOAM BOARD INSULATION
 - FOUNDATION INTERIOR- 1" R-5 RIGID FOAM BOARD INSULATION

CROSS SECTION "A" 1/4"=1'-0"

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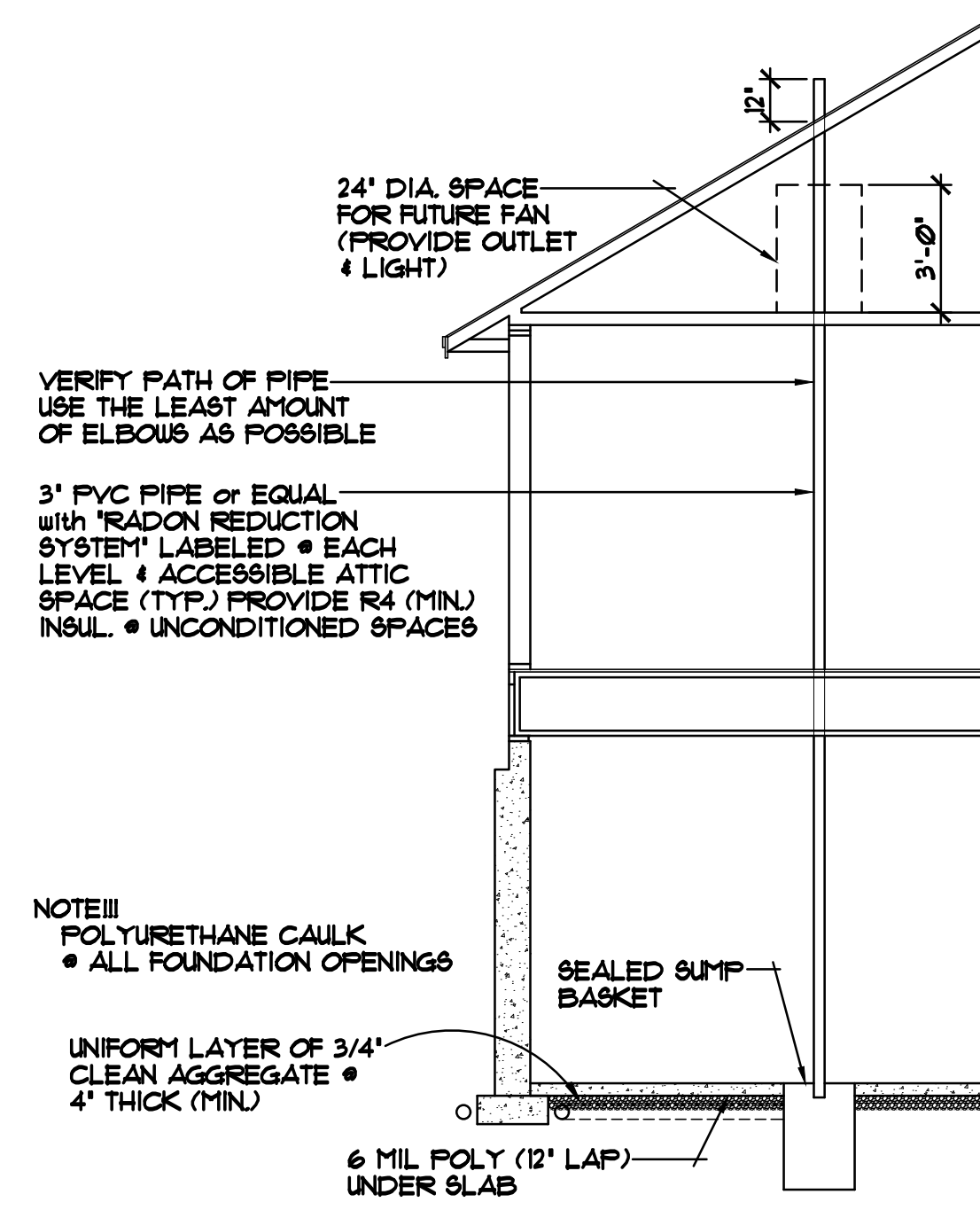
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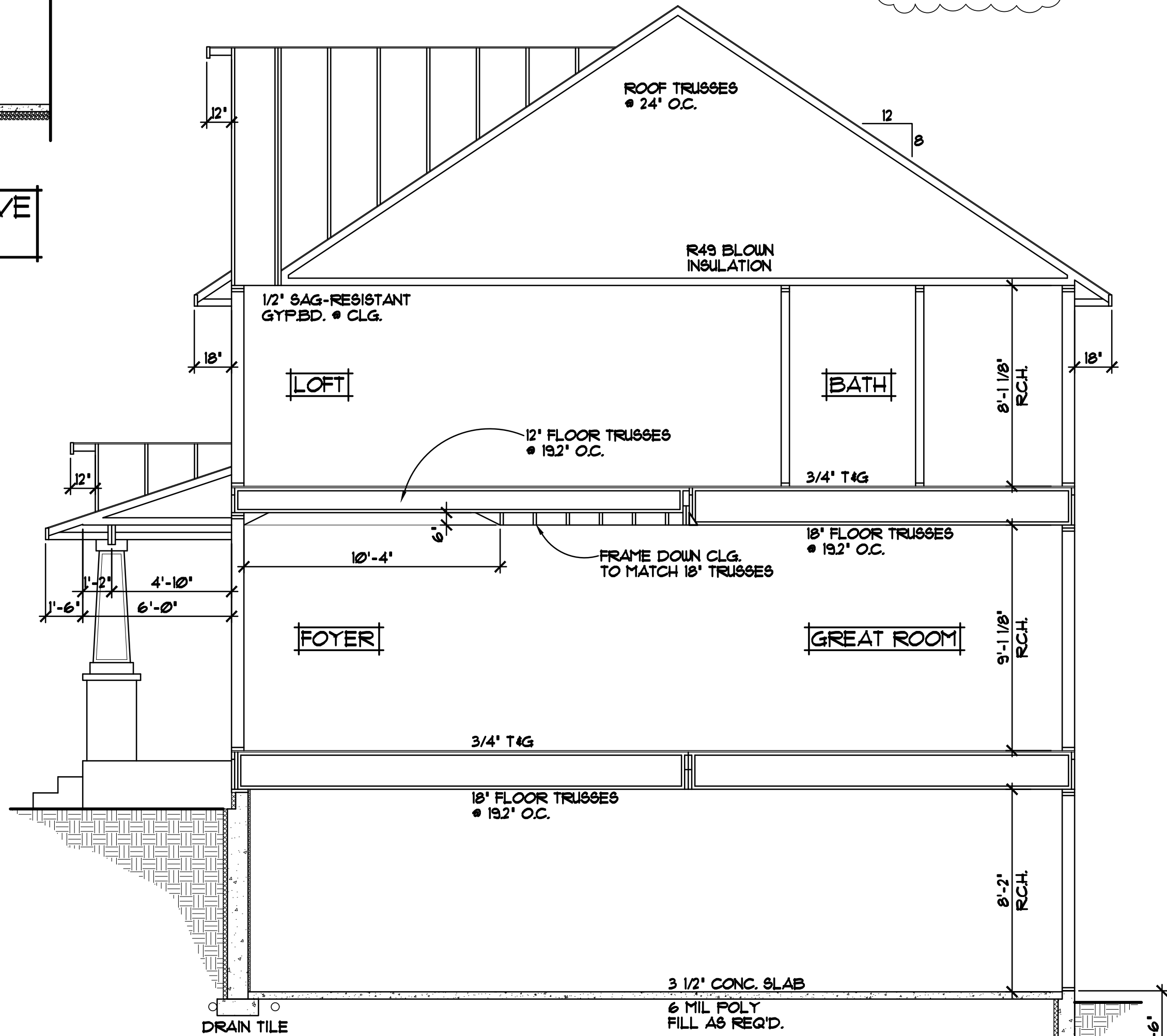


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ALTERNATE METHOD FOR PASSIVE RADON MITIGATION SYSTEM



CROSS SECTION "B" 1/4"=1'-0"

- ROOF CONSTRUCTION:**
- PREMANUFACTURED ROOF TRUSSES - ENGINEERED BY SUPPLIER - SLOPES VARY - SEE PLAN
 - R49 BLOWN FIBERGLASS INSULATION
 - 1/150 ROOF VENT AT SOFFITS, 1/150 VENT AT RIDGE
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- RIM AREA CONSTRUCTION:**
- CLOSED CELL SPRAYED FOAM INSUL. R20 (MINIMUM) • RIM AREA AND R30 (MINIMUM) • CANTS.

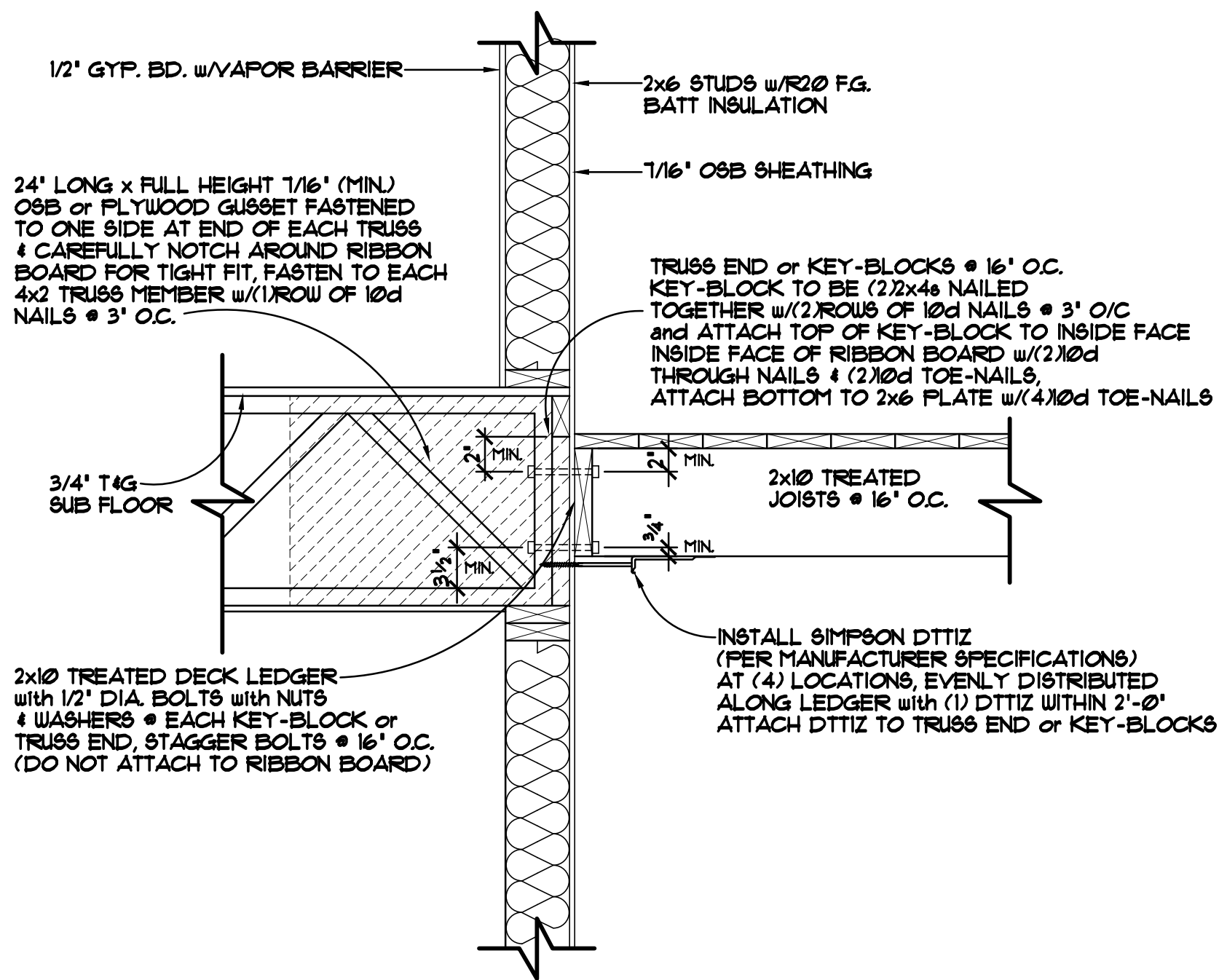
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- HOUSE WRAP
 - 1/16" OSB SHEATHING
 - 2x6 STUDS @ 16" O.C.
 - WINDOWS PER SPEC'S
 - R-20 F.G. BATT INSULATION
 - 4 MIL POLY VAPOR BARRIER
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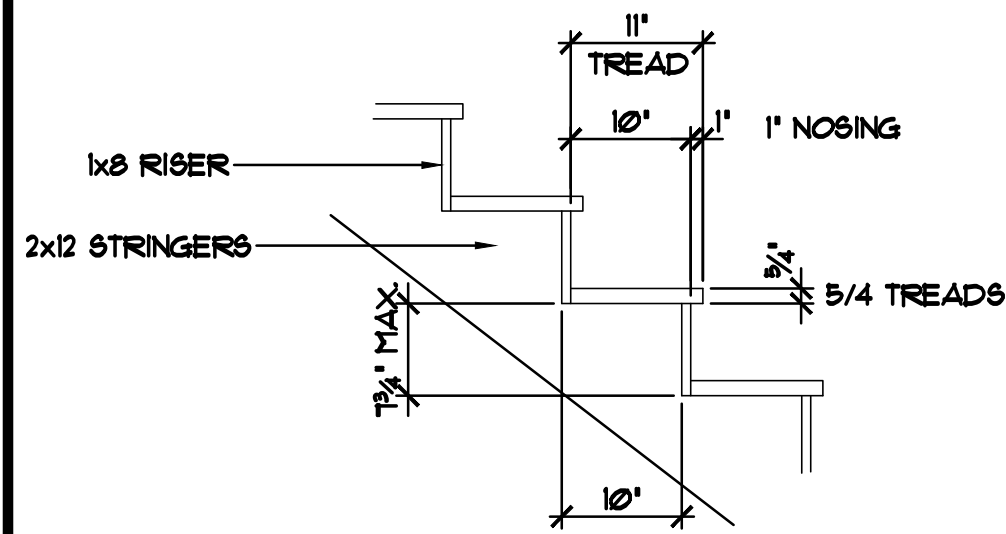
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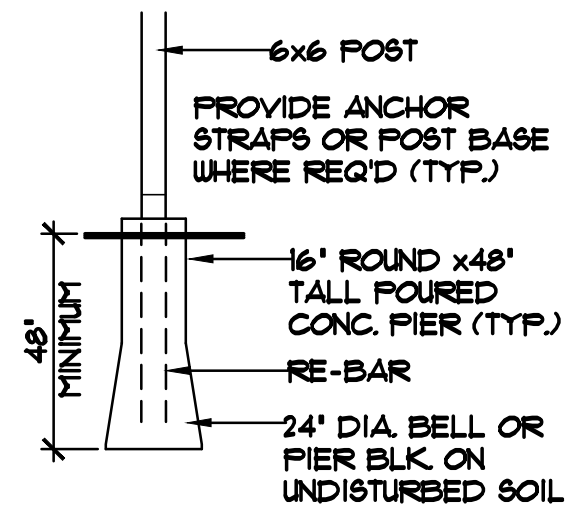
- FOUNDATION INSULATION:**
- FOUNDATION EXTERIOR- 2" R-10 RIGID FOAM BOARD INSULATION
 - FOUNDATION INTERIOR- 1" R-5 RIGID FOAM BOARD INSULATION



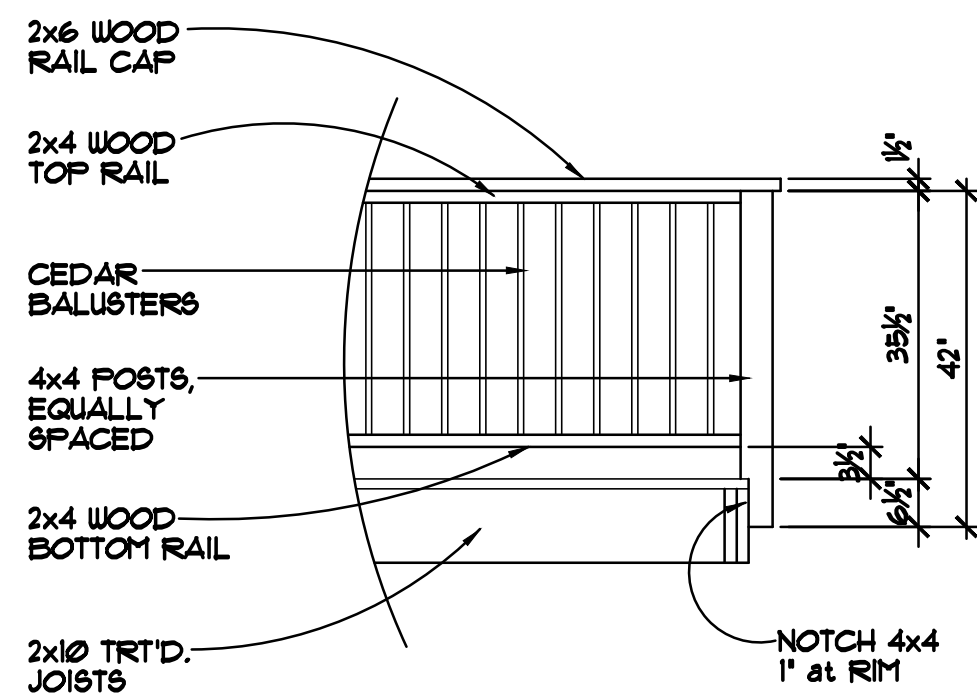
DECK LEDGER DETAIL 1"=1'-0"



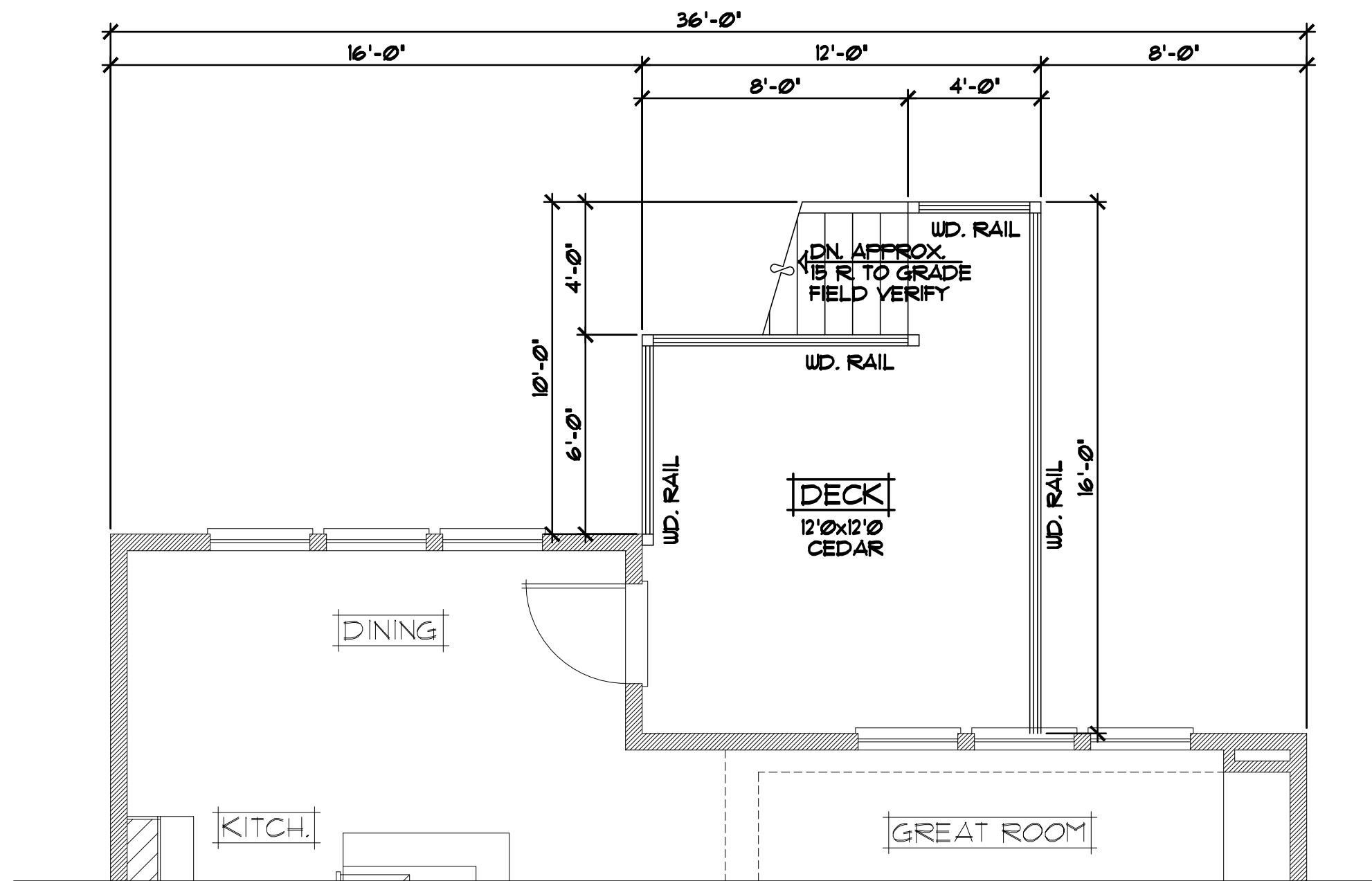
STAIR FRAMING DETAIL 3/4"=1'-0"



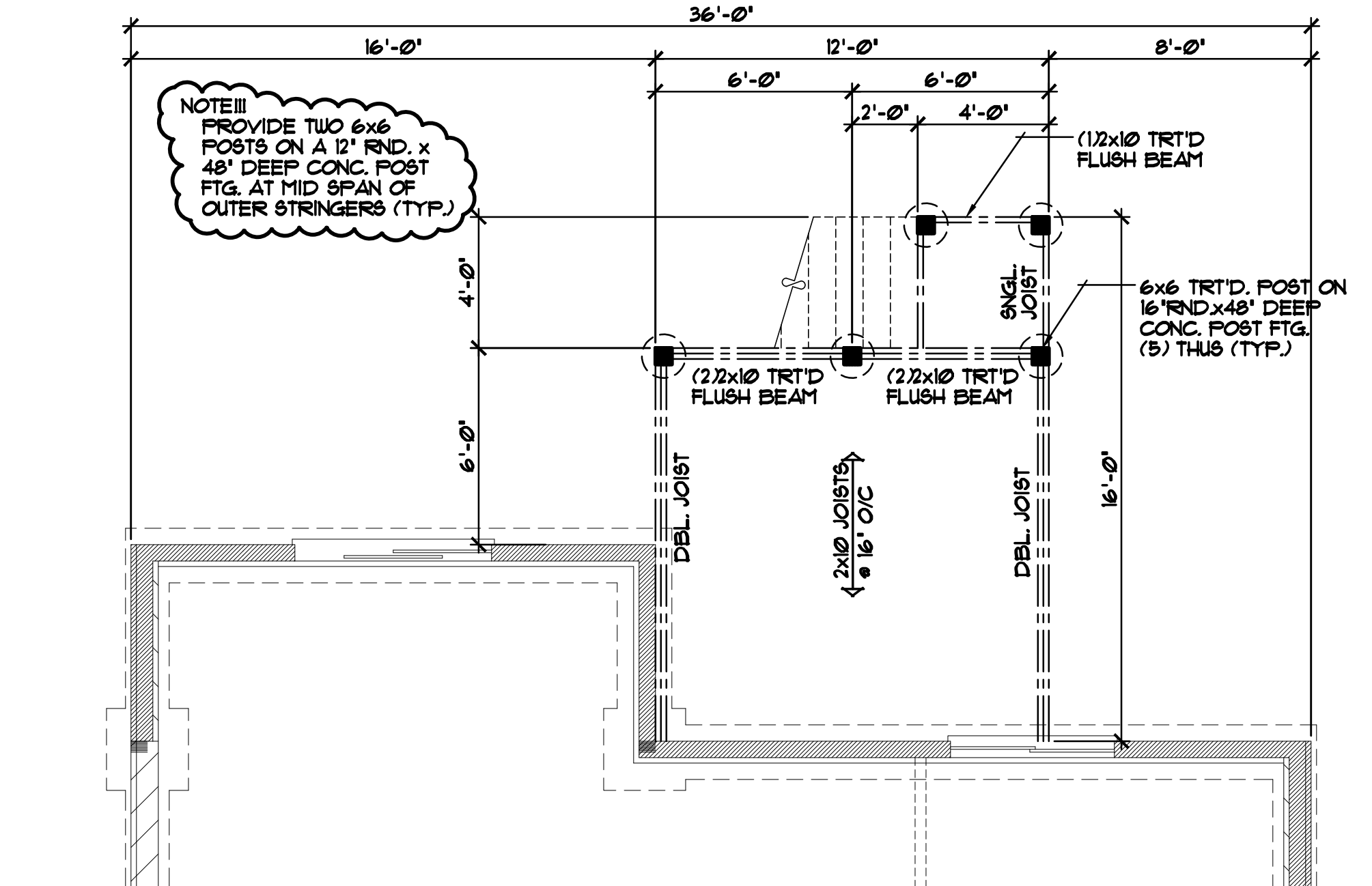
COLUMN FOOTING DETAIL 1/4"=1'-0"



DECK RAIL DETAIL 1/2"=1'-0"



DECK PLAN 1/4"=1'-0"



DECK FOUNDATION 1/4"=1'-0"

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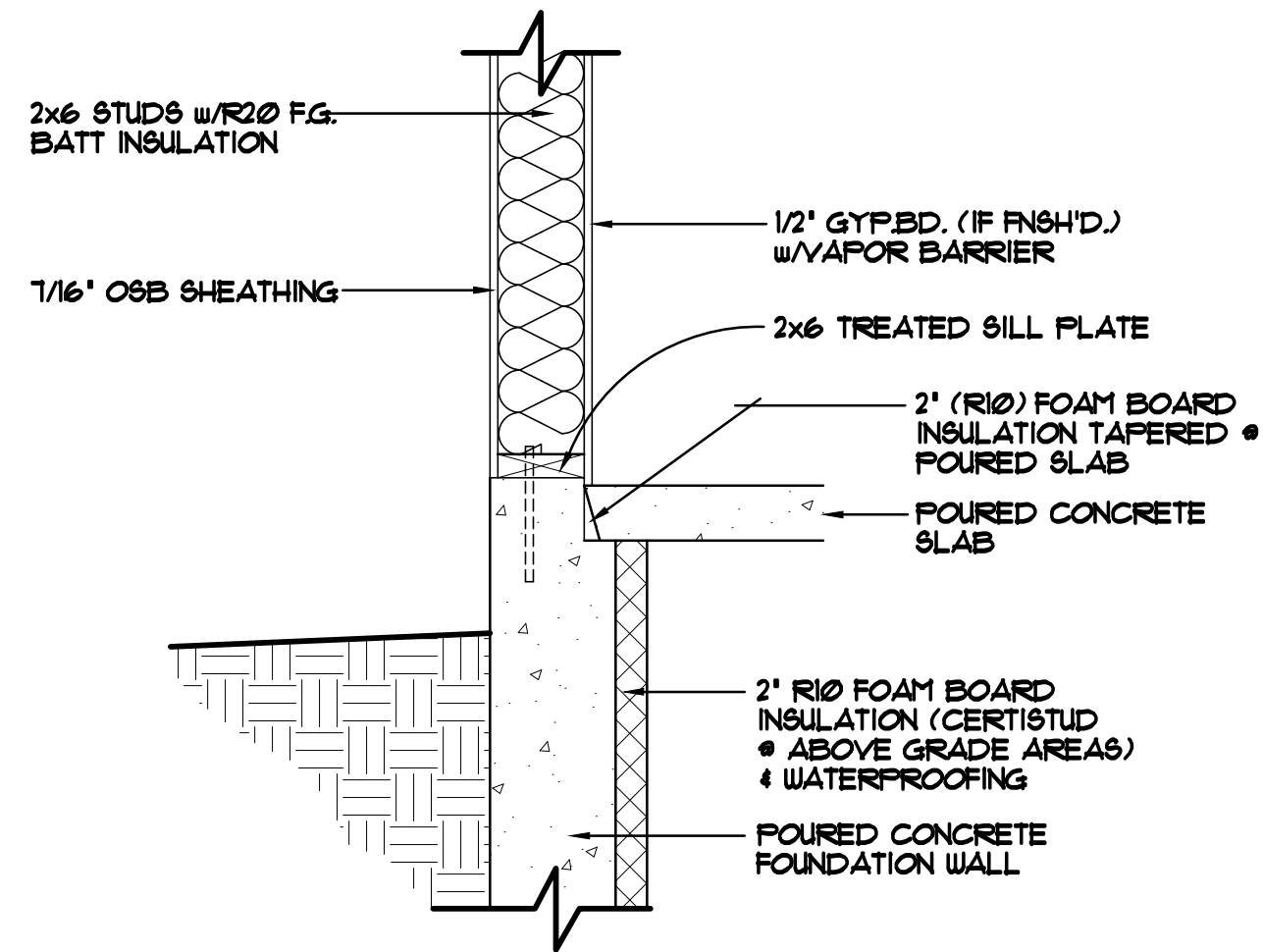
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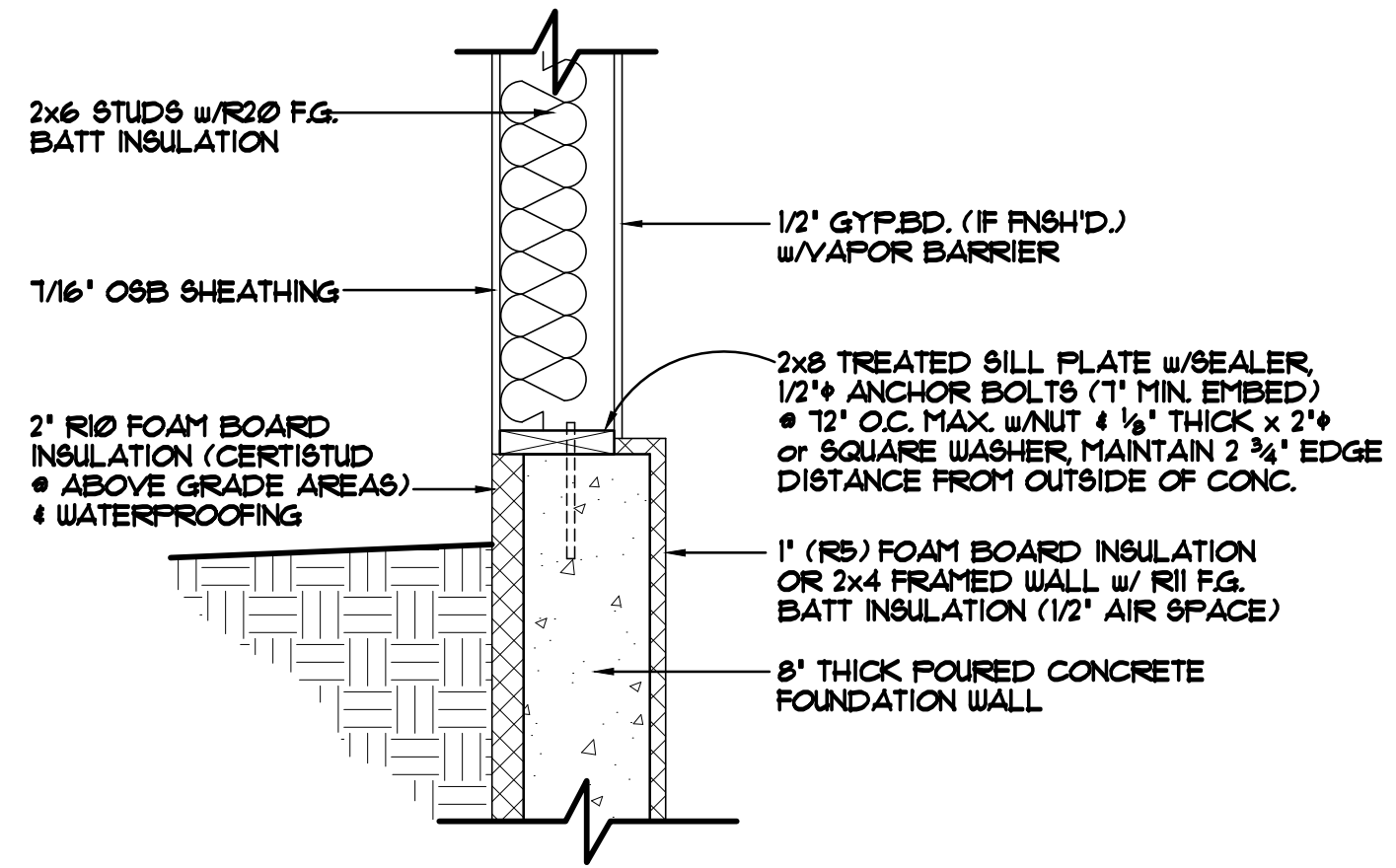


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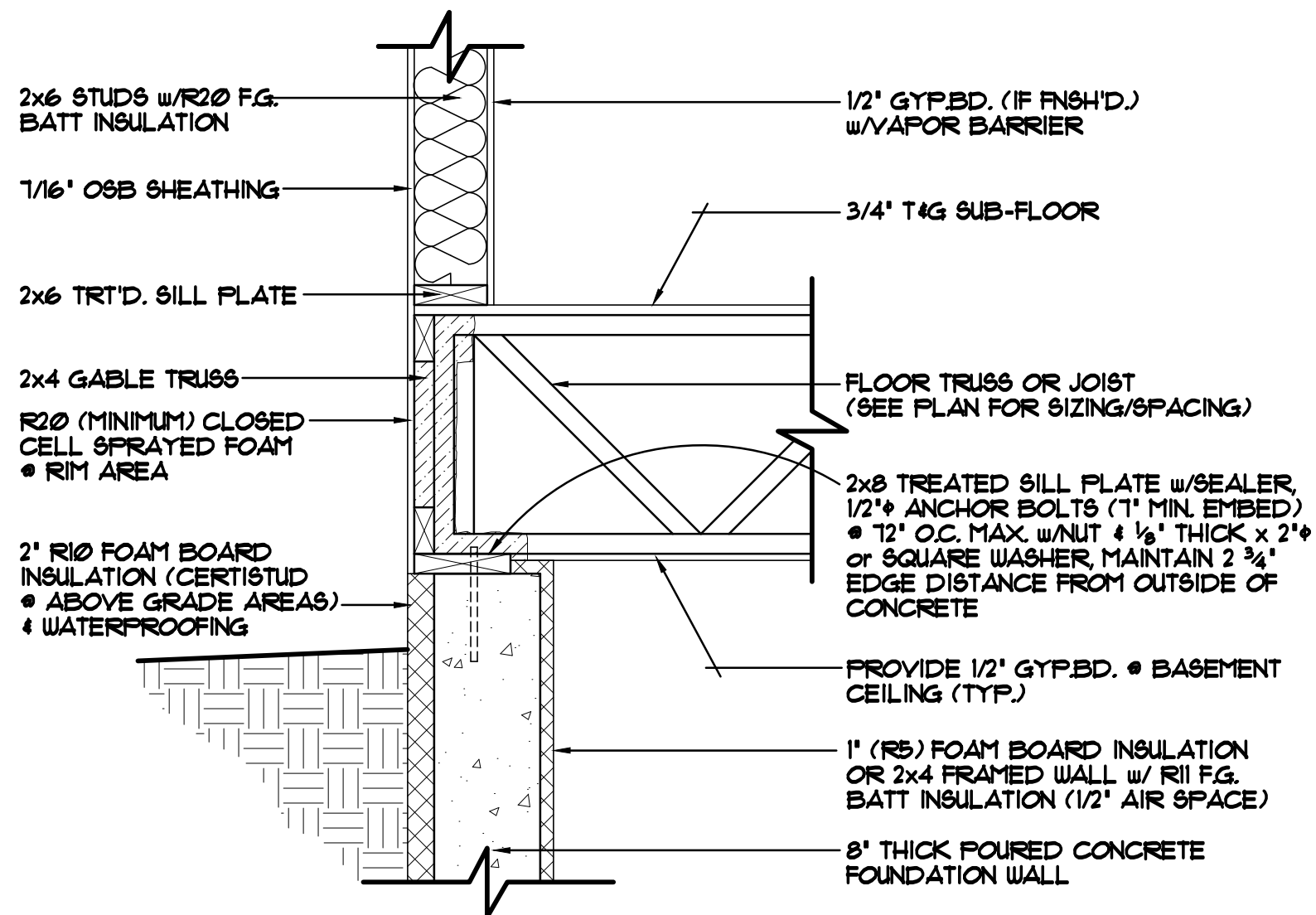
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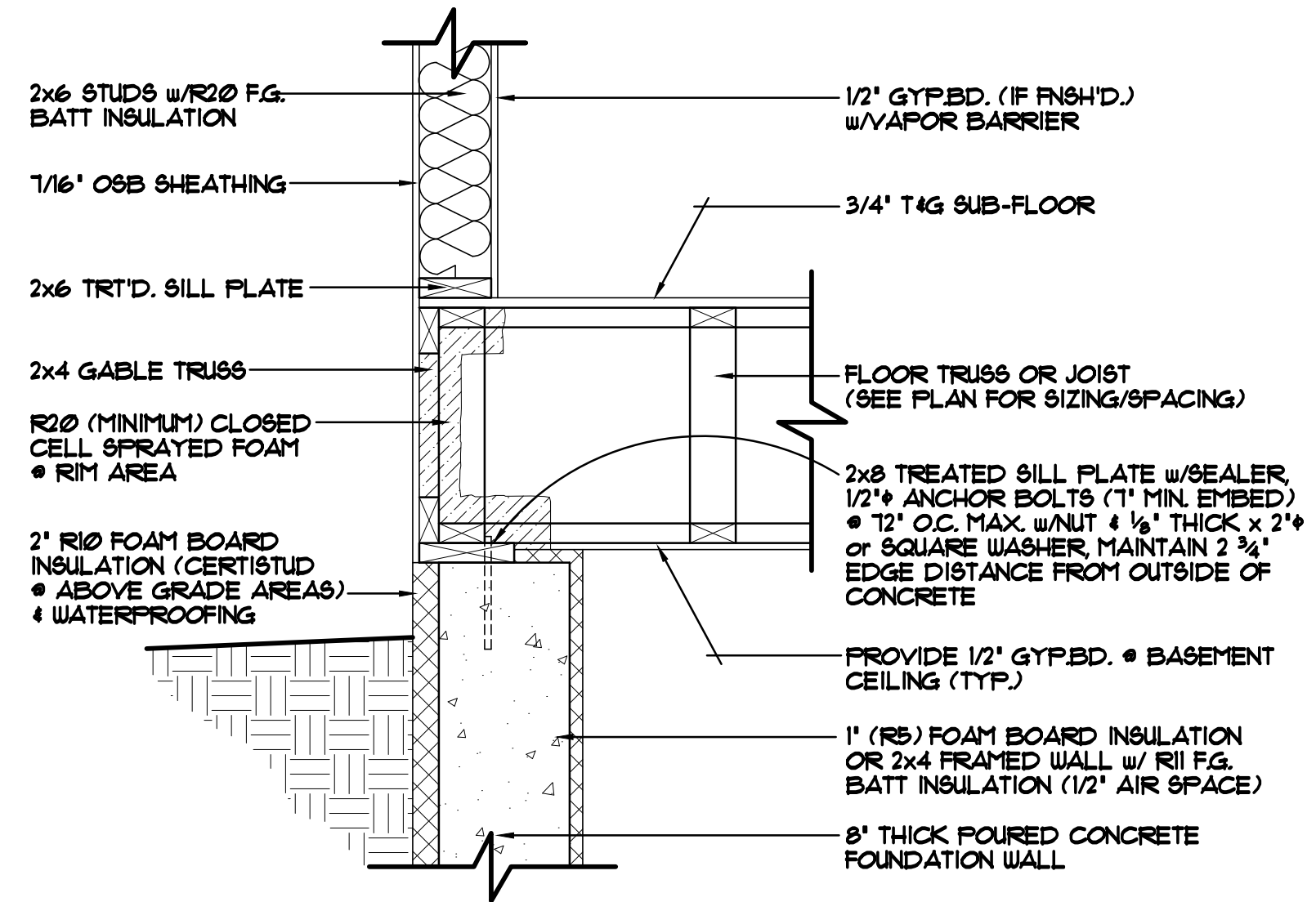
FOUNDATION/RIM AREA DETAIL "A-1" 1"=1'-0"
 STANDARD WALKOUT SILL/FOUNDATION AREA
 FOUNDATION NOT HELD IN



FOUNDATION/RIM AREA DETAIL "A-2" 1"=1'-0"
 STANDARD DAYLIGHT SILL/FOUNDATION AREA
 FOUNDATION HELD IN 2"



FOUNDATION/RIM AREA DETAIL "A-3" 1"=1'-0"
 STANDARD RIM AREA, TRUSSES/JOISTS PERPENDICULAR TO FOUNDATION WALL
 FOUNDATION HELD IN 2"

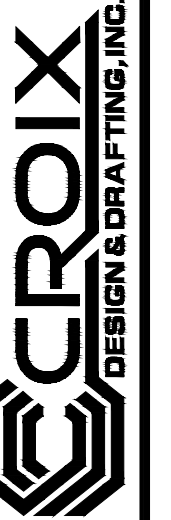


FOUNDATION/RIM AREA DETAIL "A-4" 1"=1'-0"
 STANDARD RIM AREA, TRUSSES/JOISTS PARALLEL TO FOUNDATION WALL
 FOUNDATION HELD IN 2"

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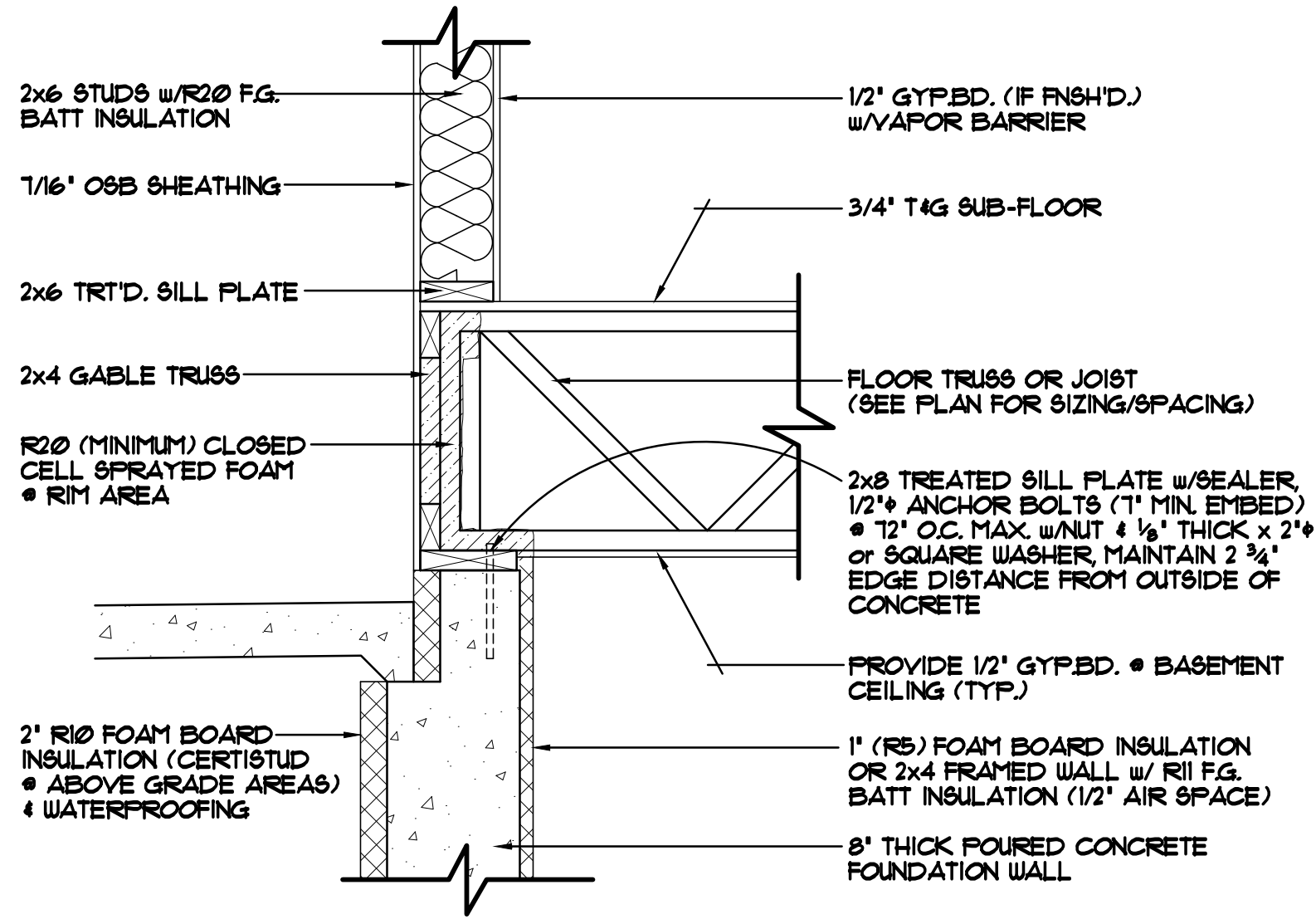
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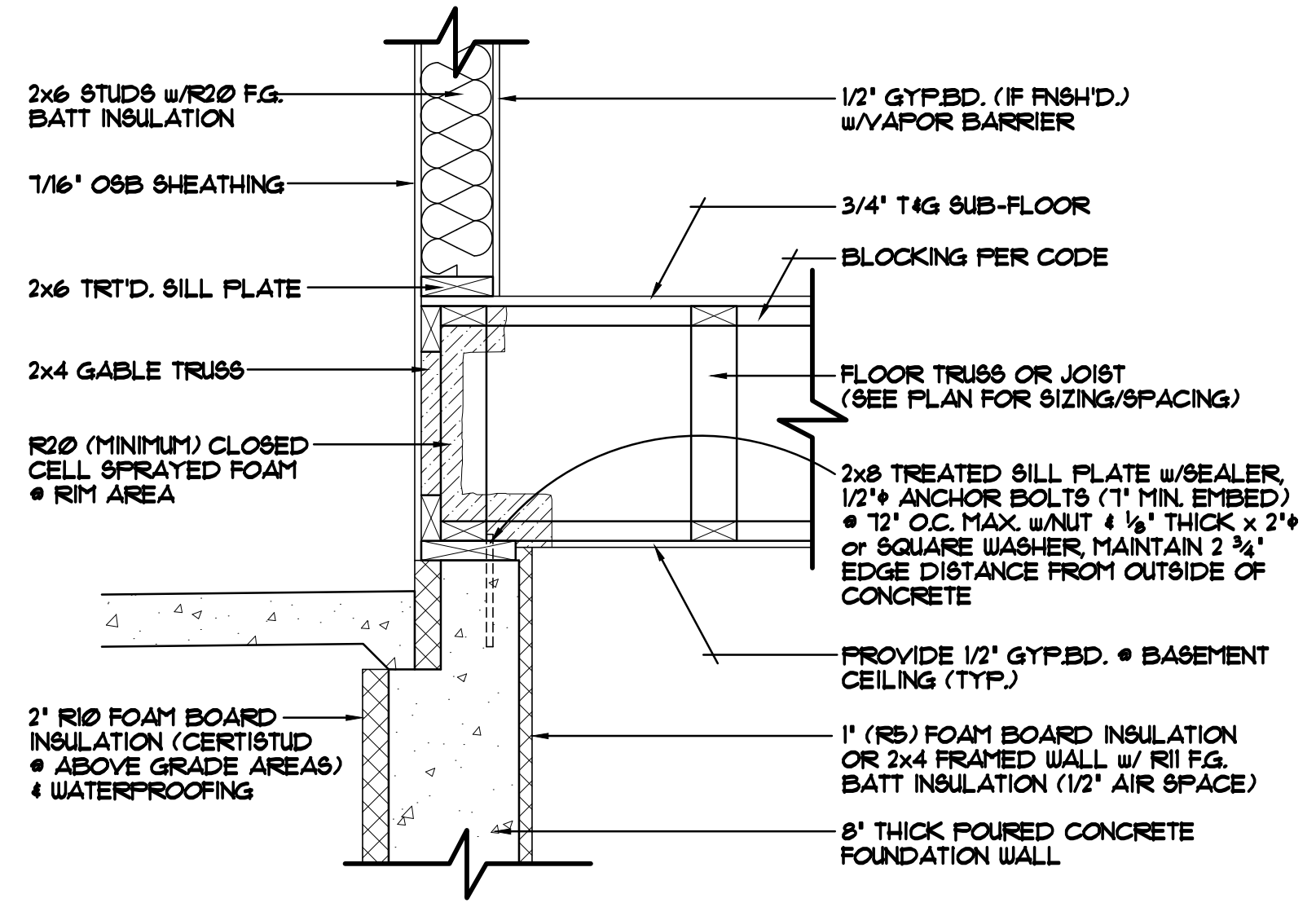


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FOUNDATION/RIM AREA DETAIL "A-5" 1'-1'-0"
BRICK LEDGED RIM AREA, TRUSSES/JOISTS PERPENDICULAR TO FOUNDATION WALL
FOUNDATION HELD IN 2'



FOUNDATION/RIM AREA DETAIL "A-6" 1'-1'-0"
BRICK LEDGED RIM AREA, TRUSSES/JOISTS PARALLEL TO FOUNDATION WALL
FOUNDATION HELD IN 2'

Resolution No. 2016-065

Resolution approving the preliminary plat of HIGHVIEW PLACE generally located at the I-494/State Highway 7 interchange

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

- 1.01 AKARE Companies, represented by Rob Eldridge, has requested preliminary plat approval for HIGHVIEW PLACE, a nine-lot subdivision. (Project 89082.16a).
- 1.02 The property is located at 4301 Highview Place and an adjacent, unaddressed parcel. The site is legally described on Exhibit A of this resolution.
- 1.03 On July 21, 2016, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary plat approval.

Section 2. General Standards.

- 2.01 City Code §400.030 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.
- 2.02 City Code §300.37 Subd. 6 outlines standards for R-1A lots. These standards are incorporated by reference into this resolution.

Section 3. Findings.

3.01 The proposed preliminary plat meets the design requirements as outlined in City Code §400.030 and §300.37 Subd. 6.

Section 4. Council Action.

4.01 The above-described preliminary plat is hereby approved, subject to the following conditions:

1. Final plat approval is required. A final plat will not be placed on a city council agenda until a complete final plat application is received.
 - a) The following must be submitted for a final plat application to be considered complete:
 - 1) A final plat drawing that clearly illustrates the following:
 1. A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
 2. Provide drainage and utility easements:
 - Over existing and proposed public utilities, as determined by the city engineer.
 - Over wetlands, floodplains, and stormwater management facilities, as determined by the city engineer.
 - For a maintenance path to the infiltration basin on the south side of Lot 4.
 - For a drainage path between Lot 3 and 4.
 - 2) Application for vacation of existing easements per document 1974181.
 - 3) Documents for the city attorney's review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.

1. Title evidence that is current within thirty days before release of the final plat.
 2. Documents establishing a homeowner's association. The association must be responsible for maintaining common areas, common drives, retaining walls, required drainage ponding, and any other required drainage improvements approved by the city.
 3. A Contract for Residential Development (or Developers Agreement) if the applicant or developer is constructing any public improvements. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.
2. Prior to final plat approval:
 - a) This resolution must be recorded with Hennepin County.
 - b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.
 3. Prior to release of the final plat for recording:
 - a) Submit the following:
 - 1) Two sets of mylars for city signatures.
 - 2) An electronic CAD file of the plat in microstation or DXF.
 - 3) Park dedication fee of \$40,000.
 - b) If the developer is petitioning the city to construct the public improvements, an appropriate petition must be submitted and the city council must order the improvements.
 4. Subject to staff approval, HIGHVIEW PLACE must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Site plan with revisions dated July 11, 2016
 - Preliminary plat with revisions dated July 11, 2016
 - Preliminary street and storm sewer plan with revisions dated July 11, 2016
 - Grading plan with revisions dated July 11, 2016
 - Utility plan with revisions dated July 11, 2016
 - Tree preservation plan with revisions dated July 11, 2016
5. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
- a) The following must be submitted for the grading permit to be considered complete.
- 1) A signed Development Agreement. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.
 - 2) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.
 - 3) A maintenance agreement for the retaining walls and filtration basin recorded against all affected properties for review and approval by the city attorney. This agreement must delineate maintenance responsibilities for the filtration basin and retaining walls located in the southeast corner of the site unless Homeowner's Association maintained.
 - 4) Encroachment agreements for the retaining walls within platted easements for review and approval by the city attorney.
 - 5) An electronic PDF copy of all required plans and specifications.
 - 6) Three full size sets of construction drawings and sets of project specifications.
 - 7) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.

- a. Final grading plan must:
- Install bituminous curb where existing driveways are removed.
 - Provide spot elevations to show how Maple Lane will be graded at the intersection. This plan must also demonstrate associated drainage.
 - The maintenance path must be compacted to 95 percent density, be constructed of structural fill materials and contain no waste soils. The path must then have 4 inches of topsoil and be seeded. The path is subject to approval and inspection by city staff.
 - Provide a drainage swale across Lots 3 and 4 to maintain flow across the site from the 12-inch CMP shown on as-built plans.
- b. Final drainage plan must
- Change the label of the basin from “filtration” to “infiltration” to be consistent with stormwater management report.
- c. Final utility plan must:
- Include newly constructed water and sewer services.
 - Remove unused sewer and water services on Highview Place. Water service must be removed to the main and the corporation stop must be turned off. Sewer service must be removed to the main, remove the wye and sleeve.
 - Identify water main connection types.

- Include a gate valve in cul-de-sac prior to entering green space.
 - Not include any services from the water main loop in the green space.
 - Provide additional information regarding the extent of the directional drill water main.
- d. Final stormwater management plans must:
- Specify how an infiltration rate of 0.5 inch per hour was determined.
 - Meet the requirements of the city's Water Resources Management Plan, Appendix A. Design.
- e. Final tree preservation plan must:
- Illustrate that no more than 35 of the site's high priority trees will be removed or significantly impacted.
 - Provide appropriate seed mix for infiltration basin.
 - Provide mitigation for the removal of 17 significant trees. This would be 31, 2-inch trees and 15, 6-foot evergreens.
- f. Final landscaping and tree mitigation plans must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.
- 8) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, wetland restoration, tree mitigation requirements, and to restore the site. One itemized

letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; and (4) required landscaping or vegetation has survived one full growing season.

- 9) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- 10) A copy of the approved MPCA NPDES permit.
- 11) A copy of the approved Minnesota Department of Health permit.
- 12) A copy of the MPCA sewer extension permit.
- 13) Evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.
- 14) All required administration and engineering fees.
- 15) Evidence that an erosion control inspector has been hired to monitor the site through the course of construction. This inspector must provide weekly reports to natural resource staff in a format acceptable to the city. At its sole discretion, the city may accept escrow dollars, in amount to be determined by natural resources staff, to contract with an erosion control inspector to monitor the site throughout the course of construction.
- 16) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:

- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- b) Prior to issuance of the grading permit, install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
- c) Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
6. Prior to issuance of a building permit for the first new house within the development, submit the following documents:
- a) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- b) Proof of subdivision registration and transfer of NPDES permit.
- c) An electronic CAD file or certified as-builts for public infrastructure in micro station or DXF and PDF format.
7. Prior to issuance of a building permit for any of the lots within the development:
- a) Submit the following items for staff review and approval:
- 1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management

plan submitted at the time of grading permit may fulfill this requirement.

- 2) Final grading and tree preservation plan for the lot. The plan must:
 - a. Be in substantial conformance with Grading Plan dated July 11, 2016 and Tree Preservation plan dated July 11, 2016.
 - b. Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.
- 3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased.
- 4) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
 - The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

If the builder is the same entity doing grading work on the site, the cash escrow submitted at the time of grading permit may fulfill this requirement.

- b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.

- c) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
 - d) Submit all required hook-up fees.
8. All lots and structures within the development are subject to all setback, floor area ratio, impervious surface, and height ratio requirements outlined in Exhibit B of this resolution. In addition:
- a) All lots within the development must meet all minimum access requirements as outlined in Minnesota State Fire Code Section 503. These access requirements include road dimension, surface, and grade standards. If access requirements are not met, houses must be protected with a 13D automatic fire sprinkler system or an approved alternative system.
9. Existing landscape boulders must be removed from right-of-way adjacent to the northern driveway.
10. No landscaping is allowed in drainage and utility easements.
11. The retaining wall located near the infiltration basin must be fully engineered.
12. The city will not be responsible for maintaining the retaining walls within the plat.
13. During construction, streets must be kept free of debris and sediment.
14. The property owner is responsible for replacing any required landscaping that dies.
15. This preliminary plat approval will be void if: (1) a final plat application is not received and approved by August 8, 2017; and (2) the city council has not received and approved a written application for a time extension by August 8, 2017.

Adopted by the City Council of the City of Minnetonka, Minnesota, on August 8, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption: Acomb

Seconded by: Wagner

Voted in favor of: Allendorf, Acomb, Wiersum, Bergstedt, Wagner, Ellingson, Schneider

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on August 8, 2016.

David E. Maeda, City Clerk

EXHIBIT A

The property at 4301 Highview Place is legally described as:

That part of Lot 5, Block 1, Pierce's Addition, lying Southwesterly of a line drawn from a point on the Southerly line of said Lot 5 distant 70.0 feet East of the most Westerly corner thereof to a point on the Northwesterly line of said Lot 5 distant 56.15 feet Northeasterly of the most Westerly corner thereof and measured along said Northwesterly line.

The unaddressed parcel is legally described as:

Tracts B, C and D, Registered Lane Survey No. 557, Hennepin County, Minnesota except that part of said Tract C lying southwesterly of the following described line: Commencing at the northwest corner of said Tract C; thence on an assumed azimuth of 182 degrees 25 minutes 01 seconds along the west line of said Tract C for 56.98 feet to the point of beginning of a line to be described; thence southeasterly for 123.37 feet on a non-tangential curve, concave to the southwest, having a radius of 66.00 feet, a delta angle of 86 degrees 48 minutes 42 seconds and a chord azimuth of 135 degrees 52 minutes 42 seconds to the northerly right of way line of Trunk Highway No. 494 as now located and established and said line there terminating.

EXHIBIT B

| | LOT | MINIMUM SETBACKS | | | MAXIMUM | |
|----------|-----|---|---|---------------------------------|----------|--------------------|
| | | Front Yard | Side Yard | Rear Yard | FAR ** | Impervious surface |
| R-1 | 1 | Highview Pl: 35 ft Maple Lane: 25 ft Proposed street: 25 ft | Min. Aggregate = 30 ft Min side = 10 ft | 40 ft or 20% of lot depth | N/A | N/A |
| R-1A *** | 2 | Proposed street: 25 ft Highview Pl: 25 ft | 10 ft | n/a * | 3,914 sf | 8,105 sf |
| | 3 | Proposed street: 25 ft Highview Pl: 25 ft | 10 ft | n/a * | 4,925 sf | 11,190 sf |
| | 4 | Proposed street: 25 ft Highway 7: 25 ft | 10 ft | n/a * | 4,230 sf | 9,610 sf |
| | 5 | Proposed street: 25 ft Highway 7: 25 ft | 10 ft | n/a * | 3,800 sf | 7,920 sf |
| | 6 | proposed street: 25 ft I494: 25 ft | 10 ft | n/a * | 4,035 sf | 9,170 sf |
| | 7 | 25 ft | 10 ft | 30 ft or 20% of lot depth | 4,190 sf | 9,620 sf |
| | 8 | 25 ft | 10 ft | 30 ft or 20% of lot depth | 3,760 sf | 7,835 sf |
| | 9 | 25 ft | 10 ft | 30 ft or 20% of lot depth | 3,905 sf | 8,130 sf |

* Double frontage lot.

** Floor area is the sum of the above ground horizontal area of the home, as measured from exterior walls and including attached garage space and enclosed porch areas, and one-half the horizontal area of any partially exposed level such as a walkout or lookout level. Floor area ratio (FAR) is the floor area divided by the lot area.

*** On properties zoned R-1, the maximum principal structure height is 35 feet. On properties zoned R-1A, the maximum principal structure height is 35 feet unless the building is a walkout or lookout, in which case the maximum height is 25 feet.

Resolution No. 2022-03

Resolution denying variance to increase the floor area ratio and building height for a new home at 4299 Annika Court.

Be it resolved by the Planning Commission of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 In 2014, the city adopted the residential alternative (R-1A) zoning ordinance.

1.02 In 2016, the two properties at the intersection of I-494 and Highway 7 were rezoned to R-1A and platted into the nine-lot subdivision, Highview Place.

1.03 Aaron Clark and Raquel Sanchez, property owners, are proposing to construct a new home at 4299 Annika Court. The property is legally described as follows:

Lot 7, Block 1, Highview Place, Hennepin County, MN

1.04 City Code §300.37, Subd. 6 outlines the maximum floor area ratio and building height requirements for the property. The applicant is requesting variances to exceeds these allowable areas as follows:

| | Allowed by ordinance | Proposed |
|------------------------------|----------------------|-----------------|
| Building height for walk out | 25 feet | 26 feet |
| Floor area ratio | 0.22 (4,190 sf) | 0.24 (4,500 sf) |

1.05 On April 7, 2022, the planning commission held a public hearing on this request. The applicant was provided the opportunity to present information. The commission considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution.

Section 2. Standards

2.01 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means:

(1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings

3.01 The proposed variance does not meet the required variance standard for the following reasons:

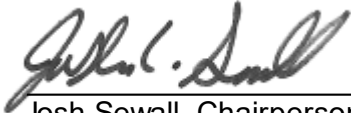
1. **INTENT OF THE ORDINANCE:** The proposed home would not be in keeping with the intent of the ordinance. The intent of the floor area ratio and building height requirements is to ensure the visual massing on the property is proportional to the size of the property zoned R-1A. The requests themselves may appear to be a small increment but approval of the request would seriously erode the intent and effectiveness of the R-1A ordinance.
2. **CONSISTENCY WITH THE COMPREHENSIVE PLAN:** The proposed home with the requested variances would not be consistent with the comprehensive guide plan. The City of Minnetonka values established neighborhoods and places high importance on efforts to maintain, preserve and support established neighborhoods. The proposed variances would exceed what other properties within the development have been allowed.
3. **PRACTICAL DIFFICULTIES:**
 - a) **REASONABLENESS:** The requested variances are not reasonable. They would result in the construction of a home larger than what would be allowed on the property by code and subsequent development approvals.
 - b) **UNIQUE CIRCUMSTANCE:** The requested variances are not caused by a circumstance unique to the property but rather the applicant's desired home size and design. Revisions to the house plans or grading modifications to the site would remove the need for variances.
 - c) **ECONOMIC CONSIDERATIONS:** The applicant has indicated that redesign of the home or grading modifications to the lot would be costly. Economic considerations alone are not justification for a variance.
 - d) **CHARACTER OF THE LOCALITY:** Several of the permits for new homes within the development have exceeded what would be allowed for their respective property. However, prior applicants worked with staff to reduce the overall size to ensure compliance

with the ordinance. Approval of the variances would significantly change the character of the neighborhood.

Section 4. Planning Commission action.

4.01 The planning commission denies the variance requests based on the above findings.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on April 7, 2022.



Josh Sewall, Chairperson

Attest:



Fiona Golden, Deputy City Clerk

Action on this resolution:

Motion for adoption: Waterman
Seconded by: Maxwell
Voted in favor of: Maxwell, Waterman, Banks, Henry, Sewall
Voted against: None
Abstained: None
Absent: Powers, Hanson
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on April 7, 2022.

Fiona Golden, Deputy City Clerk

would be turned so that it would no longer face the neighbors and be accessible from the interior of the yard.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Waterman moved, second by Banks, to recommend that the city council adopt the resolution approving a conditional use permit for an accessory structure in excess of 1,000 square feet at 15518 Minnetonka Blvd.

Maxwell, Waterman, Banks, Henry, and Sewall voted yes. Powers and Hanson were absent. Motion carried.

B. Resolution denying a conditional use permit for a freestanding ATM for Chase Banks at 11400 Hwy. 7.

Review of this item was postponed until the April 28, 2022 planning commission meeting.

C. Resolution denying variances to increase building height and floor area ratio requirements for a new house at 4299 Annika Court.

Chair Sewall introduced the proposal and called for the staff report.

Cauley reported. She recommended denial of the application based on the findings listed in the staff report.

Henry confirmed with Cauley that the square footage of a full basement would not be included in the FAR calculation.

Thomas stated that a neighboring house does not meet the FAR requirement because of an error that occurred during the building permit review process which failed to catch the noncompliance. Such an error does not set a precedent to allow other houses to be noncompliant with FAR requirements.

Aaron Clark, the applicant, stated that:

- He is excited to have a house in Minnetonka.
- He was unaware of the FAR requirements.

Matt Duffy, attorney for the applicant, stated that:

- He appreciated the work done by staff.
- The lot is the third biggest lot in the development. The proposed house would be the third-largest house in the development.

- Removing the third garage stall would make the proposal compliant with FAR requirements but make it out of character with some of the other houses in the neighborhood. The house next door is the largest in the neighborhood. If the proposed house would be constructed to meet FAR requirements, then it would be smaller than the house next door.
- The applicant requested the builder redesign the plans to meet the 26-foot-height requirement.
- The “design needs of the family” is the reason for the variance request.
- Neighboring properties would not want a giant retaining wall and it would cause drainage problems.
- The lot is designed for a walk-out basement. A non-walk-out basement would not be practical or reasonable. If the basement would not be a walk-out basement, then the variance would not be needed.
- There would be no neighbor facing the backyard.
- The applicants are willing to explore other options.

Mr. Clark stated that:

- He was told by a builder that it would be unlikely that the city engineer would approve a plan that would not include a walk-out basement.
- He asked if a window instead of a door to create a look-out instead of a walk-out basement would meet FAR requirements.
- A neighboring house was built on a smaller lot 857 square feet over the FAR requirement due to an error during the building permit process.
- There is another house that looks similar to the proposed house, but the other house is larger because its full basement is not included in the FAR calculation.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Chair Sewall confirmed with Cauley that replacing the basement walk-out door with a basement look-out window would not change the FAR calculation.

Waterman clarified with Cauley that if a significant amount of the basement would be exposed, then it would qualify as a look-out or walk-out basement and would be included in the FAR calculation.

Maxwell found this to be a tough decision. She saw no practical difference between a walk-out basement and a full basement from the neighbors’ view. The rear yard abuts a highway rather than residential houses. There is only one other open lot that could request a similar variance. She would be o.k. with approving a house with a maximum height of 25 feet and a variance to allow the requested amount of square footage.

Henry appreciated the applicant explaining the situation to commissioners. He sympathizes with the applicant. He agrees with staff and following the spirit of the law because the site is zoned R-1a, which allowed the property to be subdivided into more smaller lots that would be required to have smaller houses. The difficulty was not created by the city. The city has been consistent with honoring the regulations. He favors compliance with R-1a zoning regulations.

Banks felt the responsibility is on the builder to understand the regulations and process. There is a reason why the limits are created. He sympathized with the applicant. He understood that the process is tough. He hopes the builder could make some adjustments to make the building plan meet the requirements.

Waterman agreed that this is a frustrating situation. A homeowner trusts an architect to create a building plan that meets code requirements and then finds out that the plan is not compliant. The city code is specific for the lot. For an R-1a district, it is critical to maintain strict conformance with ordinance requirements. Overall, he regretfully agreed with the staff's recommendation to deny the variance.

Chair Sewall noted that he has learned an enormous amount of information that he did not know since he bought his house 13 years ago. He agreed that regrading would be a terrible option. He favored following the FAR regulations. A large house could still be built. He welcomed the applicant and his family to the community.

Waterman motioned, seconded by Maxwell, to adopt Resolution 2022-03 denying the application for floor-area-ratio and building-height variances for a new house at 4299 Annika Court.

Maxwell, Waterman, Banks, Henry, and Sewall voted yes. Powers and Hanson were absent. Motion carried.

Chair Sewall stated that an appeal of the planning commission's decision must be made in writing to the planning division within ten days.

D. Resolution denying the application for Weber Three, a three-lot subdivision with variances, at 2326 Oakland Road.

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Waterman confirmed with Thomas that a private street would not eliminate the need for variances.

Jim MacKinnon, the applicant, stated that:

From: [Aaron Clark](#)
To: [Ashley Cauley](#)
Subject: Appeal
Date: Friday, April 15, 2022 12:20:18 PM

Hi Ashley,

I just wanted to send an email confirming that we will be appealing the commission's decision.

Please let me know when our due date for submission is and potential Appeal Hearing date.

Thank you,

Aaron Clark

Vice President

3340B Annapolis

Lane N

Plymouth, MN

55447

763.231.7893

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Resolution No. 2022-

Resolution upholding the planning commission’s denial of variances to exceed maximum building height and floor area ratio for a new home at 4299 Annika Court

Be it resolved by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 Aaron Clark and Raquel Sanchez, property owners, as proposing to construct a home at 4299 Annika Court. The property is legally described as:

Lot 7, Block 1, Highview Place, Hennepin County, MN

1.02 The proposed home requires building height and floor area ratios as follows:

| | Allowed by ordinance | Proposed |
|------------------------------|----------------------|-----------------|
| Building height for walk out | 25 feet | 26 feet |
| Floor area ratio | 0.22 (4,190 sf) | 0.24 (4,500 sf) |

1.03 On April 7, 2022, the planning commission held a public hearing on the variance request. The applicants were provided with the opportunity to present information to the commission. The commission considered the request and the staff report, which is incorporated by reference into this resolution.

1.04 On a unanimous vote, the planning commission adopted resolution 2022-03, denying the variance requests.

1.05 On April 15, 2022, the applicants submitted a request appealing the commission’s decision.

Section 2. Findings

2.01 The city council confirms the findings of Planning Commission Resolution No. 2022-03.

Section 3 City Council Action

3.01 The city council hereby upholds the planning commission's denial of the variance requests.

Adopted by the City Council of the City of Minnetonka, Minnesota, on May 9, 2022.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on May 9, 2022.

Becky Koosman, City Clerk