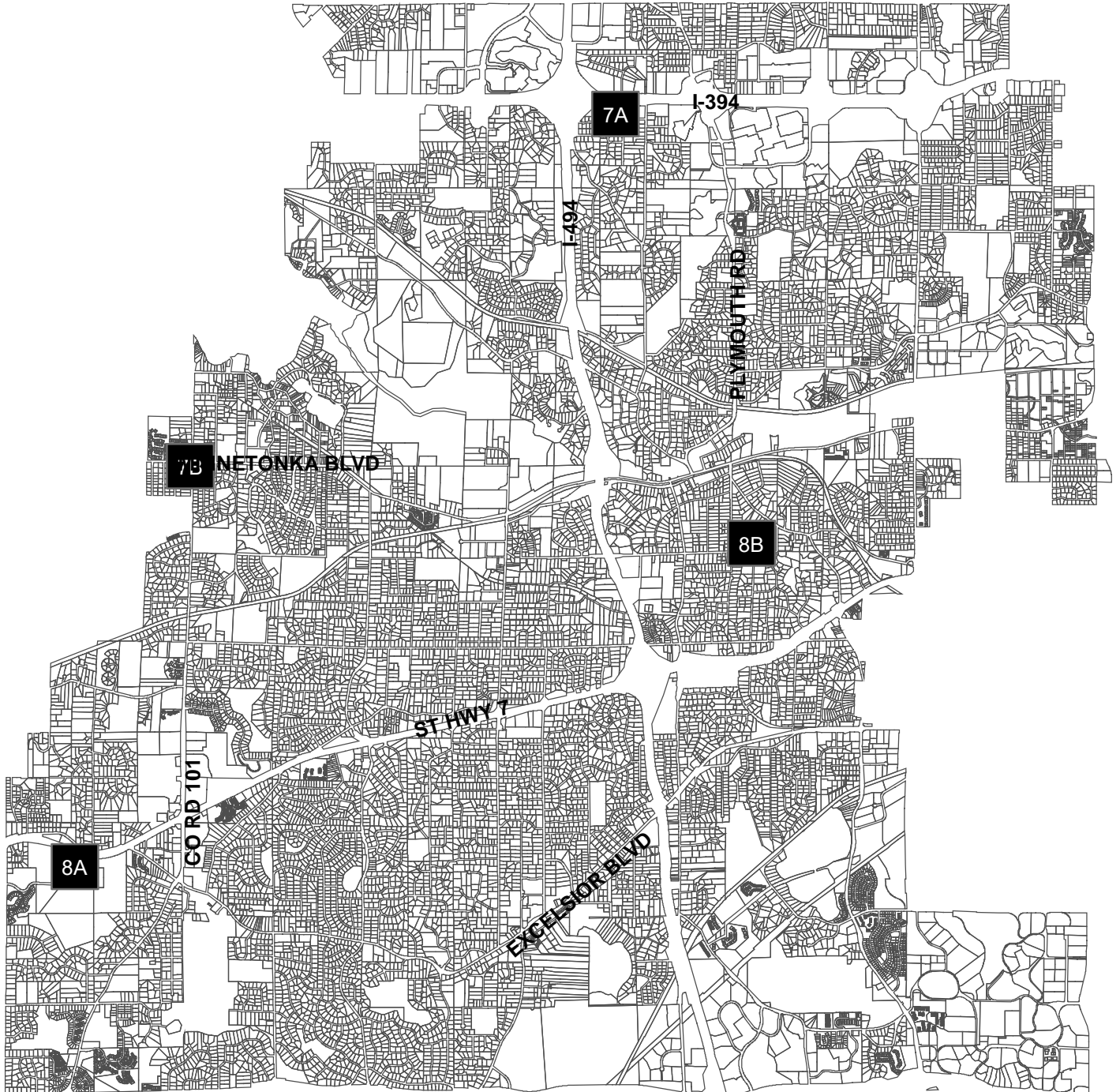




**CITY OF MINNETONKA
PLANNING COMMISSION
May 18, 2023**

14600 Minnetonka Blvd. • Minnetonka, MN 55345
(952) 939-8200 • Fax (952) 939-8244
minnetonkamn.gov





**Planning Commission Agenda
May 18, 2023
6:30 p.m.**

City Council Chambers – Minnetonka Community Center

1. Call to Order

2. Roll Call

3. Approval of Agenda

4. Approval of Minutes: May 4, 2023

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda Items

A. Setback variance for a freestanding electric message center sign at 13911 Ridgedale Drive.

Recommendation: Adopt the resolution approving the request (5 votes).

- Final decision subject to appeal
- Project Planner: Drew Ingvalson

B. Conditional use permit for a restaurant with on-sale liquor at 17623 Minnetonka Blvd.

Recommendation: Recommend the city council adopt the resolution approving the request (4 votes).

- Recommendation to city council (June 5, 2023)
- Project Planner: Bria Raines

8. Public Hearings: Non-Consent Agenda Items

A. Expansion permit for garage and living space additions to the house at 5123 Willow Lane.

Recommendation: Adopt the resolution approving the request (4 votes).

- Final decision subject to appeal
- Project Planner: Susan Thomas

Planning Commission Agenda

May 4, 2023

Page 2

- B. Conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 12620 Orchard Road.

Recommendation: Recommend the city council adopt the resolution denying the proposal (4 votes).

- Recommendation to city council (June 5, 2023)
- Project Planner: Bria Raines

Notices

1. Please call the planning division at (952) 939-8290 to confirm meeting dates as they are tentative and subject to change.
2. There following applications are tentatively schedule for the June 1, 2023 agenda.

Project Description	Ridgewood Ponds, 13-lot residential development
Project Location	18116 Ridgewood Rd
Assigned Staff	Ashley Cauley
Ward Councilmember	Kissy Coakley, Ward 1

Project Description	CTI Towers, CUP for telecom tower
Project Location	6120 Blue Circle Dr
Assigned Staff	Bria Raines
Ward Councilmember	Brian Kirk, Ward 1

Project Description	Cross of Glory, CUP for accessory structure
Project Location	4600 Shady Oak Rd
Assigned Staff	Susan Thomas
Ward Councilmember	Brian Kirk, Ward 1

Project Description	Minnetonka Station, SGN
Project Location	10400 Bren Rd E
Assigned Staff	Susan Thomas
Ward Councilmember	Brian Kirk, Ward 1

Project Description	Walser Kia
Project Location	15700 Wayzata Blvd
Assigned Staff	Susan Thomas
Ward Councilmember	Bradley Schaeppi, Ward 3

**Unapproved
Minnetonka Planning Commission
Minutes**

May 4, 2022

1. Call to Order

Chair Sewall called the meeting to order at 6:30 p.m.

2. Roll Call

Commissioners Henry, Maxwell, Banks, Hanson, and Sewall were present. Powers and Waterman were absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley, Planner Drew Ingvalson, and Natural Resources Sarah Middleton.

3. Approval of Agenda: The agenda was approved as submitted.

4. Approval of Minutes: April 20, 2023

Banks moved, second by Henry, to approve the April 20, 2023 meeting minutes as submitted.

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

5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting on May 1, 2023:

- Adopted an ordinance amending the city code regarding parking and loading requirements.
- Introduced an ordinance and referred it to the planning commission regarding items concerning Walser Kia at 15700 Wayzata Blvd.
- Introduced an ordinance and referred it to the planning commission regarding items concerning Ridgewood Ponds at 18116 Ridgewood Road and an adjacent unaddressed parcel.

The next planning commission meeting is scheduled to be held on May 18, 2023.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Hanson moved, second by Banks, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

- A. Expansion permits to increase the height of the existing house and to construct a garage addition at 6008 Eden Prairie Road.**

Adopt the resolution approving the request.

- B. Site and building plan review for a pre-manufactured building at 14901 Minnetonka Industrial Road.**

Adopt the resolution approving the final site and building plans for a satellite building at 14901 Minnetonka Industrial Road.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. The motion carried, and the items on the consent agenda were approved as submitted.

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

8. Public Hearings

- A. Expansion permit for Glen Lake Elementary parking lot reconfiguration at 4801 Woodridge Road.**

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

Ingvalson reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Kevin Newman, facilities director of Hopkins Public Schools, applicant, stated that the proposal would complete a project that started in 2018. More parent input was collected when the project was developed in 2018. The proposal would improve pedestrian safety and clean up the area where vehicles and buses travel.

Henry thought the proposal would help alleviate safety concerns.

Banks confirmed with Neil Tessier, engineer for the applicant, that the divider between the parking areas would be grass.

The public hearing was opened.

Peter Harris, 4907 Covington Road West, stated that:

- The 2016 construction project was disruptive and noisy. The trucks beeped all the time.
- A lot of dust settled on the back of his house.
- The construction occurred in the evenings and on weekends.
- The drainage ditch was installed in 2016 and caused the current problem of backing the buses.
- The proposal would be disruptive to the neighborhood.
- The proposal would reduce the size of the main parking lot. He was concerned that there would not be enough parking stalls.
- He hoped the proposal would not be approved.
- He requested that construction be prohibited after 4 p.m. on weekdays and on weekends.

No additional testimony was submitted, and the hearing was closed.

Ingvolson explained that the noise ordinance prohibits construction noise from occurring outside of the hours of 7 a.m. to 10 p.m. If those hours were reduced, then the construction project would last a longer period of time and add on additional time spent unloading and loading equipment. Wischnack encouraged the homeowner to discuss options with the applicant.

Mr. Tessier explained that construction would begin June 12, 2023 and would need to be completed by Labor Day weekend. He understands that the school is in a neighborhood. Measures would be taken to control dust and mitigate noise as much as possible.

In response to Maxwell's question, Mr. Newman explained that the number of parking stalls was increased in the front of the building during the first phase of the project. The site is required to have 80 parking stalls, and it would have 117 parking stalls on site which would be more than adequate. There are three six-grade sections that will be leaving Glen Lake Elementary and moving to the middle school by the next school year. The number of teachers and staff will be reduced.

Mr. Tessier stated that the staff parking lot is half full during school days now. There are a few days a year for parent events when parking is full. Basketball courts, the playground, and the bus-parking area are utilized for additional parking during those events.

Henry acknowledged that construction would be inconvenient for neighbors but saw the long-term good in the proposal. The proposal would increase safety for children and is part of a comprehensive parking rearrangement. He supports the proposal.

Maxwell supports the proposal. It would be an improvement in safety by creating better traffic flow. She appreciates that it would not just add an impervious surface but would add a stormwater management feature. She is glad that the sledding hill would be preserved.

Chair Sewall lived near Hopkins High School when the 10 acres of turf were installed, so he understands the inconvenience. The proposal's site would have adequate parking, and the proposal would make the nonconforming parts of the site more in conformance with current ordinance requirements. He supports the staff's recommendation.

Banks moved, second by Henry, to adopt the resolution approving the site plan and expansion permit for Glen Lake Elementary at 4801 Woodridge Road.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman 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.

B. Items concerning Greystar Development at 10701 Bren Road East.

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

Gordon and Cauley reported. Staff recommended denial of the application based on the findings listed in the staff report.

Hanson confirmed with Cauley that there would be five surface-visitor-parking stalls and 33-dedicated-visitor-parking stalls in the enclosed parking structure. Hanson noted how enclosed visitor parking was not being utilized by visitors at another newly constructed apartment building.

In response to Chair Sewall's question, Wischnack stated that there are 8,627 rental units in Minnetonka. Of those, 3,290 of the rental units provide affordable housing. Of those, 930 of the affordable housing units are located in the Opus area.

Ned Dodington, representing Greystar Development, stated that:

- The applicant understood the concerns council members and commissioners expressed regarding the mass and scale of the building, but in terms of meaningful feedback, the applicant has been more focused on more detail-level-oriented concerns. The applicant believes that the proposal would be appropriately scaled for the location, density, and site and be similar to other locations in Minnetonka.
- Architectural modifications were made to decrease the appearance of the mass of the building; the length of the façade of the building would be less than many other buildings near Opus; and a pedestrian cut through the courtyard was added to allow more of a public feel and provide a connection to the trail and southwest light rail transit (SWLRT).
- The applicant worked with staff and neighbors to address their concerns.

- The applicant believes all of the staff's concerns may be addressed except for those related to the tree ordinance and landscape valuation.
- The green wall is a viable option.
- The project is intended to be solar-ready, and electric vehicle charging stations are planned to be located in the garage.
- The applicant is committed to creating a multi-family development of the highest quality.

Burt Coffin, ESG Architecture and Design, representing the applicant, stated that:

- He thanked the staff for working with them.
- His architecture firm has partnered with Greystar to complete 2,000 residential housing units in the twin-cities area.
- Since the concept plan review, a break in the façade was added that provides an entrance to the building.
- Brick replaced the stucco on the first floor.
- The windows were made more regular, and color palettes were adjusted.
- The building was moved back from the property line to create a more integrated west façade.
- The staff did a good job describing the proposal.
- The differences between the proposal and the shadows created by examples of buildings he provided are not that big.
- The scale of the proposed building is similar to Minnetonka Station and The Alcott.
- The proposal would have walk-up units, front porches, and sidewalks.
- The proposal would be a harmonious addition to the community.
- The comprehensive guide plan supports growth in this location.
- Other buildings of this scale are being built in the immediate vicinity.
- He requested commissioners support the proposal.

Ryan Herm, the landscape architect for the proposal, gave a presentation and stated:

- The proposal would provide a connection to the trail system.
- Landscaping would include pollinator-friendly plantings, ornamental trees, shrubs, and over-story trees.
- The courtyard would have a large green-open space, fire pits, a swimming pool, and lounging areas.
- The site would maximize the use of perennials and ground cover that require less maintenance.
- Street trees were eliminated due to the city's snow removal policy.
- He reviewed the landscape plan that he believes complies with tree replacement requirements.

- The applicant is willing to add “expensive materials” to reach the landscape valuation requirement, including a green wall that would grow along a trellis on the west side of the building.

Mr. Dodington stated:

- The applicant requests that commissioners recommend approval of the proposal to the city council with conditions to meet the landscape valuation and tree preservation ordinance requirements and commit to creating a solar-ready product.
- The proposal would provide a public benefit by providing high-density-residential-multi-family housing; affordable housing; a cost-efficient-building type; an above-ground garage; a connection to the hiking trails on three sides; unique architectural designs on three sides; a water reuse irrigation system; and extensive landscaping.
- The applicant requested that commissioners find that the “landscape valuation and tree protection variances are not required because the plans illustrated tonight show that we believe that we can comply with the ordinances.”
- The applicant believes that this is the best product for Opus here today.

Hanson noted that a recently completed multi-family residential project has been receiving numerous complaints from neighbors due to visitors parking in the street rather than parking in ample visitor parking located in an enclosed structure. He asked how visitors would be prompted to utilize enclosed guest parking stalls. Mr. Coffin explained that signs would be used to help visitors locate guest parking. There would be five guest parking spaces outside and 33 guest parking stalls inside the parking structure. A visitor would pull up to the garage entrance, and the door would open by the motion sensor to access 33 guest parking stalls. Another door would need to be accessed to reach the resident parking stalls.

Henry appreciated the applicant's thoughtful presentation. Henry asked if there would be restricted access to the courtyard area. Mr. Dodington answered that there would be access-controlled entry points to the building and courtyard area.

Henry asked if the trees would grow to their full potential if they were in the shade. Mr. Dodington said that there would be ground underneath the courtyard that would allow the trees to be better than anything has been done previously. Mr. Herm said that each tree species would grow and work for the space. Size, shade tolerance, and soil capacity were studied at length. He was confident with the planting scheme.

Henry was concerned with the mass of the building. He suggested removing half of a story on the top row to add more light to the courtyard. Mr. Dodington said that reducing the mass of the building would cause either the height of the building to increase or a reduction in the number of units. The applicant chose a density appropriate to the site

and its location. Scale is dependent on the things around it. The proposal would be shorter than the Minnetonka Station project.

Henry likes the amount of landscaping around the building.

Banks appreciated the applicant's presentation. He liked how the concept plan feedback was incorporated into the current plan. Banks noted that the courtyard would be shaded from 1 p.m. to 4 p.m. Mr. Dodington explained that there would be light exposure along the walls of the courtyard at certain times of the day. Mr. Coffin explained that the courtyard would be 85 feet wide and almost twice that in length. The pool would be located in the sunniest location.

Banks asked how tall the trees located on the outside of the building would grow. Mr. Herm answered a maximum of 40 feet after 20 years. Part of the intent is to create a dappled-light effect. The plan shows the trees at their mature width.

In response to Banks' question, Mr. Herm stated that the building being setback 30 feet would allow 10 to 12 rows of perennials to be planted. The proposal would be most similar to the Bloomington Central Station project, where the buildings are located closer to the street.

In response to Banks' questions, Mr. Dodington said that adding solar to a roof would be a new project for the applicant. It would create additional costs.

In response to Hanson's question, Brian Frank, with Sambatek, explained the rainwater irrigation tank system which would meet watershed requirements. Mr. Frank and Mr. Herm were confident the tanks and trees would have no trouble coexisting.

Chair Sewall acknowledged the site's lack of green space. One option would be to add a green roof on the residential building or on the garage roof. It seems like that would be the only compromise short of redoing the entire plan. Mr. Dodington said that a green wall could "absolutely be put on the table." A green roof with a solar-ready infrastructure would be trickier. The applicant team is willing to engage in those strategies.

The public hearing was opened.

Troy Thelen, the current owner of 10701 Bren Road East, stated that:

- Two other developers gave up on developing the site. He commends Greystar for submitting ten revised plans.
- Size can be compromised, and a balance can be found for everyone.
- The Wellington has no trees.
- He thought it would be awesome to look at the courtyard from an apartment.
- The SWLRT will be there eventually and help alleviate parking concerns by people riding the train. There is no space to park on Bren Road.

- He thinks it is in everyone's best interests to make something work.

No additional testimony was submitted, and the hearing was closed.

Henry stated:

- He was glad for the attention paid to the landscaping, which adds to the sustainability and coziness of the project.
- The building has not changed its number of proposed units since the concept plan review.
- He wants the proposal to happen, and Greystar has put a lot of thought into the proposal, but, as it is, he does not support the proposal because the building would be too massive.
- He hopes that a similar proposal will be submitted with a reduction in the mass of the building. He suggested removing the top level around the atrium to make it less massive and the courtyard to not appear to be a bottomless pit when viewed from the top.
- He likes most other aspects of the project.

Maxwell stated that:

- Overall, she likes the proposal. It has unique architecture. A lot of thought went into the flow of the building, the experience for residents, and the landscape design.
- There is value in the affordable units being proposed.
- She likes that the proposal would have electric-vehicle chargers on each floor of parking.
- She wished there was more time to find a way to comply with the tree protection ordinance rather than starting from scratch.
- The mass of the building is a little big, but that would not be a deal breaker.
- She saw the main issue to be not meeting tree-ordinance requirements.

Hanson stated:

- There is value in the applicant making an effort to revise and submit the plan multiple times.
- There is some frustration with the proposal being revised ten times, but each time still not meeting ordinance requirements.
- The 120-day deadline feels arbitrary.
- He understands that the developer feels that the proposal would be a good one and work for the market.
- He supports moving forward and would not deny the proposal.
- The developer should work toward maintaining the green space and landscaping if that is the path to mitigate the tree ordinance requirements.

Banks stated that:

- He would like to have seen a reduction in the size of the building since the concept plan. The only compromise was made with the landscaping. He would like to see more added to the landscaping than just plants.
- The proposal is a great effort, but he would like to see more of a compromise to meet the minimum landscape requirements.
- He would not support the proposal because none of the revisions made changes to the building.
- He feels that the proposal is close and the building is gorgeous. He hopes the developer does not give up on the project, but he would like to see a reduction in the number of units and an increase in the amount of green space. The green space may be more important than making the roof solar-ready.
- He hopes the project will work out.

Chair Sewall stated:

- He was o.k. with the mass of the building.
- The location would be appropriate for more density.
- The parking variance is not a problem with appropriate signage and the process being made easier to access enclosed visitor parking.
- The green-space requirement needs to be honored.
- He believes that there is a compromise that could accommodate the green-space requirement.

Henry moved, second by Banks, to recommend that the city council adopt the resolution denying the request.

Henry and Banks voted yes. Maxwell, Hanson, and Sewall voted no. Powers and Waterman were absent. Motion failed.

This item is scheduled to be reviewed by the city council at its meeting scheduled for May 22, 2023.

9. Other Business

B. Concept plan review for Greco (Hillcrest Nursing Home site) at 15409 Wayzata Blvd.

Gordon reported. Staff recommends that commissioners provide feedback on key topics identified by staff and any other land-use-related items that commissioners deem appropriate. This discussion is intended to assist the applicant in the preparation of more detailed development plans.

Josh Brandsted, president of Greco Properties, applicant, stated that:

- Neighbors expressed concerns with traffic entering and circulating in the neighborhood, parking, and the height and density of the building.
- The applicant initially looked at saving the existing building, which would house 100 to 120 units of assisted living and 70 to 80 units of independent living.
- The current concept plan moved the assisted living to a one-story building on the west side of the property and reduced the number of units to 40 to 50. The independent living building would have 120 units.
- He pointed out 54 surface parking stalls on the site plan near the independent-living building and 17 surface parking stalls near the assisted-living building. Residents of assisted living typically do not drive. There would be a single level of underground parking with 176 stalls below the independent-living building.
- The traffic pattern encourages drivers to turn left instead of right into the neighborhood.
- The higher-density parking area traffic has been relocated further north on the site to avoid the neighborhood.
- By locating the independent building on the footprint of the old building, more trees and landscaping would be able to be preserved.
- Greco would be the owner and operator of the independent building and bring in an operator for the assisted-living building.

In response to Hanson's question, Mr. Brandsted explained that the independent-living building could easily be utilized for all-age residential housing in the future.

Hanson stated:

- He felt that the concept plan has merit to proceed.
- The use would fit in the proposed location.
- Constructing a new building would allow for more residential-looking architectural features.
- He likes the tiers of the independent-living building, which make it feel more like a single-family residence.

Banks stated that:

- He agrees that the concept plan has merit to proceed.
- He appreciates how the applicant obtained feedback from neighbors and made changes to the concept plan to address the concerns.
- The roundabouts and green spaces throughout the parking area look symmetrical and artful.
- The traffic pattern through the parking area has been improved, and it is now easy for drivers to get in and out.

- A new building would allow more creativity with its appearance and the green space.
- There would be ample parking.
- He liked the thoughtfulness of the curved driveways to keep drivers from entering the neighborhood when exiting.

Henry stated:

- He likes the transition from the previous concept plan to this one.
- He agrees that there is merit in proceeding.
- It is a very thoughtful proposal.
- The independent living area would be secluded.
- Keeping the assisted-living building on one level would address the concerns of the neighborhood.
- He would miss the old building. It is beautiful and harmonious with the neighborhood.
- The concept plan would be the best use of the site.
- He would like a walk-out and wall of windows to provide a seamless transition from inside to outside.
- He was comfortable with the number of parking spaces and building mass.
- He looks forward to reviewing a formal application.

Maxwell stated that:

- She agrees that there is merit for the concept plan to proceed to a formal review.
- She appreciates the changes done to the plan to improve the traffic flow and organize the buildings to minimize the impact of traffic on the neighbors.
- She likes the height of the buildings and would like the architecture to reflect a residential feel rather than a boxy-commercial-looking building.
- Utilizing the footprint of the existing building would save trees and green space.
- She suggested integrating the sidewalks and walking spaces to interact with the natural parts of the site.

Hanson supports maintaining the green space.

Chair Sewall stated:

- He appreciates the applicant making changes in response to commissioners' comments and neighbors' concerns.
- There is merit to the plan.
- He is excited to see a similar use to what is there now.

- He likes the height of the buildings.
- He likes the parking areas and suggests providing way-finding signs for drivers to follow.
- He supports maintaining as much of a residential look and feel as possible. There is a nursing home on Hwy 7, which looks like a large, single-family residence.
- He suggested doing both phases at once to shorten the construction time if possible.
- The concept plan is a great step forward in the right direction.

10. Adjournment

Hanson moved, second by Maxwell, to adjourn the meeting at 9:45 p.m. Motion was carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

Agenda Item 7

Public Hearing: Consent Agenda

MINNETONKA PLANNING COMMISSION
May 18, 2023

Brief Description Setback variance for a freestanding electronic message center sign at 13911 Ridgedale Drive.

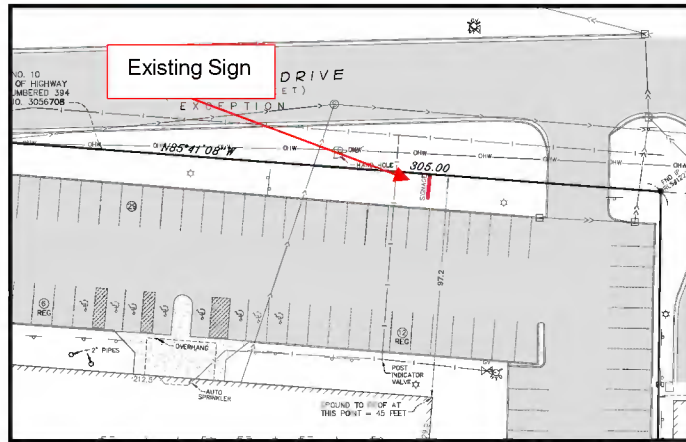
Recommendation Adopt the resolution approving the variance.

Proposal

The applicant, Matthew Duffy (Think Digital Signs), is proposing to replace an existing freestanding sign with a new electronic message center sign. The existing sign encroaches into the property line setback. The proposed sign would be set back further from the property line than the existing sign; however, it would still encroach into the required setback.

Existing Property Information

- **Lot Size:** 3.54 acres
- **Use:** Office
- **Building:** 82,560 square feet (constructed in 1982)
- **Access:** Ridgedale Drive
- **Existing Sign**
 - Height: 8.5 feet
 - Copy Area: 11.7square feet
 - Total Area: 87.1 square feet



Proposal and City Code Requirements

The applicant is proposing to demolish the existing freestanding sign and replace it with a new, freestanding electronic message center sign. The proposed sign would be compliant with city code sign requirements (see table below), excluding the property line setback.

	Height	Copy Area	Electronic Messaging Area	Total Area
Existing	8 ft.	11.7 sq. ft.	0 sq. ft.	87.1 sq. ft.
Proposed	15 ft.	50 sq. ft.	24 sq. ft.	99.4 sq. ft.
City Code	15 ft.	50 sq. ft.	25 sq. ft.	100 sq. ft.

The proposed sign would be located within the required 10-foot setback and would be intensified from the existing sign (from static to electronic messaging). A setback variance is required. (See the "Expansion v. Variance" section of this report for more discussion.)

	Required	Existing	Proposed
Front Yard	10 feet	0 feet	1.2 feet*

*Requires Variance

Staff Analysis

Staff finds that the applicant's request meets the variance standard outlined in the city code:

- **Purpose and Intent of the Zoning Ordinance:** The purpose and intent of the required 10-foot property line setback for signs is to ensure appropriate separation between freestanding signs and, typically, public streets. The requested variance meets this intent. The proposed freestanding sign would be set back further from the road than the existing sign and would be located approximately 24 feet from the paved surface of the road.
- **Consistent with the Comprehensive Plan:** The city's comprehensive plan does not make a specific reference to signage. As such, the proposal is not contrary to the comprehensive plan.
- **Practical Difficulties:** There are practical difficulties with complying with the ordinance:
 - **Reasonableness:** The requested variance is reasonable. The proposed freestanding electronic message center sign would meet all sign dimension requirements and would be closer to compliance with city code than the existing sign.
 - **Unique Circumstance.** The existing freestanding sign location and large road right-of-way are unique circumstances for the property owner. The existing sign currently encroaches into the 10-foot property line setback. The proposed sign would be located in a similar location, but the property line setback distance would increase from 0 feet to 1.2 feet.

The property currently has 24 feet of right-of-way between the property line and Ridgedale Drive. If the ordinance were enforced, the sign would need to be located approximately 34 feet from the road, which would be located into the site's parking lot. There is no reasonable area of the site where a sign could be located to meet the property line setback and be located outside of the existing parking lot. This creates a practical difficulty for the property owner when trying to provide messaging to the traveling public.
 - **Neighborhood Character.** The existing freestanding sign currently encroaches into the property line setback. The proposed sign would be closer to conformance than the existing sign. As such, if approved, the proposed sign would not alter the character of the neighborhood.

Staff Recommendation

Adopt the resolution approving a setback variance for a freestanding electronic message center sign at 13911 Ridgedale Dr.

Originator: Drew Ingvalson, Associate Planner/Sustainability Coordinator
Through: Loren Gordon, AICP, City Planner

Supporting Information

Surrounding Land Uses

- Northerly: Ridgedale Drive and Highway I394
- Westerly: Clinic (Wayzata Children's, OBGYN West and Lakes Dermatology)
- zoned Planned I-394 District
 - guided for office
- Southerly: Residential
- zoned R-1
 - guided for parks
- Easterly: Commercial Multi-tenant Building (Bright Eyes, Bay Solon, and Corepower Yoga) and office building
- zoned Planned I-394 District
 - guided for office and commercial

Planning

Zoning: Planned I-394 District
Guide Plan designation: Office

Expansion Permit v. Variance

An expansion permit is required for an expansion of a non-conforming structure when that expansion maintains the same setbacks as the existing non-conformity. A variance is required for expansion of a legal non-conforming structure when the expansion would intrude into one or more setback areas beyond the distance of the existing structure, or an addition is being added to a structure that does not have legal non-conforming status, and the addition would not meet setback requirements.

By definition, a non-conforming structure is one that is not in full compliance with the regulations of the ordinance and either: (1) was legally established before the effective date of the ordinance provision with which it does not comply; or (2) became non-conforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale.

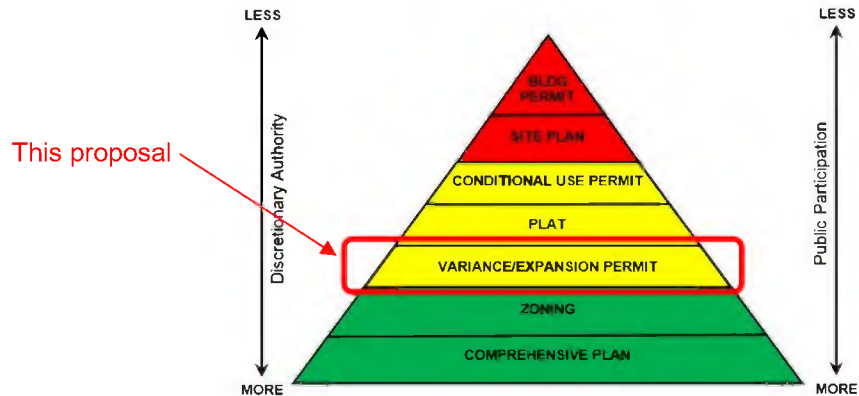
After reviewing city permits, property files, aerial photos, council reports, and other documents, the staff was unable to find evidence that the freestanding sign was legally constructed prior to the adoption of the sign setback requirement. In the past, the city has occasionally approved signs as part of a larger site plan; however, staff was unable to find any site plan documentation for this property. As such, the existing freestanding sign is not considered non-conforming, and it is not eligible for an expansion permit. Thus, a variance is required.

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 has the following motion options:

1. Concur with staff's recommendation. In this case, a motion should be made to adopt the resolution approving the variance.
2. Disagree with staff's recommendation. In this case, a motion should be made to deny the request. The motion should include findings for denial.
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.

Voting Requirement

The planning commission's action on the applicant's request is final and subject to appeal. Approval requires the affirmative vote of five commissioners.

Neighborhood Comments

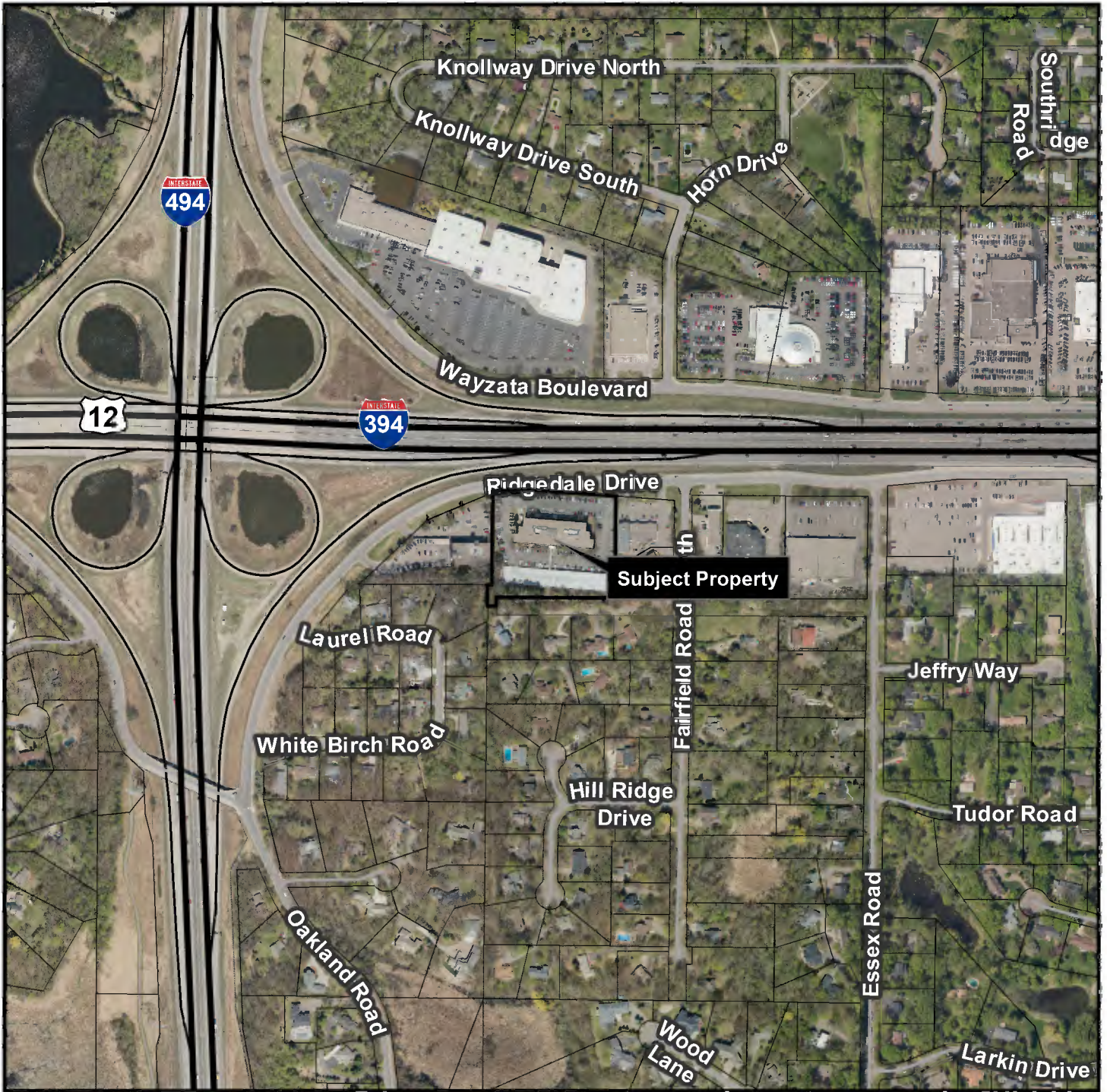
The city sent notices to 51 area property owners and received no comments to date

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.

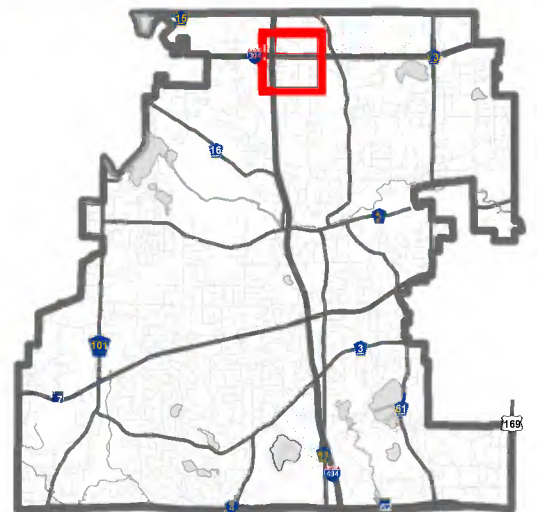
Deadline for Decision

July 17, 2023



Location Map

Project: Ridgedale Office Center
 Address: 13911 Ridgedale Drive



Existing Sign



ALTA/ACSM LAND TITLE SURVEY

~for~ S AND S DEVELOPMENT CORPORATION
 ~of~ 13911 RIDGEDALE DRIVE
 MINNETONKA, MN 55305

CERTIFICATION

I hereby certify to S and S Development Corporation, a Minnesota corporation and Commercial Partners Title, LLC as issuing agents for Chicago Title Insurance Company, that this is a survey of:

Lot 27, Fairfield Acres, according to the recorded plat thereof on file and of record in the office of the County Recorder, Hennepin County, Minnesota, together with all that portion of vacated Lincoln Road lying North of the Easterly extension of the North line of White Birch Hills Addition, and Easterly of the centerline of said Lincoln Road, and also together with that portion of said vacated Lincoln Road lying South of the Easterly extension of the North line of White Birch Hills Addition and lying North of the Westerly extension of the center line of Mount Curve Avenue, excepting from all of the above that portion taken for highway purposes.

EXCEPT:

That part of Tract A described below:

Tract A, Lot 27, Fairfield Acres, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota, including that part of the Easterly Half of the vacated Lincoln Road, lying North of the Easterly extension of the North line of White Birch Hills Addition; excepting therefrom the right of way of Trunk Highway No. 12 renumbered 394;

which lies Northerly of Line 1 described below:

Line 1: Beginning at a point on the North line of Tract A herein before described, distant 305 feet West of the Northeast corner thereof; thence run Westerly to the point of intersection of the West line of said Easterly Half of vacated Lincoln Road with the Southerly right of way line of said Trunk Highway No. 12 and there terminating.

Hennepin County, Minnesota Abstract Property

and is based upon information found in the commitment for title insurance prepared by Commercial Partners Title, LLC as issuing agents for Chicago Title Insurance Company, File No. 50512, dated effective October 20, 2015 at 7:00 A.M., and shows the locations of all buildings, structures, or improvements on said property; that there are no visible rights of way or easements on said described property other than shown or noted herein; that there are no party walls or visible encroachments on said described property by buildings, structures, or other improvements situated on adjoining property except as shown or noted herein; that all easements, if any, listed in Schedule B on the herein referenced commitment for title insurance, are shown hereon; and that this map or plat and the survey on which it is based were made (i) in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA, ACSM, and NSPS in 2011, and (ii) pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, the undersigned further certifies that in my professional opinion, as a land surveyor licensed in the State of Minnesota, the Relative Positional Accuracy of this survey does not exceed that which is specified therein and includes Items 1, 2, 3, 4, 6(a), 7(c), 7(b) 7(c), 8, 9, 10(a), 11(a) (location of utilities per visible, above ground on-site observation) and 13 of Table A thereof.

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

Date: December 22nd, 2015

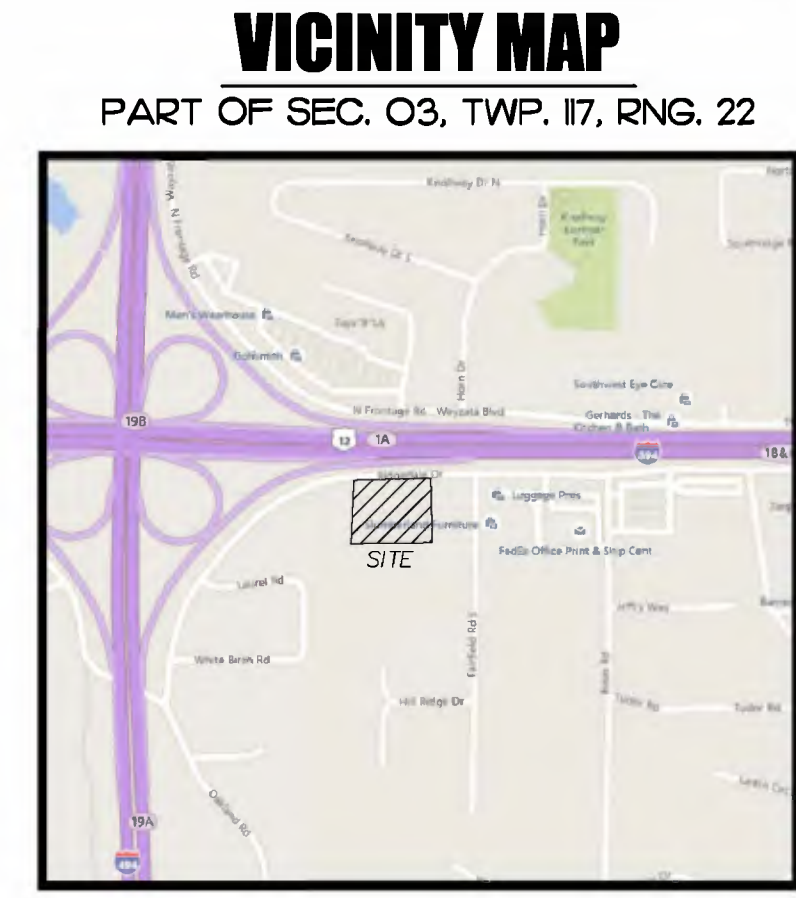
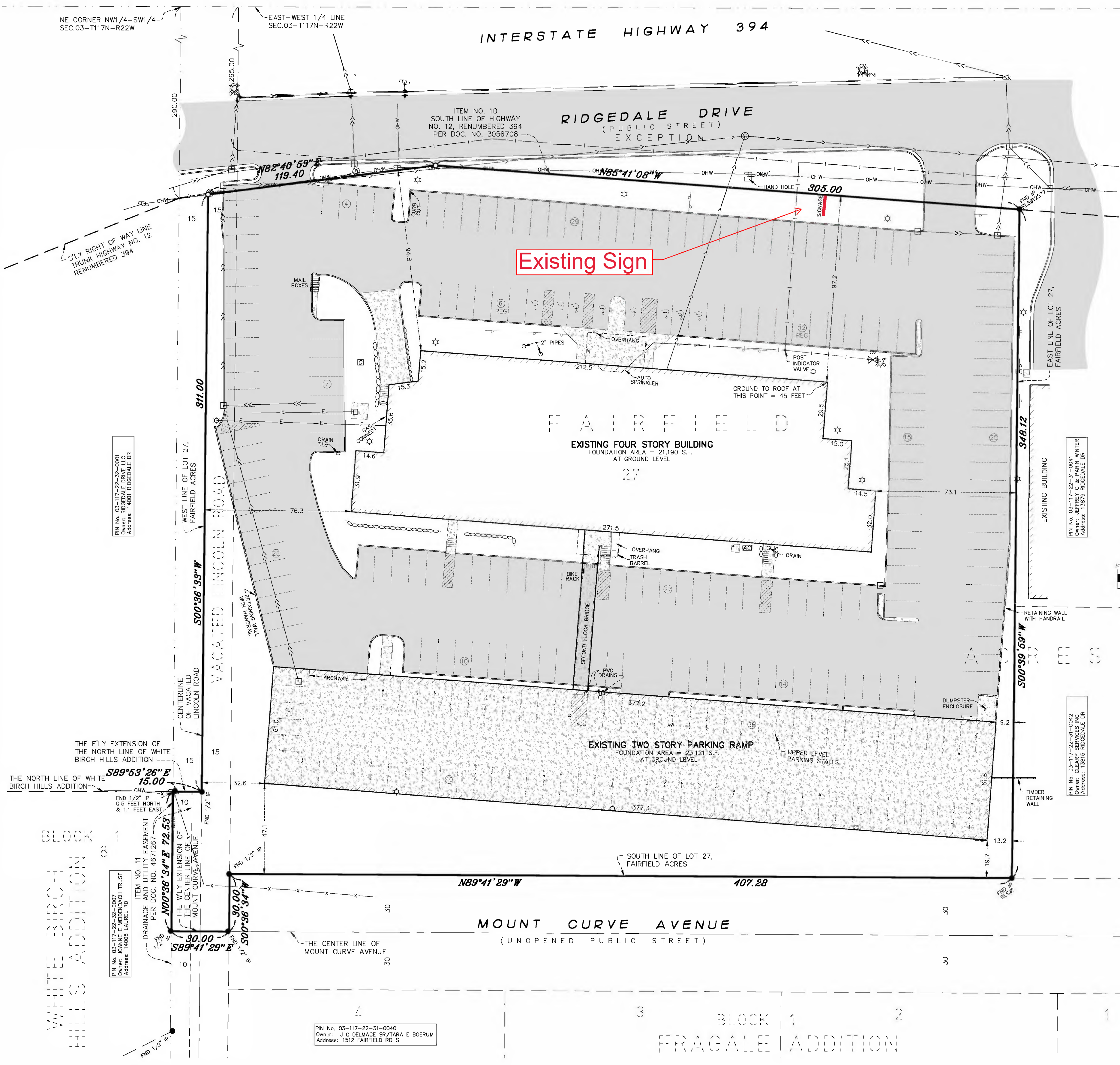
E.G. Rud & Sons, Inc.

Blake L. Rivard, Land Surveyor
 Minnesota License No. 19421

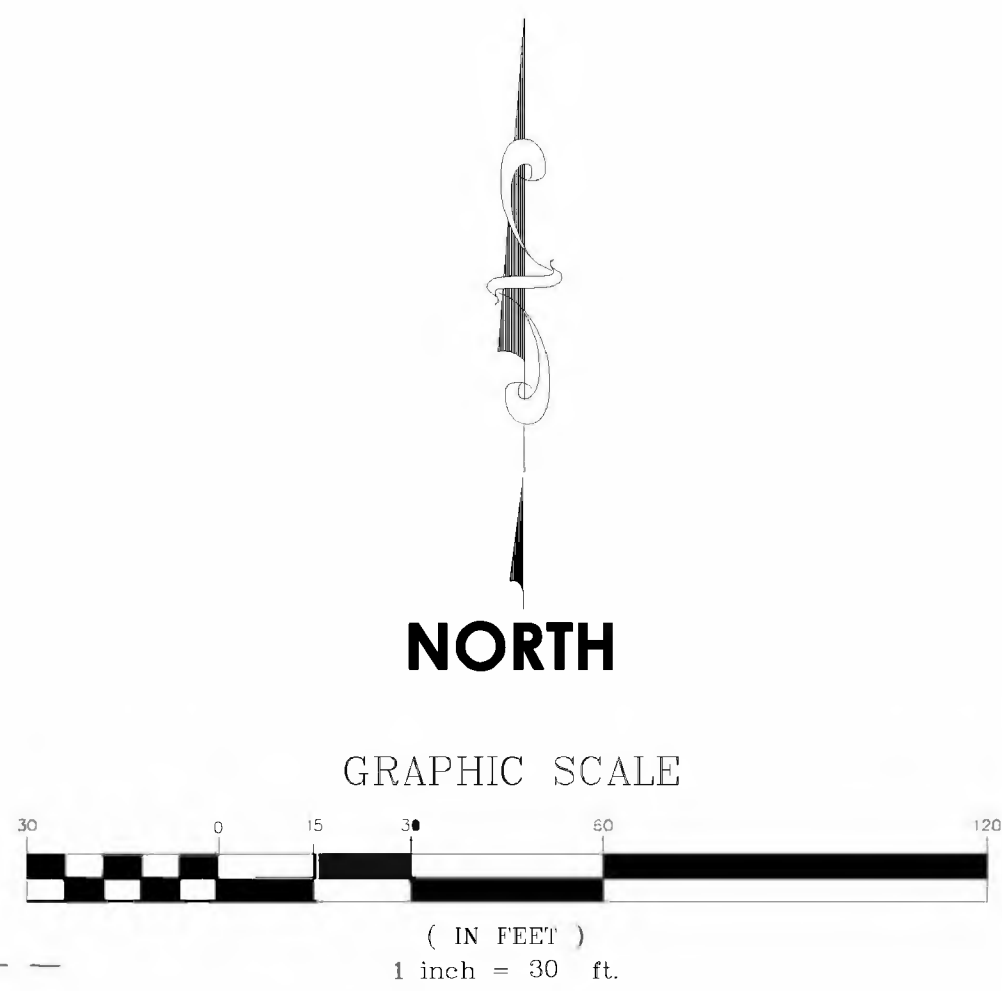
GENERAL NOTES

- Fee ownership is vested in Stewardship Properties VII, a Limited Partnership, a Minnesota limited partnership. Parcel ID Number: 03-117-22-31-0023.
- Address of the surveyed premises: 13911 Ridgedale Drive, Minnetonka, MN 55305
- Bearings shown hereon are based on the Hennepin County Coordinate System.
- According to Flood Insurance Rate Map Community Panel No. 27053C0327E by the Federal Emergency Management Agency, no flood maps have been printed for this parcel's area.
- Boundary area of the surveyed premises: 153,426 sq. ft. ± (3.52 acres).
- A search of the City of Minnetonka's website indicates that the surveyed premises shown on this survey is currently zoned PID-(Planned I-394 District). A zoning endorsement letter has not been provided for this ALTA Survey.
 For additional information contact the Planning and Zoning Department at the City of Minnetonka at (952) 939-8200.
- There are 340 marked or striped parking areas onsite. (332 regular, 8 handicapped)
- The surveyed premises has physical access to Ridgedale Drive and lies adjacent to Mount Curve Avenue, both public streets.
- Utilities shown hereon are observed. Excavations were not made during the process of this survey to locate underground utilities and/or structures. The location of underground utilities and/or structures may vary from locations shown hereon and additional underground utilities and/or structures may be encountered. Contact Gopher State One Call Notification Center at (651) 454-0002 for verification of utility type and field location, prior to excavation.
- Subsurface and environmental conditions were not examined or considered during the process of this survey. No statement is made concerning the existence of underground or overhead containers or facilities that may affect the use or development of the surveyed premises.
- The field survey of this site was completed on December 14th, 2015.
- Commercial Partners Title, LLC as issuing agents for Chicago Title Insurance Company, Commitment No. 50512, Schedule B - Part II Survey Related Exceptions:

- Terms and conditions of Final Certificate regarding parcel 14 dated December 3, 1937, filed January 14, 1938, as Document No. 1918752. [Surveyor's Note: Lies north of parcel and does not affect said parcel.]
- Terms and conditions of Final Certificate regarding parcel 214 dated January 17, 1957, filed March 14, 1957, as Document No. 3056708. [Surveyor's Note: As shown on survey.]
- Perpetual easement for drainage and public utility purposes over, under and across the Westerly ten (10) feet of the herein described vacated public right-of-way, in favor of the City of Minnetonka, as created in Resolution No. 81-6674 dated July 19, 1981, filed September 16, 1981, as Document No. 4671267. [Surveyor's Note: As shown on survey.]
- Easements for service road and overhead power lines as disclosed by survey made by RCM dated April 6, 1981, last revised January 26, 1982. Also described in Warranty Deed dated December 17, 1985, filed January 17, 1986, as Document No. 5072751. [Surveyor's Note: Survey not provided.]



HENNEPIN COUNTY, MINNESOTA
 (NO SCALE)



LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED RLS# 41578
- DENOTES CATCH BASIN
- ⊙ DENOTES STORM SEWER MANHOLE
- ⊕ DENOTES SANITARY SEWER MANHOLE
- ⊙ DENOTES HYDRANT
- OHW — DENOTES OVERHEAD WIRE
- E — DENOTES UNDERGROUND ELECTRIC LINE
- G — DENOTES GAS METER
- ☆ DENOTES SIGN
- ☆ DENOTES LIGHT POLE
- ⊠ DENOTES AIR CONDITIONING UNIT
- ✓ DENOTES GUY WIRE
- ⊠ DENOTES MAILBOX
- x — DENOTES WOVEN FENCE
- — — DENOTES RETAINING WALL
- — — DENOTES EXISTING SANITARY SEWER
- — — DENOTES EXISTING STORM SEWER
- — — DENOTES EXISTING WATER MAIN
- — — DENOTES UNDERGROUND WIRE
- — — DENOTES CONCRETE SURFACE
- — — DENOTES BITUMINOUS SURFACE
- ⊠ DENOTES ADJACENT PARCEL OWNER INFORMATION (PER HENNEPIN COUNTY TAX INFORMATION)

DRAWN BY: JEN	JOB NO: 15815AB	DATE: 12/22/15	
CHECK BY: BLR	SCANNED		
1			
2			
3			
NO.	DATE	DESCRIPTION	BY

E.G. RUD & SONS, INC.
 EST. 1977 Professional Land Surveyors
 6776 Lake Drive NE, Suite 110
 Lino Lakes, MN 55014
 Tel. (651) 361-8200 Fax (651) 361-8701
 www.egrud.com



S&S Development

Ridgedale Office Center
13911 Ridgedale Drive
Minnetonka, MN 55305

Sign Permit Supporting Documents_1
March – 2023

Property & Sign Setback: 13911 Ridgedale Drive, Minnetonka MN 55305

Search by Address or PID search help

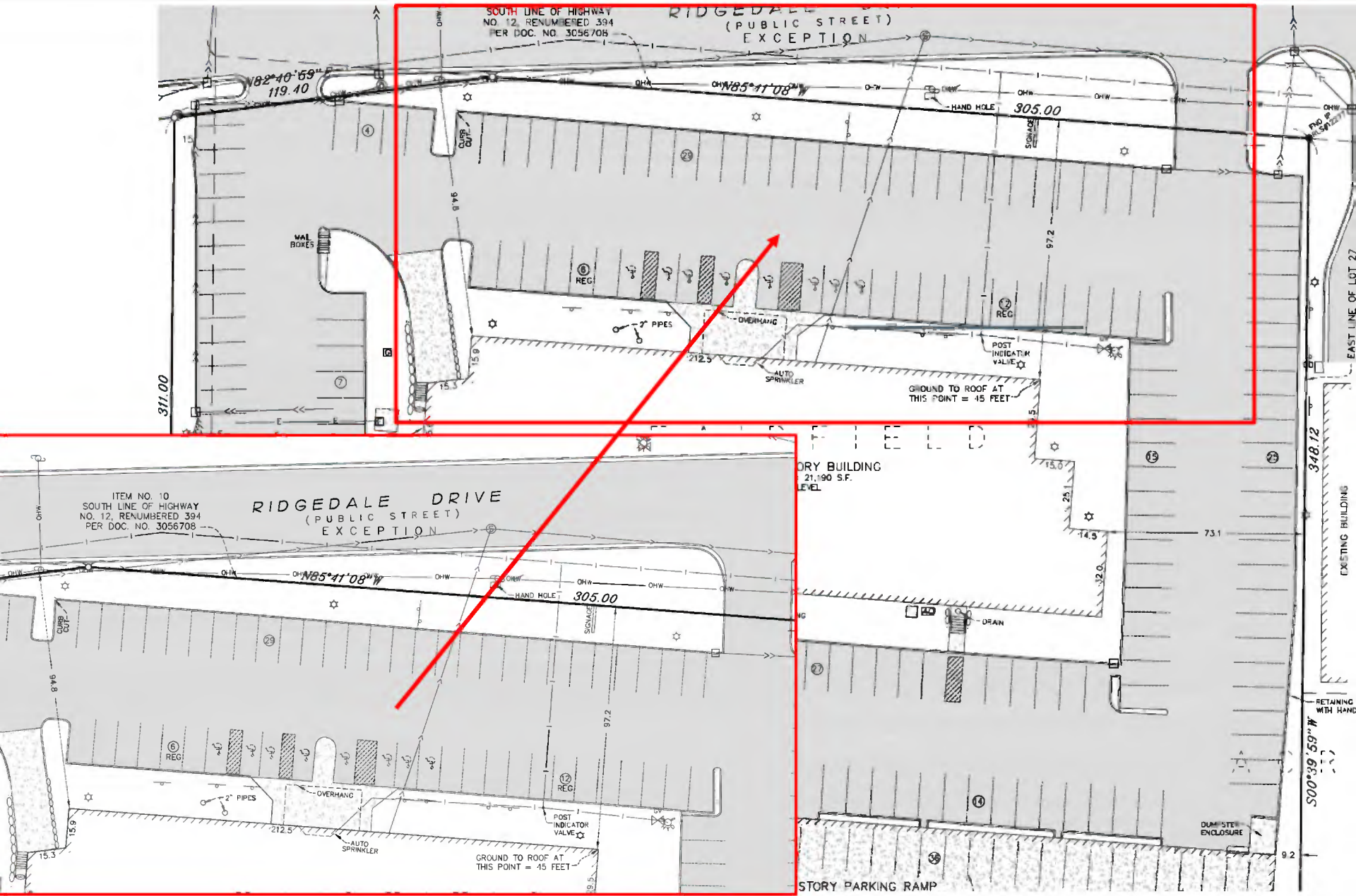
13911 Ridgedale Drive, Minnetonka

Results Property Links Print Share Close

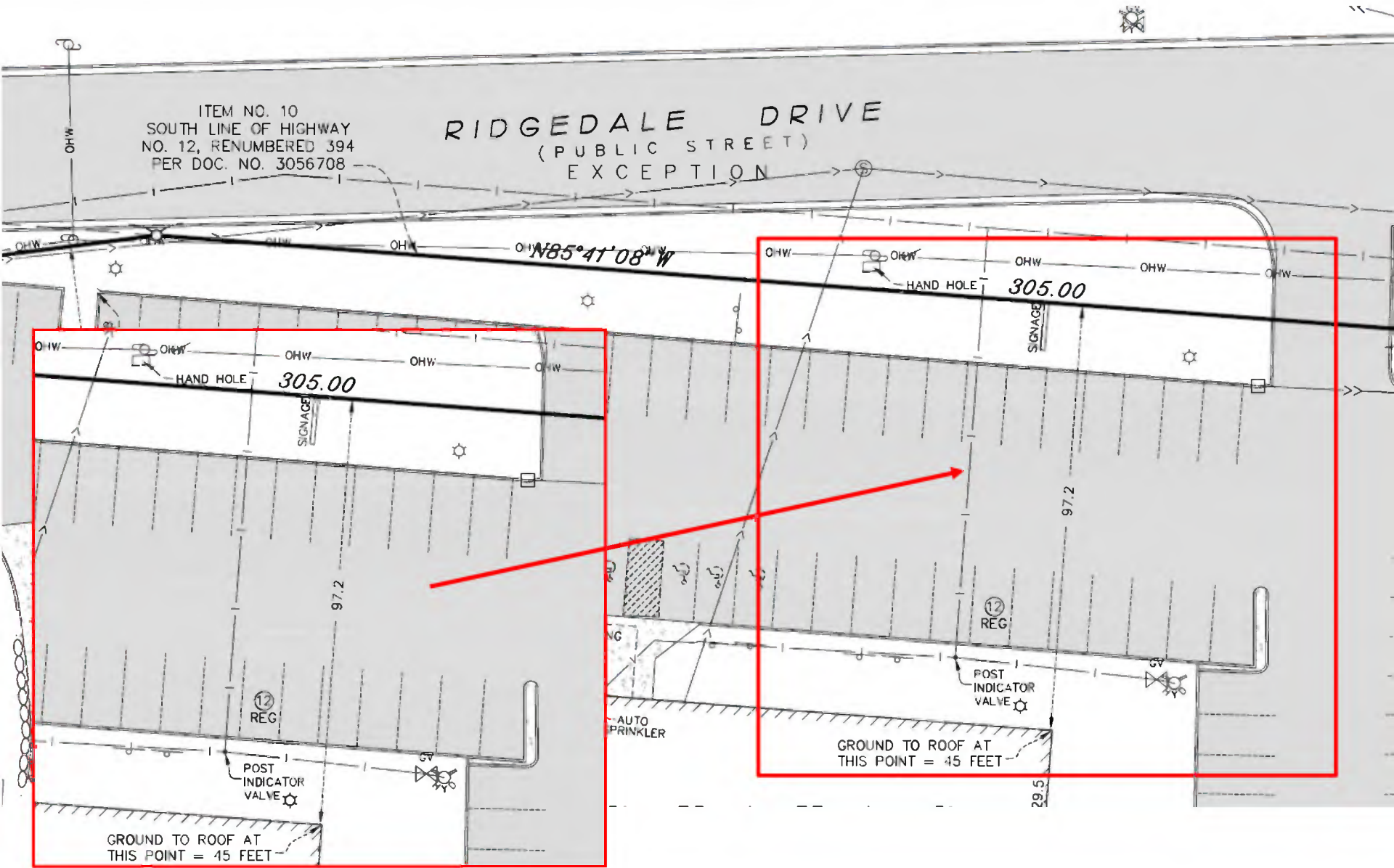
PID	0311722310023
Address	13911 Ridgedale Dr, Minnetonka, MN 55305
Owner/Taxpayer	
Owner	S&S Development Corp
Taxpayer	S&S DEVELOPMENT CORP 13911 RIDGEDALE DR #275 MINNETONKA MN 55305
Tax Parcel	
Parcel Area	3.54 acres 154,174 sq ft
Torrens/Abstract	Abstract
Addition	Fairfield Acres
Lot	027



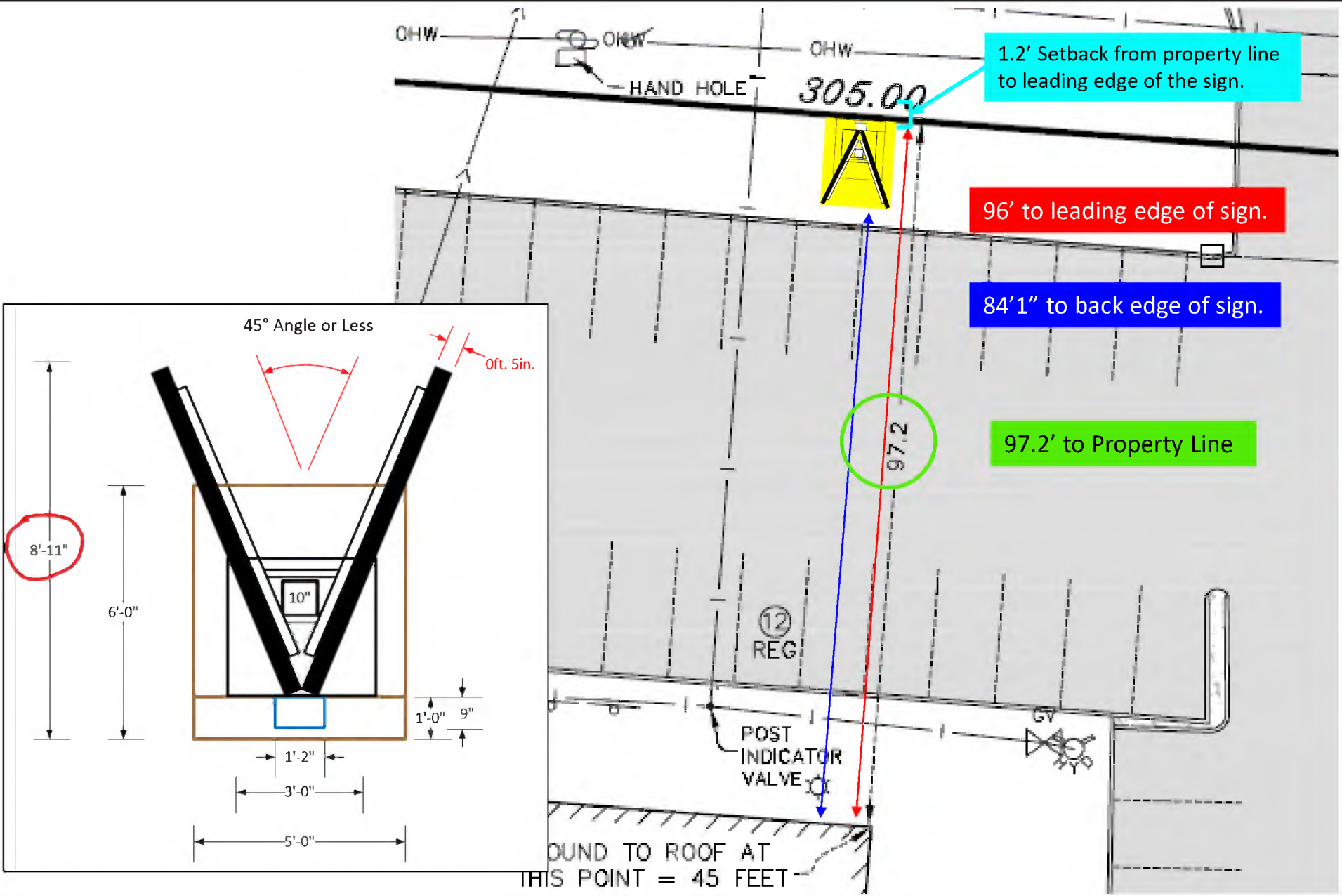
Property & Sign Setback: 13911 Ridgedale Drive, Minnetonka MN 55305

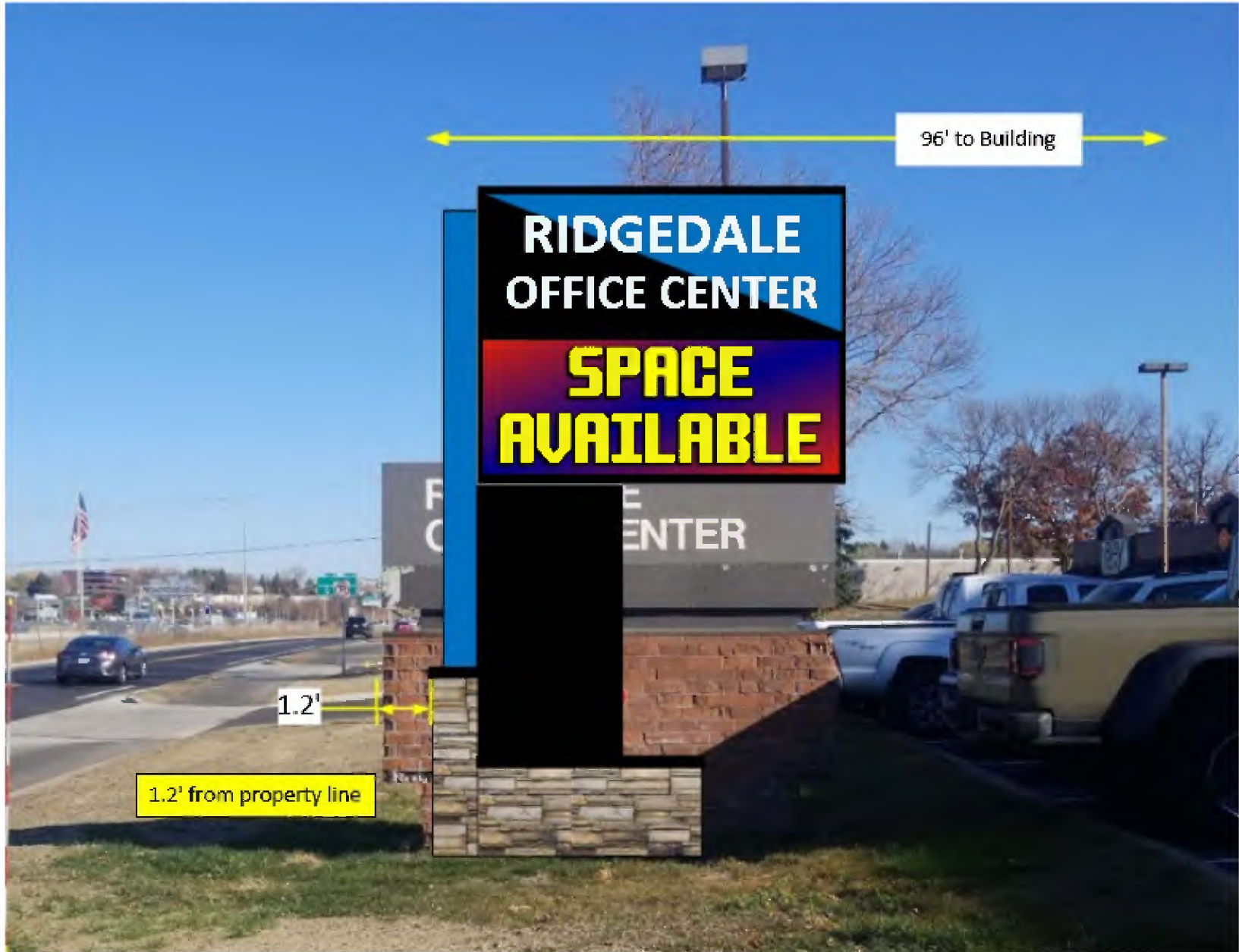


Property & Sign Setback: 13911 Ridgedale Drive, Minnetonka MN 55305



Property & Sign Setback: 13911 Ridgedale Drive, Minnetonka MN 55305





96' to Building

1.2'

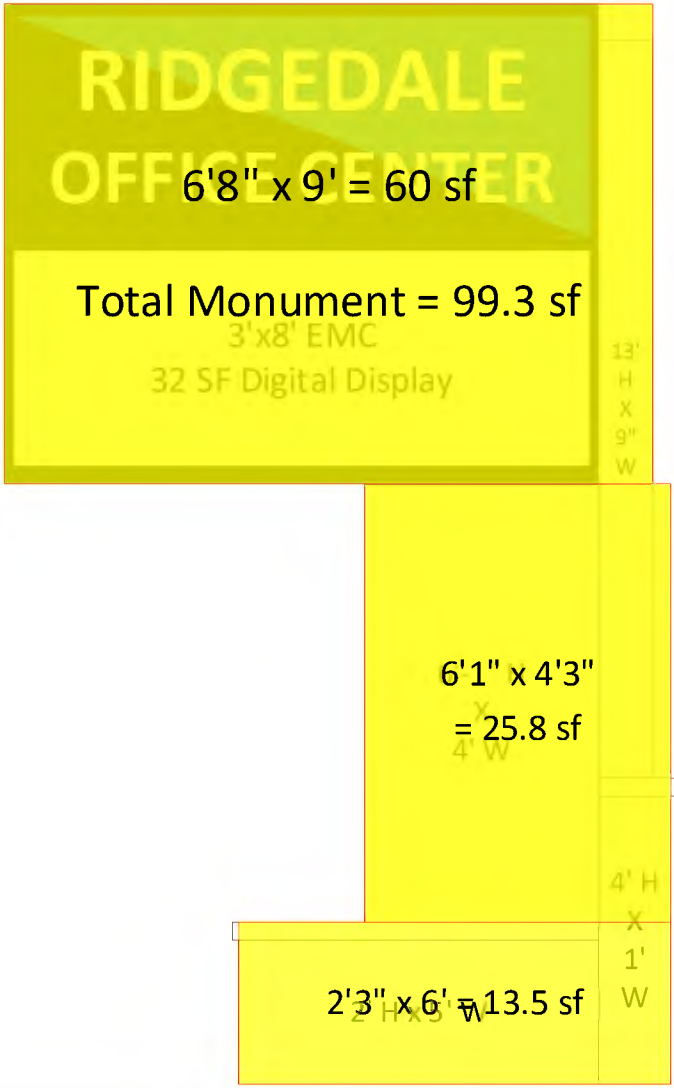
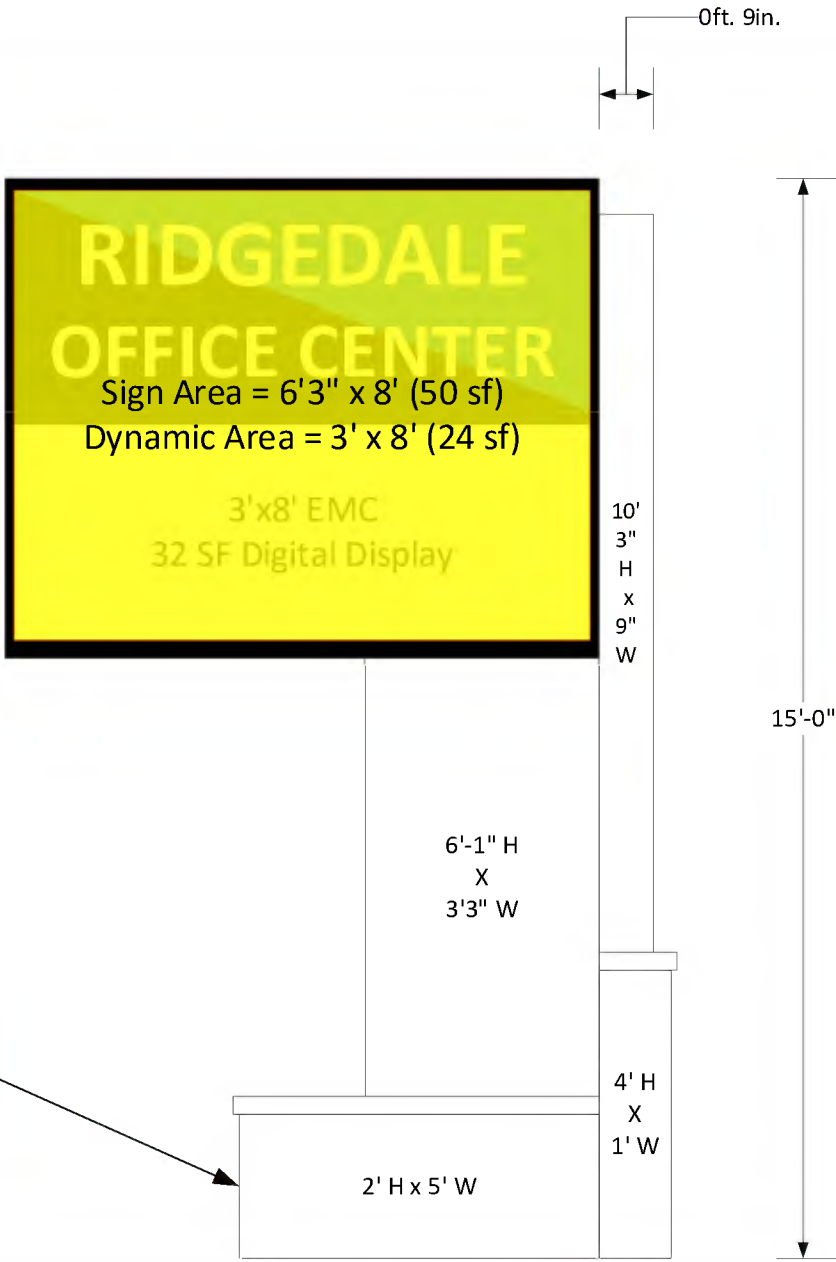
1.2' from property line



**RIDGEDALE
OFFICE CENTER**

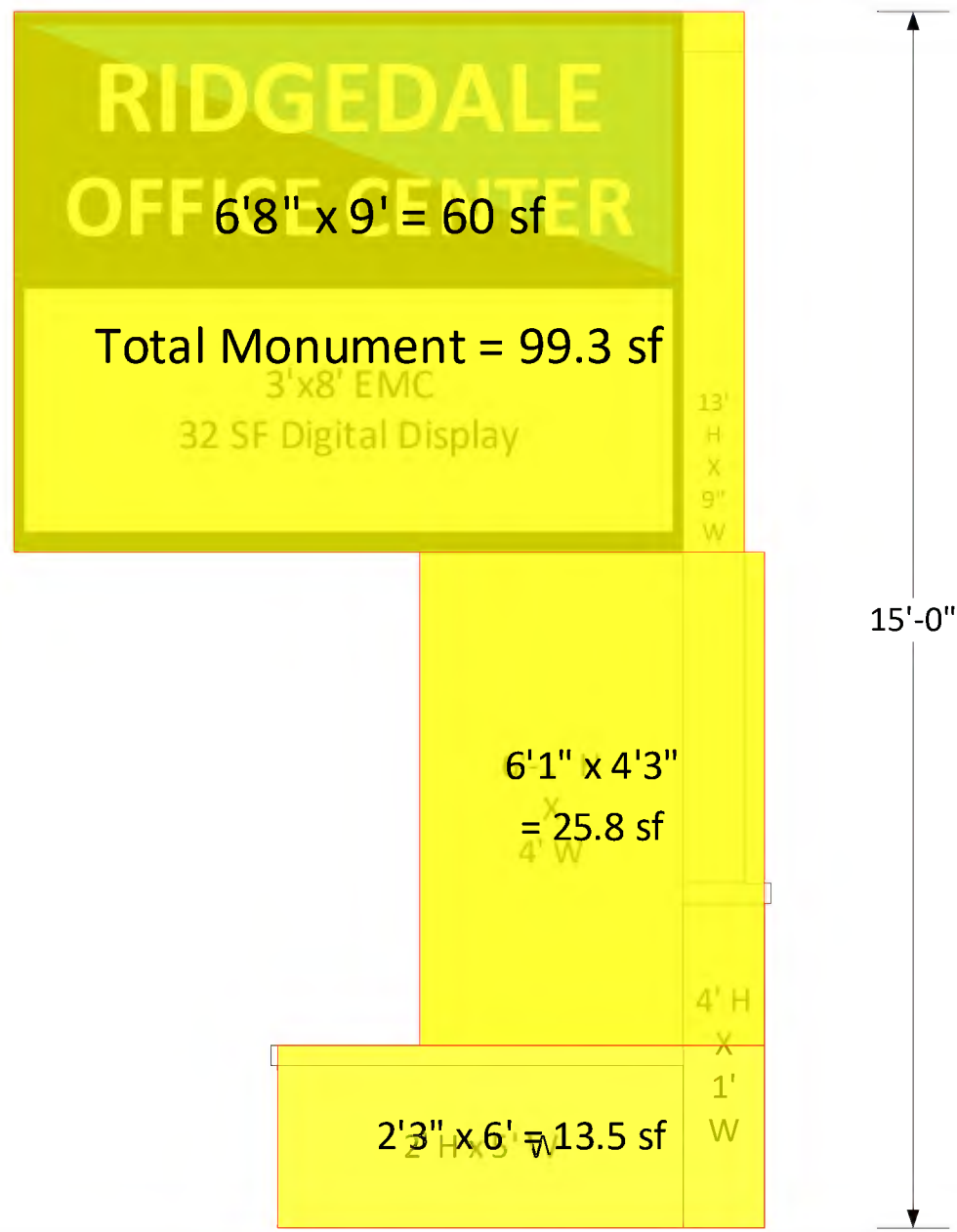
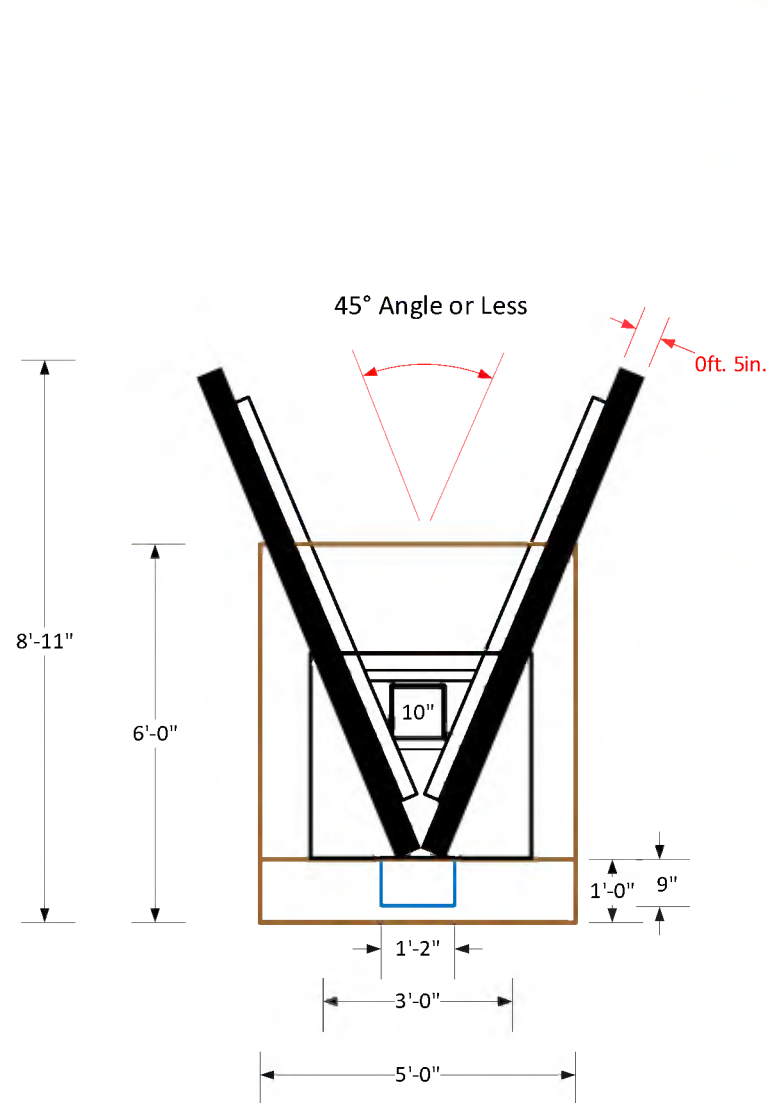
**SPACE
AVAILABLE**

Proposed Signage: 3x5 Message Center



Versetta Stone
Plumb Creek
Tightcut

Proposed Signage: 3x5 Message Center



Planning Commission Resolution No. 2023-

**Resolution approving a setback variance for a
freestanding electronic message center sign at 13911 Ridgedale Dr.**

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

Section 1. Background.

1.01 The subject property is located at 13911 Ridgedale Dr. It is legally described as:

Lot 27, Fairfield Acres, according to the recorded plat thereof on file and of record in the office of the County Recorder, Hennepin County, Minnesota, together with all that portion of vacated Lincoln Road lying North of the Easterly extension of the North line of White Birch Hills Addition, and Easterly of the centerline of said Lincoln Road, and also together with that portion of said vacated Lincoln Road lying South of the Easterly extension of the North line of White Birch Hills Addition and lying North of the Westerly extension of the centerline of Mounty Curve Avenue, excepting from all of the above that portion take for highway purposes.

EXCEPT:

That part of Tract A described below:

Tract A, Lot 27, Fairfield Acres, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota, including that part of the Easterly Half of the vacated Lincoln Road, lying North of the Easterly extension of the North line of White Birch Hills Addition; excepting therefrom the right of way of Trunk Highway No. 12 renumbered 394.

which lies Northerly of Line 1 described below:

Line 1: Beginning at a point on the North line of Tract A herein before described, distant 305 feet West of the Northeast corner thereof; thence run Westerly to the point of intersection of the West line of said Easterly Half of vacated Lincoln Road with the Southerly right of way line of said Trunk Highway 12 and there terminating.

1.02 Matt Duffy of Think Digital Signs, on behalf of the property owner, is proposing to replace an existing freestanding sign with a new electronic message center sign. The current sign encroaches into the property line setback. The proposed sign would be set back further from the property line than the existing sign; however, it would still encroach into the property line setback.

	Required	Existing	Proposed
Front Yard	10 feet	0 feet	1.2 feet*

Requires Variance

1.03 City staff was unable to find evidence that the existing freestanding sign was legally constructed prior to the adoption of the 10-foot property line setback. As such, the existing freestanding sign is not considered non-conforming, and it is not eligible for an expansion permit. Thus, the proposal to construct a sign within the property line setback requires a variance.

1.04 City Code §325.05 (4)(b) states that all signs, unless specified otherwise, must be setback at least 10 feet from all property lines.

1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the Planning Commission to grant variances.

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 mean: (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 proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The purpose and intent of the required 10-foot property line setback for signs is to ensure appropriate separation between freestanding signs and, typically, public streets. The requested variance meets this intent. The proposed freestanding sign would be set back further from the road than the existing sign and would be located approximately 24 feet from the paved surface of the road.

2. Consistent with Comprehensive Plan: The city’s comprehensive plan does not make a specific reference to signage. As such, the proposal is not contrary to the comprehensive plan.
3. Practical Difficulties: There are practical difficulties in complying with the ordinance:
 - a) Reasonableness: The requested variance is reasonable. The proposed freestanding electronic message center sign would meet all sign dimension requirements and would be closer to compliance with city code than the existing sign.
 - b) Unique Circumstance: The existing freestanding sign location and large road right-of-way are unique circumstances for the property owner. The existing sign currently encroaches into the 10-foot property line setback. The proposed sign would be located in a similar location, but the property line setback distance would increase from 0 feet to 1.2 feet.

The property currently has 24 feet of right-of-way between the property line and Ridgedale Dr. If the ordinance were enforced, the sign would need to be located approximately 34 feet from the road, which would be located into the site’s parking lot. There is no reasonable area of the site where a sign could be located to meet the property line setback and be located outside of the existing parking lot. This creates a practical difficulty for the property owner when trying to provide messaging to the traveling public.

- c) Character of Locality: The existing freestanding sign currently encroaches into the property line setback. The proposed sign would be closer to conformance than the existing sign. As such, if approved, the proposed sign would not alter the character of the neighborhood.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described variance based on the findings outlined in Section 3 of this resolution. Approval is subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:
 - Sign Permit and Supporting Documents packet labeled March – 2023
2. The freestanding sign must meet all sign and building code requirements.

3. The applicant must apply for and receive a building permit and sign permit prior to starting construction for the proposed sign.
4. The footing for the sign must be located 10 feet away from the hydrant lateral and water line to the property.
5. Landscaping plan must meet minimum landscaping and mitigation requirements as outlined in the ordinance. Note only small shrubs, perennials, and grasses may be located in public easements and should include pollinator species.
6. Install a temporary rock driveway, erosion control, tree and wetland protection fencing, and any other measured as identified as the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
7. A copy of this resolution must be recorded with Hennepin County prior to the issuance of a building permit.
8. This variance will end on Dec. 31, 2024, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on May 18, 2023.

Joshua Sewell, Chairperson

Attest:

Fiona Golden, Deputy 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 Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on May 18, 2023.

Fiona Golden, Deputy City Clerk

MINNETONKA PLANNING COMMISSION
May 18, 2023

Brief Description	Conditional use permit for a restaurant with on-sale liquor at 17623 Minnetonka Boulevard.
Recommendation	Recommend the city council adopt the resolution approving the request.

Background

Costa Brava is requesting a conditional use permit to include on-sale intoxicating liquor on the menu at 17623 Minnetonka Blvd. The site is currently occupied by the restaurant El Travieso Tacqueria; the existing restaurant does not have a liquor license. Costa Brava, a tapas bar, would be under the same management as the current restaurant. The only proposed changes are the restaurant name and menu items. The request for on-sale intoxicating liquor requires a conditional use permit.

On May 1, 2023, the update to the parking ordinance was adopted. Under the new parking ordinance, the site would meet parking requirements.

Proposal Summary

The following is intended to summarize the applicant's proposal. Additional information associated with the proposal can be found in the "Supporting Information" section of this report.

- **Existing Site Conditions.**

The subject property is located in the southwest corner of the Minnetonka Blvd/ County Road 101 intersection. The site is improved with a roughly 17,600 square-foot neighborhood commercial center – originally constructed in 1979 – and a surrounding parking lot. The site has a parking agreement with the neighboring commercial property to the south.

- **Existing Building.**

The existing tenant space is roughly 1,200 sq. ft. in size. The space is currently leased by the same management team that would operate Costa Brava. The existing space would not be altered by this request.

- **Proposed Use.**

The tenant will not change; however, the restaurant name will change to Costa Brava. The applicant has requested to add on-sale intoxicating liquor to the menu. The counter-service restaurant will have a small sit-down dining area featuring cuisine with Spanish and Mediterranean influences. The site would generally be open Monday through Saturday from 10 a.m. to 10 p.m.

Proposal Requirements

This proposal requires the following:

Conditional Use Permit for an on-sale liquor license: By city code, restaurants with an on-sale intoxicating liquor or dance hall license are conditionally permitted use within the B-2 zoning district.

Primary Questions and Analysis

A land-use proposal is comprised of many details. In evaluating a proposal, staff first reviews these details and then aggregates them into a few primary questions or issues. The following outlines both the primary questions associated with the Costa Brava proposal and the staff's findings.

- **Is the proposed restaurant having on-sale intoxicating liquor use appropriate?**

Yes. The existing restaurant would continue to occupy its current tenant space. The expanded menu, to include intoxicating liquor, would not change the primary restaurant use or require an expansion to the leased tenant area. The proposed changes are business administrative in nature.

- **Can the anticipated parking demands be accommodated?**

Yes. A parking study was completed in 2005 by WSB, and the Lindsay Group reevaluated parking in 2018. The studies looked at the two parcels owned by the Lindsay Group – 17603 Minnetonka Blvd. and 3432 County Road 101; the parcels have a shared parking agreement. The 2005 study determined that the two parcels only needed 106 total parking spaces between the two sites to meet the parking demand. The 2018 parking review showed that typically there is at least 50 percent of the parking spaces available, with the lowest parking availability for either site being 40 percent available during the reviewed times. (See attached.)

The Institute of Transportation Engineer parking demand data determines 124 stalls would be required for 17603 Minnetonka Blvd and 3432 County Road 101. According to the updated parking ordinance, a variance is not required when a property can meet the parking requirement based upon the Minnetonka City Code, the ITE, or American Planning Association parking standards.

Staff would note that the proposed use may have an increase in patronage surrounding the re-opening of the restaurant. However, this is a common occurrence seen with restaurant openings, and traffic and parking do return to normal after a couple of months. An influx of attendance during such a time does not mean inadequate parking at the site.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit for a restaurant with an on-sale liquor at 17623 Minnetonka Boulevard.

Originator: Bria Raines, Planner
Submitted to: Loren Gordon, AICP, City Planner

Supporting Information

Project No.	94014.23a
Property	17623 Minnetonka Blvd
Applicant	Costa Brava, owner of El Travieso Tacqueria
Surrounding Land Uses	Northerly: Minnetonka Blvd, zoned B-2 and B-3 beyond Easterly: County Road 101, zoned B-2 beyond Southerly: Zoned B-1, guided commercial Westerly: Single-Family Homes, zoned R-1, guided low-density
Planning	Guide Plan designation: Commercial Existing Zoning: B-2, limited business
History	<p>In 2000, the property east of the subject property (owned by Holiday Gas Companies) received the following:</p> <ul style="list-style-type: none">• Conditional use permit to redesign the existing gas service area; and• Site and building plan review approval to replace a canopy and gas pumps and remove an existing structure. <p>In 2005, the property directly south of the subject property received the following:</p> <ul style="list-style-type: none">• A conditional use permit for a two-story building with a fast food restaurant (Caribou Coffee);• Site and building plan review approval;• Setback variance from the right-of-way;• Parking variance (with a shared property agreement with the subject property);• Drive aisle width variance. <p>In 2006, the property directly south of the subject property received a conditional use permit for an outdoor eating area for a coffee shop (Caribou Coffee).</p>
2005 Parking Study	<p>A parking study was commissioned in 2005 for the property south of the subject property (3450 County Road 101) but also reviewed the subject property. At this time, per the applicant, the subject lease space was used by a coffee shop, which would have had similar parking demands as the proposed use.</p> <p>Even though the subject properties did not meet city code parking requirements, the parking study determined that the proposed parking lots on the two properties could accommodate the predicted parking demand. The parking variance was approved for 125 total parking spaces.</p>

The two lots were considered combined as there is a cross-parking agreement between the two sites; however, individual parcel parking needs are described below.

Site	City Code Requirements	Parking Study Requirements	Approved Parking
17603 Mtka Blvd.	115	62	72
3432 Co. Rd. 101	54	44	44 (7 proof of parking)
Combined	169	106	125

(See attachments for the complete parking study.)

2018 Parking Study

In January 2018, the Lindsay Group conducted a parking review of 17603 Minnetonka Blvd. and 3432 County Road 101 to determine the number of parking spaces available during various times of the day from Friday, January 26 to Wednesday, January 31. The following is intended to summarize the review:

- The properties rarely have less than 50 percent of parking available.
- The lowest parking availability for the properties was at 6 p.m. when 40 percent of parking was available.
- The lowest parking availability for the southern property was at 2 p.m. when 54 percent of parking was available.

The parking study was supplemental to the Nautical Bowls parking variance request in March 2018. The resolution granted a variance from the code-required 186 spaces to 125 spaces.

2023 Project Proposal

The applicant has requested a liquor license for Costa Brava, which has required a recalculation of the parking demand for the site. Based on the newly adopted parking ordinance, this proposal will meet the parking demand.

(See attachments for parking demand calculation.)

CUP Standards

The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd. 2:

1. The use is consistent with the intent of this ordinance;

Finding: The proposed use is consistent with the zoning ordinance. A restaurant with on-sale liquor or dance hall license is a conditionally-permitted use within the B-2 district.

2. The use is consistent with the goals, policies, and objectives of the comprehensive plan:

Finding: The proposed use is consistent with the goals, policies, and objectives of the comprehensive guide plan.

3. The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements;

Finding: The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff. The use is not anticipated to have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.

4. The use is consistent with the city's water resources management plan;

Finding: The proposal is consistent with the city's water resources management plan. No additions are proposed to the property at this time.

5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and

Finding: The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with no additions. The proposal would meet the standards outlined.

6. The use does not have an undue adverse impact on public health, safety, or welfare.

Finding: The proposal is not anticipated to have an undue adverse impact on the public's health, safety, or welfare.

The proposal would meet the general conditional use permit standards as outlined in City Code §300.21 Subd. 4(i) for restaurants having on-sale liquor or dance hall licenses:

1. Parking shall be in compliance with the requirements of Section 300.28 of this ordinance;

Finding: The commercial center would meet the Institute of Transportation Engineers and continue to meet the parking variance approved in 2018.

2. Shall only be permitted when it can be demonstrated that the operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections; and

Finding: The existing restaurant is not anticipated to significantly impact existing traffic volumes or levels of service.

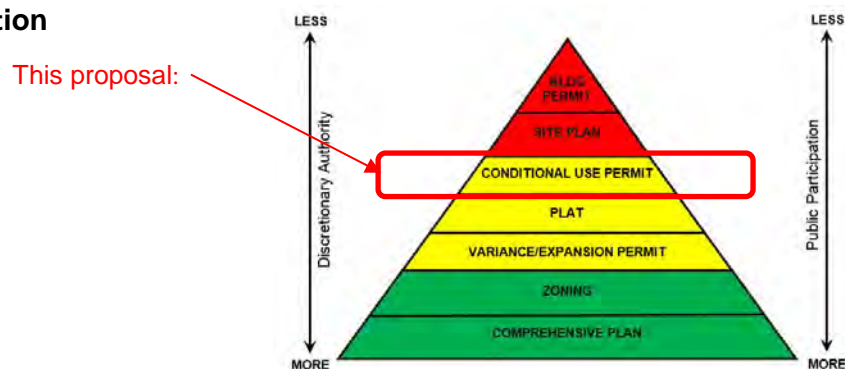
3. Shall not be located within 100 feet of any low-density residential parcel or adjacent to medium or high-density residential parcels. The city may reduce separation requirements if the following are provided:
 - a. landscaping and berming to shield the restaurant use;
 - b. parking lots not located in proximity to residential uses; and
 - c. lighting plans which are unobtrusive to surrounding areas.

Finding: The existing restaurant would be located within 100 feet of the low-density residential to the west. The parking lot and restaurant entrance are separated from the residential property by existing vegetation. The commercial site is existing and has no plans for additional or new lighting. Staff does not anticipate the internal changes to adversely impact the neighboring residential properties.

Liquor License

Costa Brava is requesting a liquor license. The city council has the authority to approve or deny liquor licenses. The final hearing for the liquor license is scheduled for the June 5, 2023 city council meeting.

Pyramid of Discretion



Voting Requirement

The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of a simple majority.

Motion Options

The planning commission has three options:

1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the request.

2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the request. This motion must include a statement as to why denial is recommended.
3. Table the requests. 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.

**Neighborhood
Comments**

The city sent notices to 79 area property owners and received no comments.

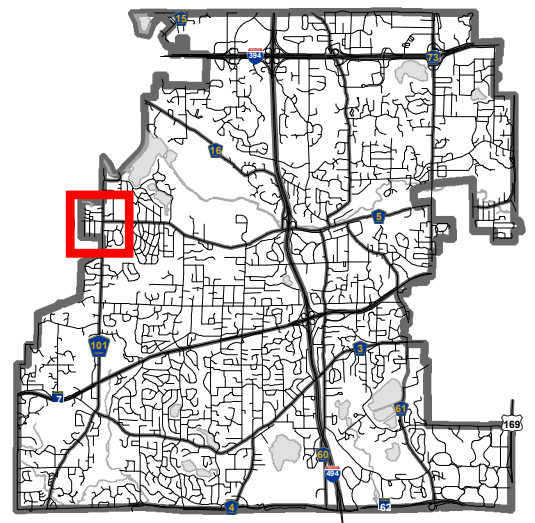
**Deadline for
Decision**

Aug. 4, 2023



Location Map

Project: Costa Brava
 Address: 17623 Minnetonka Blvd



Business Plan Costa Brava

3/22/23

Costa Brava
17623 Minnetonka Blvd.
Minnetonka, MN 55391

BUSINESS OVERVIEW

Costa Brava will continue to operate under Hector Ruiz.
Costa Brava is authentic Spanish & Mediterranean Cuisine.
Our indoor seating capacity is 32 guests.

BUSINESS HOURS & MENU

Hours of Operation: The anticipated maximum hours that Costa Brava will be open to the public will be Monday - Saturday from 10 a.m. until 10:00 p.m., with all customers off-premise no later than 11:30 p.m. We anticipate that, unless demand for later hours is present, we will close earlier on weeknights. Hours may be subject to change depending upon holidays, special events, game days and similar such events, but in no case will operating hours extend past 12 a.m. without the necessary and required licenses and approvals. Kitchen hours of operation are noted in the Food Service section below.

Food Service and Menu: Costa Brava is a counter-service, with a small sit down dining area. Our restaurant features foods highlighting spices and flavors from Spain and the Mediterranean geographical area. The menu provides an experience varying from deep, savory flavors to sweet tangy flavors derived from traditional cooked meats, fruits and vegetation. We will continue to offer the full menu during virtually all hours of operation - with kitchen operations beginning to scale back approximately 30 minutes prior to closing for the evening. Our Environmental Health Plan Review application will evidence the on-site, full kitchen facility as well as all pertinent equipment to support a significant restaurant and bar operation.

Please note that individual food items on the menu are subject to change depending upon customer demand and supplier issues.

Please see the enclosed preliminary full restaurant menu for Costa Brava.

ENTERTAINMENT

We will not be seeking any entertainment licensure at this time.
No amusement devices will be offered on the premises.

ALCOHOL SERVER TRAINING MATERIALS & PLAN

Initial Training: We contracted with Alcohol Compliance Services (ACS) to conduct our initial alcohol compliance training for our staff; we anticipate offering the training either pre-opening, or if not logistically feasible, within 30 days of approval of liquor license

Ongoing & Regular Training: Alcohol compliance training will be offered to our pertinent employees generally on an annual basis by a qualified, outside training provider, ACS. Company training materials may consist of a variety of memos, emails, handouts, company policy handbooks, POS reminders and posted signage, and ongoing verbal training via management and ownership. Also, outside professional providers and vendor's seminars/lectures will be utilized.

After opening, all newly-hired employees handling alcohol who present evidence of completion of an acceptable alcohol compliance training program within the last year will

be trained by management staff using the materials given during on-site training and internal company training materials. Newly-hired employees who cannot demonstrate acceptable alcohol compliance training within the last year will be required to attend such training offered by ACS.

Carding Policy & Use of Electronic ID Devices: Guests who are obviously intoxicated, or are of questionable character will be denied entrance. Guests who are sold/served alcohol who appear to be under 35 years of age, in the judgment of restaurant staff, will be required to show proper identification for alcohol sales/service. Once guests become recognized or regular customers, formal ID may not be required. All servers and bartenders will be responsible for carding guests, and they will be thoroughly trained to card anyone that appears to be under 35 years of age. No one under the age of 21 will be served alcohol, nor will anyone be served any alcohol that appears to be intoxicated.

We do not intend to utilize electronic ID devices at this time, but may consider utilizing such at a future point. It is our longstanding policy that while many tools are available to assist in verifying the age of our guests, we expect our servers/bartenders to be proficient at carding. It is our position that our employees' professional knowledge and expertise on carding is both critical and irreplaceable.

Reward & Discipline Policy for Serving/Selling Alcohol to Underage Persons: At this time, we are considering an incentive system consisting of a variety of prizes for passing a compliance check or catching an underage attempt to purchase alcohol. It is our experience that an incentive program of this nature encourage our staff to be compliant with our internal policies and the pertinent statutes and ordinances with respect to underage sales/service; however, it is the case that our company philosophy views adhering to the law as an essential and integral part of the job requirement of wait staff and alcohol-related sales positions in this industry and as such, no reward should be necessarily expected.

The first violation for an employee failing a compliance check or discovered willfully, or by means of carelessness/negligence, selling/serving to an underage person will result in the employee's immediate termination of employment.

Self Audits: Due to the our application type, we feel it would be most beneficial to our company to self audit. We would like to put our employees and managers in a better position to comply with the rules and regulations that accompany a full liquor license. We believe it will provide us with opportunities to self-correct if needed.

STAFFING MODEL:

Costa Brava will employ a total staff of approximately five to ten (5-10) persons working in the following areas: managers/assistant managers, chefs, cooks, servers and related kitchen and cleaning help. On a typical Friday or Saturday evening, we intend to employ at least one person in a managerial-level position who is cognizant of and responsible for security matters; it is the case that our entire staff is responsible for security-related matters at the restaurant.

NOISE MANAGEMENT/ABATEMENT

Due to the placement of our business in a commercial building on Minnetonka Avenue, the buffer provided by adjacent and common wall buildings – generally of solid block construction, the primary nature of Costa Brava as a sit-down restaurant, our typical and expected clientele, and our generally reduced hours of operation, we anticipate noise concerns will be minimal. Regardless, our staff will regularly monitor noise emanating

beyond our licensed premises. Management personnel and employees will ask and remind our patrons to leave quietly and respectfully depart from the premises when necessary. Amplified music will be at a medium-range level which allows for conversation.

Noise mitigation measures we intend to adopt with our staff include: training our employees to address: loud or unruly behavior from any patron; removal procedures for unruly or disruptive patrons, and the importance of minimizing unwanted noise as patrons depart the premises, with an emphasis on closing time.

We anticipate that most, if not all, of the sound from restaurant operations will be absorbed by internal features, such as soft seating and flooring (wood, fabric and upholstery). We commit to responding promptly to any concerns with improper or unacceptable noise levels. All noise-related complaints and concerns will be handled by the general manager or assistant manager or in his/her absence, to the shift manager/supervisor on duty. It is the intent of Costa Brava to comply with all noise-related ordinances and statutes and to be a good neighbor to the surrounding community.

COMMUNITY IMPACT PLAN - EFFECTS OF BUSINESS

Welfare and Safety: It is our belief that Costa Brava will continue to bring a welcomed and desirable dining concept/experience with correspondingly well-mannered and civic-minded patronage to the Minnetonka area. Costa Brava's concept directly appeals to the fast-growing demographic in the area: The diversity of residents as well as younger adult professional and families living in the area; we hope to continue making Costa Brava a favorite of local residents in the area.

Litter Removal: Kitchen staff is thoroughly trained to sort trash and compost, separate cardboard, recycling, monitor grease disposal, and keep the litter container closed, and the trash and composting areas clean and tidy at all times. Our trash dumpster is conveniently located on private property just outside our rear door. We will assign one dedicated employee (cleaning crew) to daily patrol the 100' perimeter of the restaurant, to sweep the area especially directly in front of the restaurant where smoking may occur, and to remove any and all litter found thereon. Litter patrol will be concentrated prior to opening of the restaurant and during/after evening meal time. A final patrol will be made prior to employees' leaving the restaurant after closing.

Team Sponsorship: At the present time, we have no immediate intent to sponsor competitive sports teams. If requested, we may consider sponsoring a local sports team.

Charitable Gambling Activities: At the present time, we have no intent to offer charitable gambling activities on the premises.

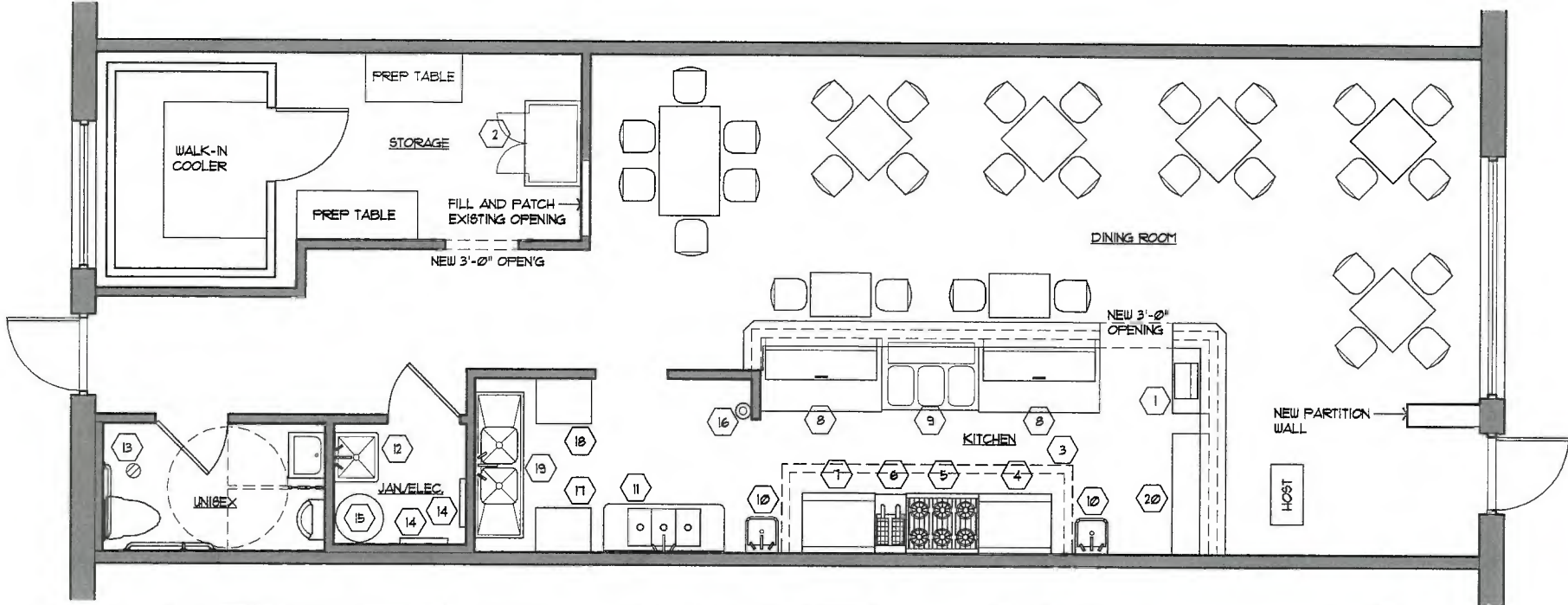
Security Plan: Management and staff are trained in the basic principles of establishment security and our expected protocols for handling security-related issues. Our historical and current patronage at our location is a civil, mature, civic-minded and generally very well-mannered clientele; hence, our philosophy is one of respectful interaction and enforcement. Unruly and disruptive guests will first be asked to leave the premises and when necessary, physically escorted off the premises.

Security at Costa Brava will consist of our employees with a fully operational camera system as back up. Management will be the head of security. It is the ultimate duty of the manager to keep an accurate count of all guests in order to avoid over occupancy (we also use open table for reservations to prevent over booking/crowding). Once at capacity, additional guests will be denied entrance into the premises. All staff will be trained not to admit or serve intoxicated persons. Our staff will also assist in surveillance of the adjacent sidewalk area outside our premises and will employ techniques to

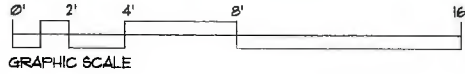
encourage departure from the area. Staff will assist with clearing the sidewalk area and commit to a security presence in the area for at least 30 minutes after the time of closing; in the case of a special event or a situation warranting additional attention, our management staff will remain for additional time. Staff will regularly inform exiting guests to have a safe evening and to respect the surrounding area and neighborhood. Management and staff will work with Minnetonka Police to escort potentially problematic guests away from the area. Security cameras will be installed upon the completion of the licensing and new ownership is approved. The camera monitoring system will be physically located in the manager's office located in the lower level of the restaurant; it is a web-based system so cameras can be monitored remotely by management and ownership as well. Our staff will practice an emergency evacuation plan and will cooperate with the Minnetonka Police Department when told to evacuate the premises. Communication with our staff to review security measures and recent incidents will take place when they are hired, during routine pre-shift meetings, and at all store meetings held at a minimum on a monthly-basis. Generally, meetings to discuss security are held more often, sometimes taking place before the night is to begin, or after work is over and patrons have left the premises. Management and staff meetings will also be held on an as-needed basis. All significant incidents that occur on premises are recorded in an incident report kept by management staff. Significant incidents are then investigated to identify the individuals involved, determine the cause, the action staff took as a result of the incident, and whether any follow up is required, including contacting the Minnetonka PD. Staff will also be trained to call for police, fire or emergency medical services response if an employee or guest is severely injured, needs medical services, or when any injury is the result of a known criminal act. Our staff will always be available to meet with representatives of the City of Minnetonka to address any security concerns. We will also provide any available video surveillance that may be utilized on the premises to the Minnetonka Police Department upon request. If we feel we have underestimated our security needs, we will implement the necessary security improvements immediately. Security is a priority for us, and we commit to having in place the necessary and appropriate personnel and measures at all times. We commit to making reasonable adjustments to this security plan immediately as needed and to address foreseeable future concerns.

EXPERIENCE IN HOSPITALITY & RETAIL ALCOHOL INDUSTRIES

I, Hector Ruiz, have 20+ years of experience in the restaurant business. An experienced, locally – residing general manager may be hired to lead our operation at this location, with Hector Ruiz continuing to serve as Chief Manager and Operations Director/C.E.O. for Costa Brava.



EQUIPMENT SCHEDULE			
1	CASHIER / REGISTER	11	60" 3 COMPARTMENT SINK
2	42" REACH-IN COOLER	12	MOP SINK
3	12' EXHAUST HOOD	13	4" DIA. FLOOR DRAIN
4	36" FLAT TOP	14	ELECTRICAL PANEL
5	36" 6-BURNER STOVE	15	WATER HEATER
6	BROILER / FRYER	16	FIRE EXTINGUISHER
7	36" FLAT TOP	17	ICE MACHINE
8	60" REFRIG PREP TABLE	18	DISHWASHER
9	48" HOT WELL	19	2 COMPARTMENT SINK
10	HAND SINK	20	BEER COOLER



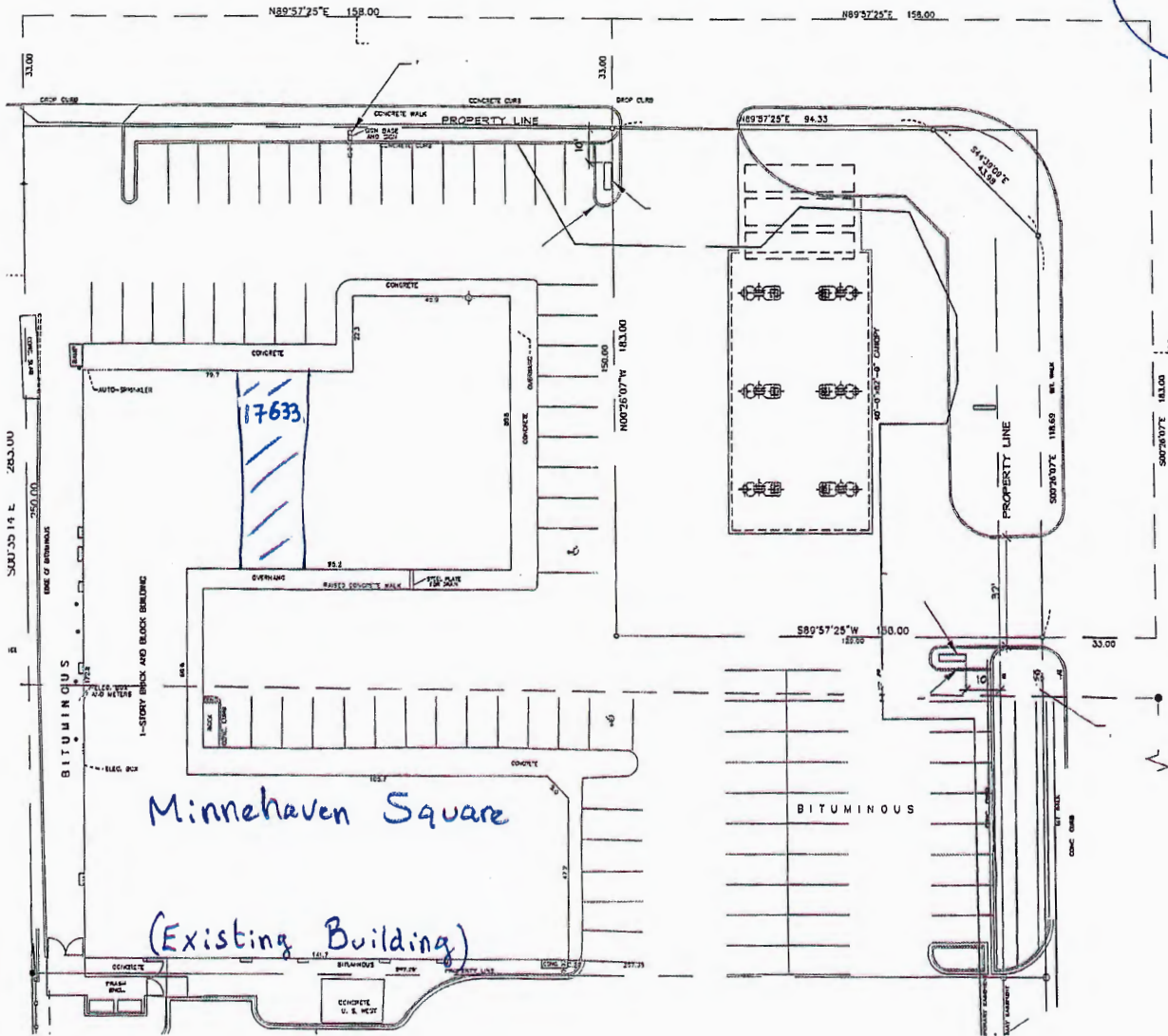
Costa Brava Floor Plan -- Graphic Scale -- 3.22.2023

Site Plan Minnehaven Square

17633 Minnetonka Blvd
Minnetonka MN 55391



COUNTY ROAD NO. 5





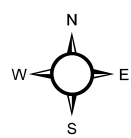
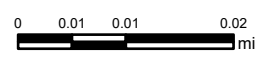
May 3, 2023

Proof of parking shows 125 stalls possible



Shared Parking Agreement Area

DISCLAIMER:
This drawing is not a legally recorded plat or an accurate survey.
It is intended to be only an approximate representation of information from various government offices and other sources.
It should not be used for a purpose that requires exact measurement or precision.
People who use this drawing do so at their own risk.
The City of Minnetonka is not responsible for any inaccuracies contained in the drawing.
The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.



Minnehaven Square				
	Sq Ft	Parking Ratio per 1,000 sq. ft.	City Code	ITE
Cigar Jones	1,374	3	Min. 5 stalls	4 stalls
Beauphoria	1,218	3	4 stalls	3 stalls
Costa Brava	1,200	10	12 stalls	11 stalls
Holiday	4,360	3	13 stalls	22 stalls
Vacant	510	3	Min. 5 stalls	1 stalls
Mandarin Yang	3,000	14	42 stalls	35 stalls
Fitted For You	600	3	2 stalls	2 stalls
Anna's Nails	600	3	2 stalls	2 stalls
F45	4,671	3	14 stalls	15 stalls
Required			99 stalls	95 stalls
Available			81 stalls	81 stalls
3450 County Rd 101				
Caribou	1,840	9	17 stalls	16 stalls
Lindsay Group	1,863	2.75	5 stalls	4 stalls
Chiropractor	1,291	3	4 stalls	4 stalls
Verizon	1,600	3	Min. 5 stalls	3 stalls
Storage	3,760	0.5	2 stalls	2 stalls
Required			33 stalls	33 stalls
Available			44 stalls	44 stalls
Total Required			132 stalls	124 stalls
2018 Parking Variance			125 stalls	125 stalls



Doc No 8844839 08/14/2006 10:04 AM
Certified filed and or recorded on above date:
Office of the County Recorder
Hennepin County, Minnesota
Michael H. Cunniff, County Recorder
TransID 246104

Deputy 3
Fees
\$35.50 DOC
\$10.50 SUR
\$2.00 COPY
\$48.00 Total

EXHIBIT A-1 CROSS EASEMENT AGREEMENT

2005 AND PRIOR TAXES PAID
TAXPAYER SERVICES
TRANSFER ENTERED

AUG 14 2006

HENNEPIN COUNTY MINN.
DEPUTY


[Above space reserved for recording data.]

DECLARATION OF CROSS EASEMENT AGREEMENT

THIS DECLARATION OF CROSS EASEMENT AGREEMENT (this "Agreement") is made as of this 3 day of March, 2006 by LINDSAY CAN-AM LIMITED PARTNERSHIP, a Minnesota limited partnership, with offices at 8700 West 36th Street, St. Louis Park, Minnesota 55426 ("Declarant").

RECITALS:

- A. Declarant owns certain real property located in the City of Minnetonka, County of Hennepin, and State of Minnesota, as described in Exhibit A attached hereto (the "Property").
- B. Declarant owns and operates a shopping center known as "Minnehaven Square" upon that portion of the Property identified on Exhibit A as "Parcel 1". Declarant intends to construct a building upon that portion of the Property identified on Exhibit A as "Parcel 2," which building is intended to be used by Caribou Coffee Company, Inc.
- C. Declarant desires to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of the Parcels and the present and future Owners and Permittees thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, Declarant does hereby declare that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions hereinafter set forth in this Declaration, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant covenants and agrees as follows:

AGREEMENTS:

1. Definitions. For purposes hereof:
 - 1.1 The term "Common Area" shall mean those portions of the Parcels that are outside of exterior walls of buildings or other structures from time to time located on the Parcels, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.
 - 1.2 The term "Owner" or "Owners" shall mean Declarant and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.
 - 1.3 The term "Parcel" or "Parcels" shall mean each separately identified Parcel of real property now constituting a part of the real property subjected to this Declaration as described on Exhibit "A", that is, Parcel 1 and Parcel 2 and any future subdivisions thereof.
 - 1.4 The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).
 - 1.5 The term "Site Plan" shall mean that site plan of the Parcels attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.
2. Easements.
 - 2.1 Grant of Reciprocal Easements. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcels, and all Owners and Permittees of the Parcels, shall be benefited and burdened by the following perpetual and reciprocal easements which are hereby imposed upon the Parcels and all present and future Owner's and Permittees of the Parcels:
 - (a) Ingress and Egress. A non-exclusive easement for reasonable access, ingress and egress over all paved driveways, roadways and walkways constituting a part of the Common Area of the Parcels as the same may from time to time be constructed and maintained for such use, for the passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels.

(b) Parking. A non-exclusive easement over all parking fields and parking spaces constituting a part of the Common Area of the Parcels as the same may from time to time be constructed and maintained for such use, for the parking and passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes.

(c) Storm Water Drainage. A non-exclusive easement upon, under, over, above and across the Common Areas of the Parcels for the discharge of storm water drainage and/or runoff.

2.2 Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

2.3 Reasonable Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

(b) No Owner of a Parcel shall not alter (or permit to be altered) the surface of the Common Area on Parcel 1 or Parcel 2 if such alteration would materially increase the flow of surface water between Parcel 1 and Parcel 2 either in the aggregate or by directing the flow of surface water to a limited area.

3. Maintenance of Common Areas.

3.1 Maintenance Standards. Each Owner of a Parcel covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Parcel in good order, condition and repair. Following the construction of improvements thereon, maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, supervising the Common Areas, maintaining appropriate lighting fixtures for the parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition.

3.2 Alterations. Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) the reciprocal easements between the Parcels pursuant to paragraph 2.1(a) shall not be closed or materially impaired; and (ii) the driveways and roadways and ingress and egress thereto, and to and from the Parcels and adjacent streets and roads, shall not be so altered, modified, relocated, blocked and/or removed without the express written consent of all Owners.

3.3 Damage. If any portion of the Common Area is damaged or destroyed by any cause whatsoever, the Owner of the Parcel upon which such Common Area is located shall repair or restore such Common Area at its sole cost and expense with all due diligence; provided, however, that no Owner shall be required to expend more than the amount of insurance proceeds which may be available for such repair or restoration. If such damage or destruction of Common Area on a Parcel is caused in whole or in part by another Owner or its Permittee, the Owner obligated to make such repair or restoration reserves and retains the right to proceed against such other Owner or Permittee for indemnity, contribution and/or damages.

4. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of the Parcels. No easements, except those expressly set forth in paragraph 2 shall be implied by this Declaration.

5. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the ~~Rice~~ ^{J.F. Hennepin} County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of the Parcels in accordance with paragraph 11.2 hereof.

6. Miscellaneous.

6.1 Amendment. Declarant agrees that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Parcels, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of ~~Rice~~ ^{Hennepin} County, Minnesota.

6.2 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every Owner and/or every other person or entity now or hereafter having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

6.3 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original Owner or from a subsequent owner of such Parcel, shall

accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other Owner(s), to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

6.4 Severability. Each provision of this Declaration and the application thereof to each Parcel are hereby declared to be independent of and severable from the remainder of this Declaration, if any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

6.5 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

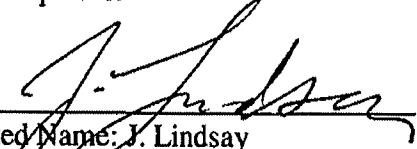
6.6 Governing Law. The laws of the State of Minnesota shall govern the interpretation, validity, performance, and enforcement of this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

[Remainder of Page Intentionally Left Blank]

LINDSAY CAN-AM LIMITED PARTNERSHIP, a
Minnesota limited liability company

By: Falcon International, Inc., its managing
general partner


By: 
Printed Name: J. Lindsay
Its: President

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 31st day of March
2006, by J. Lindsay, the President of Falcon International, Inc., the managing general partner of
Lindsay Can-Am Limited Partnership, a Minnesota limited partnership, on behalf of the
corporation and the limited partnership.

Witness my hand and official seal.




Notary Public

My commission expires:

Jan. 31, 2010

THIS INSTRUMENT WAS DRAFTED BY:

Leonard, Street and Deinard P.A. (KLQ)
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

EXHIBIT A

Legal Description

Parcel 1:

The North 283 feet of the East Half of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 18, Township 117, Range 22, except the North 183 feet of the East 158 feet thereof, according to the United States Government Survey thereof, and situate in Hennepin County, Minnesota.

Together with easement for ingress and egress 15 feet wide adjacent to the East line of the North 183 feet of the premises as described in Deed Document Nos. 3619241 and 3619242, and together with easement for ingress and egress 20 feet wide adjacent to the North line of the East 158 feet of the South 100 feet of the North 283 feet of the East ½ of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of the premises as described in Deed Document No. 3619243.

Parcel 2:

PROPERTY LOCATION: 3432 State Highway 101, Minnetonka, Minnesota

LEGAL DESCRIPTION:

The south 100 feet of the north 383 feet of of the East Quarter of the Northeast Quarter of the Southeast Quarter of Section 18, Township 117, Range 22, Hennepin County, Minnesota, except road.

EXHIBIT B

Site Plan

See Attached Site Plan



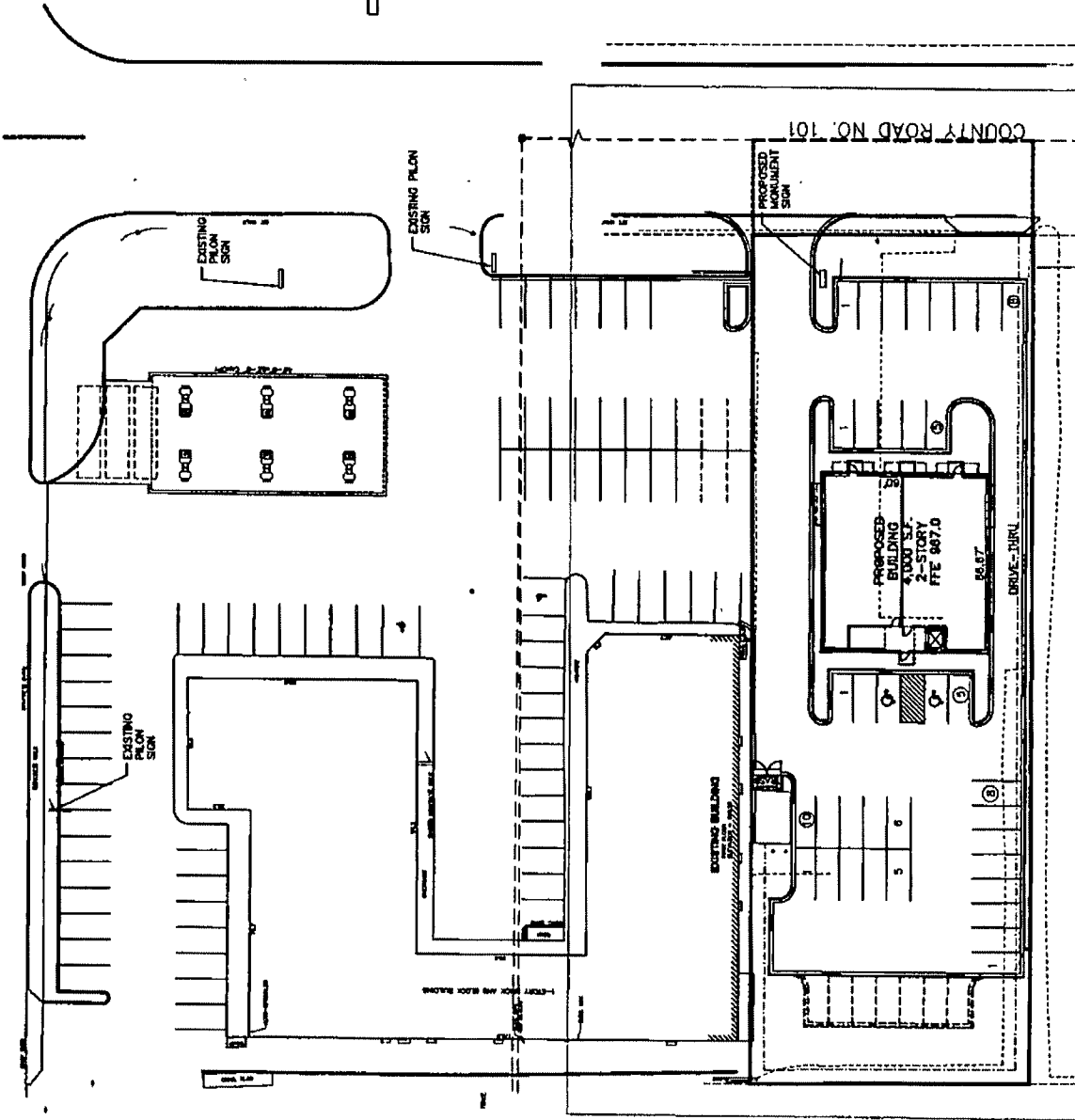
ENGINEER:
 ANDERSON ENGINEERING OF MINNESOTA, LLC
 13400 15th AVE N, SUITE B
 PLYMOUTH, MN 55441
 ROGER ANDERSON
 (763) 383-1084

SITE DATA:

PROPERTY ADDRESS: 3432 COUNTY ROAD 101 MINNETONKA, MN 55345
 LEGAL DESCRIPTION: The south 100 feet of the north 383 feet of the East Quarter of the Northeast Quarter of the Southeast Quarter of Section 18, Township 117, Range 22, Hennepin County, Minnesota, except road.

BENCHMARK: TOP NUT OF HYDRANT; E.L. = 987.11
 PROPERTY AREA: 297,900 S.F. (6.84 ACRES)
 EXISTING ZONING: L-2 LIMITED BUSINESS
 SETBACKS: BUILDING: FRONT YARD = 50'
 SIDE YARD = 35'
 REAR = 35'

PROPOSED BUILDING AREA: 3,790 S.F.
 MAXIMUM BUILDING HEIGHT: 35'
 PARKING PROVIDED: 36 SPACES



X:\2024\12\15\Commercial\Bldg\N13311-CW_20240810\14155A

DATE	DESCRIPTION OF REVISION	DESIGNED BY	CHECKED BY	DATE	SCALE	PROJECT NO.	DATE	PROJECT	DATE	PROJECT
APPROVED BY: _____ PROJECT NO.: _____ SHEET NO.: _____ SHEET TOTAL: _____ DATE: _____ SCALE: _____ PROJECT: _____ DATE: _____ PROJECT: _____						ADDRESS: ANDERSON ENGINEERING OF MINNESOTA, LLC CIVIL ENGINEERING AND LAND SURVEYING 13400 15th AVE N, SUITE B, PLYMOUTH, MN 55441 TEL: (763) 383-1084 FAX: (763) 383-1084				
LINDSAY COMMERCIAL BUILDING MINNETONKA, MN MARTIN WOODY ARCHITECTS						SITE PLAN 1 OF 3				



WSB & Associates, Inc.
701 Xenia Avenue South, Suite 300
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Memorandum

Date: August 2, 2005

To: Mr. Geoff Olson, Planning Director

From: Tony Heppelmann

Re: Lindsay Group Development Parking Study (Minnetonka Blvd and CR 101)

The purpose of this study is to evaluate the number of parking spaces required for a proposed development by the Lindsay Group located south of Minnetonka Boulevard on the west side of CR 101. The proposed development is adjacent to the existing Minnehaven Square. The proposed development and Minnehaven Square will have a common circulation isle on the property line and will be able to share parking between the two developments. See **Figure 1** for the project location. This parking study addresses three questions regarding this development.

1. Will the project meet the code parking requirements by itself?
2. Will the project meet the code parking requirements if considered in combination with the Minnehaven Square?
3. Is the number of parking spaces required by code necessary to meet the parking demand for this proposed development?

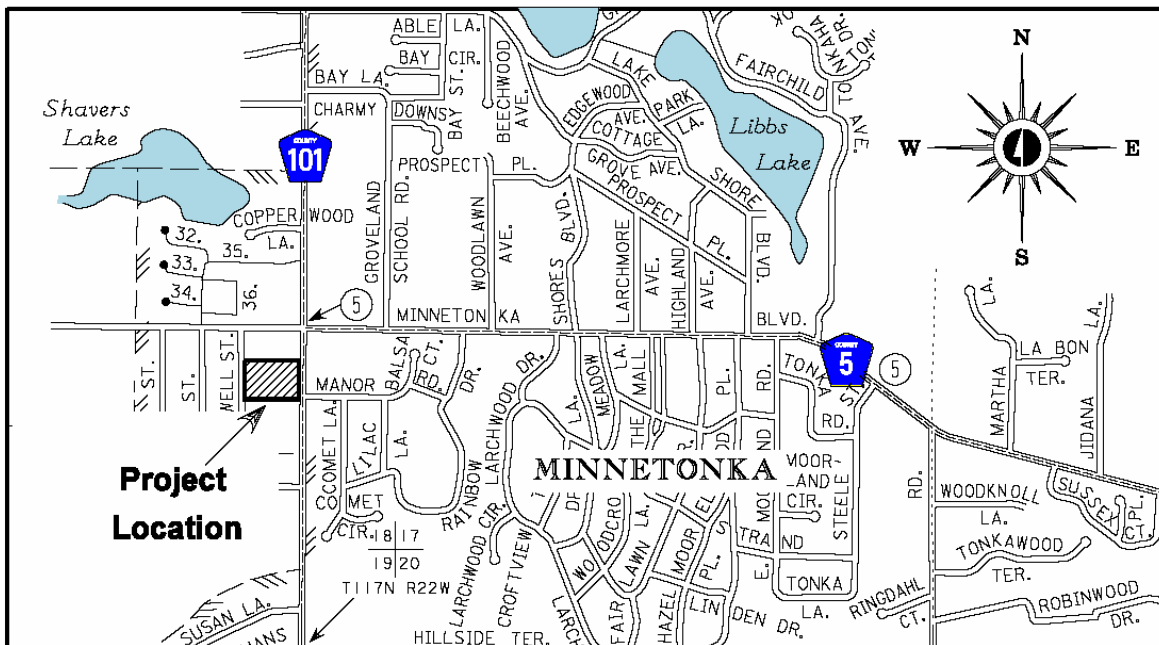


Figure 1. Project Location

1. Proposed Development

The proposed development will consist of a two-story building with a basement. The top level of the building will have 3,760 SF of office space. The ground floor will have 2,220 SF of retail space and 1,540 SF containing a restaurant/coffee shop. The basement will be 3,760 SF used for storage.

2. Relationship to Existing Development

The proposed development is located directly south of Minnehaven Square. Both developments are under the same ownership. The parking lot on the east side of the proposed development will have a common circulation isle with the south side of the parking lot for Minnehaven Square. Customers from Minnehaven Square and the proposed development can, and will, park in both lots. It is most likely that the west (back) lot behind the proposed development will be used by the office employees and the employees in both Minnehaven Square and the proposed development. This will allow for customers of the retail and restaurant development to park in the east lot (in front of the building) as well as in the existing parking lot at Minnehaven Square

3. Proposed Parking Supply

The proposed development will add 41 new parking spaces. Twenty-four (24) parking spaces are on the west side of the site behind the proposed building and 13 parking spaces are located on the east side of the proposed building near the access to CR 101. Also, four (4) new parking spaces will be created on the south side of the existing Minnehaven Square parking lot when the existing curb and circulation isle are removed and a new circulation isle created on the proposed development site. Land for an additional seven (7) parking spaces has been reserved on the far west side of the site for Proof of Parking. This brings the total potential new parking spaces to 48. See **Figure 2** for the site plan.

4. City Ordinance Parking Requirements

The City of Minnetonka “Code of Ordinances” provides parking requirements for various land use types. The proposed development could be classified as either a mixed use building or a neighborhood shopping center in the city code. Because office space is located on the second floor of the building it was determined that the mixed use building classification is the most appropriate for calculating the parking requirements for this project. **Table 1** summarizes the applicable parking requirements from the “Code of Ordinances” and applies the requirements to the proposed land uses and floor areas. Based on the “Code of Ordinances” and assuming there is no shared parking, fifty-four (54) parking spaces are required. The proposed parking spaces will not meet the city parking code requirements if the building is considered by itself.

Because of the relationship of the proposed development to the existing Minnehaven Square the proposed development was considered with the Minnehaven Square to determine whether the combined site would meet the code requirements for parking. The existing Minnehaven Square is considered to be a Neighborhood Shopping Center. **Table 2** summarizes the applicable parking requirements as applied to the existing neighborhood shopping center. The table shows that the existing Minnehaven Square requires 115 spaces based on the parking

code. There are currently 72 spaces provided on the site. **Table 2** also shows the number of spaces that would be required if it Minnehaven Square were classified as a mixed use building. The number of parking spaces required if treated as a mixed use building is less. This is because the parking required for shopping center is 4.5 spaces per 1,000 square feet while the parking requirement for a single retail use is 4.0 spaces per 1,000 square feet. The code is somewhat contradictory to actual experience in that typically the parking demand for a stand alone retail use is higher than for a mixed use where parking for different uses will peak at different times. **Table 2** shows that, in either case, combining the proposed development and the existing Minnehaven Square will not achieve the code required parking, since neither by themselves meet the code requirements for parking.

5. Shared Parking Demand

The last question this study addresses is whether the number of parking spaces required by the code is necessary and whether the proposed parking is adequate to meet demand. The application of the City “Code of Ordinances” parking space rates for single-use developments may over estimate the number of parking spaces needed in a mixed-use development. Because the maximum parking demand occurs at different times for different land uses, the total peak demand for a mixed-use development is often less than the sum of the maximum parking demands for each of the individual uses. For example, a church and an office building may have a combined peak demand that is much less than the sum of the peak demand for each use, since they generate that demand at completely different times. Similarly, the parking demand for office, retail, and restaurant uses also peak at different times creating an opportunity to share some of the parking spaces.

The Urban Land Institute (ULI) has surveyed the hourly parking demand for a number of different land uses for weekdays and Saturdays, and based on the surveys, has determined the percentage of peak demand that occurs during each hour. The results of these surveys are summarized in a report titled “Shared Parking Demand”. **Table 3** and **Table 4** summarize the results for the land uses proposed in this development. These percentages were applied to the parking rates in the City Code for each land use in the proposed development and a combined peak demand was estimated for the proposed development by adding up the parking demand for each hour; see **Table 5** and **Table 6** respectively. The hour from 12:00 p.m. – 1:00 p.m. on a weekday was determined to be the peak for the proposed development with a demand of 44 parking spaces. The Saturday peak was in the hour from 5:00 p.m. to 6:00 p.m. with a demand of 30 parking spaces. Based on the estimated shared parking demand, the proposed development would have adequate parking with the proof of parking spaces.

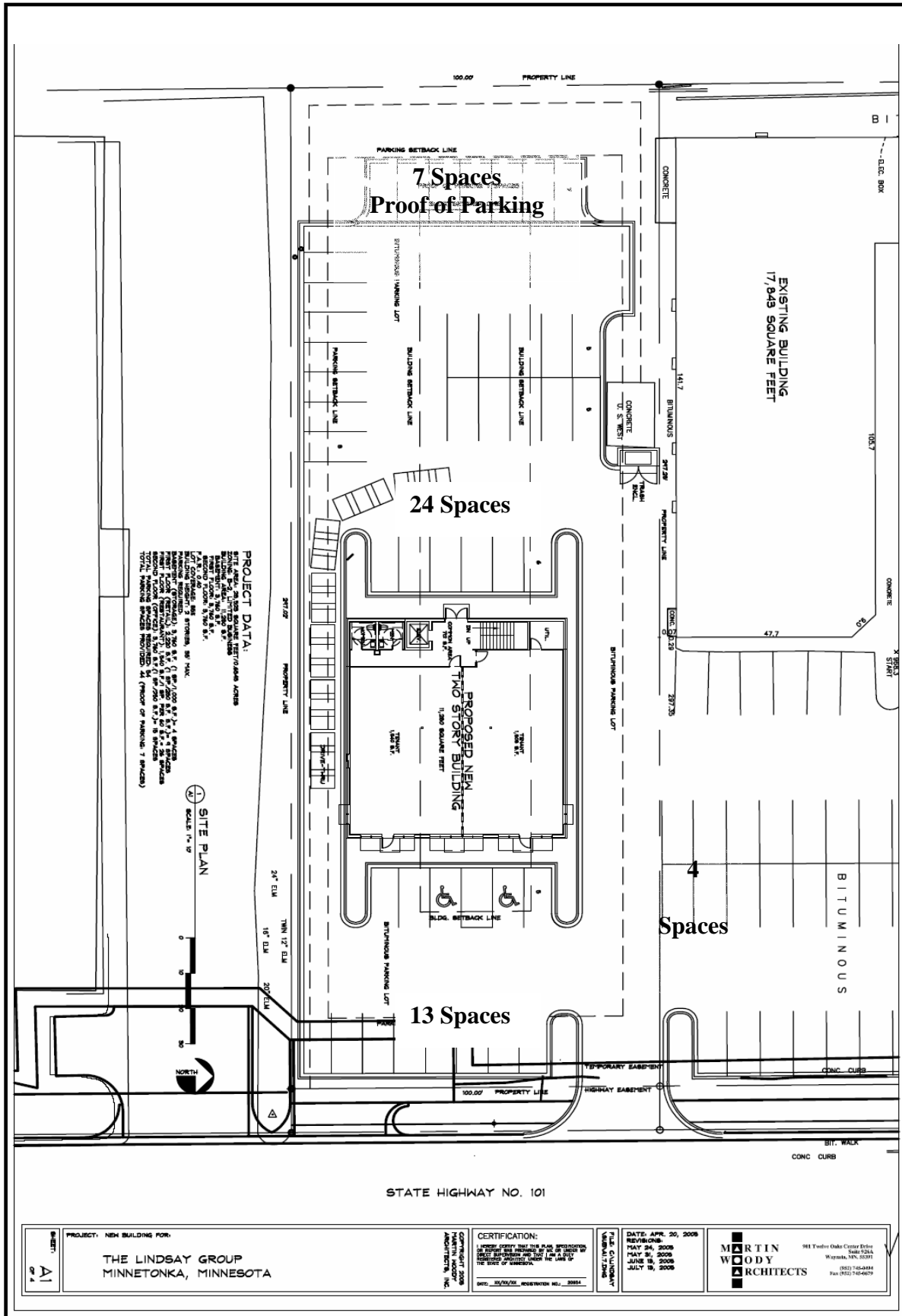


Figure 2. Site Plan

The actual parking demand for the Minnehaven Square was surveyed to determine whether parking may be available for use by the proposed development. Minnehaven Square has 72 total parking spaces. Counts of vehicle occupied parking spaces were taken at different times of the day over a period of approximately one week. The results are shown in **Table 7**. The maximum number of vehicles parked in the Minnehaven Square lot during the times surveyed was 50 vehicles on Friday, July 8 at 4:45 p.m. The next highest demand was 44 vehicles on July 5 at 1:00 p.m. This time period correlates to the peak demand for shared parking for the proposed development. Based on the ULI surveys of seasonal variations in parking demand for different land uses, the maximum parking demand in July for retail use is 75% of the peak parking demand during the year. The restaurants and office space are at 100% of the peak demand during July. Therefore, the peak parking demand for the existing development obtained by factoring up the peak parking count is 62 parking spaces.

An estimate was made of the maximum shared parking demand for Minnehaven Square using the same methodology used for the proposed development. The hourly percentages from the ULI "Shared Parking" were applied to the City Code parking rates for each land use in the existing development, to find the combined peak-hour parking demand for the existing development. The analysis indicates the joint peak parking demand occurs from 12:00 p.m. to 1:00 p.m. on a weekday and is 87 parking spaces. These calculations are shown in **Table 8**. Given that the actual parking counts are much less than the calculated parking demand, the shared parking methodology seems to be a very conservative estimate of parking needs. Therefore, it is our conclusion that the code required parking spaces are not need for this development and that the number of parking spaces that are proposed should be sufficient for the development.

6. Conclusions

The proposed development will provide 41 new parking spaces for its tenants and customers, and seven (7) proof of parking spaces could be added on the west side of the site for a total of 48 new parking spaces. This is less than the 54 parking spaces required by City Code. However, a shared parking analysis for this site indicates that not all the parking spaces required by City Code are needed for this project. A shared parking demand analysis for the proposed development indicates that a maximum of 44 parking spaces would be needed for the proposed development, which is more than the 41 proposed but less than the 48 which could be provided with the proof of parking spaces. The existing development to the north which is under the same ownership has 72 total parking spaces available and an estimated maximum parking demand of 62 spaces based on actual parking counts of the site. This leaves ten (10) spaces available for use by either site. Based on the shared parking analysis and the existing parking counts for Minnehaven Square, it is our conclusion that the proposed 41 new parking spaces plus the seven (7) proof of parking spaces is adequate to meet the parking needs of the proposed development.

**Table 1. Proposed Development Parking Requirements by
 City of Minnetonka “Code of Ordinances”**

	Development Floor Area	“Code of Ordinances” Parking Spaces per 1000 S.F. Mixed Use Development	Required Parking Spaces
Land Use	1000 S.F.		
Office	3.76	4	15
Retail	2.22	4	9
Restaurant	1.54	16.7	26
Storage	3.76	1	4
Total	11.19		54

**Table 2. Minnehaven Square Parking Requirements by
 City of Minnetonka “Code of Ordinances”**

	Development Floor Area	Shopping Center “Code of Ordinances” Parking Spaces per 1000 S.F.	Required Parking Spaces
Land Use	1000 S.F.		
Shopping Center	14.5	4.5	65
Restaurant	3.0	16.7	50
Total	17.5		115

Table 3. Weekday Hourly Parking Demand Ratios ¹
(Percentage of Peak Demand Occurring Each Hour)

	<i>Time of Day</i>											
	<i>7:00 AM</i>	<i>8:00 AM</i>	<i>9:00 AM</i>	<i>10:00 AM</i>	<i>11:00 AM</i>	<i>12:00 AM</i>	<i>1:00 PM</i>	<i>2:00 PM</i>	<i>3:00 PM</i>	<i>4:00 PM</i>	<i>5:00 PM</i>	<i>6:00 PM</i>
Land Use												
Office	20%	63%	93%	100%	100%	90%	90%	97%	93%	77%	47%	23%
Retail	8%	18%	40%	65%	83%	93%	95%	93%	90%	83%	75%	78%
Restaurant	3%	5%	10%	20%	30%	50%	70%	60%	60%	50%	70%	90%

¹ Hourly Demand Parking Ratios from the Urban Land Institute (ULI) study of "Shared Parking"

Table 4. Saturday Hourly Parking Demand Ratios ¹
(Percentage of Peak Demand Occurring Each Hour)

	<i>Time of Day</i>											
	<i>7:00 AM</i>	<i>8:00 AM</i>	<i>9:00 AM</i>	<i>10:00 AM</i>	<i>11:00 AM</i>	<i>12:00 AM</i>	<i>1:00 PM</i>	<i>2:00 PM</i>	<i>3:00 PM</i>	<i>4:00 PM</i>	<i>5:00 PM</i>	<i>6:00 PM</i>
Land Use												
Office	3%	10%	13%	13%	17%	17%	13%	10%	7%	7%	3%	3%
Retail	3%	10%	35%	30%	45%	73%	85%	95%	100%	100%	90%	75%
Restaurant	3%	3%	5%	8%	10%	30%	45%	45%	45%	45%	60%	90%

¹ Hourly Demand Parking Ratios from the Urban Land Institute (ULI) study of "Shared Parking"

Table 5. Weekday Hourly Parking Demand - Proposed Development

		<i>Time of Day</i>											
		<i>7:00 AM</i>	<i>8:00 AM</i>	<i>9:00 AM</i>	<i>10:00 AM</i>	<i>11:00 AM</i>	<i>12:00 PM</i>	<i>1:00 PM</i>	<i>2:00 PM</i>	<i>3:00 PM</i>	<i>4:00 PM</i>	<i>5:00 PM</i>	<i>6:00 PM</i>
Land Use	Size (KSF)												
Office	3.76	3.0	9.5	14.0	15.0	15.0	13.5	13.5	14.5	14.0	11.5	7.0	3.5
Restaurant	1.54	0.6	1.3	2.6	5.1	7.7	12.9	18.0	15.4	15.4	12.9	18.0	23.1
Retail	2.22	0.7	1.6	3.6	5.8	7.3	8.2	8.4	8.2	8.0	7.3	6.7	6.9
Storage	3.67	0.3	0.7	1.6	2.6	3.3	3.7	3.8	3.7	3.6	3.3	3.0	3.1
Total		5	13	22	29	33	38	44	42	41	35	35	37

Table 6. Saturday Hourly Parking Demand - Proposed Development

		<i>Time of Day</i>											
		<i>7:00 AM</i>	<i>8:00 AM</i>	<i>9:00 AM</i>	<i>10:00 AM</i>	<i>11:00 AM</i>	<i>12:00 AM</i>	<i>1:00 PM</i>	<i>2:00 PM</i>	<i>3:00 PM</i>	<i>4:00 PM</i>	<i>5:00 PM</i>	<i>6:00 PM</i>
Land Use	KSF												
Office	3.76	0.5	1.5	2.0	2.0	2.5	2.5	2.0	1.5	1.0	1.0	0.5	0.5
Restaurant	1.54	0.6	0.6	1.3	1.9	2.6	7.7	11.6	11.6	11.6	11.6	15.4	23.1
Retail	2.22	0.2	0.9	3.1	2.7	4.0	6.4	7.5	8.4	8.9	8.9	8.0	6.7
Storage	3.67	0.3	0.7	1.6	2.6	3.3	3.7	3.8	3.7	3.6	3.3	3.0	3.1
Total		1	3	6	7	9	17	21	22	21	21	24	30

Table 7. Minnehaven Square Parking Lot Counts

Date	Time	Vehicles Using Parking Lot
Weekday		
7/8/2005	7:30 AM	13
7/8/2005	8:15 AM	22
7/11/2005	8:15 AM	21
7/7/2005	11:00 AM	36
7/5/2005	12:00 PM	43
7/5/2005	1:00 PM	44
7/11/2005	2:30 PM	37
7/8/2005	4:45 PM	50
7/7/2005	6:00 PM	28
Saturday		
7/9/2005	11:20 AM	39
7/9/2005	3:00 PM	27

Table 8. Estimated Weekday Hourly Parking Demand - Existing Development³

Minnehaven Square		Time of Day											
		7:00 AM	8:00 AM	9:00 AM	10:00 AM	11:00 AM	12:00 PM	1:00 PM	2:00 PM	3:00 PM	4:00 PM	5:00 PM	6:00 PM
KSF													
Office	1.00	0.3	0.7	1.6	2.6	3.3	3.7	3.8	3.7	3.6	3.3	3.0	3.1
Retail	13.50	4.1	9.5	21.6	35.1	44.6	50.0	51.3	50.0	48.6	44.6	40.5	41.9
Restaurant	3.00	1.1	2.3	4.5	9.0	13.5	22.5	31.6	27.1	27.1	22.5	31.6	40.6
Total		5	12	28	47	61	76	87	81	79	70	75	86

³ Adjusted for seasonal variations in accordance with ULI Monthly Variations in Peak Parking Demand Ratios.

Table 9. Estimated Saturday Hourly Parking Demand - Existing Development³

Minnehaven Square		Time of Day											
		7:00 AM	8:00 AM	9:00 AM	10:00 AM	11:00 AM	12:00 PM	1:00 PM	2:00 PM	3:00 PM	4:00 PM	5:00 PM	6:00 PM
KSF													
Office	1.00	0.1	0.4	1.4	1.2	1.8	2.9	3.4	3.8	4.0	4.0	3.6	3.0
Retail	13.50	1.4	5.4	18.9	16.2	24.3	39.2	45.9	51.3	54.0	54.0	48.6	40.5
Restaurant	3.00	1.1	1.1	2.3	3.4	4.5	13.5	20.3	20.3	20.3	20.3	27.1	40.6
Total		3	7	23	21	31	56	70	75	78	78	79	84

³ Adjusted for seasonal variations in accordance with ULI Monthly Variations in Peak Parking Demand Ratios.

Resolution No. 2023-

Resolution approving a conditional use permit for a restaurant with on-sale intoxicating liquor at 17623 Minnetonka Boulevard

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

Section 1. Background.

1.01 Costa Brava is requesting a conditional use permit to allow on-sale intoxicating liquor at an existing restaurant in the B-2 zoning district.

1.02 The property is located at 17623 Minnetonka Boulevard, within the B-2 Limited Office business zoning district. It is legally described as:

The North 283 feet of the East half of the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 18, Township 117, Range 22, except the North 183 feet of the East 158 feet thereof, according to the United States Government Survey thereof, and situate in Hennepin County, Minnesota.

1.03 City Code §300.21 Subd. 4(i) allows restaurants with an on-sale intoxicating liquor or dance hall license as conditional uses within the B-2 zoning district.

1.04 On May 18, 2023, the planning commission held a hearing on the proposal. 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 is incorporated by reference into this resolution. The commission recommended that the city council approve the permit.

Section 2. Standards.

2.01 City Code §300.21 Subd.2 lists the following general conditional use permit standards:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements;

4. The use is consistent with the city's water resources management plan;
5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
6. The use does not have an undue adverse impact on public health, safety, or welfare.

2.02 City Code §300.21, Subdivision 4(i) lists the following specific standards for restaurants with on-sale intoxicating liquor licenses that must be met for granting the permit:

1. Parking shall be in compliance with the requirements of section 300.28 of this ordinance.
2. Shall only be permitted when it can be demonstrated that the operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections.
3. Shall not be located within 100 feet of any low-density residential parcel or adjacent to medium or high-density residential parcels. The city may reduce the separation requirements if the following are provided:
 - a) Landscaping and berming to shield the restaurant use;
 - b) Parking lots not located in proximity to residential uses; and
 - c) Lighting plans which are unobtrusive to surrounding uses.

Section 3. Findings.

3.01 The proposal would meet all of the general CUP standards as outlined in City Code §300.21 Subd.2:

1. The proposed use is consistent with the zoning ordinance. A restaurant with on-sale liquor or dance hall license is a conditionally-permitted use within the B-2 district.
2. The proposed use is consistent with the goals, policies, and objectives of the comprehensive guide plan.
3. The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff. The use is not anticipated to have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.
4. The proposal is consistent with the city's water resources management plan. No additions are proposed to the property at this time.

5. The majority of the performance standards outlined in the zoning ordinance are related to development and construction. The proposal is for the use of an existing building with no additions. The proposal would meet the standards outlined.
6. The proposal is not anticipated to have an undue adverse impact on the public's health, safety, or welfare.

3.02 The proposal meets the general conditional use permit standards for restaurants with on-sale liquor or dance hall license as outlined in City Code §300.21, Subdivision 4(i):

1. The commercial center would meet the Institute of Transportation Engineers and continue to meet the parking variance approved in 2018.
2. The existing restaurant is not anticipated to significantly impact existing traffic volumes or levels of service.
3. The existing restaurant would be located within 100 feet of the low-density residential to the west. The parking lot and restaurant entrance are separated from the residential property by existing vegetation. The commercial site is existing and has no plans for additional or new lighting. Staff does not anticipate the internal changes to adversely impact the neighboring residential properties.

Section 4. City Council Action.

4.01 The above-described conditional use permit is approved, subject to the following conditions:

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the plans included in the staff report associated with the conditional use permit request, including:
 - Floor plan dated March 22, 2023
 - Proof of parking plan shown in Doc No 8844839 recorded on Aug. 14, 2006.
2. This resolution must be recorded with Hennepin County.
3. The restaurant must obtain all applicable food and liquor licenses.
4. The building must comply with all requirements of the Minnesota state building code, fire code, and health code.
5. This resolution does not approve any signs. Sign permits are required.
6. Any outdoor speakers or audio equipment must not be audible from

adjacent parcels.

7. Any parking lot and sidewalk improvements must meet ADA requirements.
8. The city council may reasonably add or revise conditions to address any future unforeseen problems.
9. Any change to the approved use that results in a significant increase in traffic or a significant change in character will require a revised conditional use permit. Specifically, if the approved use is observed to create a parking demand that exceeds the parking availability onsite, a revised conditional use permit that includes a solution to the parking issue will be required.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 5, 2023.

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:

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 June 5, 2023.

Becky Koosman, City Clerk

Minnetonka Planning Commission Meeting

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
May 18, 2023

Brief Description Expansion permit for garage and living space additions to the house at 5123 Willow Lane.

Recommendation Adopt the resolution approving the expansion permit.

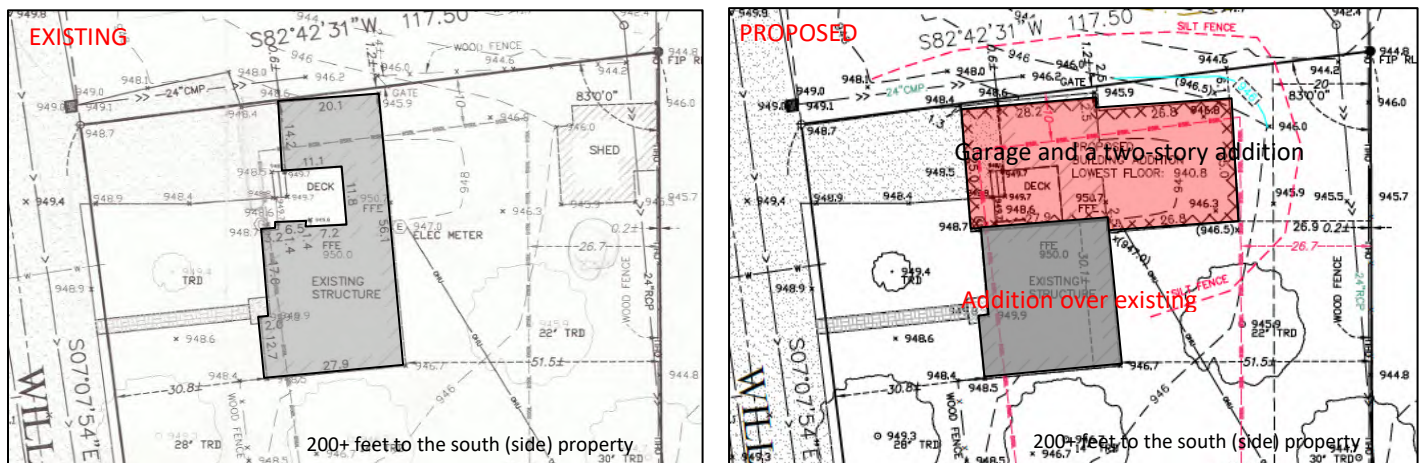
Background

The subject property was created in 1948 as part of the DELTON 2nd ADDITION subdivision. A house was constructed on the property that same year, nearly 20 years prior to the city's first zoning ordinance. The house has non-conforming front and side yard setbacks.

Proposal

Property owner Marielena Acorda-Shaner is proposing to remove an existing one-stall garage and breezeway and construct garage and living space additions. The additions would include the following:

- A roughly 22 ft. by 21 ft. garage.
- Two-story living space located behind and above the proposed garage. The first level would contain laundry, mudroom, and living room space; the second level would be occupied by bedrooms and bath space.
- Second-story living space over the existing house. This second level would contain a bedroom and bath space.



The proposal requires an expansion permit to maintain and slightly improve the existing non-conforming setbacks.

	Required	Existing	Proposed
Front	35 ft.	30 ft.	30 ft.
Side	10 ft.	0.6 ft.	1.3 ft.
Rear*	27 ft.	56 ft.	27 ft.
Floodplain	20 ft., Two ft. separation	38 ft., unknown separation	36 ft. Two ft. separation

* Rounded up to the closest 1 ft.

Staff Analysis

Staff finds that the proposal would meet the expansion permit standard outlined in the city code:

- The garage/two-story addition would be located further from the north property line than the existing house.
- The second-story addition over the existing house would maintain setbacks.
- The addition would not alter development patterns in the immediate area. The property to the north is owned by the city and contains a stormwater pond; the property to the south is an outlot associated with a multi-household development.

Staff Recommendation

Adopt the resolution approving an expansion permit for garage and living space additions to the house at 5123 Willow Lane.

Originator: Susan Thomas, AICP, Assistant City Planner
Through: Loren Gordon, AICP, City Planner

Supporting Information

Subject Property	Guide Plan designation: low-density residential Zoning: R-1
Surrounding Properties	North: city-owned property, used for stormwater management South: single-household dwelling, zoned R-1 East: single-household dwelling, zoned R-1 West: single-household dwelling, zoned R-1
100-year Floodplain	<p>The city owns the property immediately to the north of the subject property. This lot contains a pond used for stormwater management, which has an associated 100-year floodplain designation/elevation. The current elevation is 938.8. Under updated floodplain modeling, this elevation will become higher, 943.2. In other words, updated engineering models suggest that water may reach higher levels in the pond.</p> <p>City staff have advised the property owners – verbally and in writing – of this impending higher elevation and have suggested that the addition should be designed with reference to the higher elevation. Such a design would provide greater protection to the owners’ investment. However, given that the higher elevation has not been officially adopted, the city cannot require such a design at this time. The proposed addition would be subject to whatever official floodplain elevation is in place at the time a building permit is issued.</p> <p>Staff anticipates that the new modeling will be adopted sometime this summer.</p>
Floor Area Ratio	<p>By city council policy, the city may limit the floor area ratio (FAR) of a home that requires a variance. Essentially, if an applicant is requesting special city consideration, the city can choose to limit the visual mass of the home. Under what is generally referred to as the McMansion Policy, the FAR of the subject property cannot be greater than the largest FAR of properties within 1,000 feet on the same street and a distance of 400 feet from the subject property.¹ <i>The McMansion Policy does not apply to expansion permits.</i></p> <p>Nevertheless, staff did evaluate area FAR for informational purposes. As proposed, the property would have a FAR of 0.14. This would be slightly higher than the area’s highest FAR of 0.13.</p>

¹ By City Code §300.02, floor area for a single-family home is defined as "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." FAR is defined as "floor area of a building as defined by this ordinance, divided by area of the lot on which the building is located."

Variance v. Expansion

A variance is required for any alteration that will intrude into one or more setback areas beyond the distance of an existing, non-conforming structure. An expansion permit is required for any alteration that maintains or improves upon an existing non-conformity. The applicant's proposal requires an expansion permit.

Burden of Proof

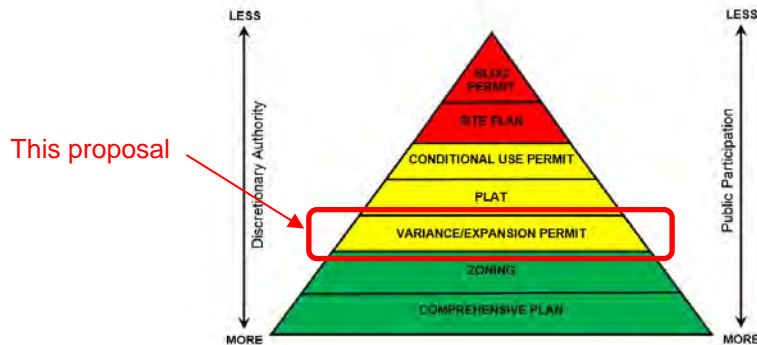
By city code, an expansion permit for a non-conforming use may be granted but is not mandated when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as:
 - Functional and aesthetic justifications for the expansions;
 - Adequacy of off-street parking for the expansion;
 - Absence of adverse off-site impacts from such things as traffic, noise, dust odors, and parking;
 - Improvement to the appearance and stability of the property and neighborhood.
2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Neighborhood Comments

The city sent notices to 32 area property owners and received no comments to date.

Pyramid of Discretion



Motion Options

Approval of the expansion permit requires the affirmative vote of a simple majority. The planning commission has three options:

1. Concur with the staff recommendation. In this case, a motion should be made to adopt the resolution approving the request.

2. Disagree with the staff's recommendation. In this case, a motion should be made to deny the request. This motion must include a statement as to why the request is denied.
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 expansion permit may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the decision date.

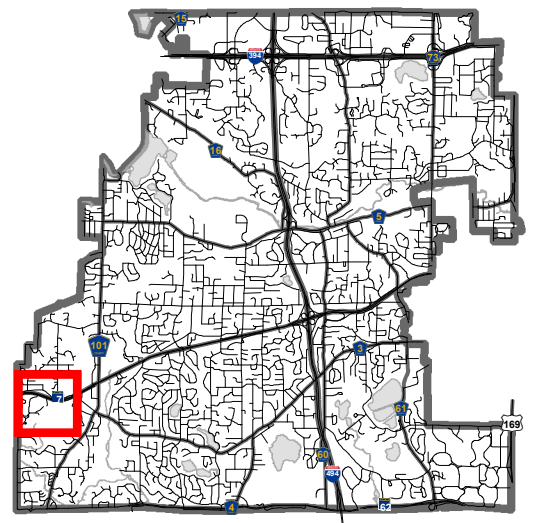
**Deadline for
Decision**

Aug. 16, 2023



Location Map

Project: Acorda-Shaner Residence
Address: 5123 Willow Lane



Description of Expansion Permit request.

The subject property is located at 5123 Willow Lane and is legally described as: Lot 7, Delton 2nd Addition.

The property was platted in 1932 and a house built in 1948. Both the property and the home predate the city's first subdivision and zoning ordinances with the home been non-conforming.

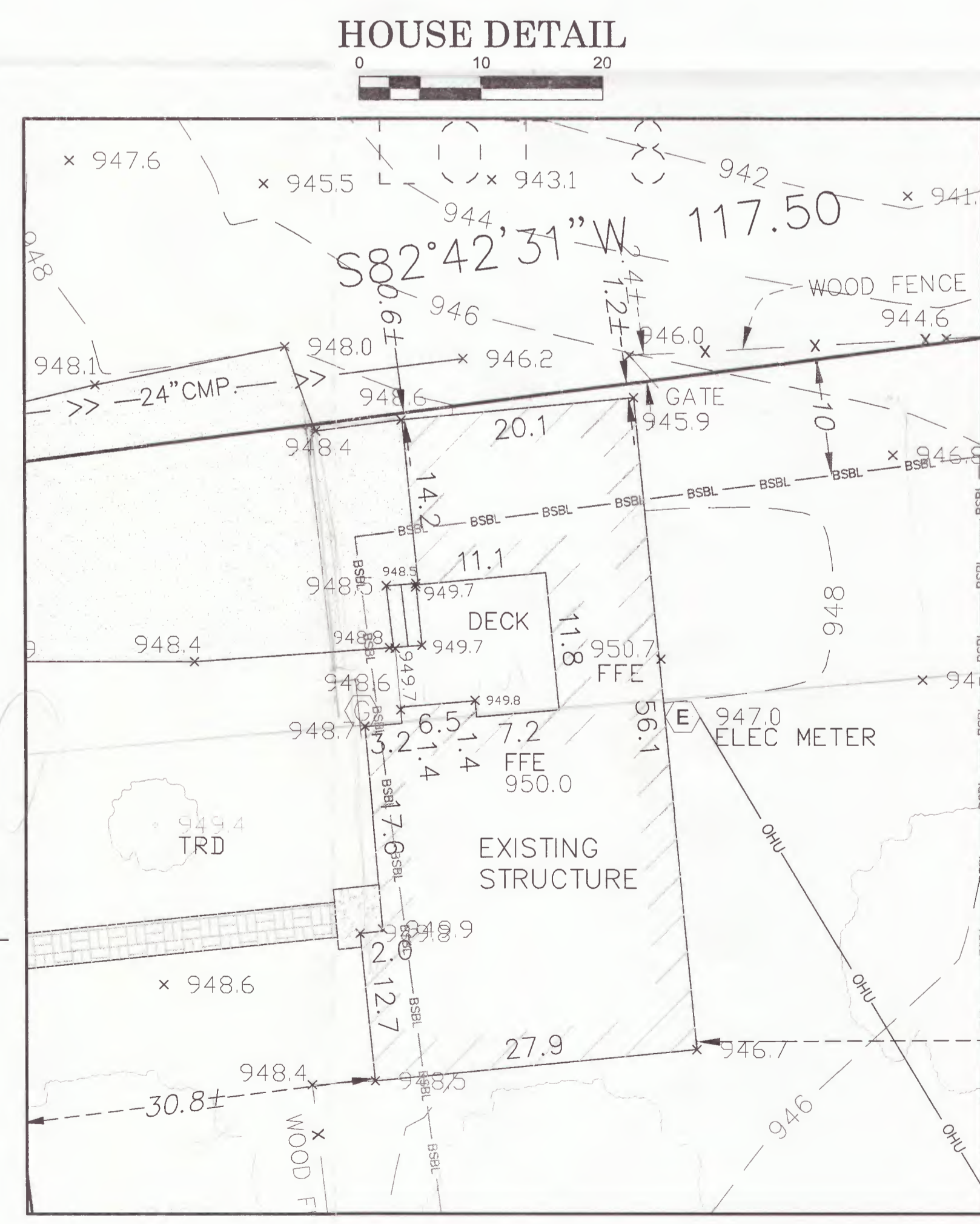
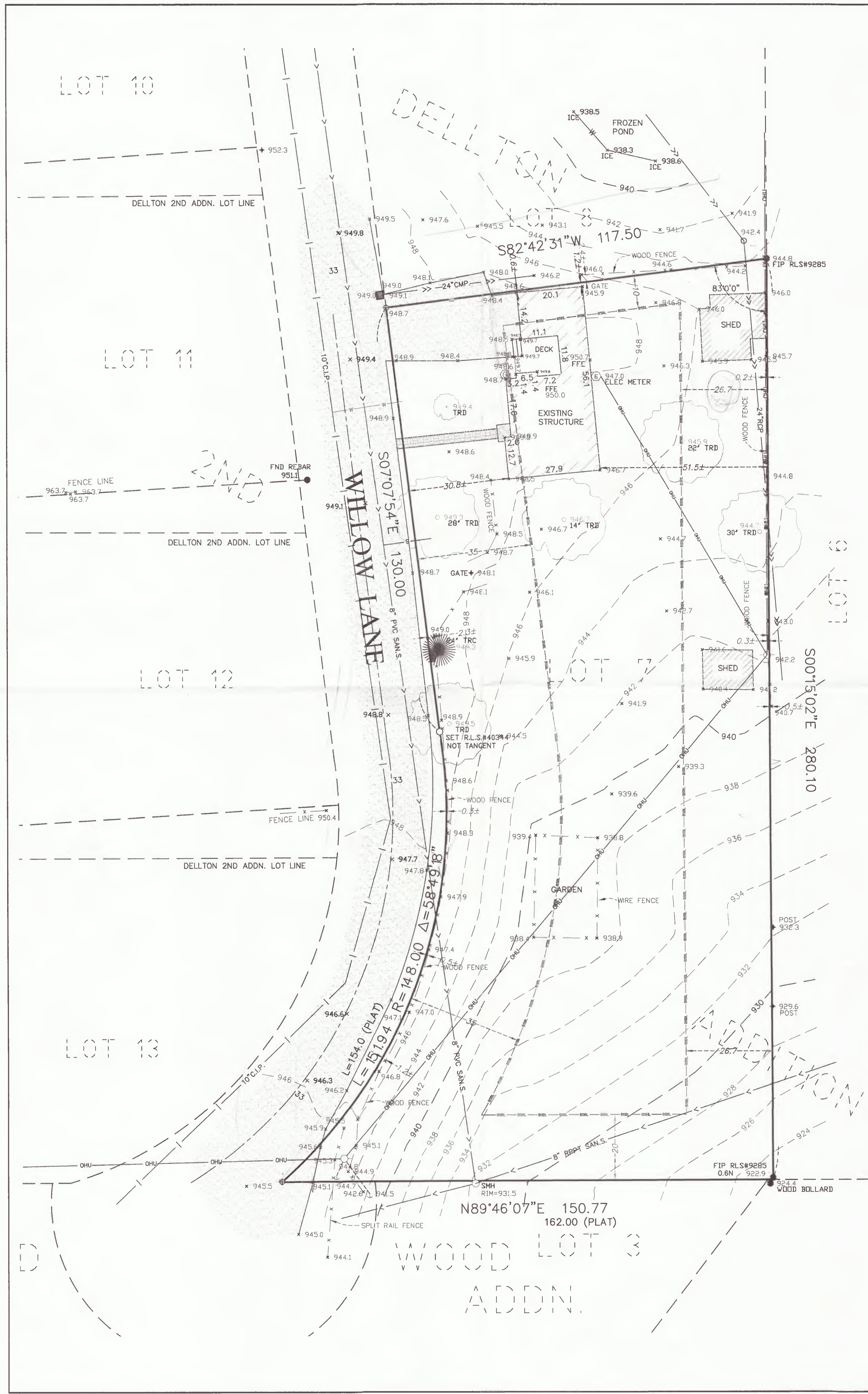
We are proposing to add approx 2000 square feet of space; this space would comprise an additional garage stall, a family room and bedrooms. This addition would maintain existing non – conforming set back on the front and would pull back from the current existing side set back.

The proposed expansion is a reasonable use of the property considering such things as functional and aesthetic, adequacy of off -street parking, and the absence of adverse impact to the neighboring houses. The proposed addition will improve the appearance and stability of the home keeping with the aesthetics of the neighborhood.

The circumstances justifying the addition are unique and not created by us. An addition built on the south side or east side of the property would require the removal of mature trees (60' Walnut, 24' & 26' Maple trees); These trees represent 75% of the mature canopy of the property.

The proposed addition would not negatively impact the existing character of the neighborhood; in fact, the proposed addition might shield some of the noise from HWY 7 and bring value closer to the surrounding homes.

The circumstances justifying the expansion are unique to our property, are not caused by us and are not solely for our convenience or economic consideration.



PARCEL LEGAL DESCRIPTION

Lot 7, DELLTON 2ND ADDITION

NOTES

- 1) Site Address: 5123 Willow Lane, Minnetonka, MN 55345
- 2) Title Report: No title commitment or title opinion was provided for this survey. Easements may exist that are not shown hereon.
- 3) Parcel Area Information: Gross Area: 30,212 s.f. ~ 0.59 acres
- 4) Benchmark: Elevations are based on North American Datum 2011 projection.
- 5) Zoning Information:
The current Zoning for the subject property is R-1 (Low Density Residential) per the City of Minnetonka's zoning map.
Principal Structure Setbacks - Street(s) 35 feet
Side: 30 feet total ~ 10 feet minimum
Rear: 40 feet or 20% of lot depth, which ever is less
Height: 35 feet

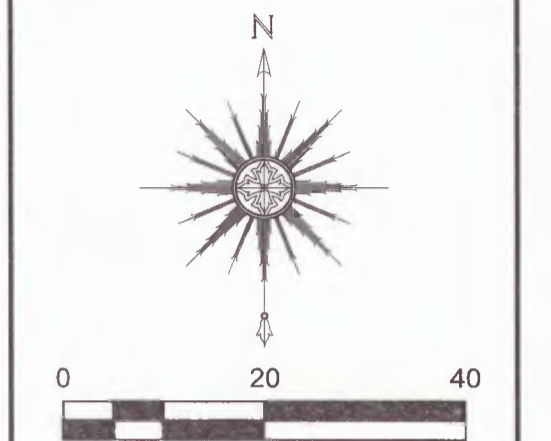
* A Zoning Classification Letter from the client must be provided to the surveyor. All zoning, setback information and hardcover information shown here on must be verified by all parties involved in the planning and design process for this project.

We have not received the current zoning classification and building setback requirements from the insurer.
- 6) Utilities: Underground utilities shown hereon are based on observed evidence together with evidences provided from the following sources: plans obtained from utility companies, plans provided by client, markings by utility companies and other appropriate sources. We have used the information provided to develop a view of the underground utilities for this site but do not warrant their exact location or current service. No Gopher State One Call was submitted for this survey.

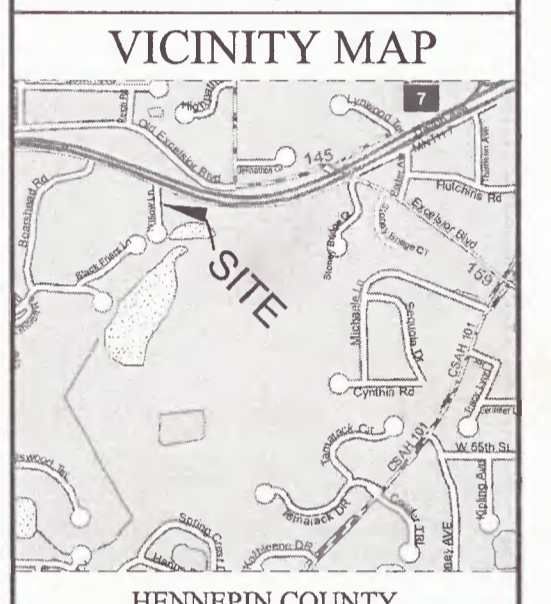
Seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property.
- 7) Seasonal Conditions: Due to heavy snow cover some features may not be shown hereon. Topography is deemed reliable but may vary due to snow pack.



Minnetonka, Minnesota 55345
Tel: 612-597-0453
www.45NorthLS.com
45NorthLandSurveying@gmail.com



Bearing shown hereon are based on the NAD83, 2011 Projecting Flat bearings are localized to this bearing basis.



CERTIFICATE OF SURVEY
PREPARED FOR:
ACORDA-SHANER RESIDENCE

CERTIFICATION
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota. Dated this 27th day of January, 2023.

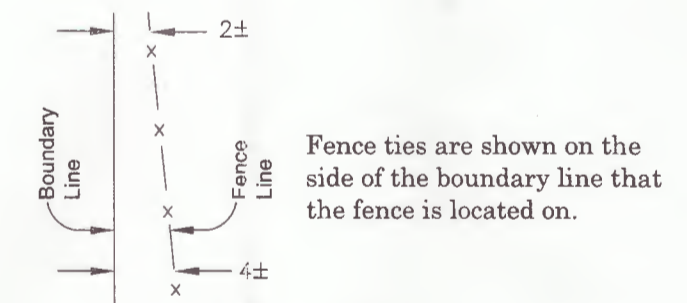
David B. Pemberton
Minnesota License No. 40344

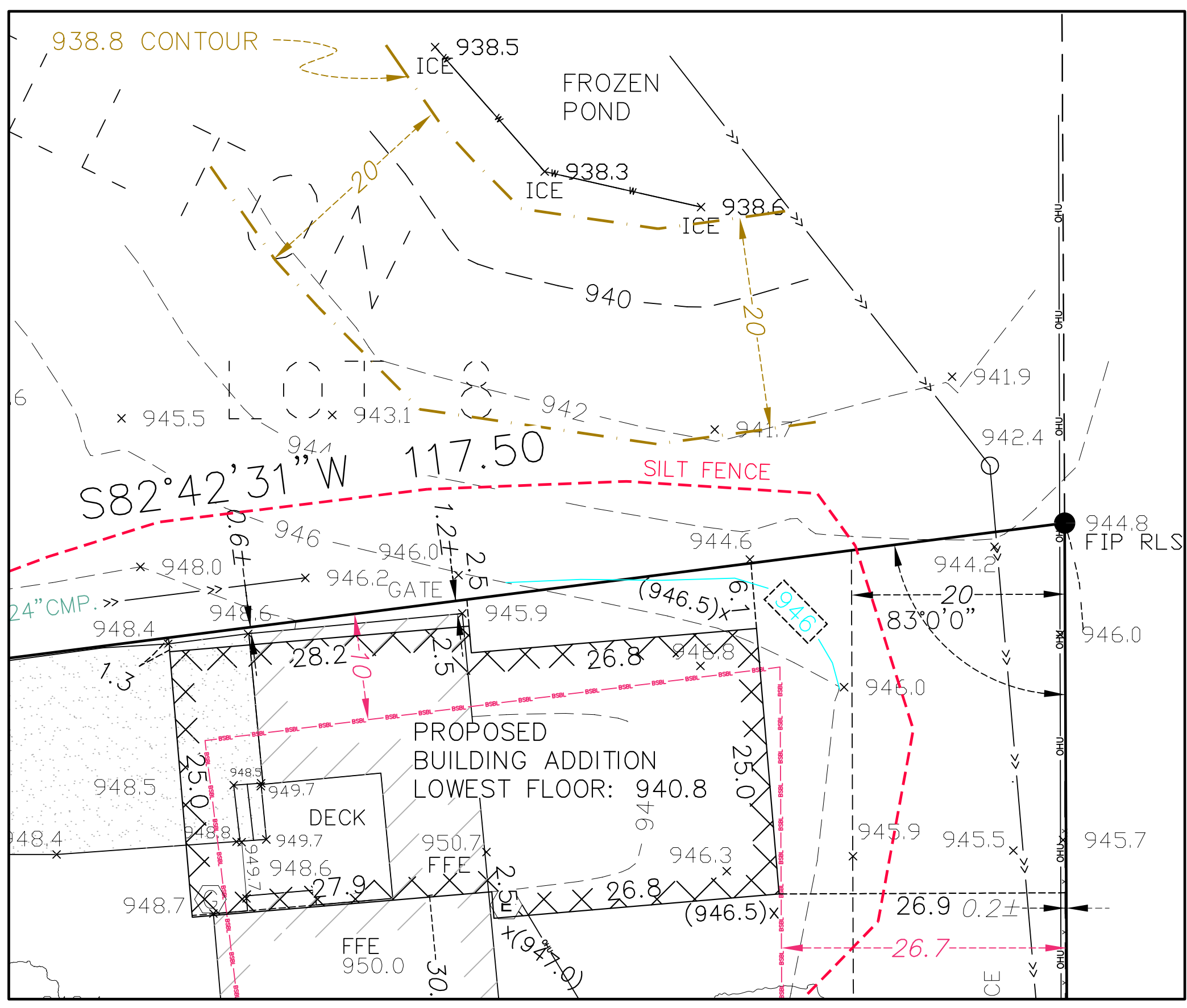
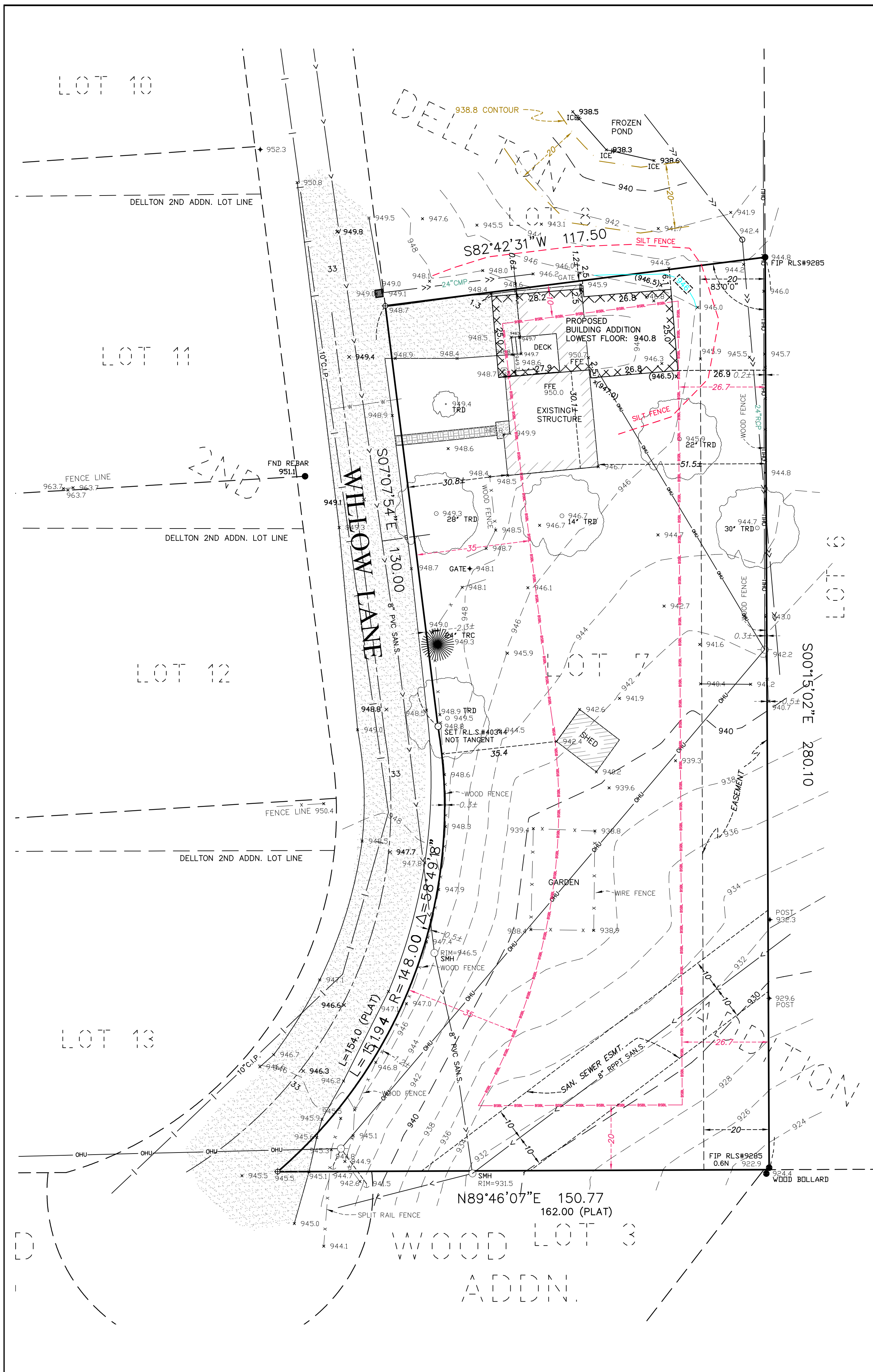
SUBMITAL/REVISION
Original Survey: January 27, 2023

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LEGEND

● CAST IRON MONUMENT	WOE WALKOUT ELEVATION	■ BITUMINOUS
○ SURVEY MONUMENT SET	FFE FIRST FLOOR ELEVATION	□ CONCRETE
● SURVEY MONUMENT FOUND	GFE GARAGE FLOOR ELEVATION	-x-x- FENCE
△ SURVEY CONTROL POINT	TOP TOP OF FOUNDATION ELEV.	- - - - - BUILDING SETBACK LINE
◁ FLARED END SECTION	LOE LOWEST OPENING ELEV.	-BSBL- BUILDING SETBACK LINE
⊥ GATE VALVE	□ COMM. PEDESTAL	--- CONTOUR EXISTING
⊥ GUY WIRE	⊙ COMM. CONNECTION	--- CONTOUR PROPOSED
⊥ HYDRANT	TRANS ELECTRIC TRANSFORMER	--- GUARD RAIL
⊙ LIGHT POLE	⊙ ELECTRIC MANHOLE	--- DT DRAIN TILE
⊙ LANDSCAPE LIGHT	⊙ ELECTRIC METER	--- ELC ELECTRIC UNDERGROUND
⊙ POWER POLE	⊙ GAS METER	--- CTV COMMUNICATION UNDERGROUND
SMH SANITARY MANHOLE	⊙ GAS MANHOLE	--- FO FIBER OPTIC UNDERGROUND
SMH SANITARY CLEANOUT	⊙ GAS VALVE	--- GAS GAS UNDERGROUND
⊙ STORM DRAIN - ROUND	⊙ HAND HOLE	--- OHU OVERHEAD UTILITY
⊙ STORM DRAIN - SQUARE	⊙ SOIL BORING	+++++ CL RAILROAD TRACKS
SMH STORM MANHOLE	⊙ TREE CONIFEROUS	--- SANITARY SEWER
INV INVERT ELEVATION	⊙ TREE DECIDUOUS	--- STORM SEWER
⊙ SIGN	⊙ TELEPHONE MANHOLE	--- TEL TELEPHONE UNDERGROUND
⊙ 72.5 GROUND ELEVATION	⊙ TELEPHONE PEDESTAL	--- UTL UTILITY UNDERGROUND
AC A/C UNIT	⊙ TRAFFIC SIGNAL	--- WATER MAIN
⊙ WELL	⊙ UTILITY MANHOLE	⊙ CURBSTOP
	⊙ UTILITY PEDESTAL	





PARCEL LEGAL DESCRIPTION

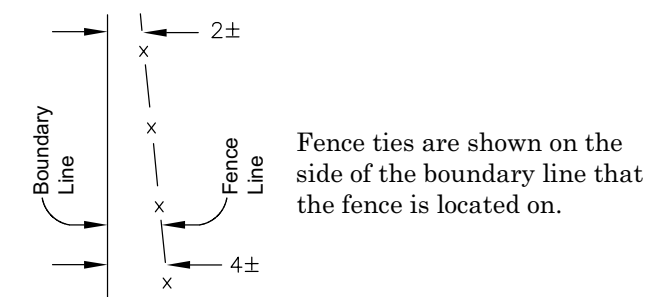
Lot 7, DELLTON 2ND ADDITION

NOTES

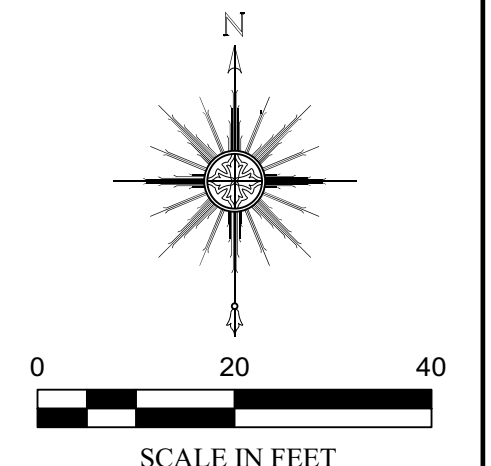
- 1) Site Address: 5123 Willow Lane, Minnetonka, MN 55345
- 2) Title Report: No title commitment or title opinion was provided for this survey. Easements may exist that are not shown hereon.
- 3) Parcel Area Information: Gross Area: 30,212 s.f. ~ 0.69 acres
- 4) Benchmark: Elevations are based on North American Datum 2011 projection.
- 5) Zoning Information:
 - The current Zoning for the subject property is R-1 (Low Density Residential) per the City of Minnetonka's zoning map.
 - Principal Structure Setbacks:
 - Street(s): 35 feet
 - Side: 30 feet total ~ 10 feet minimum
 - Rear: 40 feet or 20% of lot depth, whichever ever is less
 - Height: 35 feet
 - * A Zoning Classification Letter from the client must be provided to the surveyor. All zoning, setback information and hardcover information shown here on must be verified by all parties involved in the planning and design process for this project.
 - We have not received the current zoning classification and building setback requirements from the insurer.
- 6) Utilities: Underground utilities shown hereon are based on observed evidence together with evidence provided from the following sources: plans obtained from utility companies, plans provided by client, markings by utility companies and other appropriate sources. We have used the information provided to develop a view of the underground utilities for this site but do not warrant their exact location or current service. No Gopher State One Call was submitted for this survey.
- Seasonal conditions may inhibit our ability to visibly observe all the utilities located on the subject property.



- 7) Seasonal Conditions: Due to heavy snow cover some features may not be shown hereon. Topography is deemed reliable but may vary due to snow pack.



Minnetonka, Minnesota 55345
Tel: 612-597-0453
www.45NorthLS.com
45NorthLandSurveying@gmail.com



Bearing shown hereon are based on the NAD83, 2011 Projecting. Plat bearings are localized to this bearing basis.

VICINITY MAP



HENNEPIN COUNTY
TWP.117 RING. 22. SEC.30

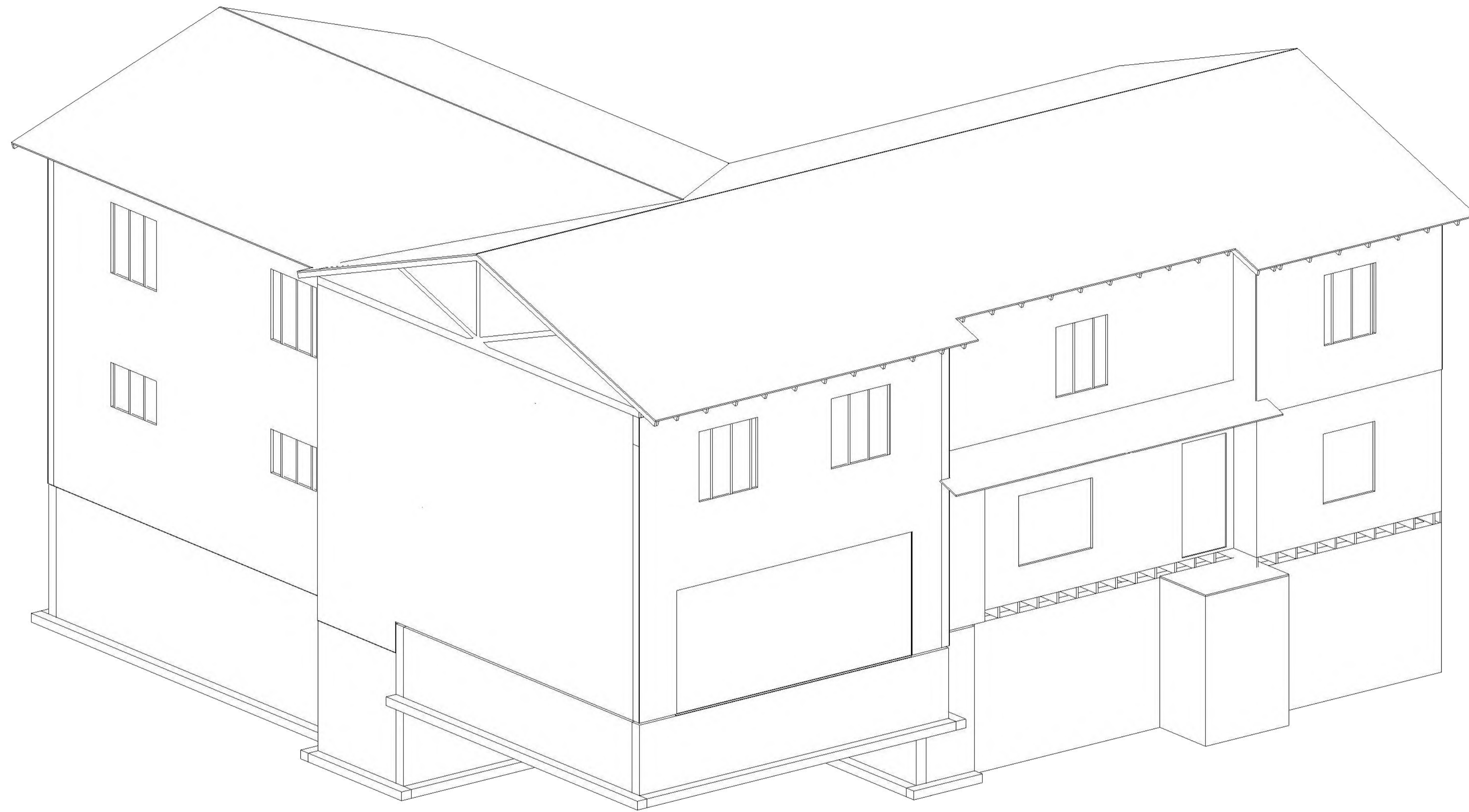
CERTIFICATE OF SURVEY
PREPARED FOR:
ACORDA-SHANER RESIDENCE

CERTIFICATION
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota. Dated this 27th day of January, 2023.

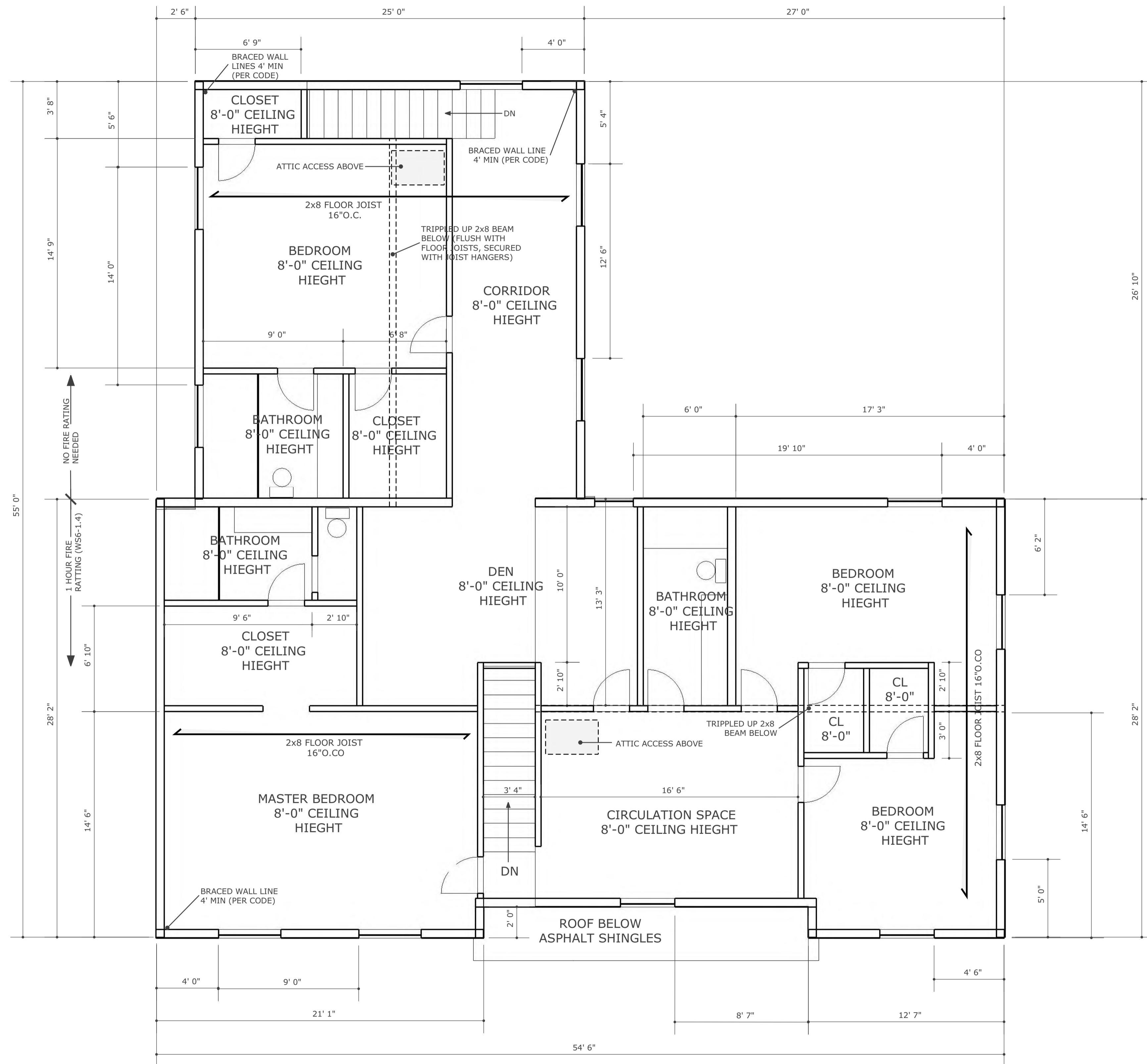
David B. Pemberton
Minnesota License No. 40344

SUBMITAL/REVISION
Original Survey: January 27, 2023
San. Sewer Esmt. Loc. February 2, 2023
3/29/23 - 938.8 Contour/Bldg. Addn.
4/1/23 - Prop. Elev./Silt Fence
4/13/23 - Shed Location - Remove Shed

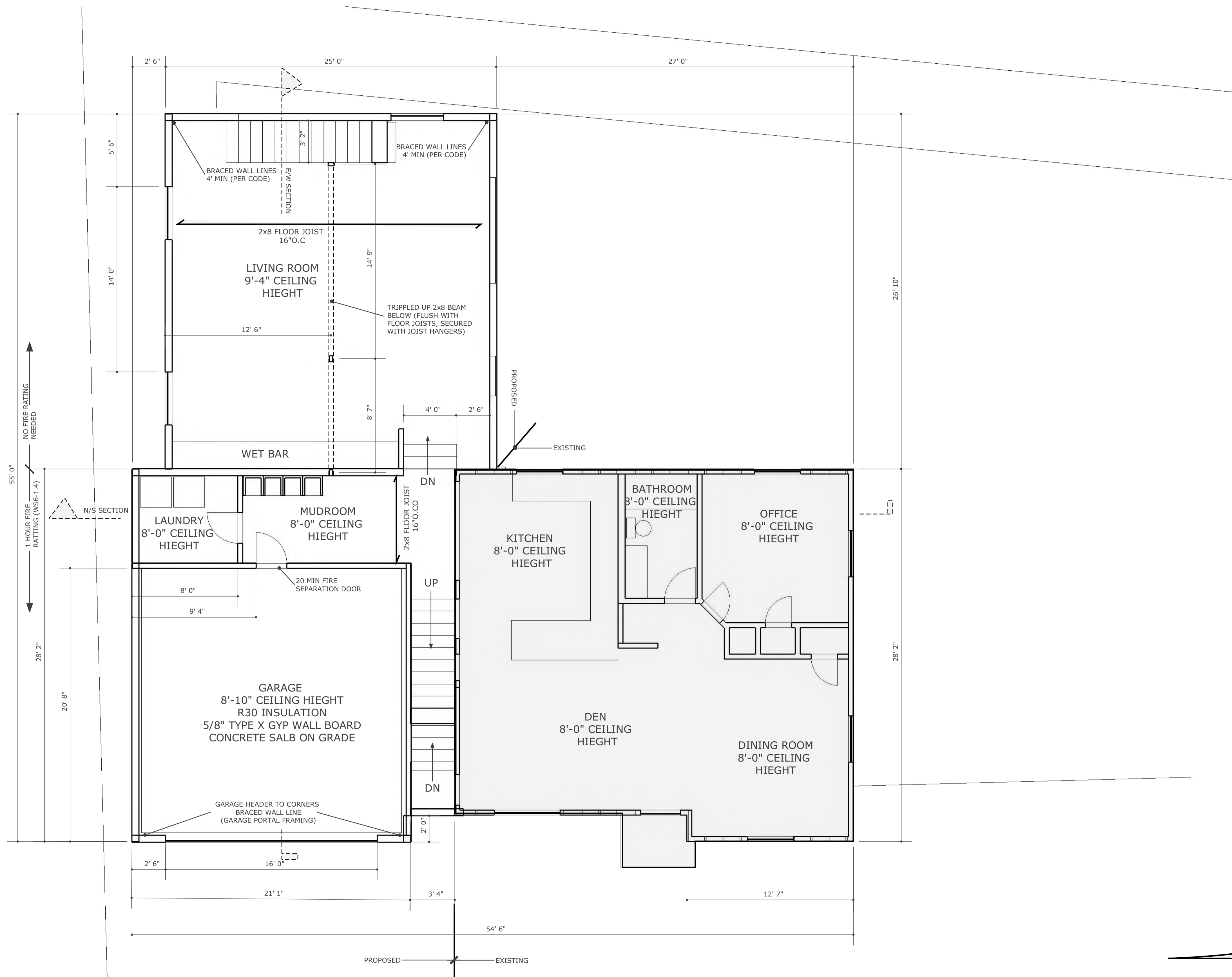
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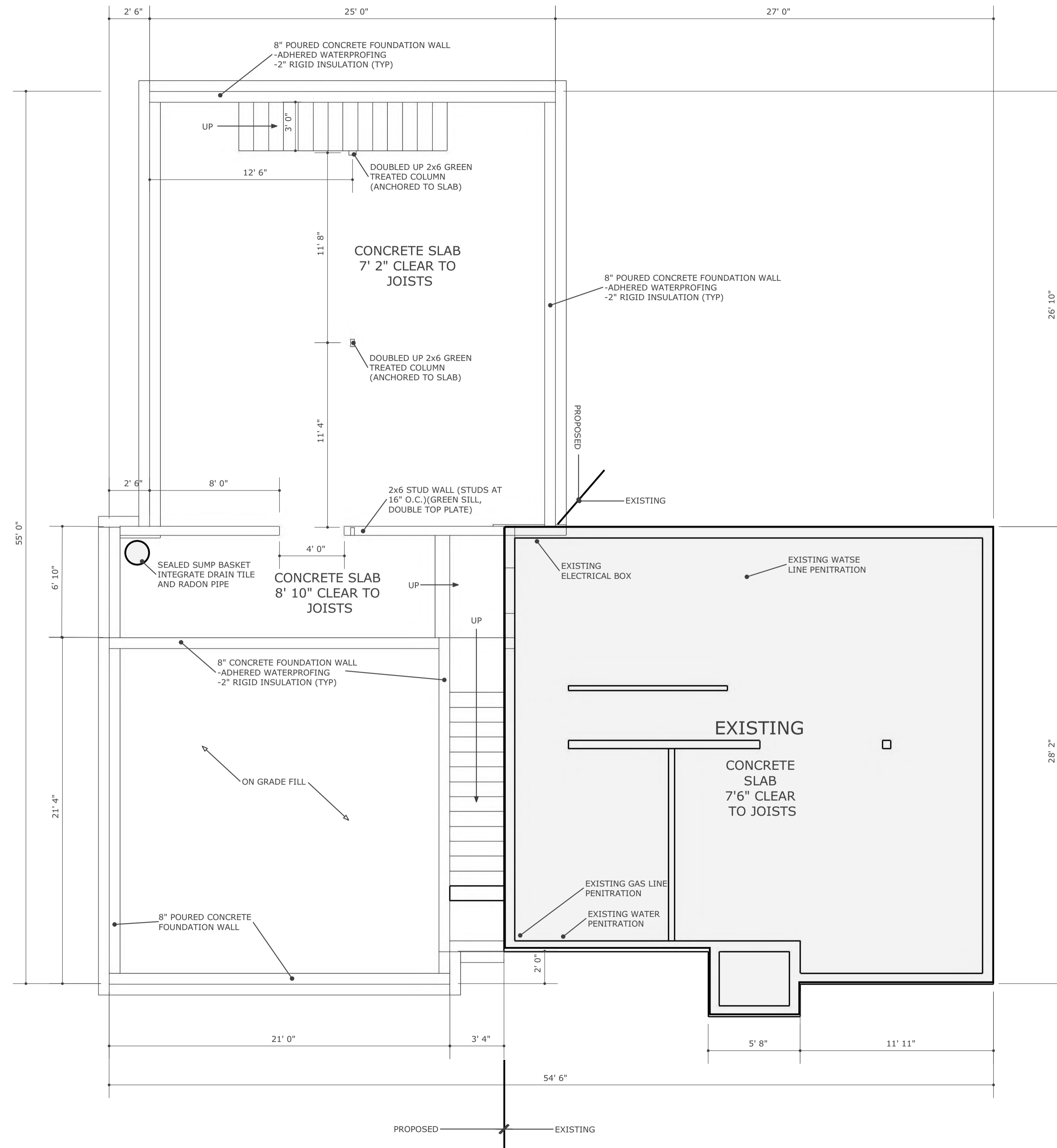


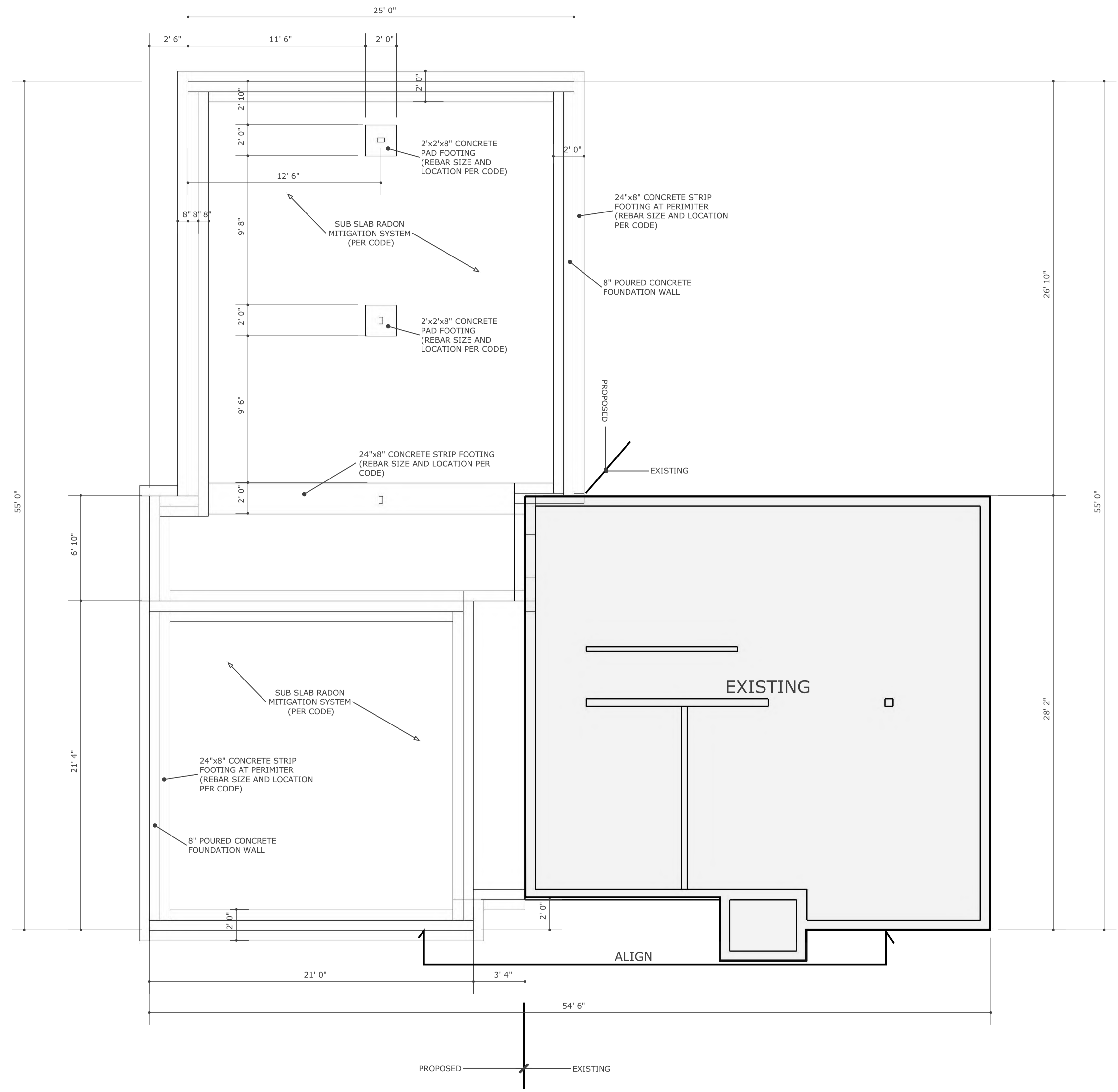


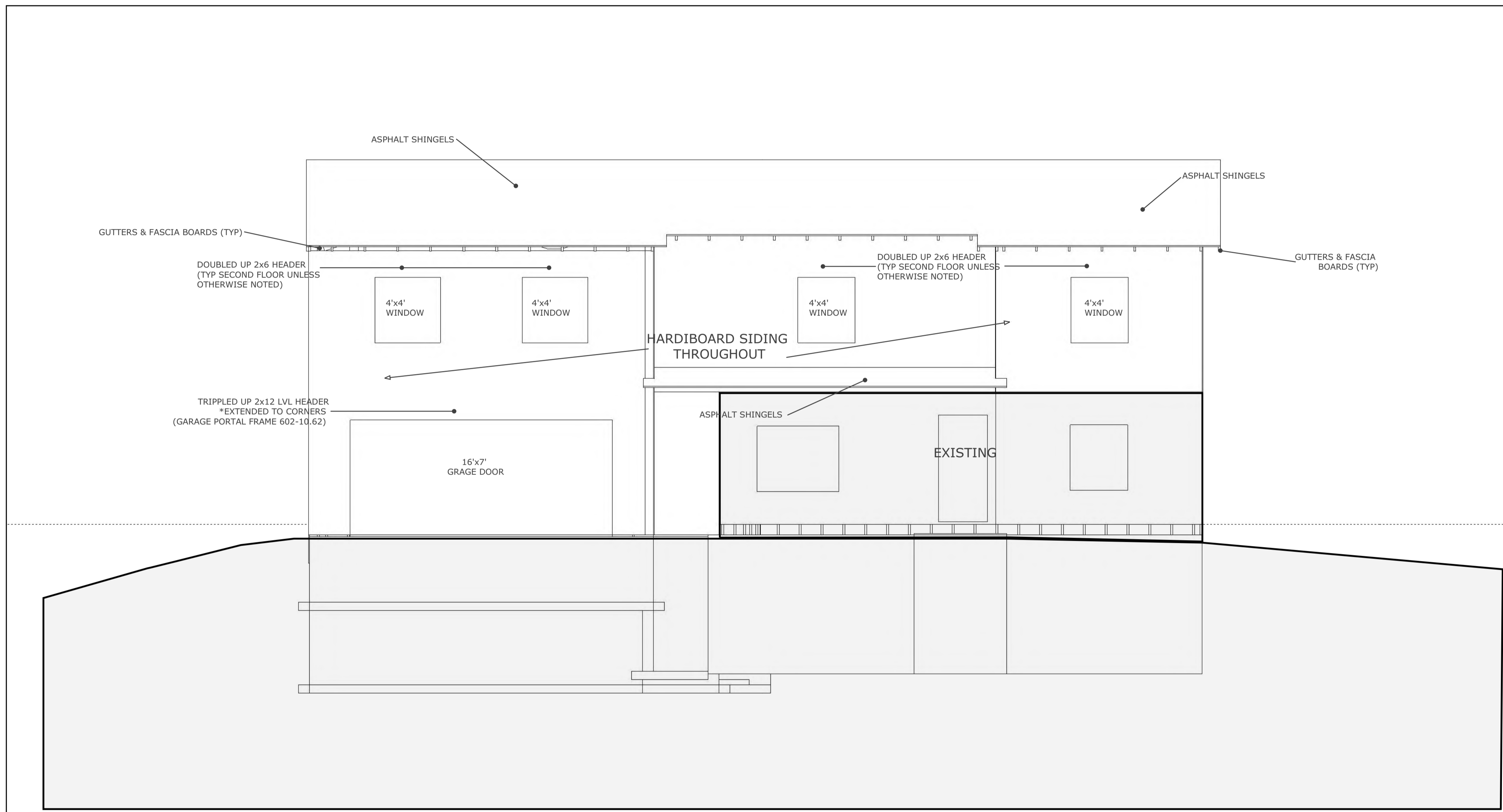
LUKE SHANER

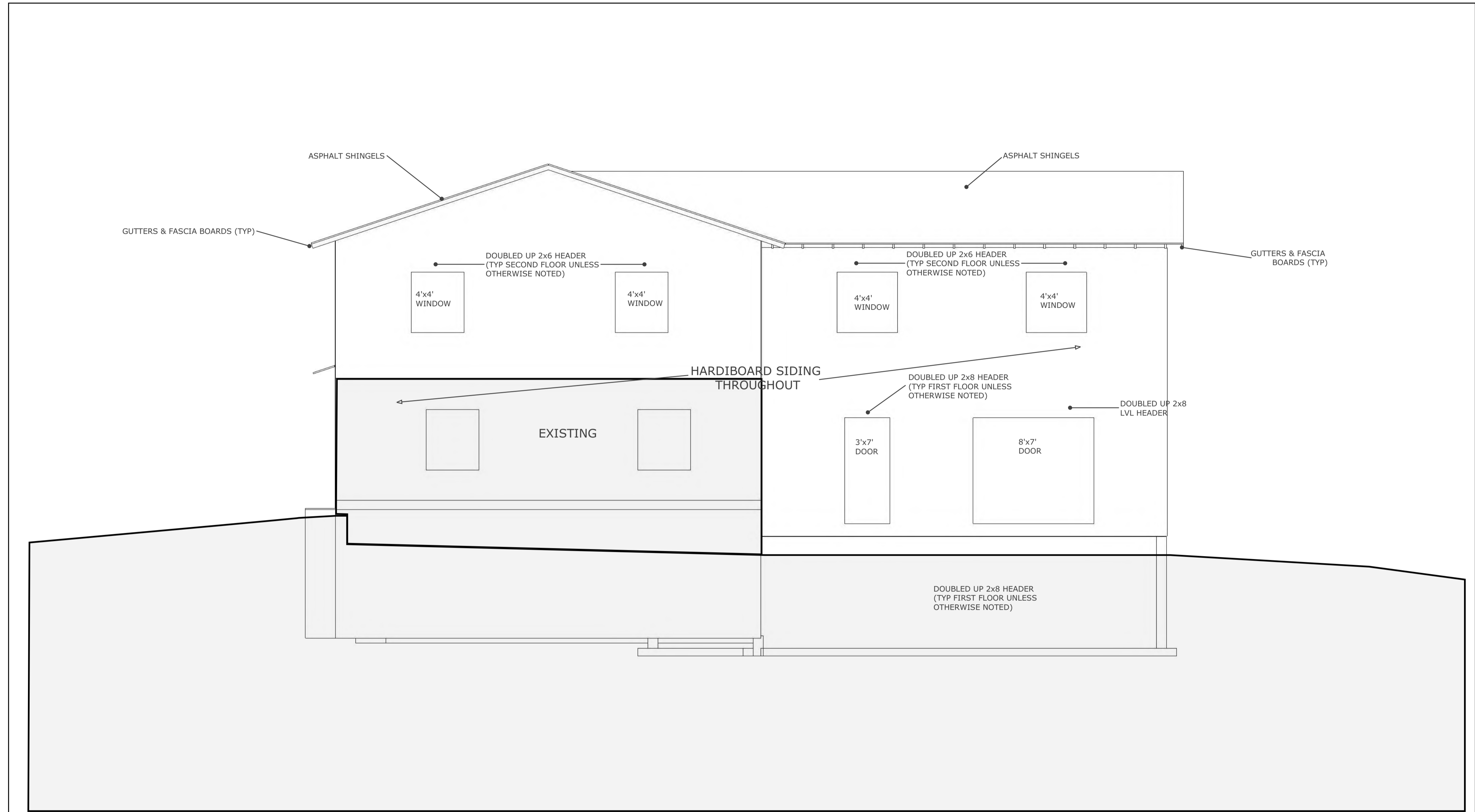


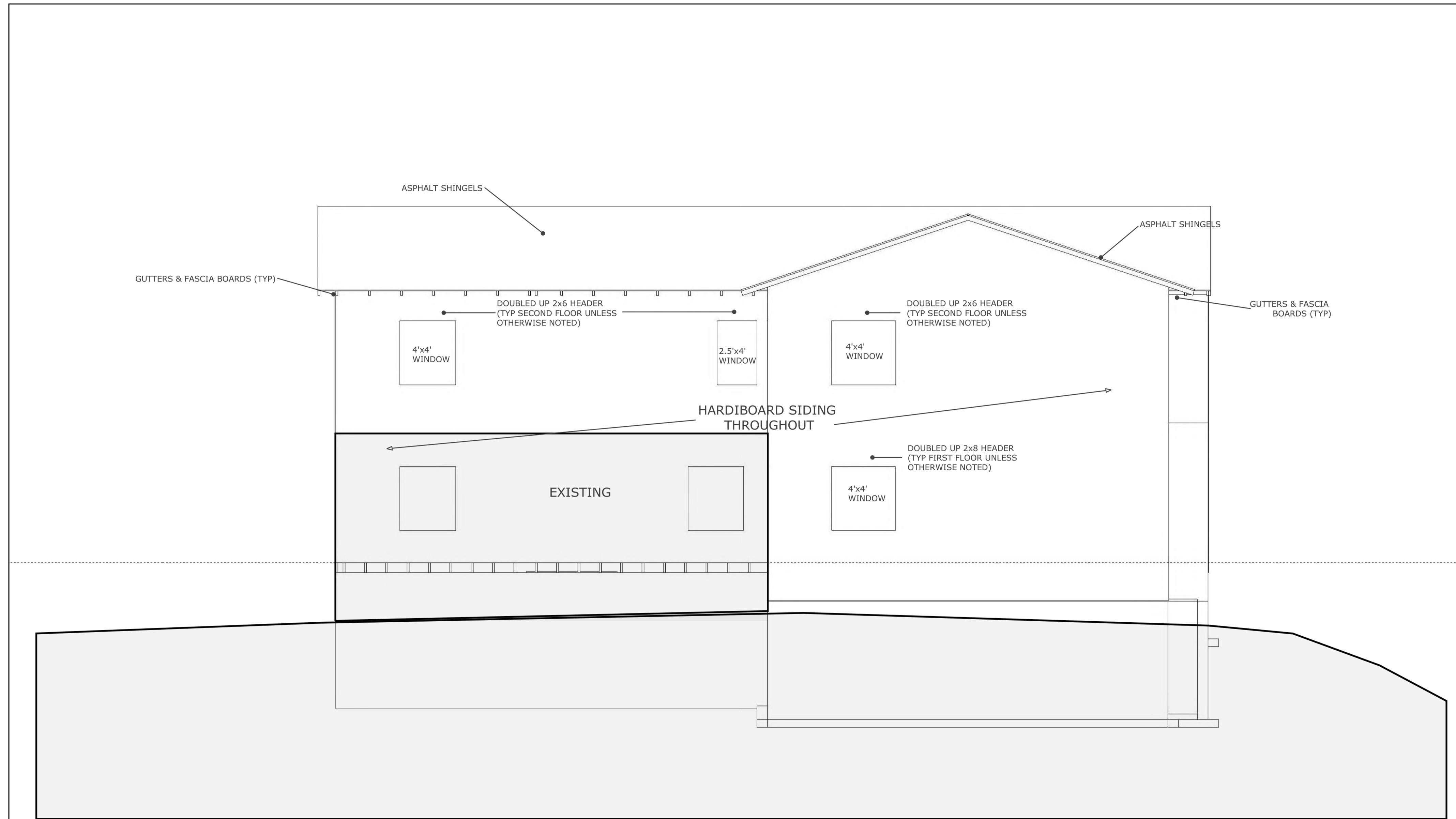
LUKE SHANER

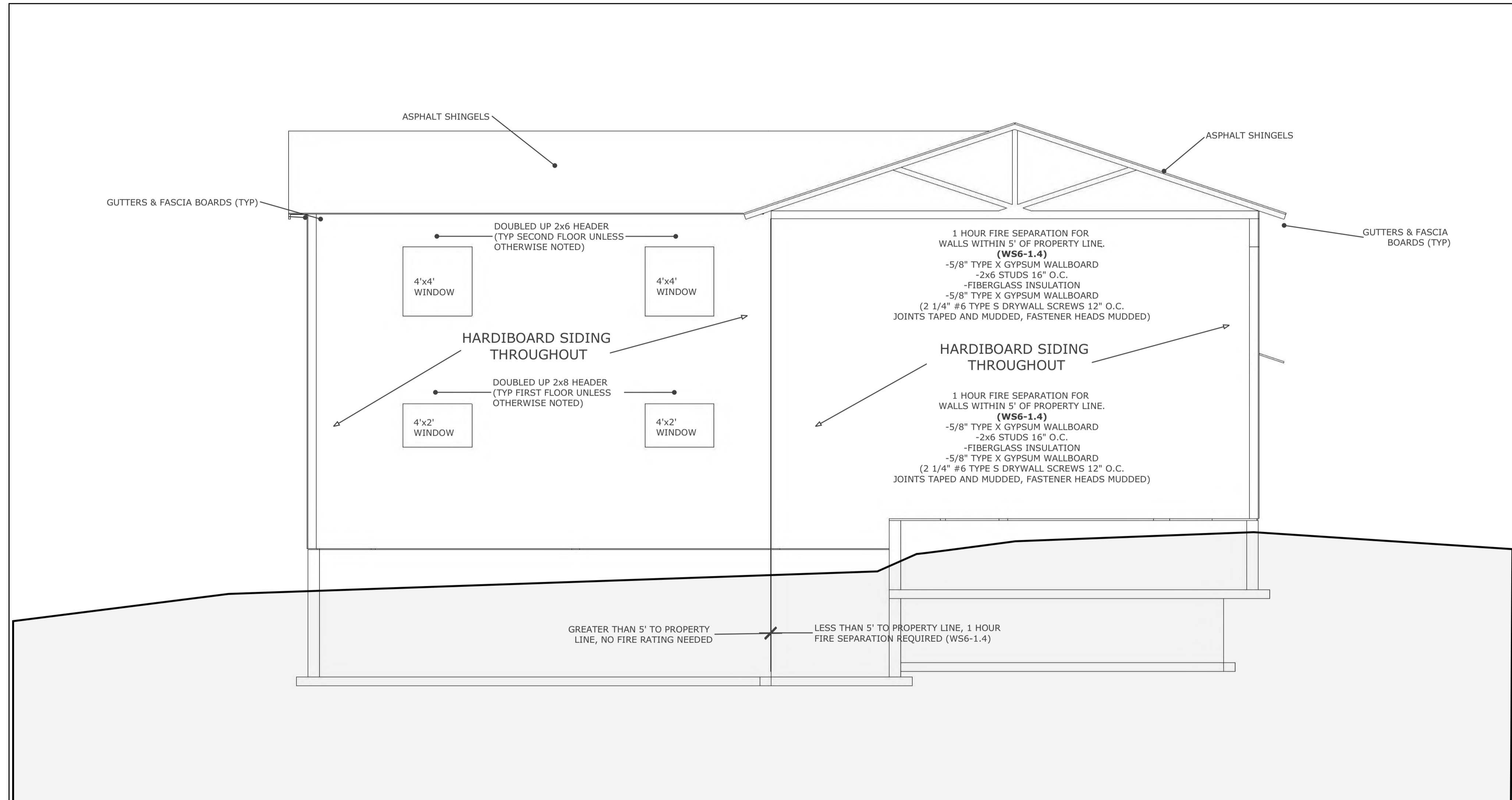


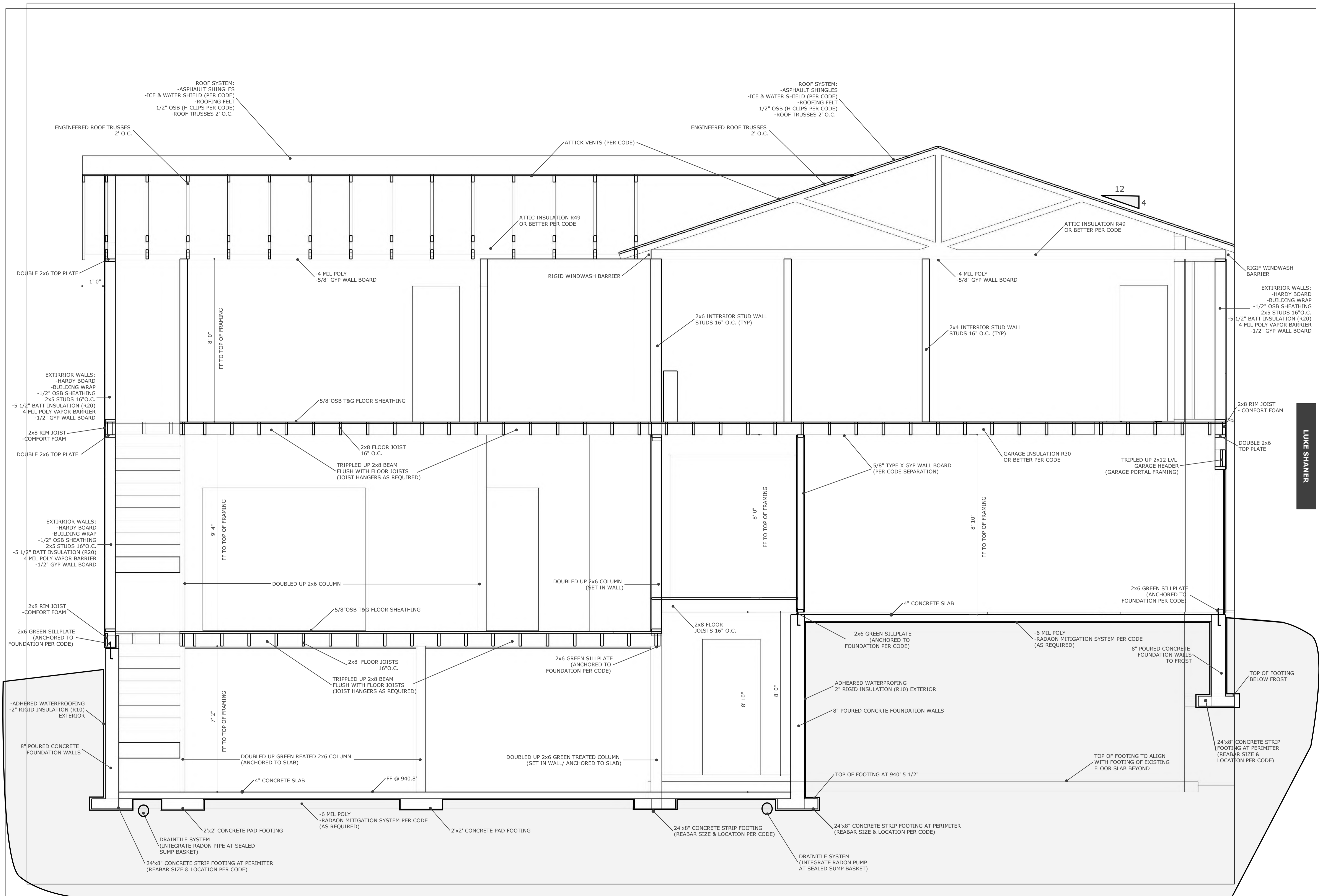




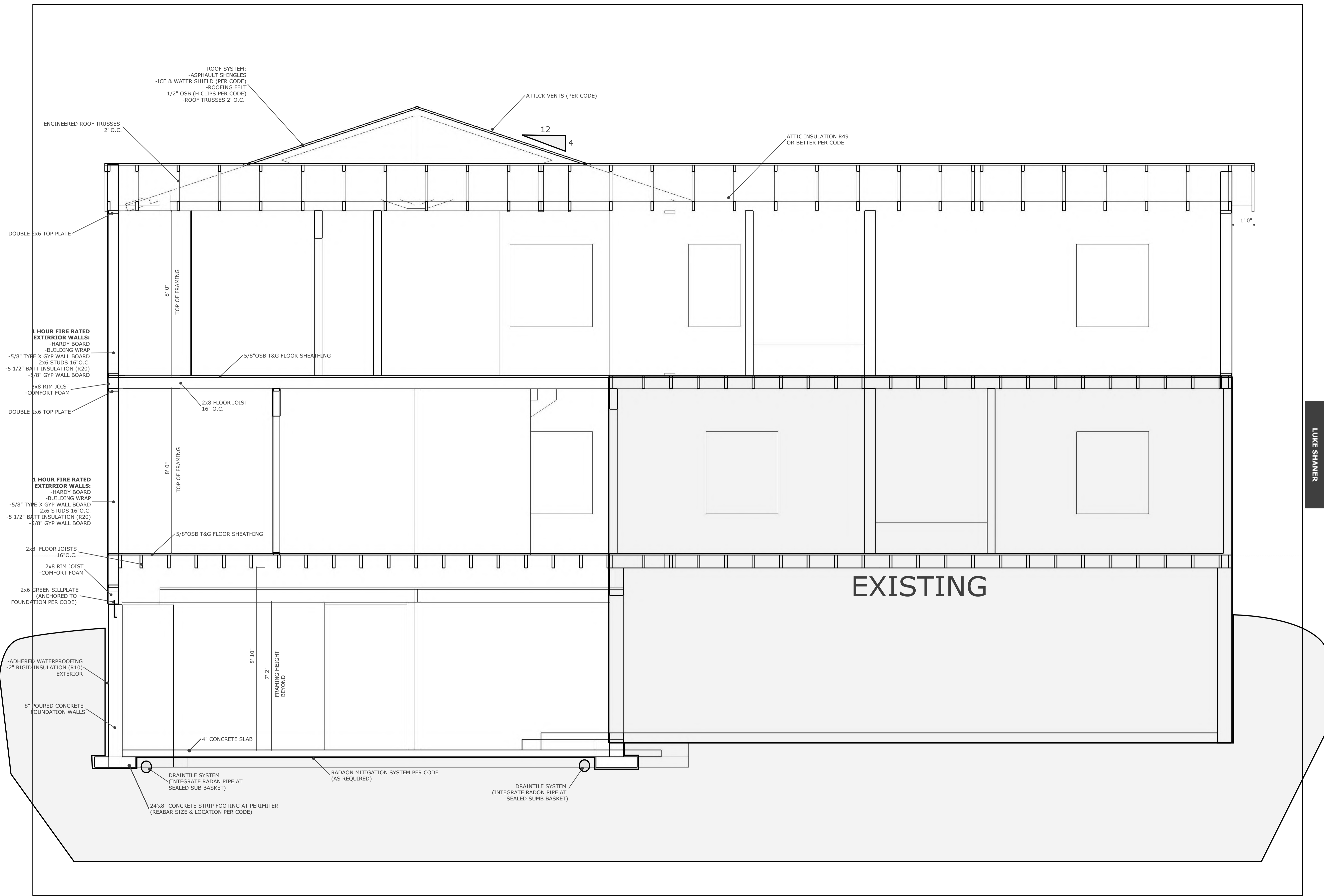








LUKE SHANER



LUKE SHANER

Planning Commission Resolution No. 2023-

Resolution approving an expansion permit for a garage and living space additions to the house at 5123 Willow Lane

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

Section 1. Background.

- 1.01 Marielena Acorda-Shaner owns the property located at 5123 Willow Lane. The property is legally described as: LOT 7, DELTON 2nd ADDITION.
- 1.02 Under City Code 300.10 Subd. 5(b) and 5(c), principal structures are required to maintain a minimum front yard setback of 35 feet and side yard setback 10 feet, respectively
- 1.03 The existing home on the subject property has a front yard setback of 30 feet and a side yard setback of 0.6 feet. As the home was constructed in 1948, prior to the adoption of the city's first zoning ordinance, the home is considered non-conforming.
- 1.04 The property owner is proposing to remove an existing one-stall garage and breezeway and construct garage and living space additions. The additions would include garage space, a two-story living space located behind and above the proposed garage, and a second-story living space over the existing house. The plans were included in the May 18, 2023 staff report provided to the planning commission.
- 1.05 The proposed additions would be set back 30 feet from the front property line and 1.3 feet from the side (north) property line. Given the house's existing non-conforming setbacks, an expansion permit is required.
- 1.06 Minnesota Statute §462.357 Subd.1(e)(b) allows a municipality, by ordinance, to permit an expansion of non-conformities.
- 1.07 City Code §300.29 Subd.3(g) allows expansion of a non-conformity only by variance or expansion permit.
- 1.08 City Code §300.29 Subd.7(c) authorizes the planning commission to grant expansion permits.

Section 2. Standards.

2.01 City Code §300.29 Subd. 7(c) states that an expansion permit may be granted, but is not mandated when an applicant meets the burden of proving that:

1. The proposed expansion is a reasonable use of the property, considering such things as functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.
2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The application for the expansion permit is reasonable and would meet the required standards outlined in City Code §300.29 Subd. 7(c):

1. Reasonableness. The proposed additions are reasonable, as they would maintain the existing front yard setback and improve upon the existing side yard setback.
2. Unique Circumstance: Though the property is 280 feet wide from north to south, the existing house and any functional addition would be located in the northerly 20 percent of the lot. This is a unique circumstance not common to other similarly zoned properties.
3. Neighborhood Character. The addition would not negatively impact neighborhood character or alter development patterns in the immediate area. The property to the north is owned by the city and contains a stormwater pond; the property to the south is an outlot associated with a multi-household development.

Section 4. Planning Commission Action.

4.01 The planning commission approves the above-described expansion permit based on the findings outlined in section 3 of this resolution. Approval is subject to the following conditions:

1. Subject to staff approval, the property must be developed in substantial

conformance with the following plans, except as modified by the conditions below.

- Proposed conditions survey, dated April 13, 2023, and attached to the May 18, 2023 planning commission report.
- Building elevations and plans, dated March 31, 2023, and attached to the May 18, 2023 planning commission report.

2. Prior to issuance of a building permit:
 - a) This resolution must be recorded with Hennepin County.
 - b) Pay any outstanding utility bills.
 - c) Remove imperious surfaces and fencing located on city property.
 - d) Install a temporary erosion control and tree protection fencing for staff inspection. These items must be maintained throughout the course of construction.
3. This expansion permit does not approve non-compliance with any provision of City Code 300.24, generally referred to as the floodplain ordinance.
4. This expansion permit approval will end on Dec. 31, 2024, unless the city has issued a building permit for the project covered by this expansion permit approval or approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on May 18, 2023.

Josh Sewell, Chairperson

ATTEST:

Fiona Golden, Deputy 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 18, 2023.

Fiona Golden, Deputy City Clerk

MINNETONKA PLANNING COMMISSION
May 18, 2023

Brief Description	Conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 12620 Orchard Road
Recommendation	Recommend the city council adopt the resolution denying the request.

Proposal

The 1.07-acre subject property is located on the north side of Orchard Road near Orchard Park. Property owners Laurie and Scott Wothe are proposing to construct an accessory structure on the property. The submitted plans illustrate the construction of an accessory structure, with a footprint of 2,016 square feet, and a covered patio, with a footprint of 769.5 square feet; the structure would have a total footprint of 2,785.5 square feet. The proposed structure would have a peak roof height of roughly 17 feet and a code-defined height of approximately 14 feet. The accessory structure would be used for a workspace with no dwelling use.

By city code, conditional use permits are required for accessory structures over 1,000 square feet in area or 12 feet in height or total accessory structures over an aggregate of 1,000 square feet on a residential property.¹ This proposal is in excess of 1,000 square feet in area and 12 feet in height.



Image 1 – Rendering of proposed accessory structure

Staff Analysis

A conditionally permitted use is a use that is authorized by the city council if the standards outlined in the city code for such use are met. Staff finds that the applicant’s proposal would not meet the standards for large accessory structures. Staff recommends denial of the request, noting:

¹ By city code 300.10 Subd.4, an accessory structure with a total floor area in excess of 1,000 square feet is allowed on residential properties only by conditional use permit. The code definition of "floor area" includes only fully enclosed spaces.

- Consistent with the Ordinance.** The intent of the ordinance as it pertains to accessory structures on single-family properties is to allow property owners to construct structures "subordinate to, and associated with," their homes.² The proposed accessory structure would have a footprint larger than that of the existing home by roughly 1,400 square feet. Given the proposed size and the design, the structure would not be clearly subordinate to the principal structure. Instead, it would reasonably have the appearance of a second principal use on the property.

Structure	Gross Floor Area	Footprint
Principal (house)	1,555 sq. ft.	1,304.6 sq. ft.*
Accessory (proposed)	2,785.5 sq. ft.	2,785.5 sq. ft.

*Calculated from application survey

- Preservation of the site in its natural state to the extent practicable.** The site's topography slopes downward from north to south near the proposed structure site. Although the proposed location is near to – but not on – a steep slope, the project does require grading to the site. The proposed accessory structure would require the removal of 23 trees near the proposed structure location. Locating the structure closer to the existing home near the end of the existing driveway would result in less tree impact and grading.
- Preservation of public health, safety, or welfare.** The proposed structure requires screening from the public right-of-way and adjoining properties. The large structure will be visible from Orchard Road and the neighboring property immediately to the east.

Height	Code Defined Height	14 feet
	Visual Height	17 feet

The accessory structure would be highly visible from a street view along Orchard Rd.



Image 2 – Approximate accessory structure location

² City Code §300.02.147 – Accessory structure definition

Summary Comments

The city has approved conditional use permits for large accessory buildings in the past. However, the city must – and does – review each application for such use individually. Staff provided their recommendation for denial to the applicant and suggested decreasing the size of the accessory structure to less than the gross floor area of the principal structure. Again, the intention is that the accessory structure would be clearly subordinate to the principal structure. However, the applicant wishes to proceed with the proposal as presented.

Staff Recommendation

Recommend that the city council adopt the resolution denying a conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 12620 Orchard Road.

Originator: Bria Raines, Planner
Through: Loren Gordon, AICP, City Planner

Supporting Information

Surrounding Land Uses All adjacent properties are zoned R-1, guided for low density, improved with single-family home

Planning Guide Plan designation: low-density residential
Zoning: R-1, low density residential

CUP Standards City Code §300.16 Subd.2 outlines the general standards that must be met for granting a conditional use permit on a residential lot. The proposal would meet these standards.

1. The use is consistent with the intent of this ordinance.

Finding: The intent of the ordinance as it pertains to accessory structures on single-family properties is to allow property owners construction of structures "subordinate to, and associated with," their homes. The proposed accessory structure would not be clearly subordinate to the principal structure. The proposed accessory structure will be larger in gross floor area and the building footprint. The proposed structure would not meet this standard.

2. The use is consistent with the goals, policies, and objectives of the comprehensive plan;

Finding: An accessory structure is consistent with the subject property's low-density designation in the comprehensive plan.

3. The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and

Finding: The proposed structure is not anticipated to have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements

4. The use does not have an undue adverse impact on public health, safety, or welfare.

Finding: The proposed structure would be unlikely to have an undue adverse impact on public health, safety, or welfare. This does not mean there is no opportunity for nuisance or lighting complaints, as the proposed structure will be visible from the public right-of-way and the neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.

City Code §300.16 Subd.3(f) outlines the following specific standards that must be met for granting a conditional use permit for accessory

structures in excess of 1,000 square feet of gross floor area or 12 feet in height. The proposal would meet these standards.

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;

Finding: The proposed accessory structure would have a side yard setback of 15 feet and a rear yard setback of over 100 feet, meeting the setback requirements. This standard is met.

2. No additional curb cuts to be permitted;

Finding: No additional curb cuts are proposed. The proposal would utilize the existing driveway access. This standard is met.

3. Not to be used for commercial activities;

Finding: The applicant has indicated that the structure would be for personal use only.

4. Structure to be architecturally consistent with the principal structure;

Finding: The proposal would be a similar gray to that of the principal structure. The architectural design would be inconsistent but is an intentional design decision by the applicant.

5. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties; and

Finding: The structure would be reasonably screened by existing vegetation along the westerly property line. The proposed structure will be visible from the public right-of-way and the neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.

6. Site and building plan subject to review pursuant to Section 300.27 of this ordinance.

Finding: The structure would not meet several site and building plan standards. See the following section.

SBP Standards

City Code §300.27, Subd. 5, states that in evaluating a site and building plan, the city will consider its compliance with the following standards. The proposal would not meet several of these standards.

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

Finding: The proposal has been reviewed by the city's planning, building, engineering, natural resources, fire, and public works staff. It would meet the site's low-density designation in the comprehensive plan. Though large in size and site impact, the proposal would not trigger the stormwater management rules of the water resources management plan.

2. Consistency with this ordinance;

Finding: The proposed structure would not meet this standard. By definition, an accessory structure is a structure "subordinate to, and associated with the principal structure" on the same lot. Given the proposed size and design, the structure would not be clearly subordinate to the principal use. Instead, it would have the appearance of a second principal use on the property.

3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;

Finding: The proposed structure would not meet this standard. The site's topography slopes downward from north to south near the proposed structure site. Although the proposed location is near to – but not on – a steep slope, the project does require grading to the site. The proposed accessory structure would require removing 23 trees near the proposed structure location. Locating the structure closer to the existing home near the end of the existing driveway would result in less tree impact and grading.

4. Creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;

Finding: The proposed structure would not meet this standard. The structure would be located in the rear yard, unnecessarily impacting the site's natural topography and existing trees. The site does have an open area closer to the home that would require less tree removal.

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
 - a) An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors, and the general community;
 - b) The amount and location of open space and landscaping;
 - c) Materials, textures, colors, and details of construction as an expression of the design concept and the compatibility of the

same with the adjacent and neighboring structures and uses;
and

- d) Vehicular and pedestrian circulation, including walkways, interior drives, and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement and amount of parking.

Finding: The proposed structure would not meet this standard. Existing topography and trees would be unnecessarily impacted. The proposed design would match in color but not architecturally to the principal structure.

6. Promotion of energy conservation through design, location, orientation, and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and

Finding: The proposal would require a building permit and would be required to meet minimum energy standards. The applicant was purposeful in designing the structure with many windows to utilize natural light.

7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light, air, and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

Finding: The proposed structure would not meet this standard. The structure would be partially screened by existing vegetation. However, the structure would be visible from the adjacent public right-of-way and neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.

Tree Inventory

Natural resource staff requested a smaller tree inventory of just the trees within 20 feet of the proposed accessory structure location, the basic tree removal area. The applicant is proposing to remove 23 trees; 11 unprotected ash, seven significant trees, and five high-priority trees.

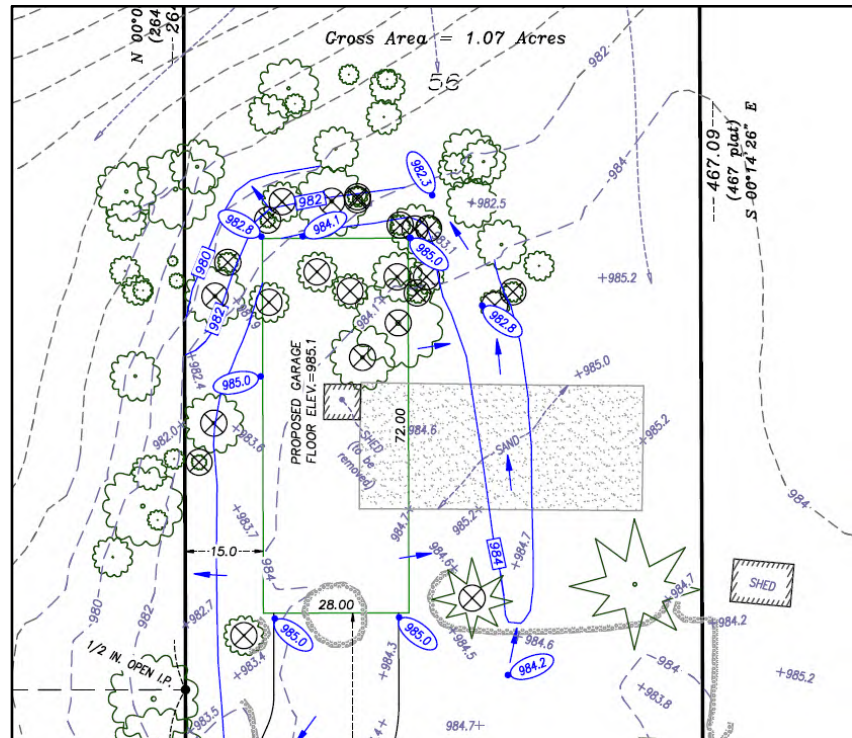
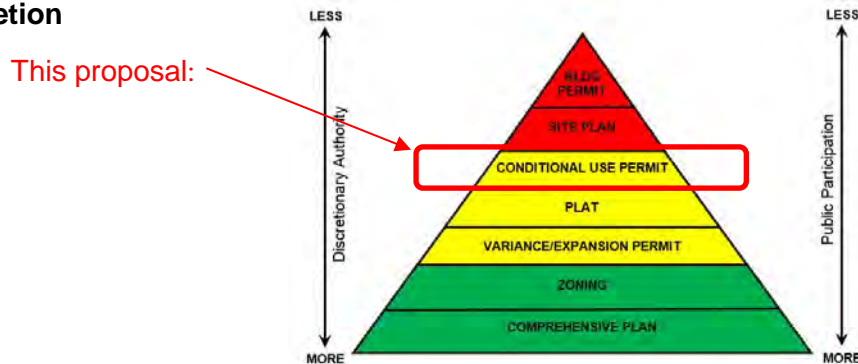


Image 3 – Proposed tree removals

Pyramid of Discretion



Voting Requirement

The planning commission will make a recommendation to the city council. Both the commission’s recommendation and the city council’s final approval require an affirmative vote of a simple majority.

Motion Options

The planning commission has three options:

1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the request.
2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council deny the request. This motion must include a statement as to how the ordinance standards are not met.

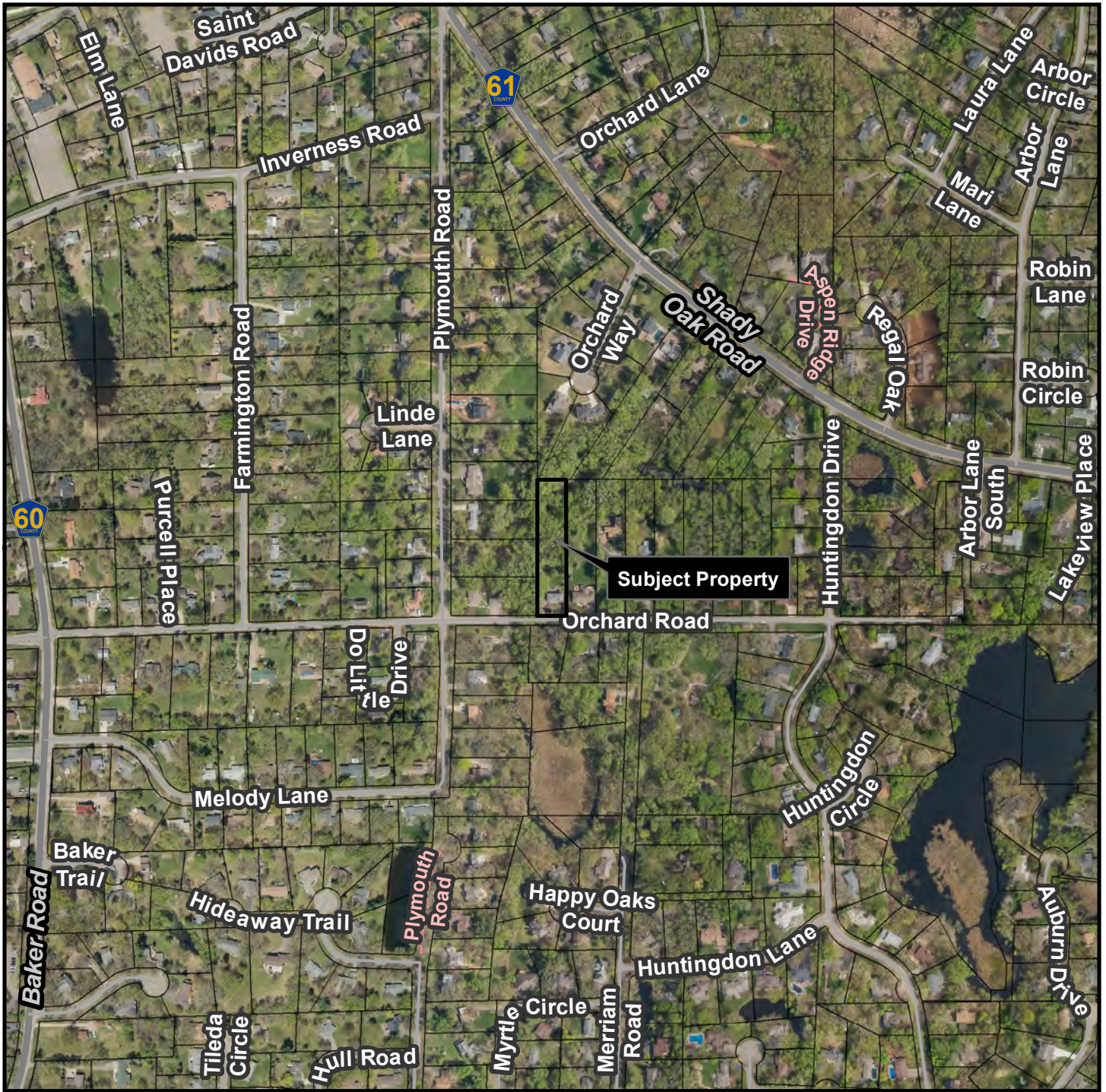
3. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

**Neighborhood
Comments**

The city sent notices to 31 area property owners and received no responses.

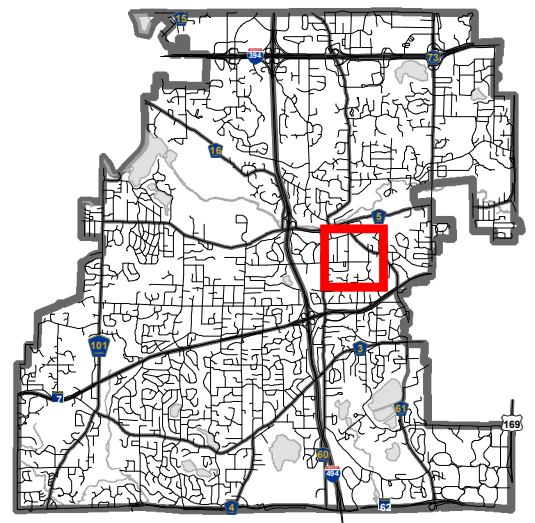
**Deadline for
Decision**

Aug. 10, 2023



Location Map

Project: Woth Residence
Address: 12620 Orchard Road



April 9, 2023

CUP for Garage
12620 Orchard Road, Minnetonka MN 55305
PID: 1411722330019
Lot 56 Country Homes Addition

Written Statement:

When I purchased my home in 1990 as a 23-year-old, I had big ideas for a big garage! One of my criteria for looking for a house was that it have a lot size of at least one acre, for just this reason. As luck would have it, my realtor showed me this house on the first day we viewed any properties. Within a day of that viewing, I had a purchase agreement with an offer in place, the next day it was accepted, and I moved in a little over a month later.

In 1995, we knocked down a dilapidated tuck-under garage that had nothing on top of it, to make way for a small addition for our growing family. I figured once we got the addition done, we would focus on replacing the garage. It's now 28 years later, and still no garage.

In November of 2021, my dad passed away, and left me with a small car collection. He and I had always talked about building a big garage in my big backyard for that eventuality, but it never happened. Now, I've inherited a few cars, and I am in need of a place to store the three or four that we are keeping (we're selling some others to fund the garage) as the shop that he had for them is no longer available to us. So, I humbly request a Conditional Use Permit for an oversize garage on my oversize property, strictly for parking of cars - no living quarters or business to be done here.

Being so long in the making, this is a real dream for me, however bittersweet, and I think the renderings for my vision really speak to that. We've selected a location that allows it to be nestled among the thick woods to keep it private and unobtrusive, and we've selected premium materials and finishes that will minimize its visibility, even in the winter. I look forward to creating a home for my dad's treasured cars, some space for me to keep them safe and in good running condition.

Thank you for your consideration!

Scott Wothe

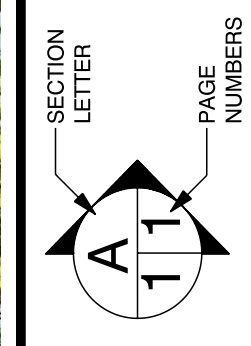


Scott Wothe
12620 Orchard Rd
Minneltonka
MN
55305



ROYCROFT DESIGN, LLC
28881 Cleveland St. NW
Elk River
MN
55330
PHONE: 651-336-4949
FAX:
jyoung@roycroftarchitecture.com

SCALE: As Noted
DRAWN BY:
DATE: Tuesday, March 21, 2023



APPROVED:
CHECKED BY:



Scott Wothe
 12620 Orchard Rd
 Murretonka
 MN
 55305

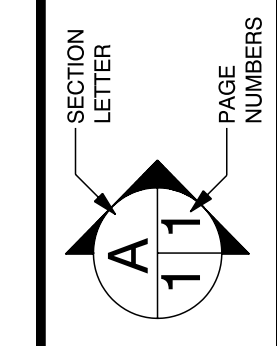
PHONE:
 FAX:



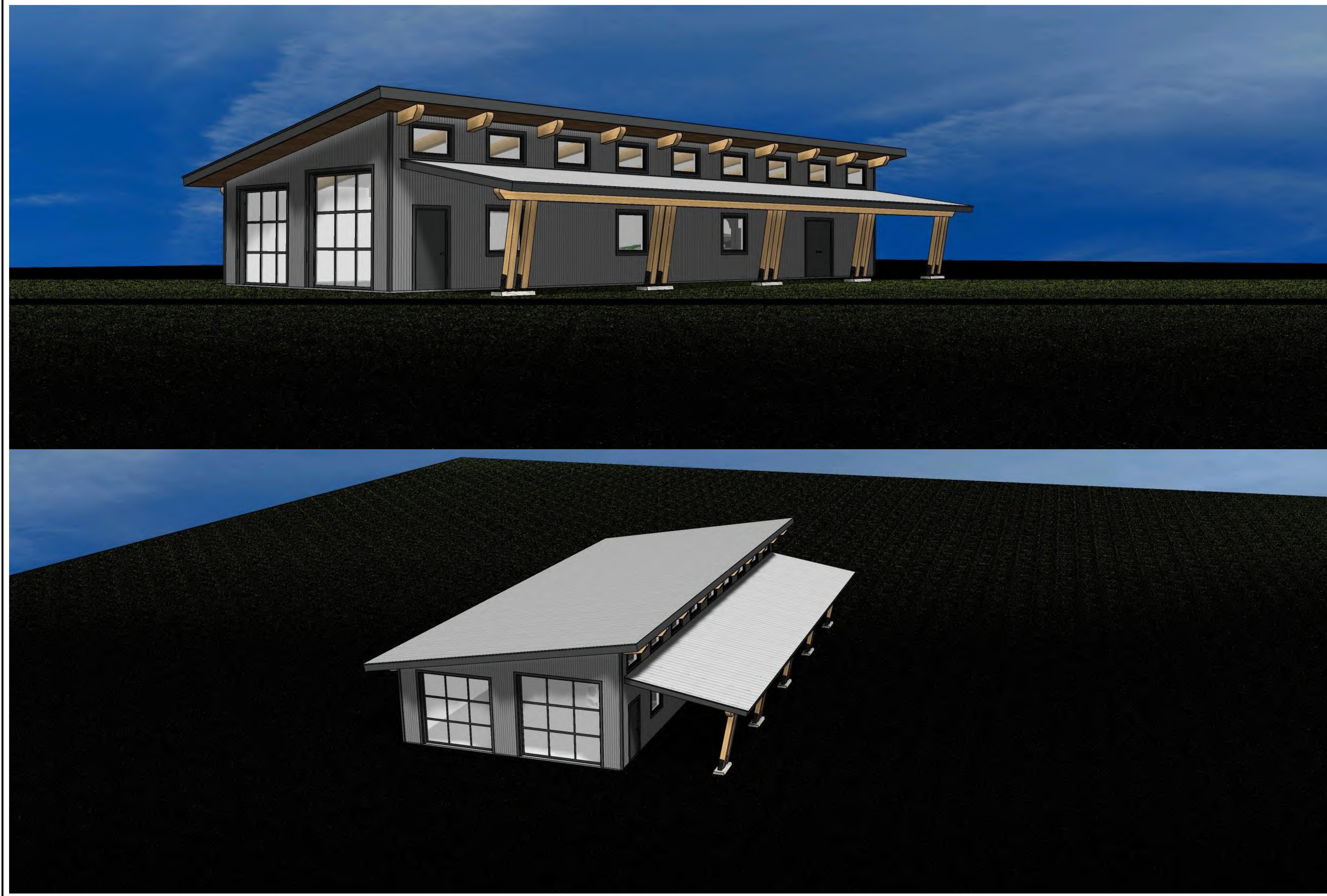
ROYCROFT DESIGN, LLC
 2881 Cleveland St. NW
 Elk River
 MN
 55330

PHONE: 651-398-4949
 FAX:
 jyoung@roycroftarchitecture.com

SCALE: As Noted
 DRAWN BY:
 DATE: Tuesday, March 21, 2023



APPROVED:
 CHECKED BY:

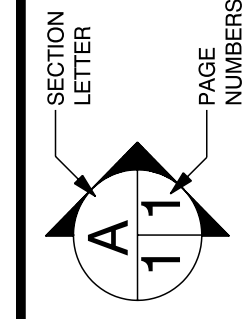


Scott Wothe
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 Minnetonka
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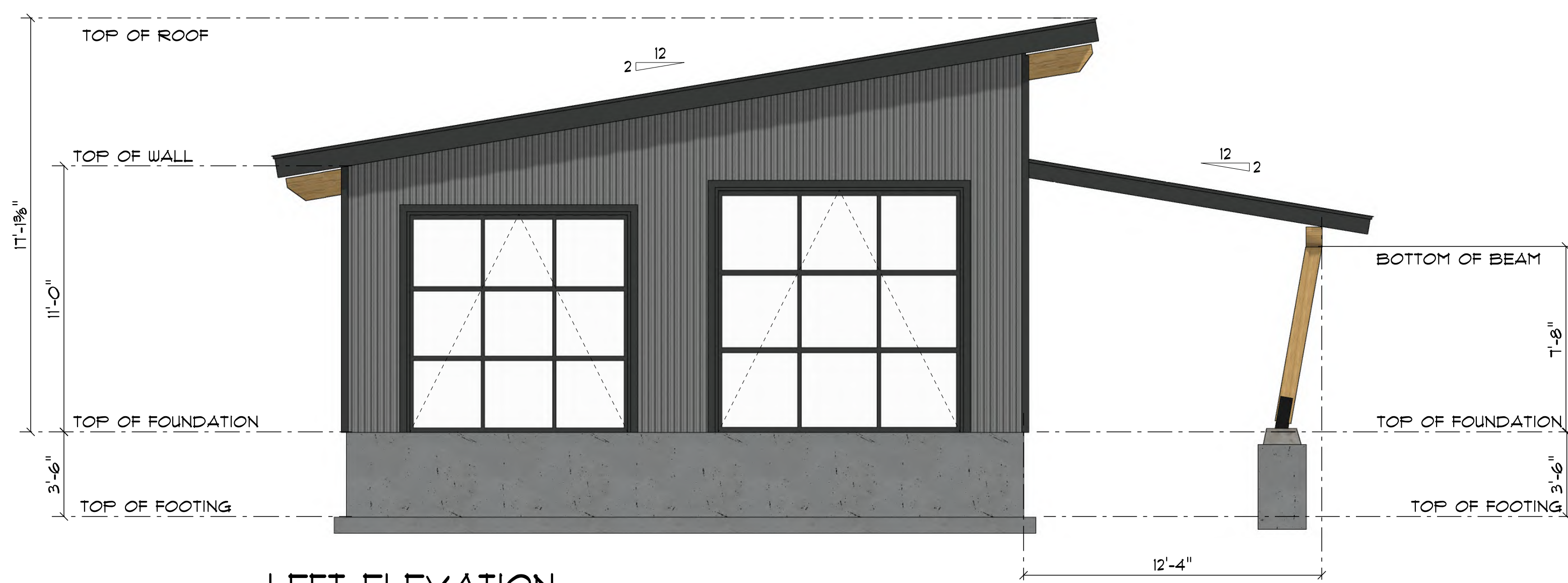
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 DATE: Tuesday, March 21, 2023



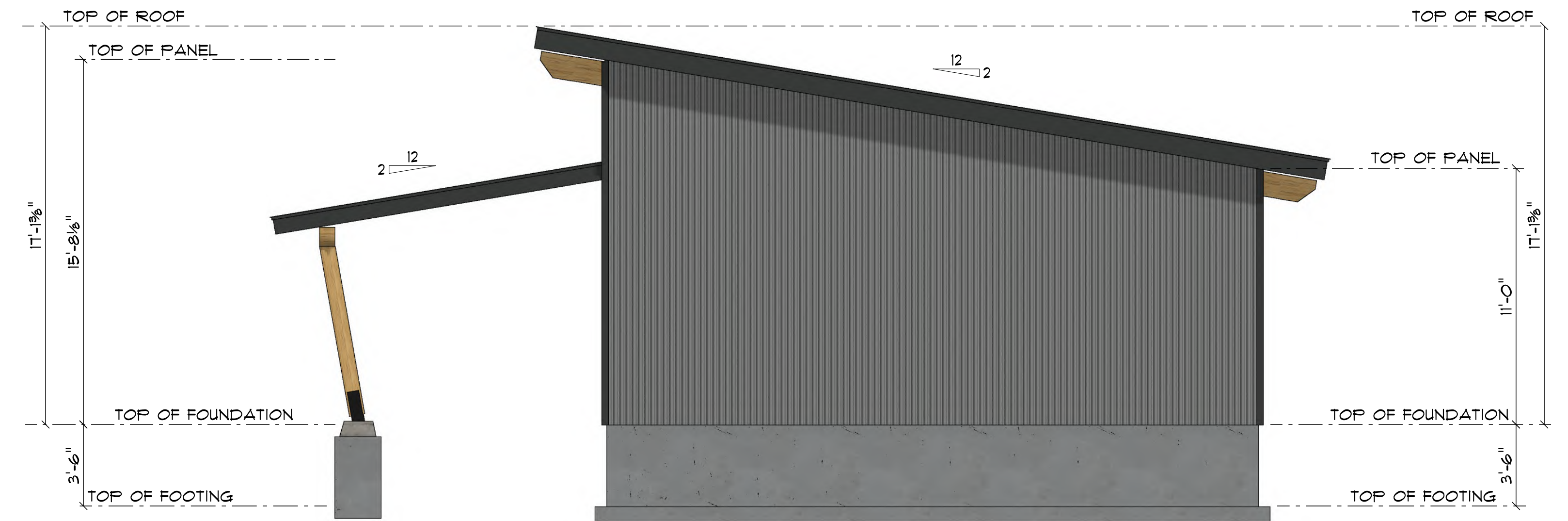
APPROVED:
 CHECKED BY:



FRONT ELEVATION
SCALE: 1/4" = 1'-0"



LEFT ELEVATION
SCALE: 1/4" = 1'-0"



RIGHT ELEVATION
SCALE: 1/4" = 1'-0"

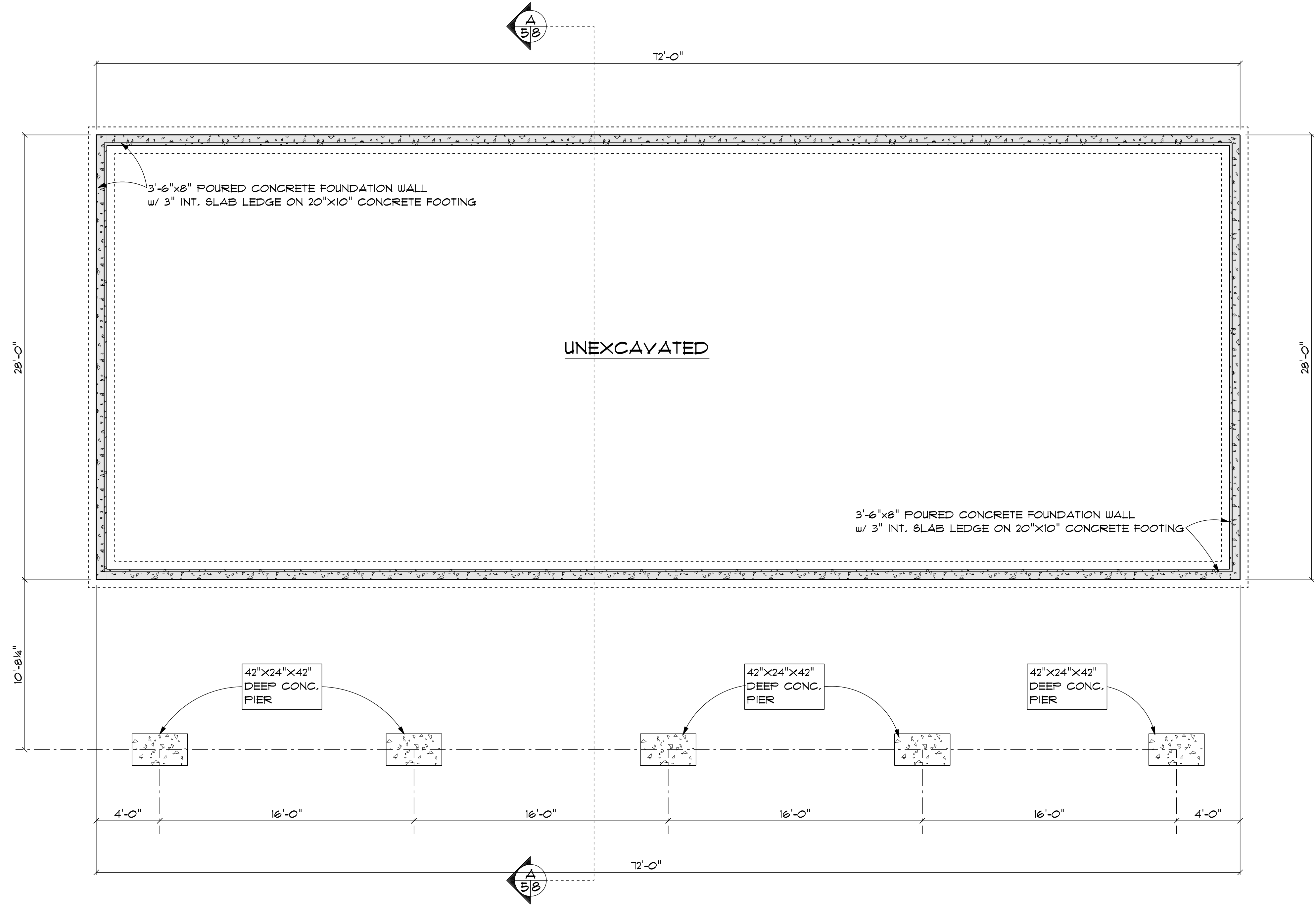


REAR ELEVATION
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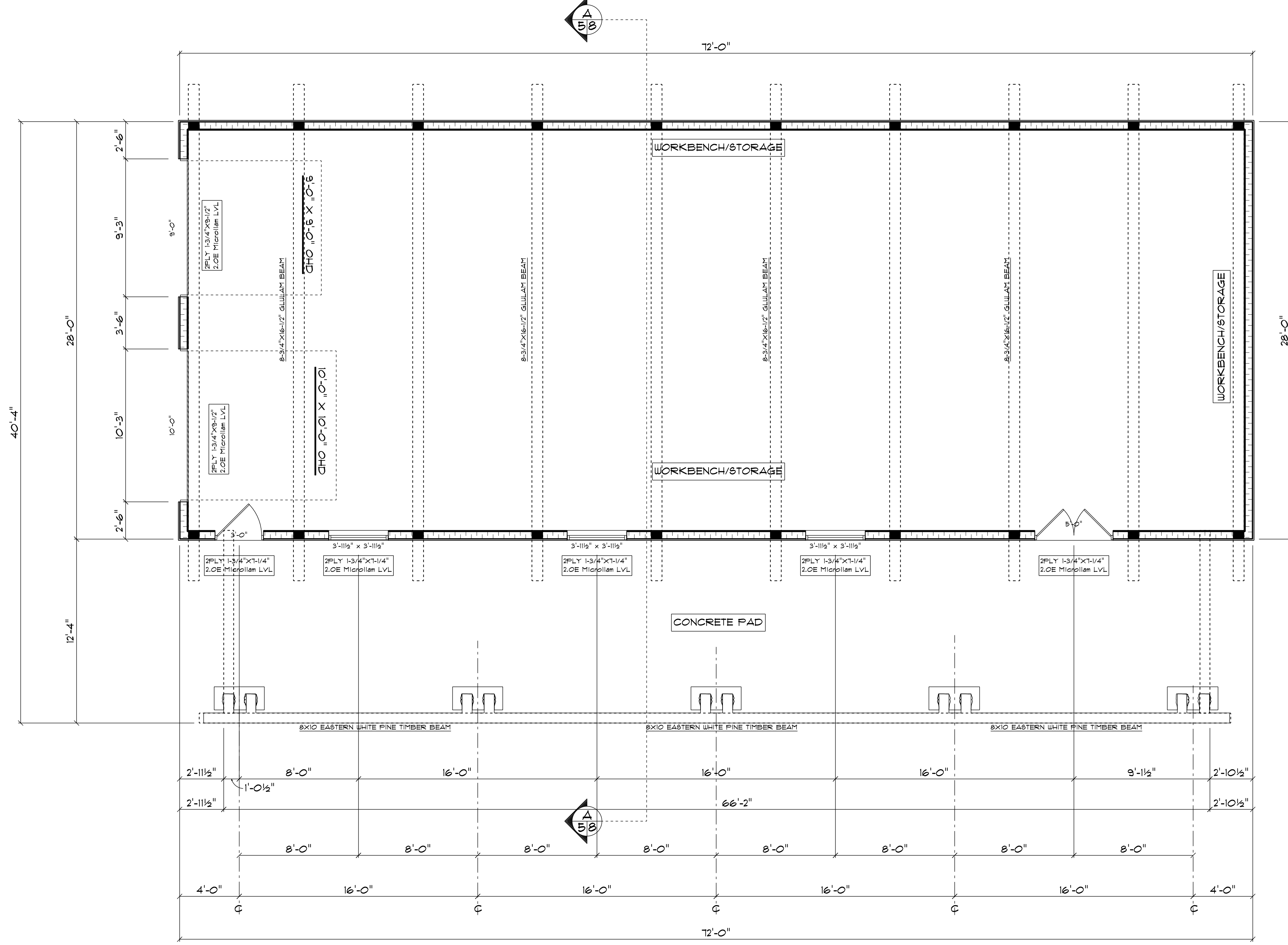
WINDOW SCHEDULE								
PRODUCT CODE	SIZE	COUNT	EGRESS	GRILLE	OPENING ID	R.O. SIZE	TEMPERED GLASS	HINGE
4026	3'-11½" x 2'-5½"	9	No	No	2	R.O. 4'-0" x 2'-6"	No	N
4040	3'-11½" x 3'-11½"	3	No	No	3	R.O. 4'-0" x 4'-0"	No	N

AREA SCHEDULE		
NAME	COLOR	AREA
MAIN FLOOR		2,016 sq. ft.
CONCRETE PAD		810 sq. ft.

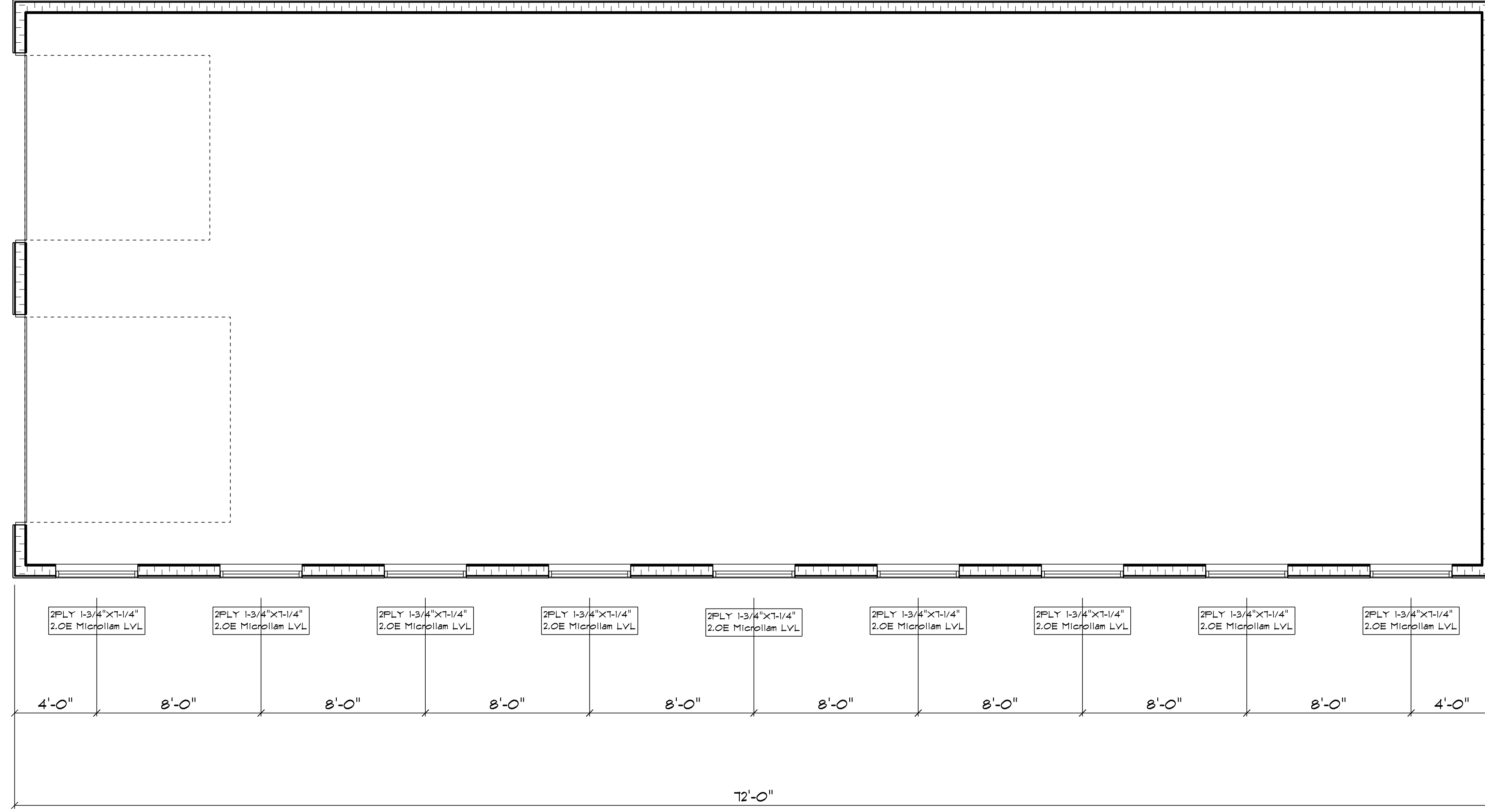




FOUNDATION
SCALE: 1/4" = 1'-0"



MAIN FLOOR PLAN
SCALE: 1/4" = 1'-0"



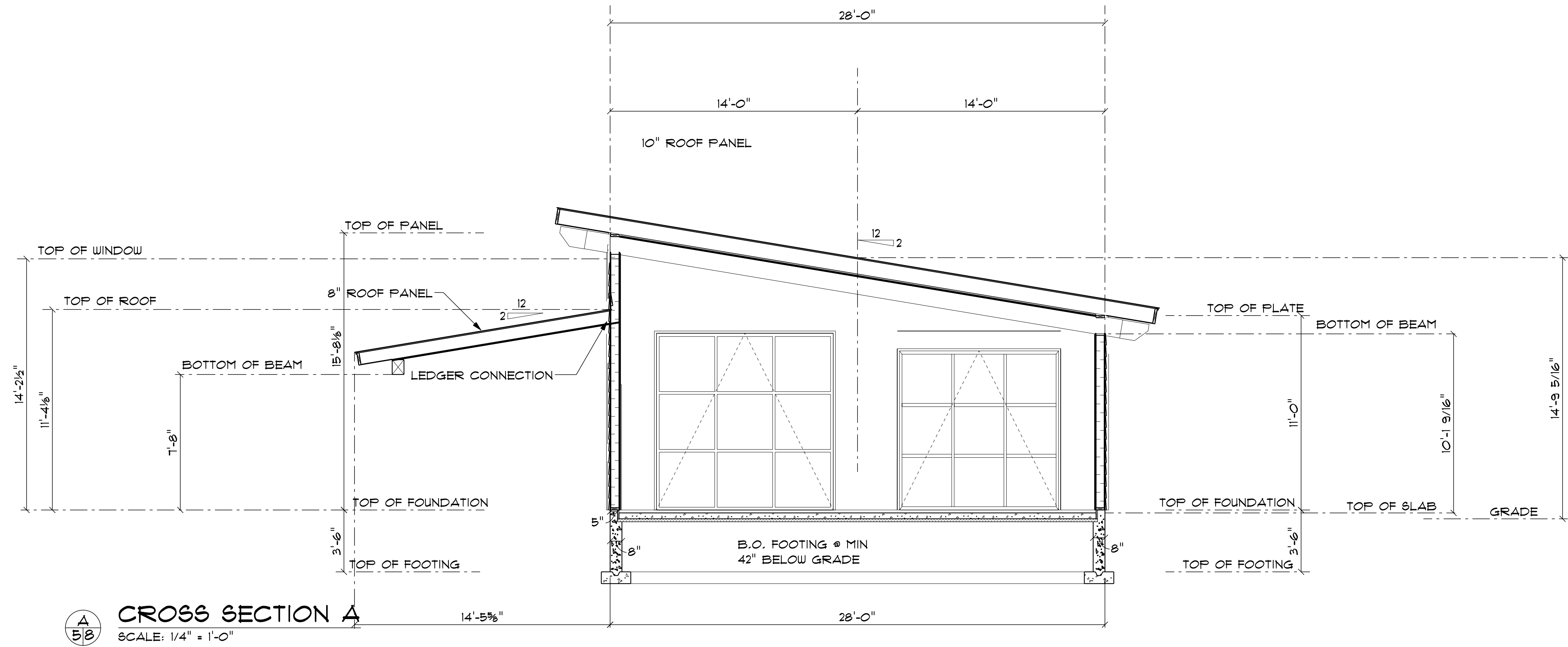
CLERESTORY LAYOUT
SCALE: 1/4" = 1'-0"

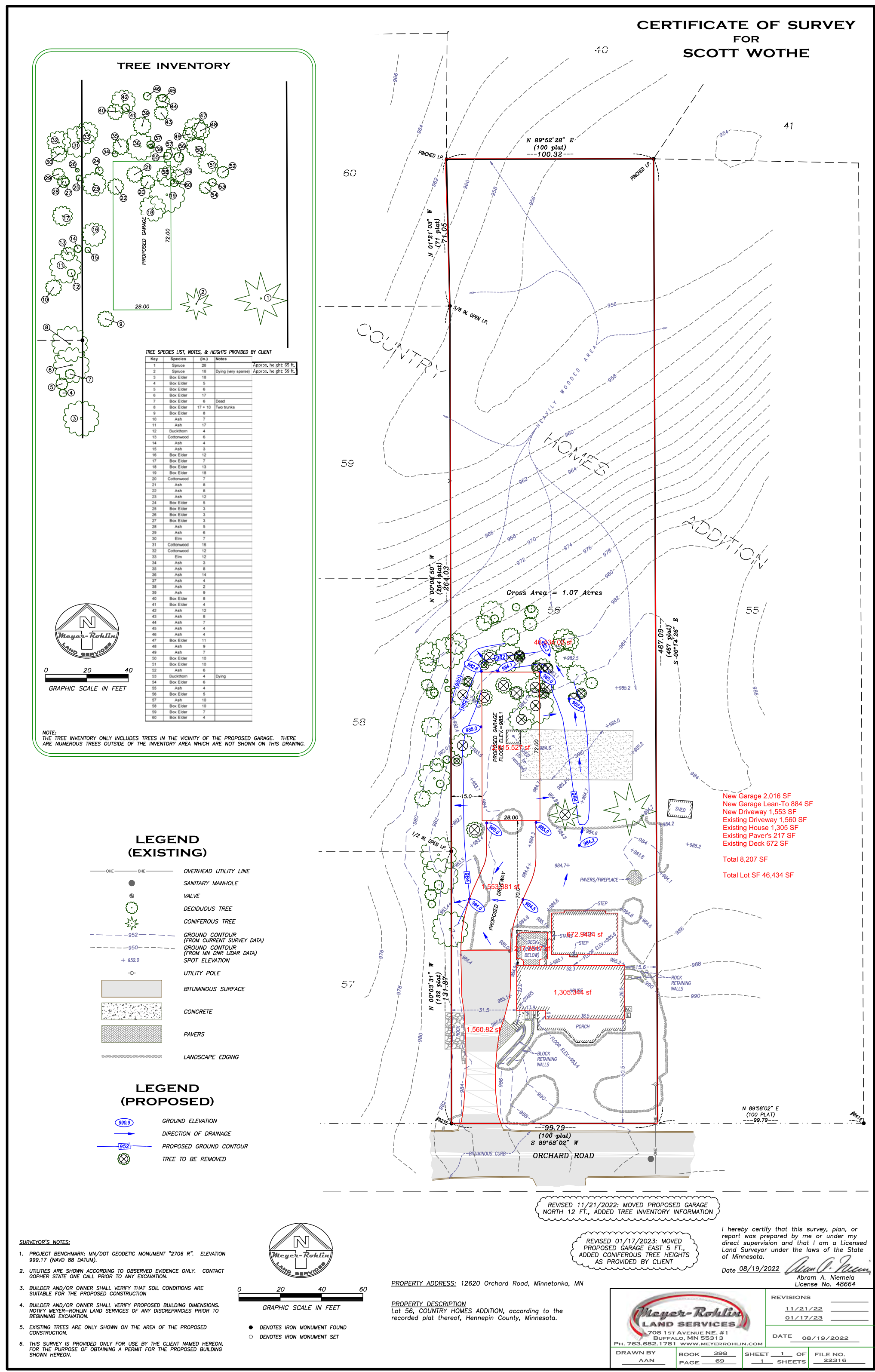
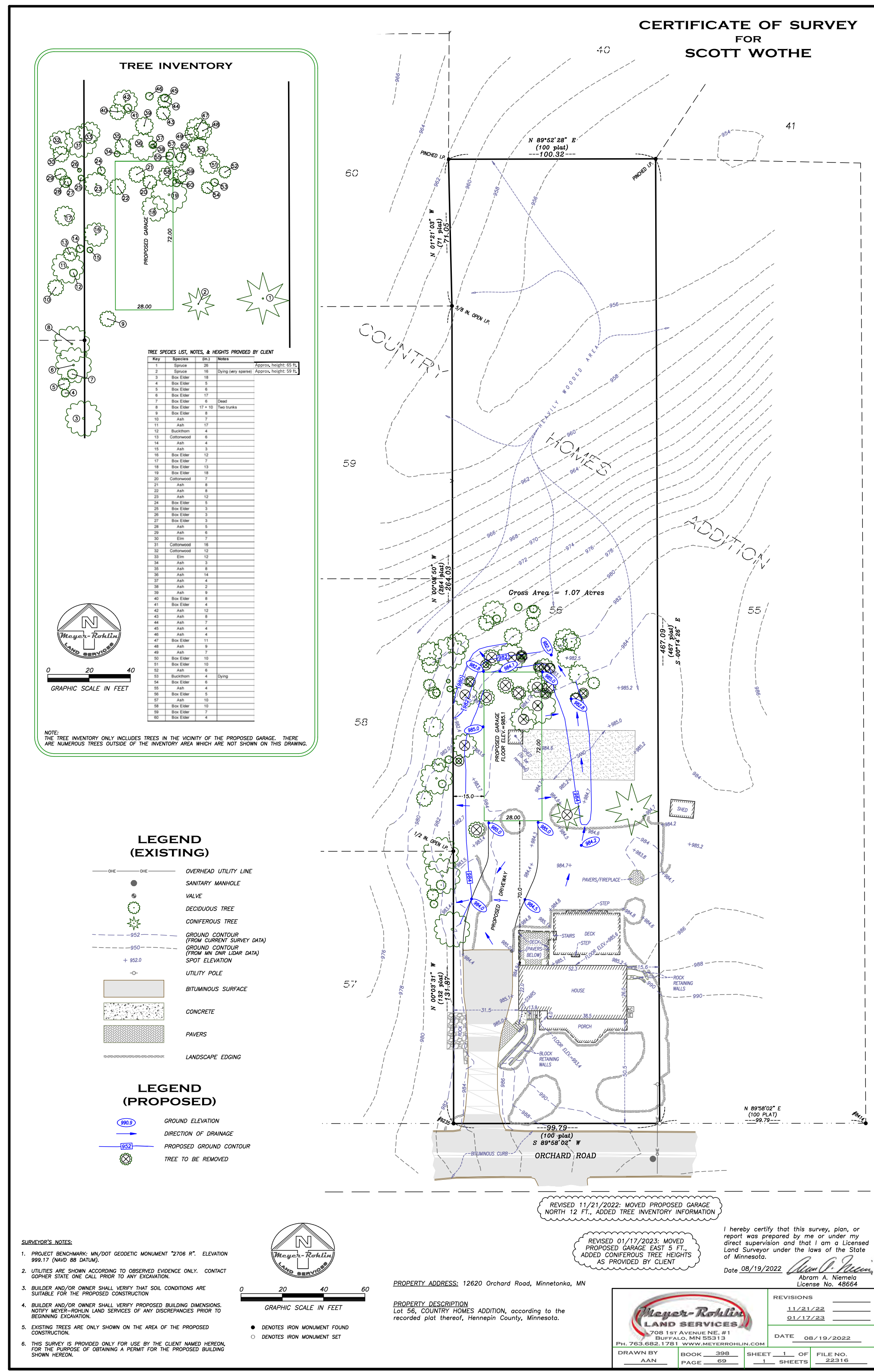
TYPICAL SIP ROOF:
 METAL ROOFING-PER MANUF. INSTALL. REQUIREMENTS
 ICE & WATER SHIELD 24" PAST PLATE LINE
 HIGH TEMP SYNTHETIC UNDERLAYMENT
 1/2" OSB SHEATHING
 7-1/4" EPS FOAM
 1/2" OSB SHEATHING
 5/8" GYP. BRD

TYPICAL 6-1/2" SIP SIDING EXTERIOR WALL:
 SIDING PER ELEVATION
 1/2" OSB SHEATHING
 5-1/2" EPS FOAM
 1/2" OSB SHEATHING
 1/2" GYP. BRD
 TAPED & SANDED

TYPICAL SILL ASSEMBLY:
 1/2" DIA. ANCHOR BOLT @ 12" o.c.
 MAX-EXTEND A MIN. OF 1"
 INTO CONCRETE FOUNDATION
 2x6 PRESSURE TREATED SILL PLATE
 SILL SEAL FOAM GASKET

TYPICAL POURED WALL FOUNDATION:
 WATERPROOFING
 EXTERIOR THERMAL WALL
 2" RIGID FOAM INSUL. (R-10)
 POURED CONC. WALL PER PLAN
 20"X10" FOOTING UNLESS OTHERWISE NOTED
 4" CON. SLAB
 VAPOR BARRIER
 4" CLEAN AGGREGATE
 2" RIGID INSULATION PER PLAN





Key	Species	Diameter (in.)	Notes	Keep	Remove
1	Spruce	26		KEEP	
2	Spruce	16	Dying (very sparse)		Remove
3	Box Elder	18		On neighbor's property	
4	Box Elder	5		On neighbor's property	
5	Box Elder	6		On neighbor's property	
6	Box Elder	17		On neighbor's property	
7	Box Elder	6	Dead	On neighbor's property	
8	Box Elder	17 + 10	Two trunks	On neighbor's property	
9	Box Elder	8			Remove
10	Ash	7		On neighbor's property	
11	Ash	17		On neighbor's property	
12	Buckthorn	4		On neighbor's property	
13	Cottonwood	6		On neighbor's property	
14	Ash	4		On neighbor's property	
15	Ash	3			Remove
16	Box Elder	12			Remove
17	Box Elder	7		On neighbor's property	
18	Box Elder	13			Remove
19	Box Elder	18			Remove
20	Cottonwood	7			Remove
21	Ash	8			Remove
22	Ash	8			Remove
23	Ash	12			Remove
24	Box Elder	5			Remove
25	Box Elder	3		On neighbor's property	
26	Box Elder	3		On neighbor's property	
27	Box Elder	3		On neighbor's property	
28	Ash	5		On neighbor's property	
29	Ash	6		On neighbor's property	
30	Elm	7		On neighbor's property	
31	Cottonwood	16		On neighbor's property	
32	Cottonwood	12		On neighbor's property	
33	Elm	12		KEEP	
34	Ash	3			Remove
35	Ash	8			Remove
36	Ash	14			Remove
37	Ash	4			Remove
38	Ash	2			Remove
39	Ash	9		KEEP	
40	Box Elder	8		KEEP	
41	Box Elder	4		KEEP	
42	Ash	12		KEEP	
43	Ash	8		KEEP	
44	Ash	7		KEEP	
45	Ash	4		KEEP	
46	Ash	4		KEEP	

47	Box Elder	11		KEEP
48	Ash	9		KEEP
49	Ash	7		KEEP
50	Box Elder	10		KEEP
51	Box Elder	10		KEEP
52	Ash	6		KEEP
53	Buckthorn	4	Dying	
54	Box Elder	6		
55	Ash	4		
56	Box Elder	5		
57	Ash	10		
58	Box Elder	10		
59	Box Elder	7		
60	Box Elder	4		

Remove
Remove
Remove
Remove
Remove
Remove
Remove

Resolution No. 2023-

Resolution denying a conditional use permit for an accessory structure in excess of 1,000 square feet and 12 feet in height at 12620 Orchard Road

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

Section 1. Background.

1.01 The subject property is located at 12620 Orchard Road. It is legally described as:
Block 00, Lot 56, Country Homes, Hennepin County, Minnesota.

Torrens Certificate No. 1306400

1.02 Property owners Laurie and Scott Wothe are proposing to construct an accessory structure on the subject property. The submitted plans illustrate the construction of an accessory structure, a footprint of 2,016 square feet, with a covered patio area, a footprint of 769.5 square feet; a total footprint of 2,785.5 square feet. The proposed structure will have a peak roof height of roughly 17 feet and a code-defined height of approximately 14 feet. The accessory structure would be used for a workspace with no dwelling use.

1.03 The subject property is improved with one single-family home with a footprint of 1,305 square feet and approximately 1,555 square feet of gross floor area. The proposed accessory structure will exceed the size of the principal structure.

1.04 The subject property contains one accessory structure under 200 square feet, which will be removed from the subject property. The proposed accessory structure will be in excess of 1,000 square feet and the code-defined height of 12 feet.

1.05 On May 18, 2023, the planning commission held a hearing on the proposal. 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 deny the request.

Section 2. Standards.

2.01 City Code §300.16 Subd.2 outlines the following general standards that must be

met for granting a conditional use permit on a residential lot.

1. The use is consistent with the intent of this ordinance.
2. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and
4. The use does not have an undue adverse impact on public health, safety, or welfare.

2.02 City Code §300.16 Subd.3(f) outlines the following specific standards for accessory structures in excess of 1,000 square feet of gross floor area or 12 feet in height:

1. Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;
2. No additional curb cuts are to be permitted;
3. Not to be used for commercial activities;
4. Structure to be architecturally consistent with the principal structure;
5. Landscaping to be required to buffer views when the structure is highly visible from adjoining properties; and
6. Site and building plan subject to review pursuant to section 300.27 of this ordinance.

2.03 City Code §300.27, Subd. 5, outlines the following specific standards in evaluating a site and building plan:

1. Consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;
2. Consistency with this ordinance;
3. Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;
4. Creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;

5. Creation of a functional and harmonious design for structures and site features, with special attention to the following:
 - a) An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors, and the general community;
 - b) The amount and location of open space and landscaping;
 - c) Materials, textures, colors, and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
 - d) Vehicular and pedestrian circulation, including walkways, interior drives, and parking in terms of location and number of access points to the public streets, the width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement and amount of parking.
6. Promotion of energy conservation through design, location, orientation, and elevation of structures, the use and location of the glass in structures and the use of landscape materials and site grading; and
7. Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light, air, and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

Section 3. Findings.

3.01 The proposal would meet the general conditional use permit standards as outlined in City Code §300.16 Subd.2.

1. The proposed structure would not meet this standard. The intent of the ordinance as it pertains to accessory structures on single-family properties is to allow property owners to construct structures "subordinate to, and associated with," their homes. The proposed accessory structure would not be clearly subordinate to the principal structure. The proposed accessory structure would be larger in gross floor area and the building footprint.
2. An accessory structure is consistent with the subject property's low-density designation in the comprehensive plan.
3. The proposed structure is not anticipated to have an undue adverse

impact on governmental facilities, utilities, services, or existing or proposed improvements.

4. The proposed structure would be unlikely to have an undue adverse impact on public health, safety, or welfare. This does not mean there is no opportunity for nuisance or lighting complaints, as the proposed structure will be visible from the public right-of-way and the neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.

3.02 The proposal does meet the conditional use permit standard outlined in City Code §300.16 Subd.3(f).

1. The proposed accessory structure would have a side yard setback of 15 feet and a rear yard setback of over 100 feet, meeting the setback requirements.
2. No new curb cuts are proposed. The proposal would utilize the existing driveway access.
3. The applicant has indicated that the structure would be for personal use only, no commercial uses.
4. The proposal would be a similar gray to that of the principal structure. The architectural design would be inconsistent but is an intentional design decision by the applicant.
5. The structure would be reasonably screened by existing vegetation along the westerly property line. The proposed structure will be visible from the public right-of-way and the neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.
6. The structure would not meet several site and building plan standards, as outlined below.

3.03 The proposal would not meet several of the site and building plans standards outlined in City Code §300.27 Subd.5.

1. The proposal has been reviewed by the city's planning, building, engineering, natural resources, fire, and public works staff. It would meet the site's low-density designation in the comprehensive plan. Though large in size and site impact, the proposal would not trigger the stormwater management rules of the water resources management plan.
2. The proposed structure would not meet §300.27 Subd.5(b). By definition, an accessory structure is a structure "subordinate to, and associated with the principal structure" on the same lot. Given the proposed size and design, the structure would not be clearly subordinate to the principal use.

Instead, it would have the appearance of a second principal use on the property.

3. The proposed structure would not meet §300.27 Subd.5(c). The site's topography slopes downward from north to south near the proposed structure site. Although the proposed location is near to – but not on – a steep slope, the project does require grading to the site. The proposed accessory structure would require removing 23 trees near the proposed structure location. Locating the structure closer to the existing home near the end of the existing driveway would result in less tree impact and grading.
4. The proposed structure would not meet §300.27 Subd.5(d). The structure would be located in the rear yard unnecessarily impacting the site's natural topography and existing trees. The site does have an open area closer to the home that would require less tree removal.
5. The proposed structure would not meet §300.27 Subd.5(e). Existing topography and trees would be unnecessarily impacted. The proposed design would match in color but not architecturally to the principal structure.
6. The proposal would require a building permit and would be required to meet minimum energy standards. The applicant was purposeful in designing the structure with many windows to utilize natural light.
7. The proposed structure would not meet §300.27 Subd.5(g). The structure would be partially screened by existing vegetation. However, the structure would be visible from the adjacent public right-of-way and neighboring properties to the east. If approved, tree mitigation and landscaping may be required at the time of a building permit.

Section 4. City Council Action.

4.01 The above-described conditional use permit is hereby denied.

Adopted by the City Council of the City of Minnetonka, Minnesota, on June 5, 2023.

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:

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 June 5, 2023.

Becky Koosman, City Clerk