



Planning Commission Agenda

October 6, 2016—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: September 22, 2016
5. Report from Staff
6. Report from Planning Commission Members
7. Public Hearings: Consent Agenda

No Items

8. Public Hearings: Non-Consent Agenda Items

- A. Variance to declare the unaddressed, vacant property immediately north of 3628 Hazelmoor Place buildable.

Recommendation: Adopt the resolution declaring the property buildable (5 votes)

- Final Decision Subject to Appeal
- Project Planner: Susan Thomas

- B. Preliminary plat of MAYFAIR AT COPPERFIELD, a three-lot residential subdivision with lot access variance, at 14700 Copperfield Place.

Recommendation: Recommend the city council approve the proposal (4 votes)

- Recommendation to City Council (Tentative Date: October 24, 2016)
- Project Planner: Susan Thomas

Planning Commission Agenda

October 6, 2016

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- C. Items concerning The Enclave at Regal Oak, at 3639 Shady Oak Road and 3627 Regal Oak Lane.

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

- Recommendation to City Council (Tentative Date: October 24, 2016)
- Project Planner: Susan Thomas

- D. Conditional use permit, with variances, for a microbrewery and taproom with outdoor seating area at 14625 Excelsior Boulevard.

Recommendation: Recommend the city council approve the proposal (4 votes)

- Recommendation to City Council (Tentative Date: October 24, 2016)
- Project Planner: Susan Thomas

- E. Ordinance amending the city code regarding floodplain districts

Recommendation: Adopt the ordinance (4 votes)

- Recommendation to City Council (Tentative Date: October 24, 2016)
- Project Planner: Susan Thomas

9. Adjournment

Notices

1. Please call the planning division at (952) 939-8274 to confirm meeting dates as they are tentative and subject to change.
2. Applications and items scheduled for the October 20, 2016 Planning Commission meeting:

Project Description: LeCesse Development Corporation is proposing to redevelop the property at 10101 Bren Road East. The project consists of removing the existing buildings in order to construct a six story, 322 unit apartment building with underground parking. The proposal requires approval of: (1) rezoning to PUD; (2) preliminary and final plats; (3) master development plan; (4) site and building plans and (5) easement vacations.

Project No.: 88095.16b

Staff: Ashley Cauley

Ward/Council Member: 1—Bob Ellingson

Section: 36

Project Description: The applicant is requesting a parking variance to allow for outdoor storage at 6030 Culligan Way.

Project No.: 16024.16a

Staff: Drew Ingvalson

Ward/Council Member: 1—Bob Ellingson

Section: 34

WELCOME TO THE MINNETONKA PLANNING COMMISSION MEETING

This outline has been prepared to help you understand the public meeting process. The review of an item usually takes the following form:

1. The chairperson of the meeting will announce the item to be reviewed and ask for the staff report on the subject.
2. Staff presents their report on the item.
3. The Commission will then ask City staff questions about the proposal.
4. The chairperson will then ask if the applicant wishes to comment.
5. The chairperson will open the public hearing to give an opportunity to anyone present to comment on the proposal.
6. This is the time for the public to make comments or ask questions about the proposal. Please step up to the podium, speak clearly, first giving your name (spelling your last name) and address and then your comments.
7. At larger public hearings, the chair will encourage speakers, including the applicant, to limit their time at the podium to about 8 minutes so everyone has time to speak at least once. Neighborhood representatives will be given more time. Once everyone has spoken, the chair may allow speakers to return for additional comments.
8. After everyone in the audience wishing to speak has given his or her comments, the chairperson will close the public hearing portion of the meeting.
9. The Commission will then discuss the proposal. No further public comments are allowed.
10. The Commission will then make its recommendation or decision.
11. Final decisions by the Planning Commission may be appealed to the City Council. Appeals must be written and filed with the Planning Department within 10 days of the Planning Commission meeting.

It is possible that a quorum of members of the City Council may be present. However, no meeting of the City Council will be convened and no action will be taken by the City Council.

**Unapproved
Minnetonka Planning Commission
Minutes**

September 22, 2016

1. Call to Order

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

2. Roll Call

Commissioners O'Connell, Odland, Powers, Calvert, Hanson, and Kirk were present. Knight was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Assistant City Planner Susan Thomas, Senior Planner Ashley Cauley, Natural Resource Manager Jo Colleran, and Water Resources Technician Tom Dietrich.

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

4. Approval of Minutes: September 8, 2016

Odland moved, second by Calvert, to approve the September 8, 2016 meeting minutes as submitted.

O'Connell, Odland, Powers, Calvert, Hanson, and Kirk voted yes. Knight was absent. Motion carried.

5. Report from Staff

Gordon briefed the commission on land use applications considered by the city council at its meeting of September 12, 2016:

- Adopted a resolution approving items for a storage building for Hopkins West Junior High on Baker Road.
- Adopted a resolution rezoning an area for the SWLRT project.
- Introduced an ordinance for items concerning LeCesse Apartments at 10101 Bren Road East.
- Introduced an ordinance for items concerning Ridgedale Corner Shoppes at 1801 Plymouth Road.
- Introduced an ordinance amending the city code regarding floodplain districts.
- Adopted an ordinance and resolutions approving items for Eldorado Villas located at 11901 Minnetonka Boulevard.

The next planning commission meeting will be October 6, 2016.

6. Report from Planning Commission Members

Chair Kirk noted that the tour was a good opportunity to see the results of the projects they reviewed.

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion.

Odland moved, second by Powers, to approve the item listed on the consent agenda as recommended in the staff report as follows:

A. Expansion permit for additions on a home at 12815 Linde Lane.

Adopt the resolution on pages A11-A14 of the staff report. This resolution approves a front yard, side yard, and aggregate side yard setback expansion permit for a storage attic, entry addition, and covered porch at 12815 Linde Lane.

O'Connell, Odland, Powers, Calvert, Hanson, and Kirk voted yes. Knight was absent. Motion carried and the item on the consent agenda was approved as submitted.

8. Public Hearings

A. Preliminary plat with lot width at setback variances for Tonkawood Farms First Addition, a three-lot subdivision, at 15014 Highwood Drive.

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

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

In response to O'Connell's question, Colleran explained the two-year, look-back clause in the tree ordinance.

Ben Wickstrom, representing the applicant, stated that two more high-priority trees could be saved by shifting the driveways. The proposed lot width would be larger than any in the neighborhood and a reasonable match to the character of the neighborhood. He was available for questions. He thanked staff for their help.

Calvert confirmed with Cauley that two large trees may not survive grading of the site. Wickstrom added that the house shapes could be modified to save the trees. He will try to save the trees, but the neighbors do not want the houses pushed further back. Calvert appreciated the effort to save the trees.

Chair Kirk asked about stormwater management. Wickstrom pointed out the location of the basins and swale. The site's water management would be improved.

Powers asked if there would be a way to save all of the trees in the center. Wickstrom stated that four of the six may be able to be saved. It would be known once the footprint of the house would be determined. Powers would appreciate saving as many trees as possible.

In response to O'Connell's question, Cauley explained that the proposal is better than a plan with a cul-de-sac because a conforming plat would require a significant amount of increased infrastructure, grading, and construction for no gain.

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

Powers moved, second by O'Connell, to recommend that the city council adopt the resolution on pages A13-A23 of the staff report approving a preliminary plat with lot width at setback variances at 15014 Highwood Drive.

O'Connell, Odland, Powers, Calvert, Hanson, and Kirk voted yes. Knight was absent. Motion carried.

B. Items concerning Ridgedale Corner Shoppes at 1801 Plymouth Road.

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

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

In response to Odland's question, Thomas reviewed previous proposals.

In response to Chair Kirk's question, Thomas explained how the city approves materials to be used on buildings constructed in the Planned Interstate-394 District.

Calvert asked if there would be an impact on traffic. Thomas explained that Hennepin County reviewed and approved the plan. The setback on the west side

meets the setback requirement. Wischnack noted that adding a bridge has been looked at before and was not found to be feasible at this time.

Calvert asked if the consultant who completed the traffic study took into account the two proposed apartment buildings. Thomas answered affirmatively. She explained the trip generation total and traffic patterns. As redevelopment happens, intersections and street improvements will be done to improve traffic functionality and pedestrian safety in the Ridgedale area.

In response to Chair Kirk's question, Thomas and Gordon reviewed the comprehensive guide plan and Ridgedale village study. Gordon explained possible pedestrian connections to Ridgedale Center.

In response to Hanson's question, Thomas explained how the master development plan outlines materials to be used on buildings.

Odland asked if there would be a sidewalk. Wischnack explained that the plans indicate that the sidewalk would be extended if redevelopment would occur south of the site or if the other two property owners would agree to have it done before then. Plymouth Road will be improved as redevelopment occurs over time. The proposal would be a huge improvement for drivers and pedestrians compared to the site's current state.

Steve Johnson, of Solomon Real Estate Group, co-developer with TCF, stated that he agrees with staff's report except for the change removing three parking stalls on the west side. The three stalls in front are for TCF customers. It would be an inconvenience to the needs of TCF patrons to remove them. When a driver travels from north to south, the lane narrows from 24-feet wide to 14-feet wide. There would be a "do not enter" sign there to prevent drivers from traveling the wrong direction. He provided exhibits that show that TCF operates in the proposal's fashion throughout the metropolitan area without incident. He would like the three stalls to remain. This has been a unique situation. The design was created during a work session with the city council. He brought architects, engineers, and TCF staff to answer questions.

Powers asked if another story could be added on the building in the future. Mr. Johnson said that would not happen because it would be cheaper to tear it down and build a new building.

Chair Kirk, Mr. Johnson, and Thomas reviewed the site plan and traffic pattern. Mr. Johnson said that for the first 30 days, drivers may have difficulty with the new traffic pattern, but, after that, there are usually no problems.

The public hearing was opened.

Annette Bertelsen, 13513 Larkin Drive, stated that she is excited to see redevelopment in the area. She thanked TCF Bank and the Solomon Real Estate Group for the interest in updating the site. She would prefer a less dense use to transition to a residential neighborhood, but understood the economic realities. She celebrated the positives. It would make a nice gateway to the mall. She is ecstatic about the sidewalk. She would like a public gathering space in the area funded by park dedication fees. She was underwhelmed by the landscape plan. She would like more attention to the landscaping.

No additional testimony was submitted and the hearing was closed.

In response to Powers' question, Thomas explained that staff agreed that the plan does not have enough landscaping. Staff has addressed the lack of landscaping with the applicant and the developer has agreed to plant landscaping that would mimic the landscaping that would be planted in the southwest quadrant that is currently under construction. Commissioners could include that requirement as a condition of approval.

Wischnack explained that the cost of the proposed sidewalk improvements exceed the park dedication fees that would be paid by the applicant. A future park would take more than park dedication fees. That would require bonding and other funding sources.

Calvert confirmed with Thomas that there would be one percent growth in the trips generated on roadways without any increase in the uses.

O'Connell supported the site plan keeping the three parking stalls on the west side as proposed.

Odland agreed with staff's recommendation to eliminate the three parking stalls. She saw it as a safety issue and would prefer to have more landscaping at that spot.

Powers noted that the drive thru is for a bank, not a coffee shop. He is not crazy about a large vehicle parking there, but bank drive thrus are not as busy as coffee shops.

Chair Kirk agreed with keeping the parking stalls.

Calvert found the design to be a vast improvement to the previous design. It is an attractive building. She was conflicted regarding whether to keep the three parking stalls. The drive thru and pass-through lanes create a bottle neck.

In response to Odland's question, Kent Engler, TCF representative, stated that the TCF branch does 8,000 transactions per month. This location is primarily

commercial. Close parking is important for security of patrons making large, cash deposits. About 35 percent of the transactions are done using the drive-thru.

Chair Kirk reviewed the site plan with commissioners.

O'Connell moved, second by Hanson, to recommend that the city council adopt the following for Ridgedale Corner Shoppes at 1801 Plymouth Road with the addition of a condition requiring additional landscaping to mimic the landscaping being planted in the southwest quadrant and leave the three parking stalls on the west side as presented in the site plan:

- 1. An ordinance repealing and replacing the existing master development plan. See pages A43–A45 of the staff report.***
- 2. A resolution approving final site and building plans, with variances, and an appeal of maximum p.m. peak hour trips. See pages A46–A58 of the staff report.***
- 3. A resolution approving a conditional use permit for a use with a drive-up window. See pages A59–A61 of the staff report.***
- 4. A resolution approving preliminary and final plats. See pages A62–A64 of the staff report.***

O'Connell, Powers, Calvert, Hanson, and Kirk voted yes. Odland voted no. Knight was absent. Motion carried.

9. Other Business

A. Concept plan review for Williston water tower monopole.

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

Gordon reported. Staff recommends the planning commission provide comments and feedback to assist the applicant with future direction that may lead to the preparation of more detailed development plans. Feedback on the notification area for future mailings during the formal review process is also requested.

Chair Kirk asked if it would be possible to put the antennae array below the bulb. Gordon answered that the area below the bulb was at capacity.

Chair Kirk asked if a footing would require tree removal. Gordon explained that stabilizing the tower would not cause tree loss, but two trees would have to be relocated because of the ground equipment.

Odland has no service at her house, so she would appreciate having service. She asked what health risks are associated with telecommunications towers.

Gary Lysiak, of Owl Engineering, city consultant, compared possible foundations for the monopole. He stated that:

- The health concerns are not a problem.
- More towers could be added to the site. The city would not allow an antennae on top of the water tower. The problem with Verizon's coverage is on the other side of the water tower. The tower must be taller than the water tower.
- One more user could be added to the monopole. The city must look at a stealth design with limited users or putting visible antennae on the outside of the pole.
- Companies change antennae all of the time. If the use changes, wireless internet or remote meter readers could use the tower. The towers are gold mines because they are there, they are tall, and they are located in residential neighborhoods.
- It would provide revenue and service for the city.
- There are federal rules, local laws, and environmental factors to consider. There are a lot of cogs in the wheel that have to mesh.
- The city is in an interesting place because there is no health problem and there is a need in service.
- It would be preferable to have the antennae visible to change providers because in six months the towers would not be noticed anymore.

Gordon noted that the city is not interested in the crow's nest appearance, but prefers the stealth appearance.

Mr. Lysiak stated that every time a provider changes something, then the equipment must change. The challenge is maintaining the band width.

Wischnack clarified that the existing pole would be made wider instead of adding more poles on the site. Mr. Lysiak explained that each provider needs 10 feet of separation between providers. The terrain will limit the separation.

Wischnack noted that the tower by Cub Foods is a stealth tower.

Calvert asked if there would be more visual clutter to have a crow's nest or a forest of monopoles. Wischnack clarified that a monopole could house another provider on the 149-foot pole. Mr. Lysiak agreed. A monopole could be made modifiable.

Karen O'Brien, representing Verizon, was available for questions.

Chair Kirk obtained agreement from commissioners that the site would be appropriate for a stealth monopole in accordance with staff's recommendation.

10. Adjournment

Odland moved, second by Calvert, to adjourn the meeting at 9 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

October 6, 2016

Agenda Item 7

Public Hearing: Consent Agenda

(No Items)

Minnetonka Planning Commission Meeting

October 6, 2016

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
October 6, 2016

Brief Description Variance to declare the unaddressed, vacant property immediately north of 3628 Hazelmoor Place buildable

Recommendation Adopt the resolution declaring the property buildable.

Background

In 1956, Delores Smith purchased three properties on the west side of Hazelmoor Road. For the remainder of this report, the properties will be referred to as Parcels A, B, and C. (See pages A1–A2.)

	Address	Relative Location	Development
Parcel A	3628 Hazelmoor Place	Southerly Parcel	Single-family Home
Parcel B	Unaddressed	Middle Parcel	Vacant
Parcel C	Unaddressed	Northerly Parcel	vacant

In 1962, the city adopted its first subdivision regulation and Parcels A, B, and C became non-conforming. The Smith family recently combined Parcels B and C with the intention of selling the vacant parcel for future home construction. (See page A3.) However, the combined Parcel B/C still does not meet minimum requirements of the subdivision ordinance.

	Area		Width		Depth
	Total	Buildable	At ROW	at Setback	
Required	22,000 sq.ft.	3,500 sq.ft.	80 ft	110 ft	125 ft
Parcel A	11,415 sq.ft.	3,900 sq.ft.	90 ft	90 ft	125 ft
Parcel B	7,730 sq.ft.	1,950 sq.ft.	60 ft	60 ft	125 ft
Parcel C	7,820 sq.ft.	1,725 sq.ft.	60 ft	60 ft	130 ft
Combined Parcel B/C	15,550 sq.ft.	5,525 sq.ft.	120 ft	120 ft	125 ft

* all numbers rounded down to closest 5 ft or 5 sq.ft.

By City Code §300.07 Subd.1(b), a lot that does not meet minimum area requirements “is not buildable unless a variance is granted.” The property owner is requesting that such variance be granted. (See pages A4–A8.)

Primary Issues 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 issues/questions associated with the applicant’s request and staff’s findings.

- **Is the request to declare the property buildable reasonable?**

Yes. By City Code §300.29 Subd.6, “a lot or parcel of land that is non-conforming and that is not improved with a principal use is not entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming.” This ordinance provision suggests that the city is not obligated to approve a variance to declare the property buildable.

As the city has broad discretion in the approval or denial of variances, the applicant request could technically be denied. The city would then essentially be requiring that either: (1) the combined Parcel B/C remain vacant; or (2) that Parcels A, B, and C all be combined to create one large parcel. In staff’s opinion, such denial would not be appropriate given the context of the surrounding neighborhood. Requiring that the Parcel B/C remain vacant would serve no public purpose and full combination of Parcels A, B, and C would create the largest lot within the neighborhood. Rather, staff finds that the applicant’s specific request is reasonable in its specific context. The combined Parcel B/C would be 15,550 square feet in size. This is similar to both the mean and median average sizes – 15,562 square feet and 14,919 square feet respectively – of the properties within the immediate area. (See page A9.)

- **Is the request to declare the property buildable consistent with variance policy?**

Yes. The planning commission has a series of written policies that “establish a framework whereby reasonable use of single-family residential property is outlined and fair treatment can be applied to all properties.” (See pages A10–A12.) The applicant’s proposal is consistent with at least two of the written policies pertaining to undersized or non-conforming lots including:

1. **The size of the lot should be consistent with the average neighborhood lot area.** The combined Parcel B/C is 15,550 square feet in size. This is similar, and in fact larger, than the majority of developed lots in the immediate area. (See page A9.)

2. **If an undersized lot was purchased after adoption of the zoning ordinance, then the hardship is self-created.** The property owner purchased Parcels A, B, and C sixty years ago, prior to adoption of the city's first subdivision regulations.

Staff Comment

Staff's recommendation to approve a variance declaring the combined Parcel B/C buildable is based on the specific context of the applicant's specific request. Similar requests in other contexts may not result in the same recommendation.

Staff Recommendation

Adopt the resolution declaring the vacant site north of 3628 Hazelmoor Place buildable. (See pages A14–A16.)

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

Supporting Information

Surrounding Uses The subject properties are surrounded by residential lots, zoned and guided for single-family development

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

McMansion Policy The McMansion Policy is a tool the city can utilize to ensure new homes or additions requiring variances are consistent with the character of the existing homes within the neighborhood. By policy, the floor area ratio (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.

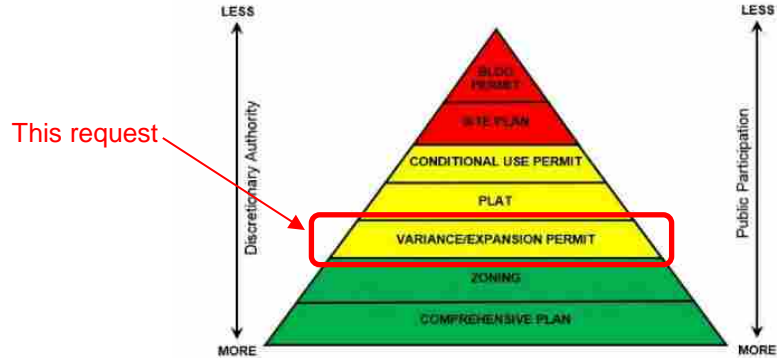
The largest FAR in the defined area is 0.26. As a condition of approval, any new home constructed on the lot could not exceed this FAR. (See page A13.)

Variance Standard By City Code §400.055, a variance to subdivision standards may be granted, but is not mandated, when the applicant meets the burden of proving that: (1) the proposed variance is a reasonable use of the property, considering such things as functional and aesthetic justifications for the variance and improvement to the appearance and stability of the property and neighborhood; (2) the circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.

- **Reasonable Use and Neighborhood Character:** The applicant's request to declare the existing 15,550 square foot lot buildable is reasonable and would not alter the essential character of the neighborhood. The lot is similar in size to both the mean and median average sizes – 15,562 square feet and 14,919 square feet respectively – of the properties within the immediate area.
- **Unique Circumstances:** The lot is the result of a combination of two properties purchased by the current property owner 60 years ago, prior to adoption of the city's first subdivision regulations. Further, the lot is similar in size to both the mean and median average size of the properties within the

immediate area. In combination, these facts create a unique circumstance not common to other undeveloped, non-conforming lots in the community.

Pyramid of Discretion



Motion Options

The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made adopting the resolution declaring the combined property buildable.
2. Disagree with staff's recommendation. In this case, a motion should be made denying 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.

Neighborhood Comments

The city sent notices to 43 area property owners and received no comments.

Deadline for Decision

December 19, 2016

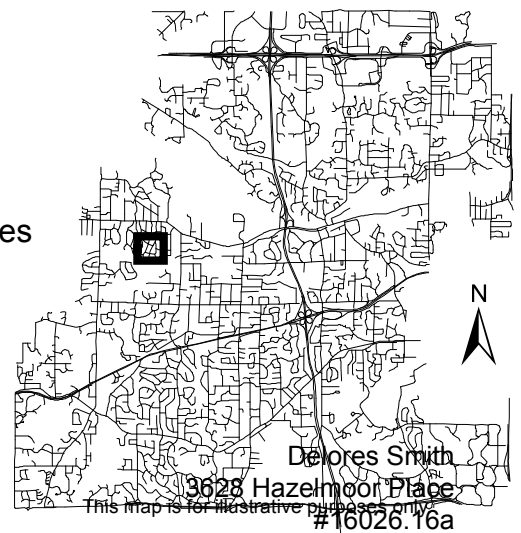


Location Map

Applicant: Delores Smith
 Address: 3628 Hazelmoor Place/adjacent properties

City of
minnetonka
 Where quality is our nature

A1



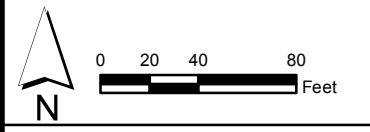
Delores Smith
 3628 Hazelmoor Place
 #16026.16a

This map is for illustrative purposes only.



**SUBJECT
PARCELS**

PARCEL C
PARCEL B
PARCEL A



**Not an accurate survey.
For illustration purposes only.**

**COMBINED
PARCEL B/C**

7,820 sq.ft.
PARCEL C

7,730 sq.ft.
PARCEL B

PARCEL A



**Not an accurate survey.
For illustration purposes only.**

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September 22, 2016

Planning Commission
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Smith – Variance Application (Unassigned Address; Hazelmoor Place)
Our File No. 2239.002

Dear Members of the Planning Commission:

I represent Delores A. Smith, who resides at 3628 Hazelmoor Place in the City of Minnetonka (“City”). In addition to her residence, Mrs. Smith owns two adjacent vacant lots on the corner of Hazelmoor Place and The Strand. The lots do not currently have street addresses. The lots have been assigned PID numbers 1711722430044 and 1711722430045.¹ They are legally described as Lots 1 and 2, Tonka Staring’s Wood-Croft, Hennepin County, Minnesota.

Mrs. Smith has submitted an application for a variance to allow these two vacant lots to be treated as a single buildable lot under the City’s zoning ordinance. For the reasons set forth below, Mrs. Smith satisfies the “practical difficulties” standard for variance approval established by the City’s zoning ordinance. I therefore respectfully request on Mrs. Smith’s behalf that the Planning Commission vote to approve her variance application.

I. BACKGROUND.

Mrs. Smith and her late husband (Donald K. Smith) purchased her residence along with the two subject vacant lots in 1956. She has lived there ever since. Mrs. Smith is 91 years old and requires around-the-clock assisted-living care to remain in her home. She wishes to sell the vacant lots both because she is no longer able to maintain them and because she needs the proceeds to fund the cost of her assisted-living care.

¹ Mrs. Smith has submitted an application to Hennepin County to consolidate the two vacant lots into a single tax parcel. However, this application is still pending and may still be pending when the Planning Commission acts on Mrs. Smith’s variance application.

Together, the two vacant lots have an area of approximately 15,829 square feet or .36 acres. This size is typical of other lots in the same the neighborhood. For example, there are eight other parcels with single-family homes on the same block as the subject vacant lots. These other parcels range in size between .25 acres and .37 acres. Five of these eight parcels have an area smaller than the area of the buildable lot proposed by Mrs. Smith. The parcel immediately across the street from the subject lots to the north is .22 acres in size. The parcel immediately across the street from the subject lots to the west is .34 acres in size. For your convenient reference, I enclose information from the on-line mapping service maintained by Hennepin County depicting the parcels in the immediate vicinity of the lots subject to Mrs. Smith's variance application.

II. APPLICABLE SUBSTANTIVE PROVISIONS OF THE CITY ZONING ORDINANCE.

The subject lots owned by Mrs. Smith are zoned R-1 (Low-Density Residential). The City's zoning ordinance states that the purpose of the R-1 zoning district is as follows:

The purpose of the R-1 district is to provide a district for single family detached dwellings in those areas where such development is consistent with the low density residential designation of the comprehensive plan and compatible with surrounding land use characteristics. Development within this district shall occur at densities not exceeding four dwelling units per acre.

City Code, § 300.10. The minimum lot area for lots located in R-1 zoning districts is 22,000 square feet. City Code, § 400.030(6)(a)(1). The City's zoning ordinance further provides as follows:

A lot that does not meet the minimum requirements of this ordinance and section 400 is not buildable unless a variance is granted. No variance will be granted to declare a substandard lot buildable unless, in addition to meeting the criteria enumerated in paragraph (a) of this subdivision, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot. Notwithstanding the above, no variance is needed to declare buildable any lot which was a lot of record zoned for single family residential use on February 12, 1966 and which meets all of the following minimum standards:

- 1) 15,000 square feet;
- 2) 90 feet in width at building setback line; and
- 3) 110 feet in depth.

City Code, § 300.07(a)(b). The City's zoning ordinance also contains a lots-in-common-ownership provision which states in relevant part as follows:

A lot or parcel of land that is non-conforming and that is not improved with a principal use is not entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming.

City Code, § 300.29(6).

Here, Mrs. Smith requests a variance from the above-referenced 22,000 square foot minimum lot size for buildable lots located in R-1 zoning districts. To the extent necessary, Mrs. Smith also requests a variance from the above-referenced lots-in-common-ownership provision.

III. STANDARD GOVERNING THE APPROVAL OF MUNICIPAL ZONING VARIANCES.

The Minnesota Supreme Court has held that municipalities have “broad discretionary power” in considering whether to grant or deny variances. *Krummenacher v. City of Minnetonka*, 783 N.W.2d 721, 727 (Minn. 2010), quoting *VanLandschoot v. City of Mendota Heights*, 336 N.W.2d 503, 508 (Minn. 1983). Granting Mrs. Smith her requested variance is well within the lawful discretion of the City in this case.

Minnesota’s municipal zoning statute authorizes a municipality to provide for variances from strict application of the municipality’s zoning ordinance. Minn. Stat. § 462.357, subd. 6(2) (2016). Pursuant to the authority conferred by this statute, the City’s zoning ordinance provides that a variance may be granted in the following circumstances:

A variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this 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. Economic considerations alone do not constitute practical difficulties. The city may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

City Code, § 300.07, subd. 1.² Here, Mrs. Smith satisfies all of the above-stated criteria established by the City's zoning ordinance and by Minn. Stat. § 462.357. I address each of these criteria below as follows:

1. *The requested variance is in harmony with the general purposes and intent of the ordinance.* As noted above, the stated purpose of the R-1 zoning district is to "is to provide a district for single family detached dwellings in those areas where such development is consistent with the low density residential designation of the comprehensive plan and compatible with surrounding land use characteristics." City Code, § 300.10. The ordinance further provides that the R-1 zoning district designation is intended to provide for a housing density of no higher than four dwelling units per acre. *Id.* The requested variance, if granted, would result in a buildable lot that is more than one-third of an acre in size and therefore a housing density less than the four-unit-per-acre maximum density described by the City's R-1 zoning ordinance provision. The requested variance is therefore in harmony with the general purposes and intent of the City's zoning ordinance.
2. *The requested variance is consistent with the comprehensive plan.* The subject lots are guided for low-density residential use, which the Comprehensive Plan defines as four or less dwelling units per acre. *See* Comprehensive Plan, Fig. 15, App. A. As noted above, the requested variance, if granted, would result in a buildable lot that is more than one-third of an acre in size and therefore a housing density less than the four-unit-per-acre maximum density assigned to the Property by the Comprehensive Plan. The requested variance is therefore consistent with the City's Comprehensive Plan.
3. *The applicant proposes to use the property in a reasonable manner.* Here, Mrs. Smith proposes to use the Property as a buildable lot with an area that is comparable in size to most, if not all, of the other residential lots in the same neighborhood. Such a use is eminently reasonable.
4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* To the best of Mrs. Smith's knowledge, the subject vacant lots (considered together) would have been a buildable lot under the City's ordinance at the time the Smiths purchased them in 1956. The subject lots were rendered unbuildable only by amendments to the applicable zoning ordinance provision made subsequent to the Smiths' purchase of the lots. For this reason, Mrs. Smith herself did not create the need for a variance.

² The variance standard in the City zoning ordinance appears to be substantially identical to the standard established by the Minnesota municipal zoning statute. Mrs. Smith objects to any application of the City's ordinance that is inconsistent with Minn. Stat. § 462.357, subd. 6. *See Krummenacher*, 783 N.W.2d at 733 (holding that a municipality has no lawful authority to apply a different standard for the approval of variances than the standard established by the Minnesota municipal zoning statute).

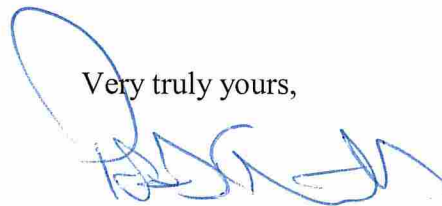
5. *The variance, if granted, would not alter the essential character of the locality.* Most, if not all, of the other residential lots in the same neighborhood have areas similar to the area of the buildable lot proposed by Mrs. Smith. The requested variance, if granted, would therefore not alter the essential character of the locality in any way.
6. *Economic considerations alone do not constitute practical difficulties.* As noted above, Mrs. Smith's variance application is motivated in part by financial need in that she seeks to sell the lots because she can no longer maintain them and because she needs the sale proceeds to fund the cost of her assisted-living care. However, there also many other considerations identified above that together constitute practical difficulties (*e.g.*, the changes to the City's zoning code since the Smiths purchased the lots in 1956, the similar size of other lots in the same locality, et al). Accordingly, economic considerations *alone* do not constitute the practical difficulties necessary to support the granting of a variance here.

IV. CONCLUSION.

The City's zoning ordinance provides that the City may grant a variance when an applicant proposes to use his or her property in a "reasonable manner." The proposed buildable lot is eminently "reasonable." Moreover, as set forth above, there are very clearly "practical difficulties" present here that justify the granting of a variance. I therefore respectfully ask that the Planning Commission grant Mrs. Smith's application.

Please call us at 612.344.1111 if you would like additional information or have questions concerning this matter.

Very truly yours,

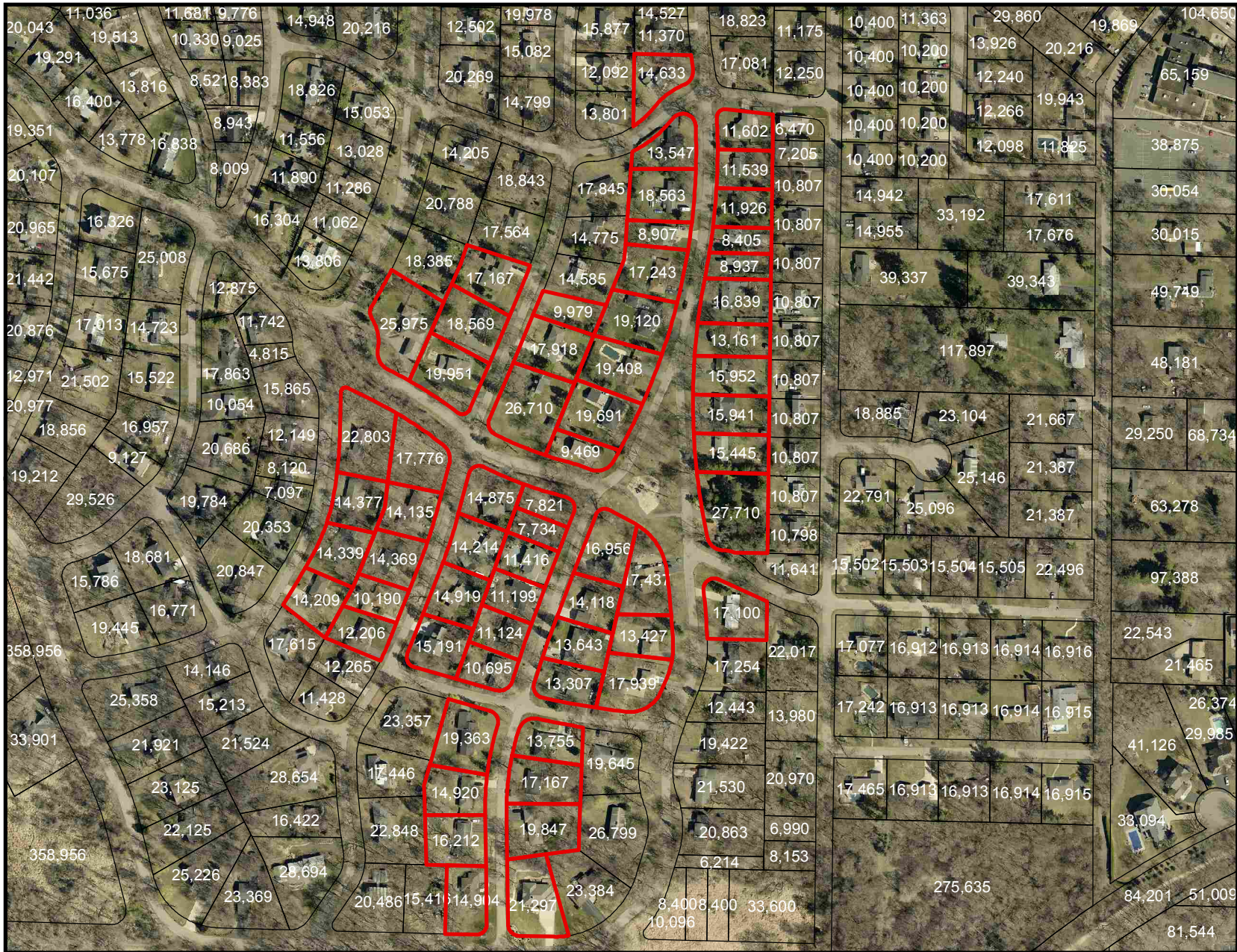


Patrick B. Steinhoff

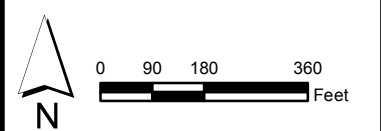
PBS:ts

Enclosures

cc: Client
Corrine Heine, City Attorney
Susan Thomas, Assistant City Planner
Michael A. Putnam, Esq.



**Properties within 400 ft
of the site
and 1000 feet along
Hazelmoor Place**



**Not an accurate survey.
For illustration purposes only.**

CITY OF MINNETONKA PLANNING COMMISSION POLICIES

General Policies regarding specific types of variance requests:

The following policies are not intended to be hard and fast rules, since each variance request is unique unto itself. The policies have evolved from past decisions of the City along with administrative interpretation of the zoning ordinance. The primary purpose of the following sections is to establish a framework whereby reasonable use of single-family residential property is outlined and fair treatment can be applied to all properties.

A. Garages

1. A two-car garage on single-family residential property and a one-car garage on a double dwelling property is generally considered to be a reasonable use. Larger garages may be approved if consistent with neighborhood characteristics and the findings for a variance.
2. Maximum standard two-car garage dimensions are 24' x 24'. Maximum standard one-car garage dimensions are 13' x 24'.
3. Garages that require variances should minimize setback intrusion to the greatest extent possible.
4. Conversion of garage area to living space does not justify a variance for new garage space.
5. Neighborhood characteristics may dictate the size and setbacks of a garage considered to be a reasonable use.
6. Variances are considered in light of mature tree location and preservation opportunities.

B. House Additions

1. Reasonable use of property is considered in light of general City-wide development standards.
2. Variances to allow setback intrusion are considered in light of reasonable use as long as variances are limited to the greatest extent practicable.
3. Variances are considered in light of providing room additions of functional size with adequate internal circulation.
4. The configuration and position of the existing house is considered when reviewing variance requests.
5. The proposed addition should be designed to conform to development

constraints of the property.

6. Variances are considered in light of mature tree location and preservation opportunities.

C. Accessory Attached Structures

1. Decks, screen porches, and bay windows are by definition accessory uses or uses incidental to the principal use.
2. The need for accessory structures primarily results from personal circumstances rather than hardship inherent in the property.
3. Variances are considered in light of the size and configuration of the structure so that variances are limited to the greatest extent possible.
4. Variances are considered in light of impacts to adjoining properties.
5. Neighborhood characteristics may be considered for review of accessory attached structures.
6. Deck variances will be reviewed in light of ordinance provisions that permit encroachment into required setbacks.

D. Accessory Detached Structures Other Than Garages

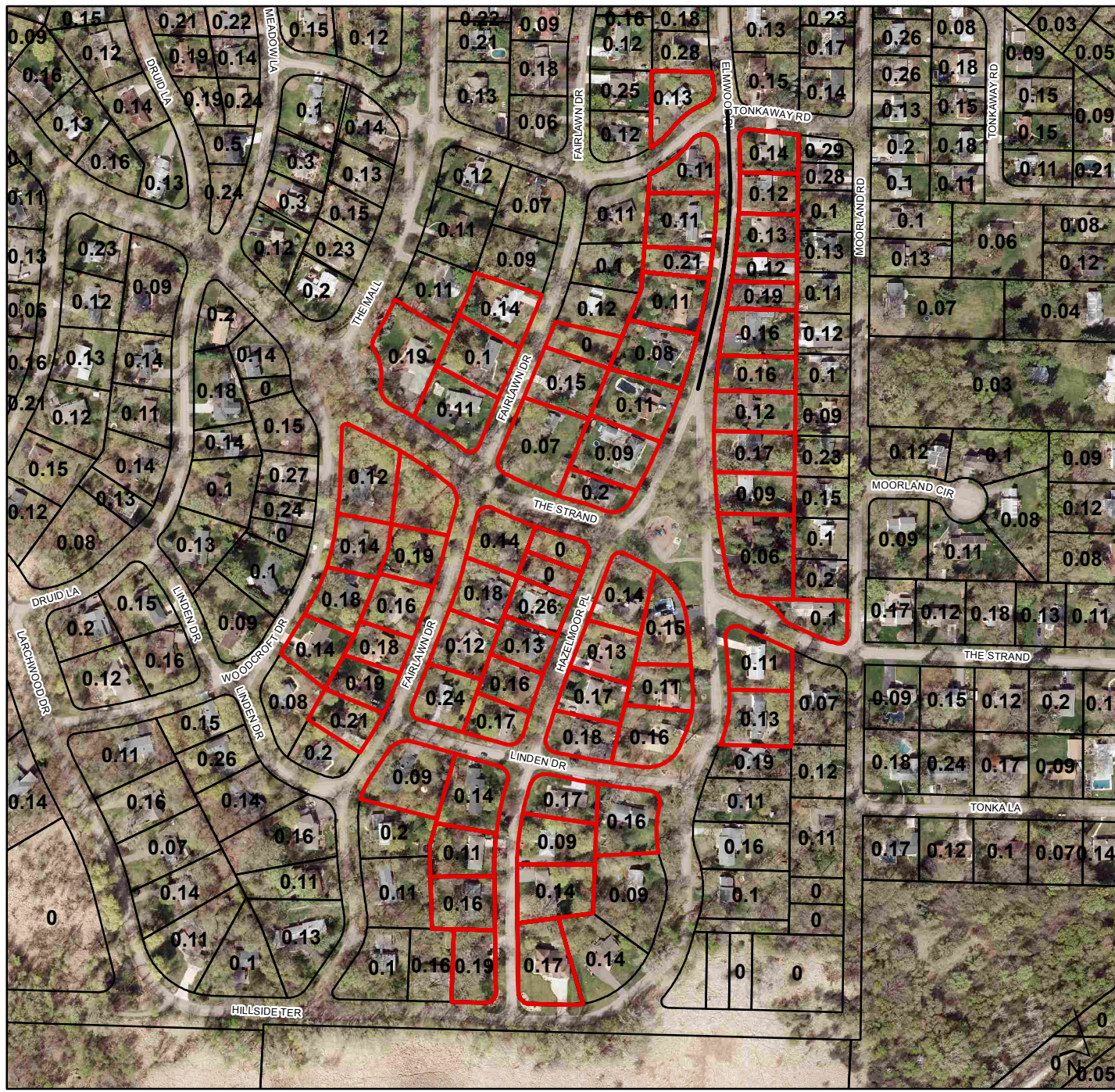
1. Sheds, barns, utility buildings, and recreational facilities are by definition accessory uses or uses incidental to a principal use.
2. The need for accessory structures primarily results from personal circumstances rather than hardship inherent to the property.
3. In light of the above policy to allow two-car garages, accessory structures are, in most cases, above and beyond the reasonable use of the property.
4. Mitigating circumstances may exist whereby accessory structure variances may be considered. These circumstances primarily relate to unique conditions resulting from extraordinarily burdensome regulations applied to a property.
5. Where mitigating circumstance exists, neighborhood characteristics can be considered.

E. Undersized Lots

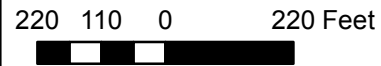
1. Undersized lots of record not meeting the minimum dimensional requirements, may be considered for variances to apply a buildable status.
2. Buildable status will be applied only if a reasonable development opportunity will result.

3. The size of the lot should be consistent with the average neighborhood lot area.
4. Efforts to obtain additional property should be exhausted.
5. The house should be designed to fit the dimensional constraints of the lot and conform to all setback requirements.
6. If the property is and has been assessed and taxed as a buildable lot, strong consideration will be given to dimensional and setback variances.
7. If an undersized lot was in common ownership with an adjacent lot after adoption of the zoning ordinance, then no hardship exists.
8. If an undersized lot was purchased after adoption of the zoning ordinance, then the hardship is self-created.

Revised March 2, 2001
Readopted with changes March 3, 2011



EXISTING
FLOOR AREA RATIOS



HAZELMOOR PLACE

Map prepared by: City of Minnetonka
Debra Smith
3628 Hazelmoor Place
#16026.16a

Planning Commission Resolution No. 2016-

Resolution approving a variance to declare the unaddressed, vacant property immediately north of 3628 Hazelmoor Place buildable

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

Section 1. Background.

- 1.01 In 1956, Delores Smith purchased three properties on the west side of Hazelmoor Place. One of the three properties was developed with a single-family home. The other two properties were vacant. This development pattern still exists.
- 1.02 In 1962, the city adopted its first subdivision regulations and all three properties became non-conforming.
- 1.03 In 2016, the Smith family combined the two vacant properties into one lot. The lot does not meet minimum lot area standards as outlined in the subdivision ordinance.
- 1.04 The lot is unaddressed, but is legally described as Lots 1 and 2, Block 7, STARINGS TONKAWOOD-CROFT.
- 1.05 By City Code §300.07 Subd.1(b), a lot that does not meet the minimum area and dimension requirements “is not buildable unless a variance is granted.” The Smith family are requesting that such variance be granted.
- 1.06 On October 6, 2016, the planning commission held a hearing on the request. 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.

Section 2. General Standards.

2.01 City Code §400.055 states that the city may approve variance from subdivision requirements. A variance may be granted, but is not mandated, when an applicant meets the burden of proving that:

1. The proposed variance is a reasonable use of the property, considering such things as:
 - a) functional and aesthetic justifications for the variance; and
 - b) improvement to the appearance and stability of the property and neighborhood.
2. The circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

3.01 The proposal would meet the variance standard as outlined in City Code §400.055.

1. Reasonable Use and Neighborhood Character. The applicant's request to declare the existing 15,550 square foot lot buildable is reasonable and would not alter the essential character of the neighborhood. The lot is similar in size to both the mean and median average sizes – 15,562 square feet and 14,919 square feet respectively – of properties within the immediate area.
2. Unique Circumstance. The lot is the result of a combination of two properties purchased by the current property owner 60 years ago, well prior to adoption of the city's first subdivision regulations. Further, the lot is similar in size to both the mean and median average sizes of properties within the immediate area. In combination, these facts create a unique circumstance not common to other undeveloped, non-conforming lots in the community.

Section 4. Planning Commission Action.

4.01 The planning commission hereby approves the above-described variance declaring the vacant lot buildable. Approval is subject to the following conditions.

1. A copy of this resolution must be recorded with Hennepin County, prior to issuance of a building permit for construction on property.
2. Maximum floor area ratio for the property is 0.26. Floor area 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. Floor area ratio is defined as floor area divided by lot area.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 6, 2016.

Brian Kirk, Chairperson

Attest:

Kathy Leervig, 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 October 6, 2016.

Kathy Leervig, Deputy City Clerk

MINNETONKA PLANNING COMMISSION
October 6, 2016

Brief Description	Preliminary plat of MAYFAIR AT COPPERFIELD, a three-lot residential subdivision with lot access variance, at 14700 Copperfield Place.
Recommendation	Recommend the city council adopt the resolution approving the preliminary plat.

Introduction

VAA Engineering, on behalf of the Mayfair Lofts Holding Co, is proposing to divide the existing property at 14700 Copperfield Place into three, single-family lots. The existing home would remain and two new homes would be constructed. (See pages A1–A8.)

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 two-acre subject property is located at the northeast corner of the Copperfield Place/McGinty Road West intersection. The existing home was originally constructed in 1949 on the northern half of the property. The highest point of the site is located along the east property line. From the point, the site slopes downward toward both Copperfield Place and McGinty Road West. The site includes a large wetland and many mature trees of spruce, oak, elm, ash varieties. (See pages A2.)
- **Proposed Lots.** The applicant proposes to create two, new lots south of the existing home. The existing lot and new lots, which would all be over 22,000 square feet in size, would be accessed via a private driveway from Copperfield Place. (See pages A4–A6.)
- **Site impacts.** As proposed, grading would occur to remove an existing drive, construct a new driveway and homes, and install required utilities and stormwater management facilities. This grading would result in removal of, or substantial impact to, 29 percent of the site’s high-priority trees.

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 proposed subdivision and staff's findings.

- **Are the proposed lot sizes and configurations appropriate?**

Yes. With two slight modifications to lot lines, the proposed lots would meet all minimum size and dimensional standards as outlined in city code. The modifications are illustrated on page A10 of this report.

	Area		Width		Average Depth
	Total	Buildable	Setback	Right-of-way	
Required	22,000 sq.ft.	3,500 sq.ft.	110 ft	80 ft	125 ft
Lot 1	48,175 sq.ft.	29,140 sq.ft.	80 ft	110 ft	315 ft
Lot 2	22,450 sq.ft.	6,315 sq.ft.	175 ft	140 ft	125 ft
Lot 3	22,285 sq.ft.	5,740 sq.ft.	110 ft	110 ft	230 ft

All numbers rounded down to nearest 5 ft or 5 sq.ft.

- **Is the proposed shared access reasonable?**

Yes. By city code, all lots within a subdivision must have frontage on the public right-of-way from which the lot will have access. Proposed Lot 3, or southeasterly lot, would have frontage on McGinty Road West. This right-of-way is "usable" for driveway access – there are many existing homes that have driveway access to McGinty Road West. However, as a Hennepin County roadway, a county permit would be required for driveway access. (See pages A7–A8.)

Rather than taking access from McGinty Road West, the applicant is proposing use of a shared driveway from Copperfield Place. For a variety of reasons, staff finds that a shared driveway is preferred to access from McGinty Road. The shared driveway would:

- Create a small neighborhood setting, essentially around a small cul-de-sac;
- Reduce access points onto the more travelled county road; and
- Reduce conflict between driveways on the county road.

- **Are the proposed site impacts reasonable?**

Yes. The proposed subdivision has been evaluated for conformance with the city's natural resource ordinances, including the wetland and tree protection ordinances. These ordinances attempt to balance the community benefit of preserving natural resources with private development rights.

The property is subject to the regulations of the wetland and tree ordinances.

Wetland. The site contains a large, Manage-2 wetland, generally located adjacent to McGinty Road West. The “wetland signature” of the area is visible in the earliest aerial photographs available for the area, which date back to the 1930s. These photos suggest that the area was originally a wet meadow or shallow marsh. The area was altered sometime prior to 1991, presumably to create its current open water “pond” appearance. Regardless of appearance, the area was and continues to be regulated as a wetland. The applicant’s proposal would not impact the wetland. As condition of approvals: (1) homes and accessory building would be required to meet all minimum setbacks; (2) a 16.5-foot wetland buffer must be established around the wetland; and (3) a conservation easement must be dedicated over the wetland and buffer.

Trees. The ordinance regulates tree removal and mitigation. The highest level of protection is provided to woodland preservation areas (WPA) and high-priority trees during subdivision of the property. During subdivision, just 25% of WPA and 35% of high-priority trees may be removed or impacted. There is no WPA on the site. However, there are 58 high-priority trees and 50 significant trees. The proposal would result in removal of, or substantial damage to the critical root zones of, 29 percent of the site’s high-priority trees. This would meet the standards of the tree protection ordinance.

Trees	Existing	Impacted or Removed
High-Priority	58	17 trees or 29%
Significant	50	9 trees or 18%
TOTAL	108	26 trees or 24%

Summary Comments

Staff acknowledges that the applicant’s proposal would have a visual impact on the property and the Copperfield Place/McGinty Road intersection. However, but for the use of the proposed shared driveway, the proposal would meet city code standards. In staff’s opinion, the use of a shared driveway would promote more orderly development of the site.

Staff Recommendation

Recommend the city council adopt the resolution approving the preliminary plat of MAYFAIR AT COPPERFIELD, a three-lot residential subdivision with lot access variance, at 14700 Copperfield Place. (See pages A14–A26.)

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

Supporting Information

Surrounding Uses	The subject property is surrounded by single-family residential lots.
Surrounding Lots	The lots within the Copperfield Place area have a mean average size of 22,450 square feet and median average size of 20,628 square feet. Several properties have reduced width at right-of-way and would be considered “flag” lots. The existing neighborhood was developed in the late 1970s as a “residential subdivision unit project.” Today, such subdivision would be considered a planned unit development (PUD). The “subdivision unit project” allowed for lots of less area, width, and depth than a typical R-1 development. (See page A9.)
Planning	Guide Plan designation: low-density residential Existing Zoning: R-1, low-density residential
Grading	Grading would occur to remove an existing driveway, construct a shared driveway and homes, and install required utilities and stormwater management practices. Generally, fill would be added in the area of the driveway and home sites. Excavation would occur to create three rain gardens.
Stormwater	Runoff from the newly created impervious surface would be directed into one of three new raingardens. One of these areas would be located near the existing home; the other two areas would be located directly north of the site’s wetland. The proposed plan has been reviewed by the city’s water resources engineering coordinator and found to be generally consistent with requirements of the city’s stormwater management plan. (See page A5.)
Utilities	Public water, sanitary, and storm sewer facilities are available to the site from both Copperfield Place and McGinty Road West. (See page A6.)
Variance	By city code 400.055, the city may approve variances from the requirements of the subdivision ordinance. An applicant must meet the burden of proving that: (1) the proposed variance is reasonable use of the property, considering such things as functional and aesthetic justifications or improvement to the appearance and stability of the neighborhood; (2) the circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.

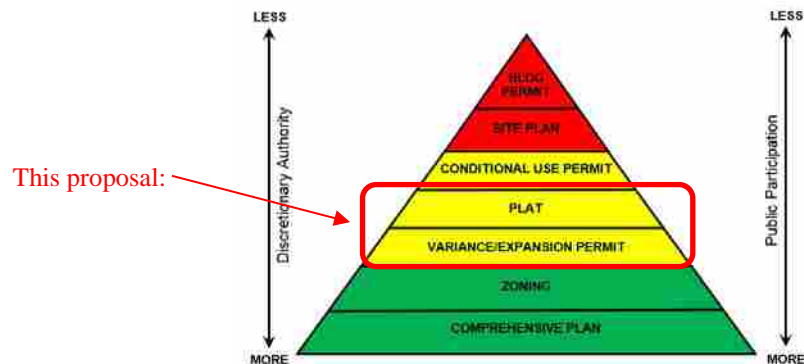
The applicant's proposal would meet the variance standard as outlined by code:

- **Reasonable Use.** The proposed access is reasonable. It would: (1) create a small neighborhood setting, essentially around a small cul-de-sac; (2) reduce access points onto the more travelled county road; and (3) reduce conflict between driveways on the county road.
- **Unique Circumstances.** The subject property is over two acres in size with frontage on both city and county roadways. Driveway access could be gained via the county roadway; in such arrangement, no variance would be required. However, the applicant proposes to utilize a shared drive from the city roadway. Taken together, the size, situation, and ability to be divided without variance constitute a unique circumstance not similar to other residential properties in the area.
- **Neighborhood Character.** The existing Copperfield area includes several cul-de-sacs surrounded by lots with varying amounts of frontage on the public street. The proposed access would not negatively impact this existing character. Though accessed via a private drive rather than a public cul-de-sac, the proposal would result in a development pattern similar to the existing.

Outside Agencies

The applicant's proposal has been submitted to various outside agencies for review, including Hennepin County and Minnehaha Creek Watershed District.

Pyramid of Discretion



Motion Options

The planning commission has three options:

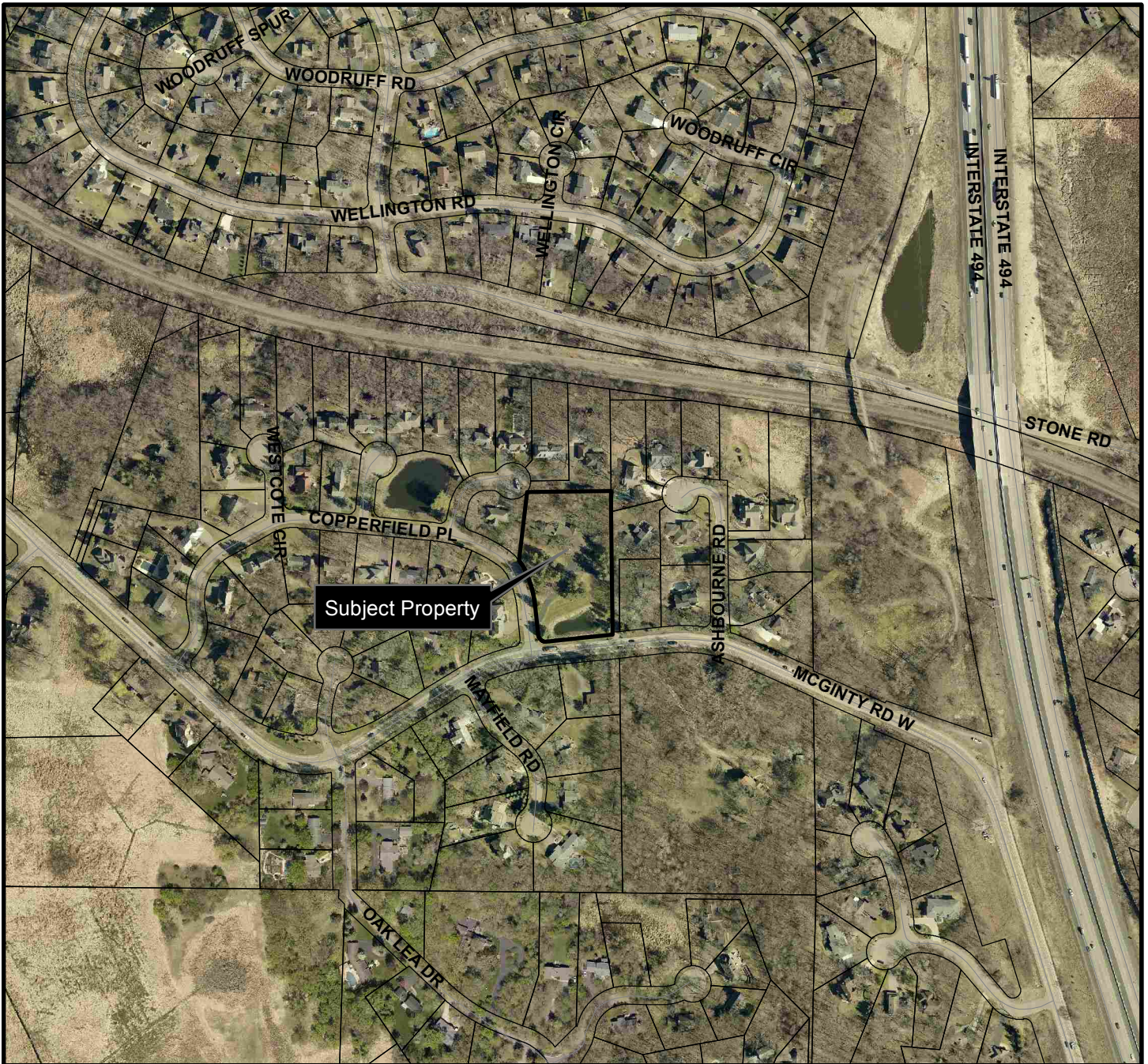
1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution approving the preliminary plat, with lot access variance.
2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the plat. 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
Comment**

The city sent notices to 63 area property owners and has received two written comments. (See pages A12–A13.)

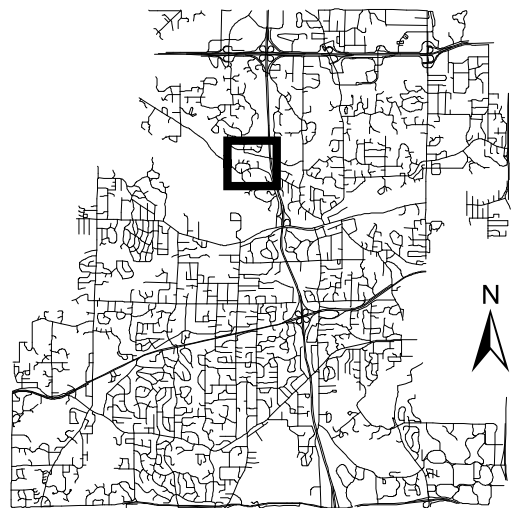
Deadline for Action

December 19, 2016



Location Map

Project: Mayfair at Copperfield 1st Addn
 Applicant: VAA Eng
 Address: 14700 Copperfield Pl
 Project No. 16023.16a



This map is for illustrative purposes only.

MAYFAIR AT COPPERFIELD

14700 Copperfield Place

16.23.16a

SURVEY FOR: **MAYFAIR LOFTS HOLDINGS CO, LLC**

PROPERTY ADDRESS: 14700 Copperfield Place, Minnetonka, Minnesota.

LEGAL DESCRIPTION:

Lot 22, Block 1, COPPERFIELD, Hennepin County, Minnesota.

CERTIFICATION:

To Mayfair Lofts Holding Co., LLC, Commerce Bank, its successors and/or assigns as their interests may appear and First American Title Insurance Company:

This is to certify that this map or plot and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS and includes items 1, 2, 3, 4, 6, 7a, 8, 10, 11a and 13 of Table A thereof. The field work was completed on March 23, 2016.

Dated: April 4, 2016

Anderson Engineering of Minnesota, LLC

by: 
 Jack Bolke
 Minnesota License No. 20281

NOTES:

- The horizontal datum and bearings are based on the Hennepin County Coordinate System.
- The vertical datum is NAVD 88. The site benchmark is the top nut of hydrant located on the south side of mcginty road, 65 feet southeast of the southeast corner of Lot 22, Block 1, COPPERFIELD Elevation = 979.09 feet.
- The area of the property described hereon is 92,743 square feet or 2.1291 acres.
- The legal description and easement information were provided by First American Title Insurance Company Commitment for Title Insurance, Application No. 1381114 dated March 6, 2016.
- The location and extent of underground utilities, if shown, are based upon existing above ground evidence. There is no guarantee as to the accuracy or the completeness of this information. The size and location should be considered approximate. Additional underground utilities may be present. Verification of the existence and location of all utilities should be obtained from the utility owners prior to any planning or design. In accordance with Minnesota Statute, the location of utilities shall be confirmed prior to any demolition or construction.
- The tree information shown hereon was collected during the field survey by non-forestry trained Anderson Engineering of Minnesota survey personnel. Tree sizes are estimates and locations are accurate to plus or minus three feet.
- According to Federal Emergency Management Agency (FEMA) maps of Hennepin County, the property described hereon lies in flood zone X (area of 0.2% annual chance of flood) per community panel map No. 27053C0329E, dated September 2, 2004.
- According to the City of Minnetonka, the subject property is zoned Low Density Residential and has the building setback requirements listed below. It is recommended that the property owner obtain a zoning letter from the City to verify all conditions that affect the property through the city zoning ordinance. This survey does not purport to describe all conditions contained in said ordinance.

SETBACK REQUIREMENTS

FRONT (LOCAL STREET) = 35 FT.*
 FRONT (ARTERIAL STREET) = 50 FT.*
 SIDE = 10 FT.
 REAR = 40 FT.
 WETLAND = TBD

*One front yard setback may be reduced by 10 feet, if the other is maintained as noted.

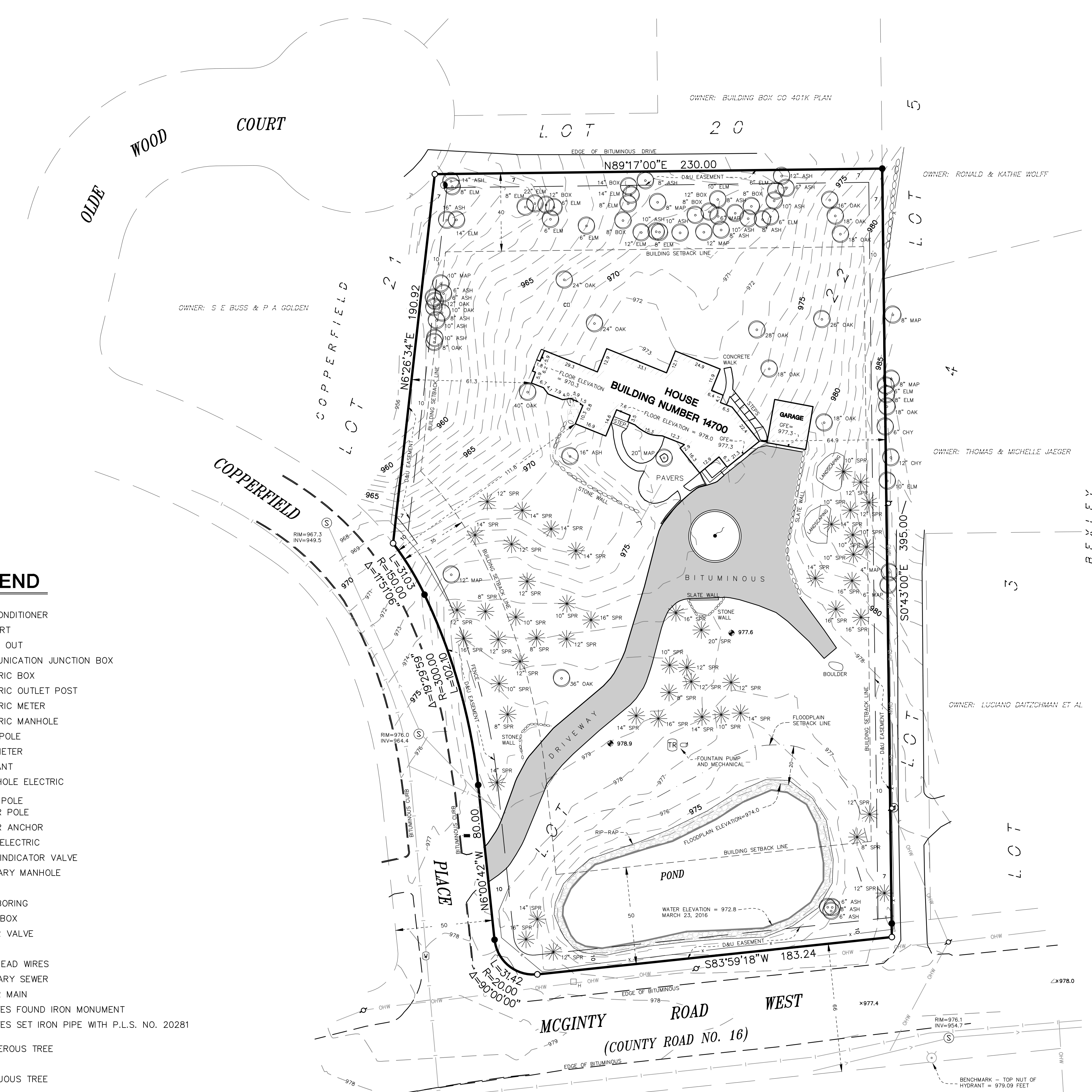
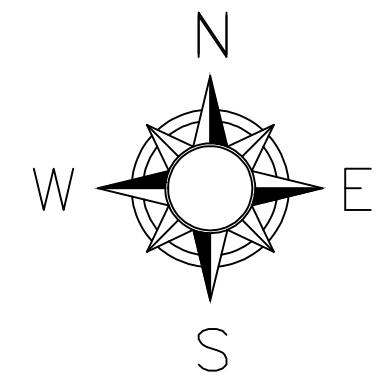
EXISTING HARDCOVER AREAS

HOUSE = 3,678 SQ. FT.
 GARAGE = 452 SQ. FT.
 BITUMINOUS DRIVEWAY = 6,984 SQ. FT.
 CONCRETE WALK, PATIO AND STEPS = 1,232 SQ. FT.

TOTAL LOT COVERAGE = 12,346 SQ. FT. OR 13.3 PERCENT

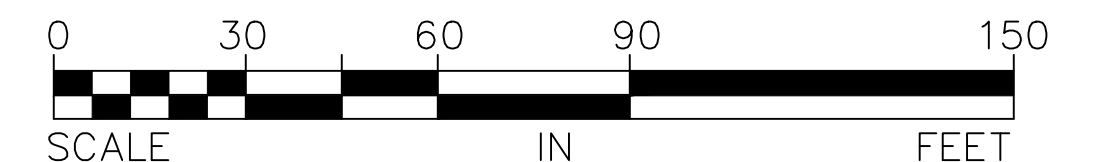
TREE LEGEND

ASH	ASH
BIR	BIRCH
BOX	BOXELDER
CHY	CHERRY
ELM	ELM
HAC	HACKBERRY
MAP	MAPLE
OAK	OAK
SPR	SPRUCE

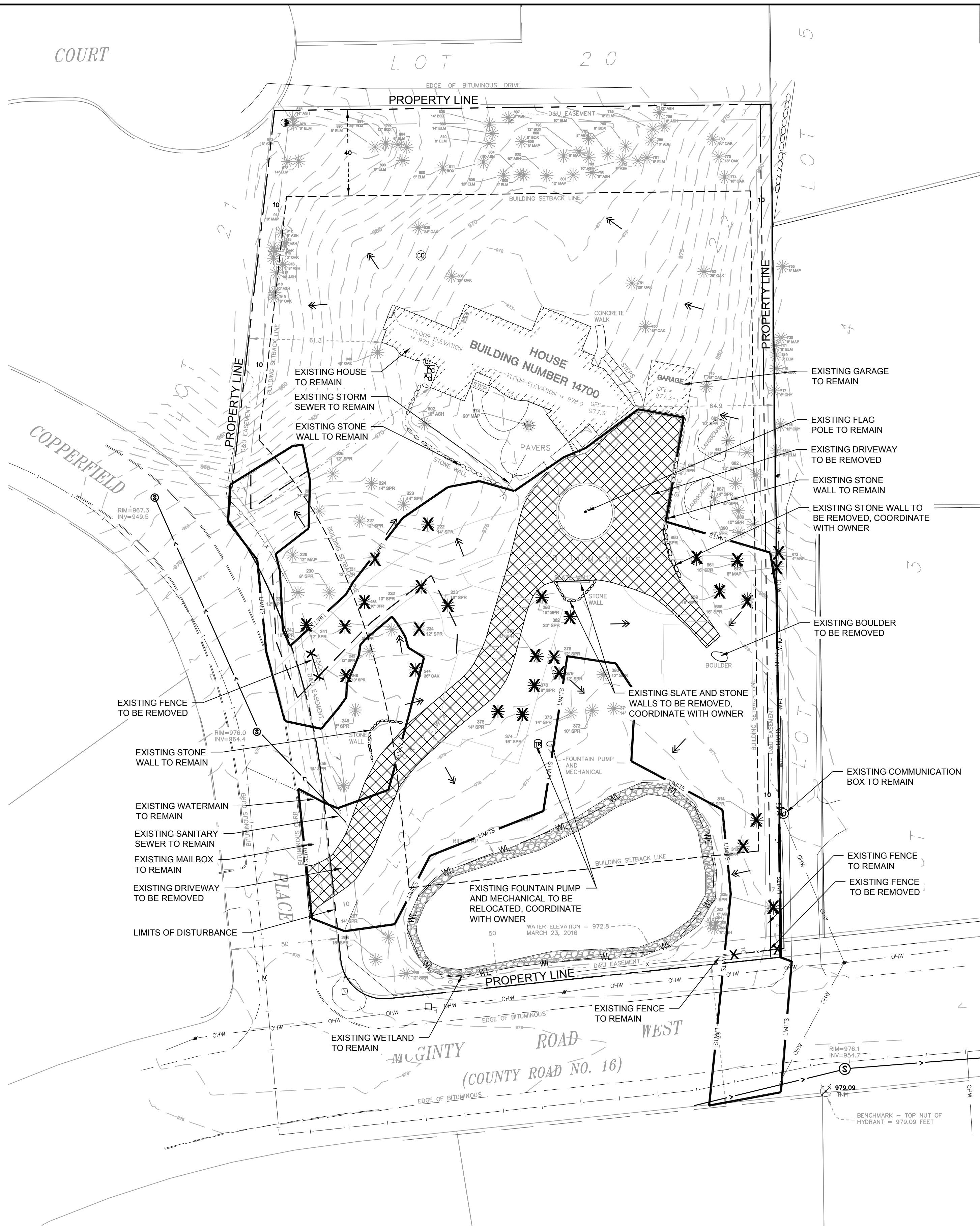


LEGEND

- AIR CONDITIONER
- CULVERT
- CLEAN OUT
- COMMUNICATION JUNCTION BOX
- ELECTRIC BOX
- ELECTRIC OUTLET POST
- ELECTRIC METER
- ELECTRIC MANHOLE
- FLAG POLE
- GAS METER
- HYDRANT
- HANDHOLE ELECTRIC
- LIGHT POLE
- POWER POLE
- POWER ANCHOR
- POST ELECTRIC
- POST INDICATOR VALVE
- SANITARY MANHOLE
- SIGN
- SOIL BORING
- STOP BOX
- WATER VALVE
- FENCE
- OVERHEAD WIRES
- SANITARY SEWER
- WATER MAIN
- DENOTES FOUND IRON MONUMENT
- DENOTES SET IRON PIPE WITH P.L.S. NO. 20281
- CONIFEROUS TREE
- DECIDUOUS TREE



ANDERSON ENGINEERING
 Anderson Engineering of Minnesota, LLC
 13605 1st Avenue North
 Suite 100
 Plymouth, MN 55441
 763-412-4000 (o) 763-412-4090 (f)
 www.ae-mn.com



- ### LEGEND
- PROPERTY LINE
 - SET BACK LINE
 - EASEMENT
 - EXISTING MAJOR CONTOUR
 - EXISTING MINOR CONTOUR
 - EXISTING FENCE
 - WETLAND LIMITS
 - EXISTING OVERHEAD ELECTRIC
 - EXISTING WATERMAIN
 - EXISTING SANITARY LINE
 - EXISTING STORM SEWER
 - EXISTING CURB
 - EXISTING STONE WALL
 - LIMITS
 - EXISTING SANITARY MANHOLE
 - EXISTING GAS METER
 - EXISTING CLEANOUT
 - EXISTING COMMUNICATION JUNCTION BOX
 - EXISTING AIR CONDITIONING
 - EXISTING WATER VALVE
 - EXISTING POWER POLE AND GUY WIRE
 - EXISTING MAILBOX
 - EXISTING FLAG POLE
 - EXISTING TREE
 - DENOTES EXISTING SURFACE DRAINAGE
 - EXISTING RIP RAP
 - EXISTING FENCE TO BE REMOVED
 - EXISTING STONE WALL TO BE REMOVED
 - EXISTING SLATE WALL TO BE REMOVED
 - EXISTING FOUNTAIN PUMP AND MECHANICAL TO BE REMOVED
 - EXISTING DRIVEWAY TO BE REMOVED
 - EXISTING TREE TO BE REMOVED

- ### GENERAL NOTES
1. ALL EXISTING INFORMATION TAKEN FROM SURVEY BY ANDERSON ENGINEERING, PROJECT NUMBER 14290S-1 DATED APRIL 4, 2016. BACKGROUND SURVEY ON THESE DRAWINGS IS FOR REFERENCE ONLY. REFER TO CERTIFIED SURVEY AS THE BASIS FOR ALL PROJECT WORK.
 2. SUBSURFACE GEOTECHNICAL INVESTIGATION BY GEO ENGINEERING CONSULTANTS ON JANUARY 12, 2016 PROJECT # 016-0001-5391. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS INCLUDING LOCATIONS OF EXISTING PUBLIC AND PRIVATE UTILITIES AND NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO STARTING CONSTRUCTION.
 3. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS INCLUDING LOCATIONS OF EXISTING PUBLIC AND PRIVATE UTILITIES, AND NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO STARTING CONSTRUCTION.
 4. ALL EXISTING UTILITIES AND OTHER IMPROVEMENTS ARE TO REMAIN UNLESS NOTED OTHERWISE.
 5. CONTRACTOR TO PROTECT FROM DAMAGE ALL EXISTING IMPROVEMENTS, LANDSCAPING, STRUCTURES AND UTILITIES THAT ARE TO REMAIN. CONTRACTOR TO REPAIR ANY DAMAGE AT OWN EXPENSE.
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 8. CATCHBASINS AND MANHOLES ARE SHOWN ON PLAN LARGER THAN ACTUAL SIZE. COORDINATE LOCATION OF MANHOLE COVER AND CASTING SO THAT IT IS PROPERLY LOCATED AT THE BACK OF CURBLINE FOR THE CURB INLETS OR CENTERED IN THE AREA AS SHOWN ON THE PLAN FOR THE AREA DRAINS AND MANHOLE COVERS.
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 10. PROVIDE TRAFFIC CONTROL AT STREETS AND SIDEWALKS PER CITY OF MINNETONKA AND MMUTCD REQUIREMENTS.
 11. ANY WORK PERFORMED OUTSIDE THE PROPERTY BOUNDARIES MUST BE APPROVED BY OWNER AND ALL REGULATING GOVERNMENT AGENCIES AND APPROPRIATE PERMITS MUST BE OBTAINED.
 12. WETLAND DELINEATION PERFORMED BY ANDERSON ENGINEERING ON APRIL 13, 2016 AE # 14221.

- ### DEMO NOTES
1. ALL UTILITY DEMOLITION AND/OR ABANDONMENT TO BE PERFORMED IN ACCORDANCE WITH CITY OF MINNETONKA AND STATE OF MINNESOTA REGULATIONS AND STANDARDS.
 2. EXISTING KNOWN UTILITIES ARE SHOWN IN THEIR APPROXIMATE LOCATIONS. CONTRACTOR TO FIELD VERIFY THE LOCATION OF ALL EXISTING PUBLIC AND PRIVATE UTILITIES WHICH MAY INCLUDE BUT IS NOT LIMITED TO: ELECTRIC, TELEPHONE, GAS, CABLE TV, COMPUTER CABLE FIBER OPTIC CABLE, SANITARY SEWER, STORM SEWER AND WATERMAIN. CONTRACTOR TO CONTACT 811 BEFORE EXCAVATING.
 3. ALL ELECTRICAL POLE AND LIGHT REMOVAL SHALL BE COORDINATED WITH THE OWNER AND AUTHORITY HAVING JURISDICTION PRIOR TO DEMOLITION.

PROPOSED IMPROVEMENTS ARE SHOWN FOR REFERENCE ONLY

SEE SHEET C110 TREE PRESERVATION PLAN FOR TREE REMOVALS

Planners and Engineers 763.559.9100
 2300 Berkshire Lane N, Suite 200 www.vaaeng.com
 Plymouth, MN 55441 info@vaaeng.com

CLIENT:

MAYFAIR LOFTS LLC.
 4931 WEST 35TH ST
 ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:

MAYFAIR AT COPPERFIELD
FIRST ADDITION

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

CERTIFICATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.

Signature _____ Date _____
 Printed name _____ Reg. No. _____
 My license renewal date is _____
 Pages or sheets covered by this seal _____

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DATE: 08/19/16	DRAWN: MAP
DESIGNED: AMB	CHECKED: AMB
APPROVED: AMB	

DRAWING TITLE:

EXISTING CONDITIONS
AND REMOVALS PLAN

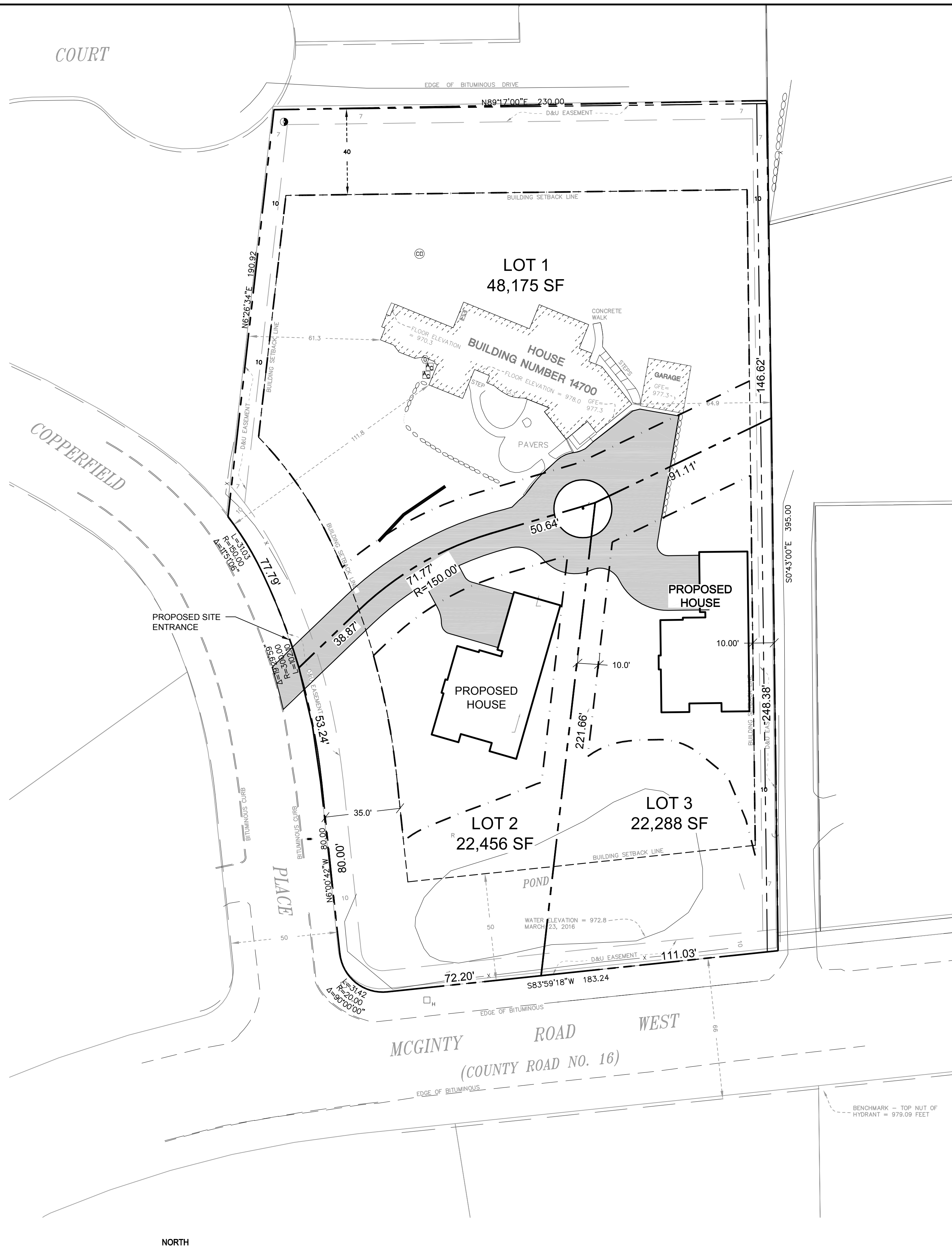
PROJECT NO: 160099	DRAWING NO: C101
SCALE: AS NOTED	MAYFAIR AT COPPERFIELD 14700 Copperfield Place 16.23.16a

PRELIMINARY

NOT FOR CONSTRUCTION

Date Printed: Friday, August 19, 2016

COURT



SITE DATA	
TOTAL AREA	92,744 SF
LOT 1	48,175 SF
LOT 2	22,456 SF
LOT 3	22,288 SF
BUILDABLE AREA LOT 2	7,805 SF
BUILDABLE AREA LOT 3	8,190 SF

HARD SURFACE DATA	
DESCRIPTION	AREA (SF)
EXISTING	
HOUSE	4,130
DRIVEWAY	7,841
SIDEWALKS	1,232
PROPOSED	
HOUSE LOT 2	2,420
HOUSE LOT 3	2,420
DRIVEWAY LOT 1	2,820
DRIVEWAY LOT 2	2,594
DRIVEWAY LOT 3	1,904
TOTAL DRIVEWAY AREA (SF)	7,318

- LEGEND**
- — — — — PROPOSED PROPERTY LINE
 - - - - - PROPOSED SET BACK LINE
 - — — — — PROPERTY LINE
 - - - - - SET BACK LINE
 - - - - - EASEMENT
 - x - x - EXISTING FENCE
 - WL - WETLAND LIMITS
 - - - - - EXISTING CURB
 - ○ ○ ○ ○ EXISTING STONE WALL
 - ⊕ EXISTING GAS METER
 - Ⓐ EXISTING AIR CONDITIONING
 - Ⓜ EXISTING MAILBOX
 - Ⓜ EXISTING FLAG POLE
 - PROPOSED PERVIOUS PAVERS

Planners and Engineers 763.559.9100
 2300 Berkshire Lane N, Suite 200 www.vaaeng.com
 Plymouth, MN 55441 info@vaaeng.com

CLIENT:
MAYFAIR LOFTS LLC.
 4931 WEST 35TH ST
 ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:
MAYFAIR AT COPPERFIELD
 FIRST ADDITION

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

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 Printed name _____ Reg. No. _____

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DATE: 08/19/16	DRAWN: MAP	
DESIGNED: AMB	CHECKED: AMB	APPROVED: AMB

DRAWING TITLE:
PRELIMINARY PLAT

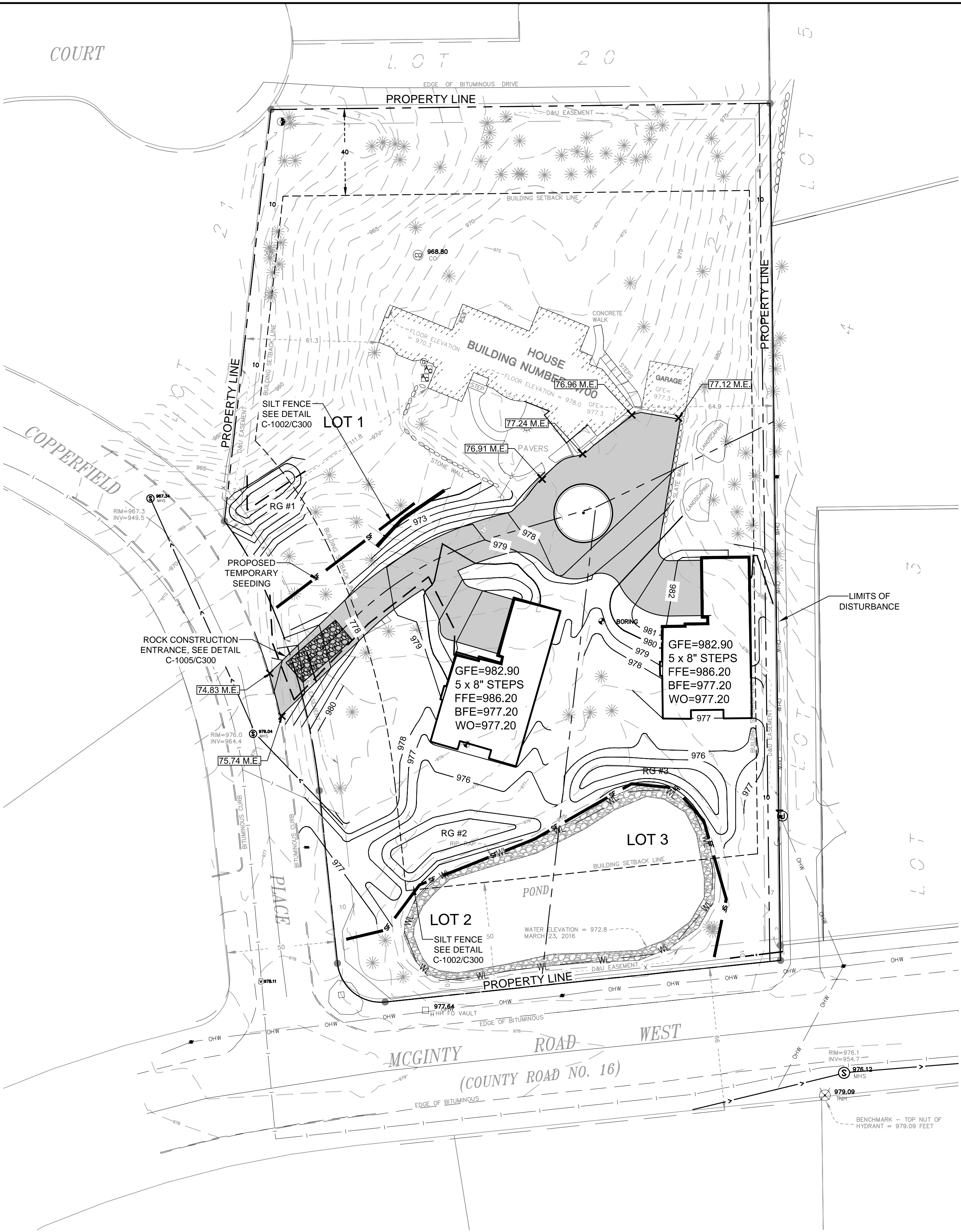
PROJECT NO: 160099	DRAWING NO: C221
SCALE: AS NOTED	MAYFAIR AT COPPERFIELD 14700 Copperfield Place 16.23.16a

PRELIMINARY
NOT FOR CONSTRUCTION

NORTH
 1 PRELIMINARY PLAT
 C221

0 30' 60' 90'
 1" = 30'

Date Printed: Friday, August 19, 2016



- ### LEGEND
- 979 PROPOSED CONTOUR
 - X77.00 PROPOSED SPOT ELEVATION
 - X77.00 ME PROPOSED MATCH EXISTING SPOT ELEVATION
 - DENOTES SURFACE DRAINAGE
 - PROPOSED LOT LINE
 - PROPOSED SANITARY SEWER
 - PROPOSED WATERMAIN
 - PROPOSED RETAINING WALL
 - PROPOSED TEMPORARY SEEDING
 - PROPERTY LINE
 - SET BACK LINE
 - EASEMENT
 - 975 EXISTING MAJOR CONTOUR
 - 976 EXISTING MINOR CONTOUR
 - EXISTING FENCE
 - WL WETLAND LIMITS
 - OHW EXISTING OVERHEAD ELECTRIC
 - EXISTING WATERMAIN
 - EXISTING SANITARY LINE
 - EXISTING STORM SEWER
 - EXISTING CURB
 - EXISTING STONE WALL
 - LIMITS LIMITS OF DISTURBANCE
 - EXISTING SANITARY MANHOLE
 - EXISTING GAS METER
 - EXISTING CLEANOUT
 - EXISTING COMMUNICATION JUNCTION BOX
 - EXISTING AIR CONDITIONING
 - EXISTING WATER VALVE
 - EXISTING POWER POLE AND GUY WIRE
 - EXISTING MAILBOX
 - EXISTING FLAG POLE
 - EXISTING TREE
 - EXISTING RIP RAP
 - PROPOSED PERVIOUS PAVERS

- ### GENERAL NOTES
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 12. WETLAND DELINEATION PERFORMED BY ANDERSON ENGINEERING ON APRIL 13, 2016 AE # 14221.

- ### GRADING NOTES
1. PROPOSED SPOT ELEVATIONS AND CONTOURS ARE TO TOP OF GRADE, PAVEMENT OR GUTTER LINE, UNLESS OTHERWISE SPECIFIED.
- ### EROSION AND SEDIMENT CONTROL NOTES
1. CONTRACTOR TO RESTORE ALL AREAS OUTSIDE THE LIMITS OF PAVING WITH TEMPORARY SEEDING. COORDINATE WITH OWNER.
 2. INSTALL PERIMETER AND SEDIMENT CONTROL ITEMS PRIOR TO CONSTRUCTION.

SEE TREE PRESERVATION PLAN FOR TREE REMOVALS

Planners and Engineers
2300 Berkshire Lane N, Suite 200
Plymouth, MN 55441

763.559.9100
www.vaaeng.com
info@vaaeng.com

CLIENT:
MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:
MAYFAIR AT COPPERFIELD FIRST ADDITION

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

CERTIFICATION:

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Signature _____ Date _____
Printed name _____ Reg. No. _____

My license renewal date is _____

Pages or sheets covered by this seal _____

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DATE: 08/19/16	DRAWN: MAP
DESIGNED: AMB	CHECKED: AMB
	APPROVED: AMB

DRAWING TITLE:
**GRADING, DRAINAGE,
EROSION AND SEDIMENT
CONTROL PLAN**

PROJECT NO: 160099	DRAWING NO: C201
SCALE: AS NOTED	MAYFAIR AT COPPERFIELD 14700 Copperfield Place

Date Printed: Friday, September 16, 2016

NORTH

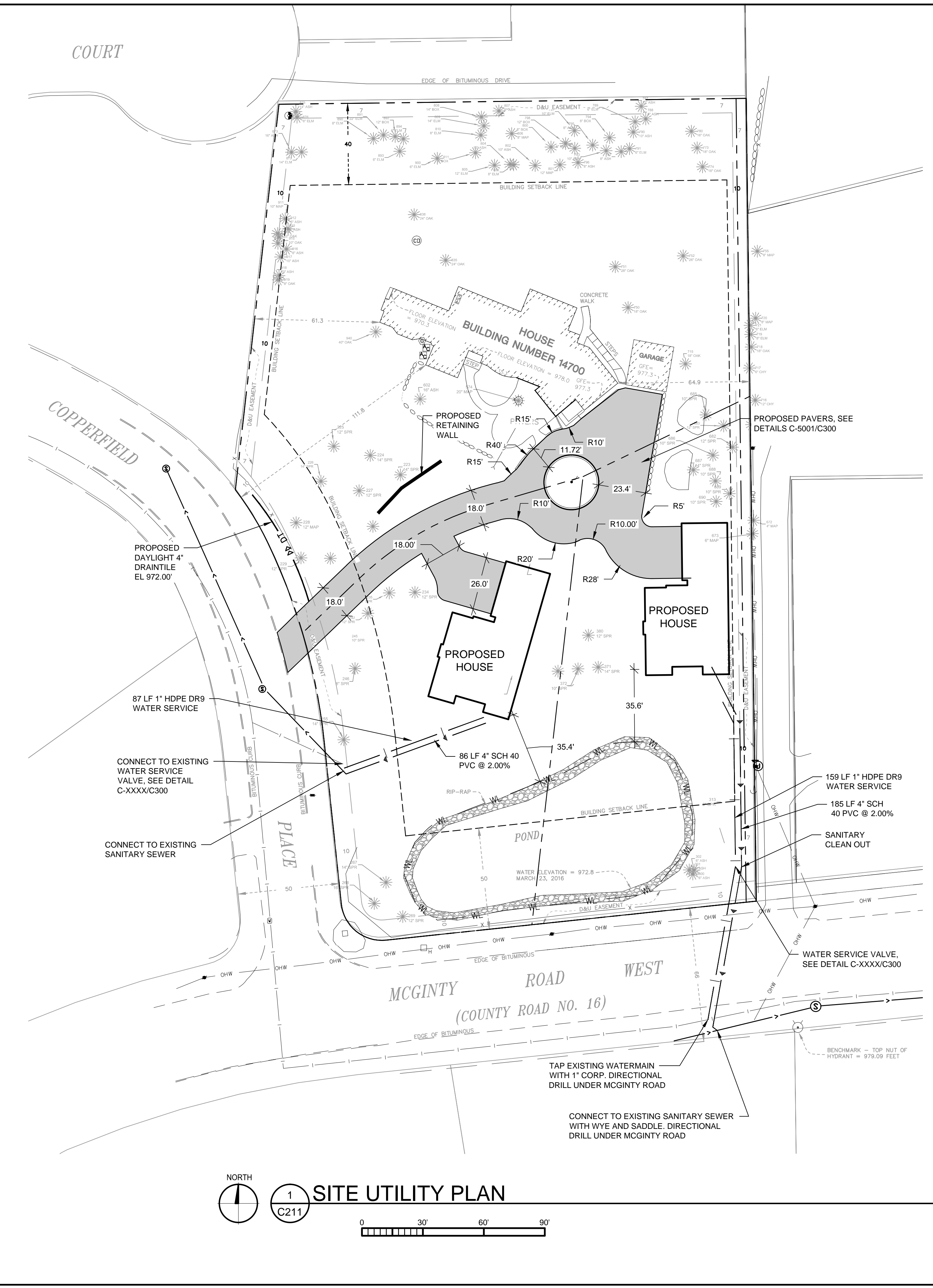
1 GRADING, DRAINAGE, EROSION AND SEDIMENT CONTROL PLAN
C201

0 30' 60' 90'

1" = 30'

**PRELIMINARY
NOT FOR CONSTRUCTION**

COURT



LEGEND

- PROPOSED SANITARY SEWER
- PROPOSED WATERMAIN
- PROPOSED LOT LINE
- PROPOSED RETAINING WALL
- PROPERTY LINE
- SET BACK LINE
- EASEMENT
- EXISTING FENCE
- WETLAND LIMITS
- EXISTING OVERHEAD ELECTRIC
- EXISTING WATERMAIN
- EXISTING STORM SEWER
- EXISTING CURB
- EXISTING STONE WALL
- EXISTING SANITARY MANHOLE
- EXISTING GAS METER
- EXISTING CLEANOUT
- EXISTING COMMUNICATION JUNCTION BOX
- EXISTING AIR CONDITIONING
- EXISTING WATER VALVE
- EXISTING POWER POLE AND GUY WIRE
- EXISTING MAILBOX
- EXISTING FLAG POLE
- EXISTING TREE
- EXISTING RIP RAP
- PROPOSED PERVIOUS PAVERS

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12. WETLAND DELINEATION PERFORMED BY ANDERSON ENGINEERING ON APRIL 13, 2016 AE # 14221.

UTILITY NOTES

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3. REMOVE ALL SOILS AND SEDIMENTS TRACKED OR OTHERWISE DEPOSITED ONTO PUBLIC AND PRIVATE PAVEMENT AREAS. REMOVAL SHALL BE ON A DAILY BASIS THROUGHOUT THE DURATION OF THE CONSTRUCTION. CLEAN PAVED ROADWAYS BY SHOVELING OR SWEEPING. STREET WASHING IS ALLOWED ONLY AFTER SHOVELING OR SWEEPING HAS REMOVED SEDIMENT. SEE CITY OF MINNETONKA STANDARDS AND REGULATIONS
4. PROVIDE THE FOLLOWING MINIMUM COVER OVER THE TOP OF PIPE AS FOLLOWS:
 - A. 8' OVER WATERMAIN
 - B. 8' OVER SANITARY SEWER
 - C. 1.5' OVER STORM SEWER



Planners and Engineers 763.559.9100
2300 Berkshire Lane N, Suite 200 www.vaaeng.com
Plymouth, MN 55441 info@vaaeng.com

CLIENT:
MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:
**MAYFAIR AT COPPERFIELD
FIRST ADDITION**

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

CERTIFICATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.

Signature _____ Date _____
Printed name _____ Reg. No. _____

My license renewal date is _____

Pages or sheets covered by this seal _____

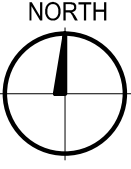
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DATE: 08/19/16 DRAWN: MAP
DESIGNED: AMB CHECKED: AMB APPROVED: AMB

DRAWING TITLE:
SITE UTILITY PLAN


PROJECT NO: 160099 DRAWING NO: C211
SCALE: AS NOTED
MAYFAIR AT COPPERFIELD
14700 Copperfield Place
16.23.16a

NORTH



1 SITE UTILITY PLAN

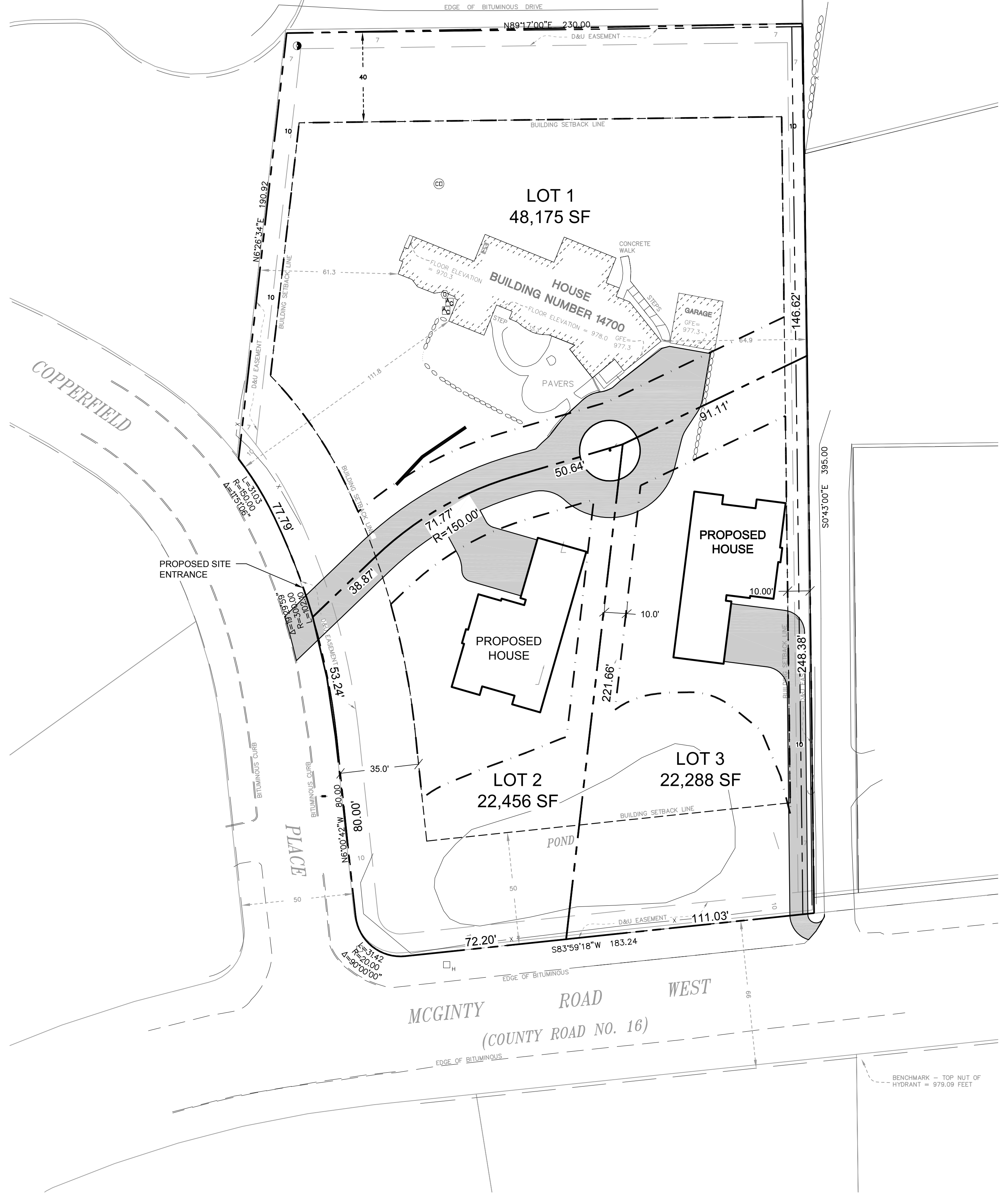
C211



1" = 30'

**PRELIMINARY
NOT FOR CONSTRUCTION**

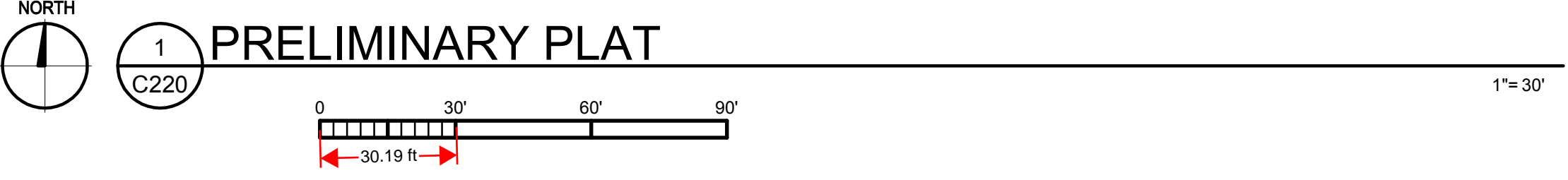
COMPLIANT PLAT EXHIBIT



SITE DATA	
TOTAL AREA	92,744 SF
LOT 1	48,175 SF
LOT 2	22,456 SF
LOT 3	22,288 SF
BUILDABLE AREA LOT 2	7,805 SF
BUILDABLE AREA LOT 3	8,190 SF

HARD SURFACE DATA	
DESCRIPTION	AREA (SF)
EXISTING	
HOUSE	4,130
DRIVEWAY	7,841
SIDEWALKS	1,232
PROPOSED	
HOUSE LOT 2	2,420
HOUSE LOT 3	2,420
DRIVEWAY LOT 1	2,820
DRIVEWAY LOT 2	2,579
DRIVEWAY LOT 3	2,520
TOTAL DRIVEWAY AREA (SF)	7,919

LEGEND	
---	PROPOSED PROPERTY LINE
- - -	PROPOSED SET BACK LINE
---	PROPERTY LINE
---	SET BACK LINE
- - -	EASEMENT
x	EXISTING FENCE
WL	WETLAND LIMITS
- - -	EXISTING CURB
○	EXISTING STONE WALL
⊙	EXISTING GAS METER
⊞	EXISTING AIR CONDITIONING
⊞	EXISTING MAILBOX
⊞	EXISTING FLAG POLE
■	PROPOSED PERVIOUS PAVERS



**PRELIMINARY
NOT FOR CONSTRUCTION**

VAA
Planners and Engineers
2300 Berkshire Lane N, Suite 200
Plymouth, MN 55441
763.559.9100
www.vaaeng.com
info@vaaeng.com

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4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:
**MAYFAIR AT COPPERFIELD
FIRST ADDITION**

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

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DATE: 08/19/16	DRAWN: MAP
DESIGNED: AMB	CHECKED: AMB
APPROVED: AMB	

DRAWING TITLE:
PRELIMINARY PLAT

PROJECT NO: 160099	DRAWING NO: C220
SCALE: AS NOTED	MAYFAIR AT COPPERFIELD 14700 Copperfield Place 16.23.16a

COMPLIANT PLAT EXHIBIT

COURT

LEGEND

- 979 — PROPOSED CONTOUR
- X77.00 PROPOSED SPOT ELEVATION
- X77.00 ME PROPOSED MATCH EXISTING SPOT ELEVATION
- ← DENOTES SURFACE DRAINAGE
- - - - PROPOSED LOT LINE
- PROPOSED SANITARY SEWER
- PROPOSED WATERMAIN
- PROPOSED RETAINING WALL
- + + + + PROPOSED TEMPORARY SEEDING
- - - - PROPERTY LINE
- - - - SET BACK LINE
- - - - EASEMENT
- - - - EXISTING MAJOR CONTOUR
- - - - EXISTING MINOR CONTOUR
- x — EXISTING FENCE
- WL WETLAND LIMITS
- OHW — EXISTING OVERHEAD ELECTRIC
- - - - EXISTING WATERMAIN
- - - - EXISTING SANITARY LINE
- - - - EXISTING STORM SEWER
- - - - EXISTING CURB
- ○ — EXISTING STONE WALL
- LIMITS — LIMITS OF DISTURBANCE
- ⊕ EXISTING SANITARY MANHOLE
- ⊕ EXISTING GAS METER
- ⊕ EXISTING CLEANOUT
- ⊕ EXISTING COMMUNICATION JUNCTION BOX
- ⊕ EXISTING AIR CONDITIONING
- → — EXISTING WATER VALVE
- → — EXISTING POWER POLE AND GUY WIRE
- → — EXISTING MAILBOX
- → — EXISTING FLAG POLE
- * — EXISTING TREE
- * — EXISTING RIP RAP
- * — PROPOSED PERVIOUS PAVERS

GENERAL NOTES

1. ALL EXISTING INFORMATION TAKEN FROM SURVEY BY ANDERSON ENGINEERING, PROJECT NUMBER 14290S-1 DATED APRIL 4, 2016. BACKGROUND SURVEY ON THESE DRAWINGS IS FOR REFERENCE ONLY. REFER TO CERTIFIED SURVEY AS THE BASIS FOR ALL PROJECT WORK.
2. SUBSURFACE GEOTECHNICAL INVESTIGATION BY GEO ENGINEERING CONSULTANTS ON JANUARY 12, 2016 PROJECT # 016-0001-5391. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS INCLUDING LOCATIONS OF EXISTING PUBLIC AND PRIVATE UTILITIES AND NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO STARTING CONSTRUCTION.
3. CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS INCLUDING LOCATIONS OF EXISTING PUBLIC AND PRIVATE UTILITIES, AND NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO STARTING CONSTRUCTION.
4. ALL EXISTING UTILITIES AND OTHER IMPROVEMENTS ARE TO REMAIN UNLESS NOTED OTHERWISE.
5. CONTRACTOR TO PROTECT FROM DAMAGE ALL EXISTING IMPROVEMENTS, LANDSCAPING, STRUCTURES AND UTILITIES THAT ARE TO REMAIN. CONTRACTOR TO REPAIR ANY DAMAGE AT OWN EXPENSE.
6. ALL WORK TO CONFORM WITH CITY OF MINNETONKA AND STATE OF MINNESOTA STANDARDS AND REGULATIONS.
7. ALL EXCAVATIONS MUST COMPLY WITH THE REQUIREMENTS OF OSHA 29 CFR, PART 1926, SUBPART P "EXCAVATIONS AND TRENCHES". THIS DOCUMENT STATES THAT EXCAVATION SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
8. CATCHBASINS AND MANHOLES ARE SHOWN ON PLAN LARGER THAN ACTUAL SIZE. COORDINATE LOCATION OF MANHOLE COVER AND CASTING SO THAT IT IS PROPERLY LOCATED AT THE BACK OF CURBLINE FOR THE CURB INLETS OR CENTERED IN THE AREA AS SHOWN ON THE PLAN FOR THE AREA DRAINS AND MANHOLE COVERS.
9. FLARED END SECTIONS (FES) ARE SHOWN ON PLAN LARGER THAN ACTUAL SIZE. ALL PIPE LENGTHS INCLUDE FES. CONTRACTOR/SURVEYOR TO STAKE THE END OF FES FOR LOCATION.
10. PROVIDE TRAFFIC CONTROL AT STREETS AND SIDEWALKS PER CITY OF MINNETONKA AND MMUTCD REQUIREMENTS.
11. ANY WORK PERFORMED OUTSIDE THE PROPERTY BOUNDARIES MUST BE APPROVED BY OWNER AND ALL REGULATING GOVERNMENT AGENCIES AND APPROPRIATE PERMITS MUST BE OBTAINED.
12. WETLAND DELINEATION PERFORMED BY ANDERSON ENGINEERING ON APRIL 13, 2016 AE # 14221.

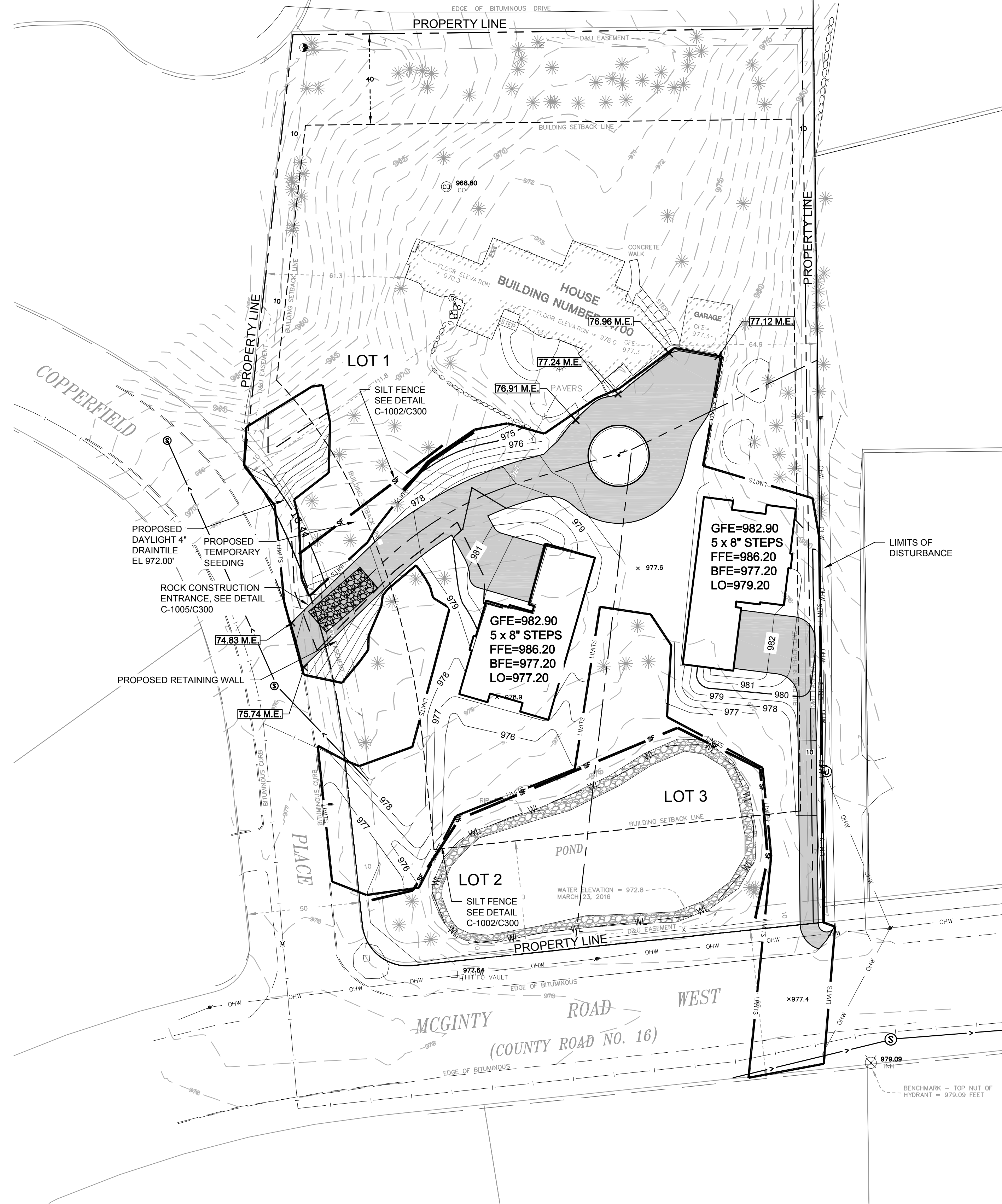
GRADING NOTES

1. PROPOSED SPOT ELEVATIONS AND CONTOURS ARE TO TOP OF GRADE, PAVEMENT OR GUTTER LINE, UNLESS OTHERWISE SPECIFIED.

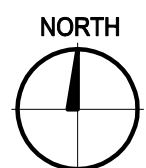
EROSION AND SEDIMENT CONTROL NOTES

1. CONTRACTOR TO RESTORE ALL AREAS OUTSIDE THE LIMITS OF PAVING WITH TEMPORARY SEEDING. COORDINATE WITH OWNER.
2. INSTALL PERIMETER AND SEDIMENT CONTROL ITEMS PRIOR TO CONSTRUCTION.

SEE TREE PRESERVATION PLAN FOR TREE REMOVALS



1 GRADING, DRAINAGE, EROSION AND SEDIMENT CONTROL PLAN



C200

0 30' 60' 90'

1" = 30'

Planners and Engineers 763.559.9100
2300 Berkshire Lane N, Suite 200 www.vaaeng.com
Plymouth, MN 55441 info@vaaeng.com

CLIENT:
MAYFAIR LOFTS LLC.
4931 WEST 35TH ST
ST. LOUIS PARK, MN 55416

CLIENT PROJECT NO:

PROJECT:
**MAYFAIR AT COPPERFIELD
FIRST ADDITION**

NO	DATE	ISSUE/REVISION	BY
0	08/19/16	PRELIMINARY PLAT APPLICATION	MAP

CERTIFICATION:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.

Signature: _____ Date: _____
Printed name: _____ Reg. No.: _____
My license renewal date is: _____
Pages or sheets covered by this seal: _____

NOTICE: THE DESIGNS SHOWN AND DESCRIBED HEREIN INCLUDING ALL TECHNICAL DRAWINGS, DETAILS, DEVELOPMENTS, SPECIFICATIONS AND MODELS THEREOF, ARE THE EXCLUSIVE PROPERTY OF VAA, LLC AND CANNOT BE COPIED, DUPLICATED, REPRODUCED OR COMMERCIALY EXPLOITED, IN WHOLE OR IN PART, NOR CAN ANY DERIVATIVE WORK BE MADE UNLESS EXPRESSLY AUTHORIZED IN WRITING BY VAA, LLC. COPYRIGHT VAA, LLC 2016 - ALL RIGHTS RESERVED.

DATE: 08/19/16	DRAWN: MAP	
DESIGNED: AMB	CHECKED: AMB	APPROVED: AMB

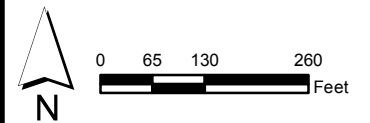
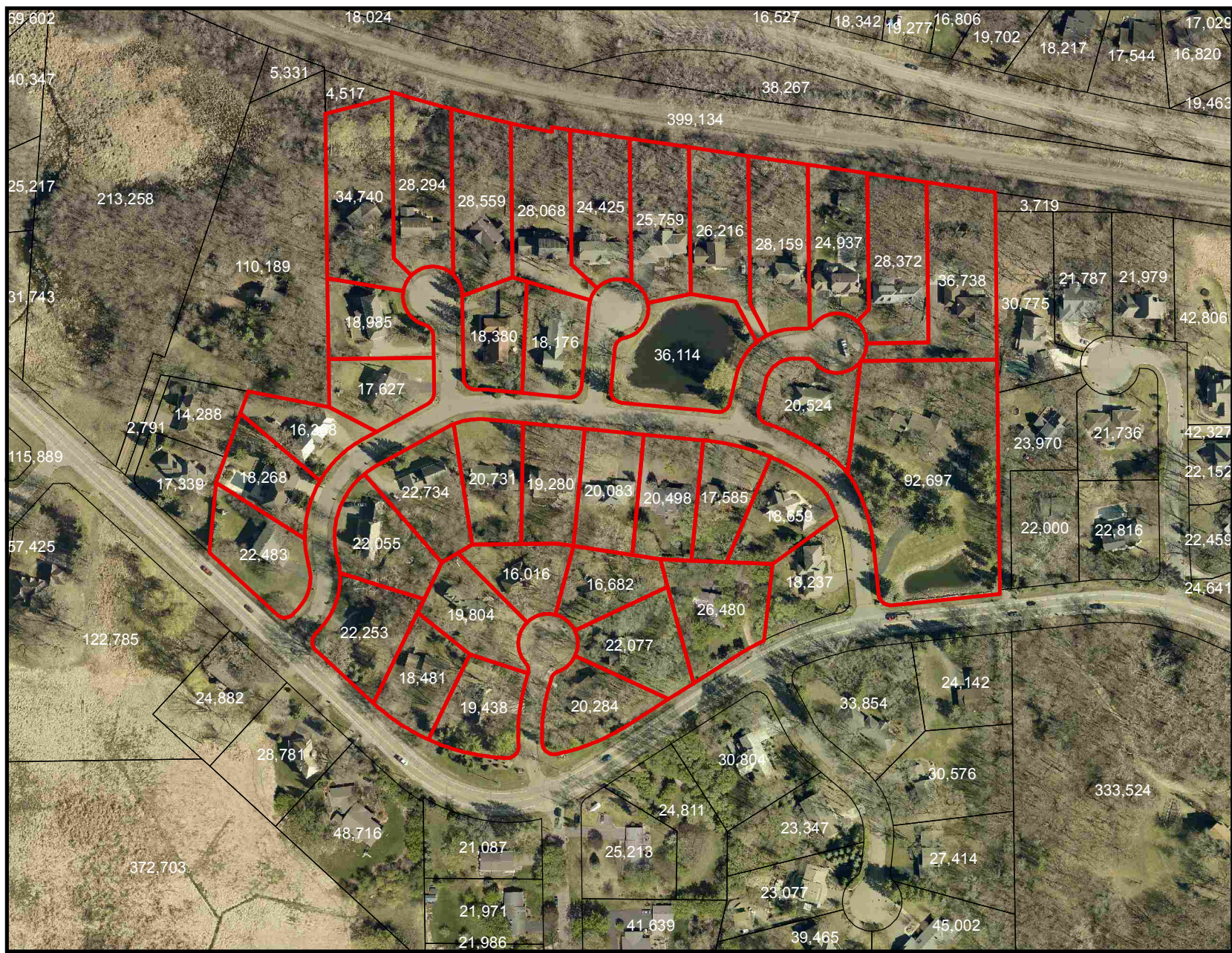
DRAWING TITLE:
**GRADING, DRAINAGE, EROSION
AND SEDIMENT CONTROL
PLAN -**

PROJECT NO: 160099	DRAWING NO: C200
SCALE: AS NOTED	MAYFAIR AT COPPERFIELD 14700 Copperfield Place 16.23.16a

**PRELIMINARY
NOT FOR CONSTRUCTION**



COPPERFIELD PLACE LOT SIZES



Not an accurate survey.
For illustration purposes only.

MAYFAIR AT COPPERFIELD
14700 Copperfield Place
16.23.16a

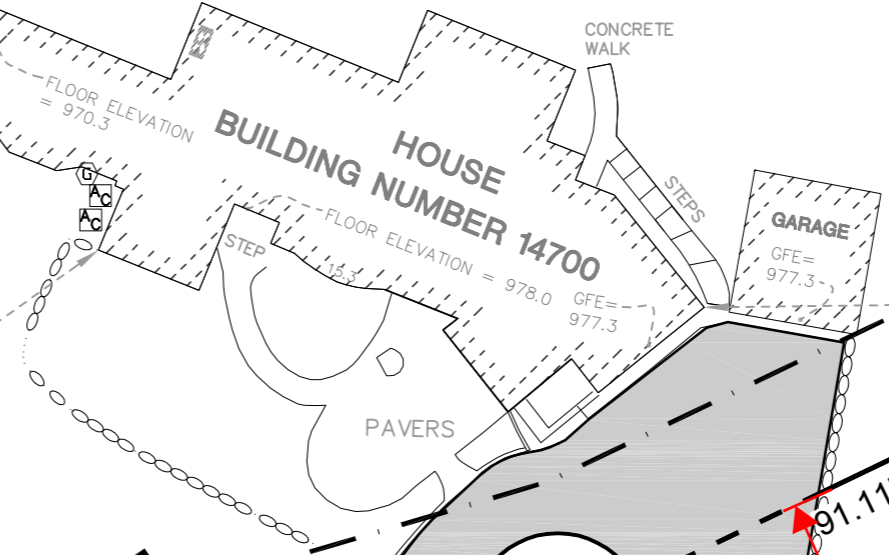
EDGE OF BITUMINOUS DRIVE

N89°17'00"E 230.00

D&U EASEMENT

LOT 1
48,175 SF

BUILDING NUMBER 14700



PROPOSED HOUSE

PROPOSED HOUSE

LOT 2
22,456 SF

LOT 3
22,288 SF

POND

WATER ELEVATION = 972.8
MARCH 23, 2016

COPPERFIELD

PROPOSED SITE ENTRANCE

PROPERTY LINE ADJUSTMENTS

MCGINTY

ROAD

WEST

A10 (COUNTY ROAD NO. 16)

MAYFAIR AT COPPERFIELD
14700 Copperfield Place

16.23.16a

EDGE OF BITUMINOUS DRIVE

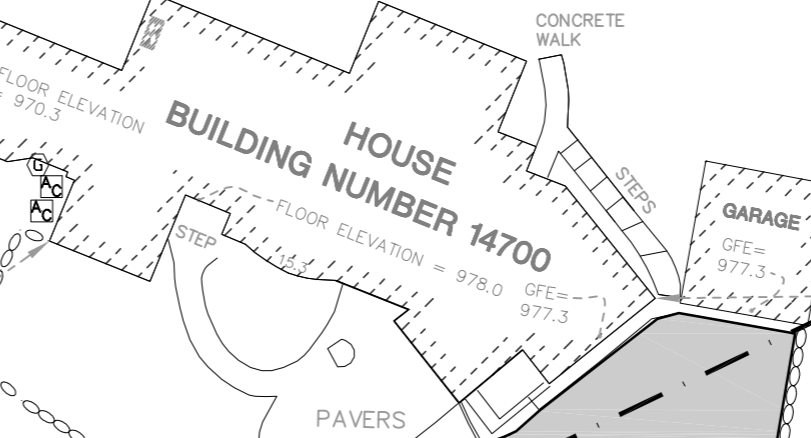
N89°17'00"E 230.00

SIDE

D&U EASEMENT

LOT 1
48,175 SF

REAR



COPPERFIELD

SIDE

FRONT

FRONT

SIDE

SIDE

REAR

PROPOSED HOUSE

PROPOSED HOUSE

REAR

SIDE

SIDE

LOT 2
22,456 SF

LOT 3
22,288 SF

FRONT

FRONT

FRONT

PROPERTY LINE DESIGNATIONS

MCGINTY

ROAD

WEST

A11 (COUNTY ROAD NO. 16)

MAYFAIR AT COPPERFIELD
14700 Copperfield Place

16.23.16a

Susan Thomas

From: Jim Canter
Sent: Wednesday, September 07, 2016 2:34 PM
To: Susan Thomas
Subject: Future Development at 14700 Copperfield Place

Dear Ms. Thomas

I am a homeowner in the Copperfield sub-division and am writing to express a concern re the proposed development at 14700 Copperfield Place. (East entrance to the sub-division.)

While I am not adverse to further development---the project as currently proposed would include the addition of 2 homes. My concern/question is what type of homes would be built and would they be consistent in both size and architecture with existing homes in the area? Seems to me that one additional home could fit in well and be complimentary to existing properties. However I question whether 2 homes could do that. Accordingly I urge the Planning Committee consider requiring the developer to scale back the project plan.

I will appreciate it if you will forward my concerns to the appropriate Planning Committee and Council members for their consideration. Should you have any questions I can be reached at

Thank you in advance.....

Jim Canter
2700 Chadwell Circle
Minnetonka, 55391

Susan Thomas

From: Kathleen Parrish
Sent: Tuesday, August 30, 2016 2:39 PM
To: Susan Thomas
Cc: Paul Parrish
Subject: Future development 14700 Copperfield Place

Dear Ms. Thomas

We are writing with concerns regarding a proposed development located on Copperfield Place. This development is directly across the street from our home located at (14701 Copperfield Place). Our concerns are with the addition of two homes planned for this site.

We are not opposed with future development. In fact, we envision a home, situated between the pond and the existing house, fitting in very nicely with the surrounding neighborhood. But, with the addition of two homes rather than one, it would seem to compromise the acreage per home that Minnetonka so highly values.

We will be out of the country when this development comes to the council and would appreciate you presenting our concerns to the council and the planning board.

Thanking you in advance,

Paul and Kathy Parrish
14701 Copperfield Place
Minnetonka, MN 55391

Resolution No. 2016-

**Resolution approving the preliminary plat of
MAYFAIR AT COPPERFIELD at 14700 Copperfield Place**

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

Section 1. Background.

- 1.01 VAA Engineering, on behalf of the Mayfair Lofts Holding Co, is requesting preliminary plat approval of MAYFAIR AT COPPERFIELD. The three-lot subdivision includes a lot access variance for proposed Lot 3.
- 1.02 The property is located at 14700 Copperfield Place. It is legally described as Lot 22, Block 1, COPPERFIELD.
- 1.03 On October 6, 2016, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council grant preliminary plat approval.

Section 2. General Standards.

- 2.01 City Code §400.030 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution. One of the standards requires that all lots within a plat must have frontage on the public right-of-way from which the lot will have access.

- 2.02 City Code §400.055 states that the city may approve a variance from subdivision requirements. A variance may be granted, but is not mandated, when the applicant meets the burden of proving that:
1. The proposed variance is a reasonable use of the property, considering such things as:
 - a) functional and aesthetic justifications for the variance; and
 - b) improvement to the appearance and stability of the property and neighborhood.
 2. The circumstances justifying the variance 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 variance would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

- 3.01 But for the access location of proposed Lot 3, the proposed preliminary plat would meet the design requirements as outlined in City Code §400.030.
- 3.02 The proposal would meet the variance standard as outlined in City Code §400.055.
1. Reasonable Use. The applicant proposed to access Lot 3 via a shared private driveway from Copperfield Place. This proposed access is reasonable. It would: (1) create a small neighborhood setting, essentially around a small cul-de-sac; (2) reduce access points onto the more travelled county road; and (3) reduce conflict between driveways on the county road.
 2. Unique Circumstances. The subject property is over two acres in size with frontage on both a city and county roadway. Driveway access could be gained via the county roadway; in such arrangement, no variance would be required. However, the applicant proposes to utilize a shared drive from the city roadway. Taken together, the size, situation, and ability to be divided without variance constitute a unique circumstance not similar to other residential properties in the area.

3. Neighborhood Character. The existing Copperfield area includes several cul-de-sacs surrounded by lots with varying amounts of frontage on the public street. The proposed access would not negatively impact this existing character. Though accessed via a private driveway rather than a public cul-de-sac, the proposal would result in a development pattern similar to the existing.

Section 4. Council Action.

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

1. Final plat approval is required. A final plat will not be placed on a city council agenda until a complete final plat application is received.
 - a) The following must be submitted for a final plat application to be considered complete:
 - 1) A revised final plat drawing that clearly illustrates the following:
 1. Dedication of seven feet of right-of-way adjacent to McGinty Road West and corresponding shift of the north property lines of proposed Lots 2 and 3 to ensure each lot contains a minimum of 22,000 square feet.
 2. Minimum lot width of 110 feet at required setback and 80 feet in width at public right-of-way.
 3. Minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines.
 4. Utility easements over existing or proposed public utilities, as determined by the city engineer.
 5. Drainage and utility easements over wetlands, and stormwater management facilities, as determined by the city engineer.

- 2) Documents for the city attorney's review and approval. These documents must be prepared by an attorney knowledgeable in the area of real estate.
 1. Title evidence that is current within thirty days before release of the final plat.
 2. Conservation easement over the Manage-2 wetland and required 16.5 foot wetland buffer and a drawing of the easement. The easement may allow removal of hazard, diseased, or invasive species. City staff may allow surface stormwater practices in the easement, provided those areas are established with native vegetation.
 3. A private driveway easement between the public right-of-way and all of the lots within the development. The easement must state the maintenance responsibilities of each owner. The easement must be 20 feet wide. The driveway must be at least 16 feet wide.
 4. Private utilities easement for any private utilities crossing properties lines.
2. Prior to final plat approval:
 - a) This resolution must be recorded with Hennepin County.
 - b) The documents outlined in section 4.01(1)(a)(2) above must be approved by the city attorney.
3. Prior to release of the final plat for recording, submit the following:
 - a) Two sets of mylars for city signatures.
 - b) An electronic CAD file of the plat in microstation or DXF.
 - c) Park dedication fee of \$10,000.
4. Subject to staff approval, MAYFAIR AT COPPERFIELD must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:

- Site plan, dated August 19, 2016
 - Grading plan, dated August 19, 2016
 - Utility plan, dated August 19, 2016
5. A grading permit is required for construction of the shared driveway. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
- a) The following must be submitted for the grading permit to be considered complete.
- 1) Evidence of filing the final plat at Hennepin County and copies of all recorded easements and documents as required in section 4.01(1)(a)(2) of this resolution.
 - 2) An electronic PDF copy of all required plans and specifications.
 - 3) Three full size sets of construction drawings and sets of project specifications.
 - 4) Final grading, stormwater management, utility, tree mitigation plan, and wetland buffer plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
 - a. Final grading plan must:
 - Not include any rip-rap adjacent to the wetland or any wetland alteration except as permitted by ordinance.
 - b. Final stormwater management plan must meet the requirements of the city's Water Resources Management Plan, Appendix A. Design. The plan must:
 - Provide volume control, in full, for a one-inch rain event over the entirety of the site's impervious surface.

- Illustrate the total amount of abstraction that is provided through inclusion of the rain gardens.
 - Include water quality data verifying the conclusions of the stormwater narrative.
- c. Final utility plan must:
- Illustrate individual water and sewer services extended to each property.
 - In the event that the existing water and sewer service are no longer needed, illustrate removal of the existing service pipes back to the main. For water, the corporation stop must be turned off and the curb stop removed. For sewer, the wye must be cut out and sleeved.
 - Indicate that service connections will be made at the main. Extensive disturbance of the street may require full width resurfacing. Individual patching may not be allowed depending on number and location of street cuts.
 - Include a note that no fountains, aerators, or similar equipment is permitted within the wetland.
- d. Final tree preservation plans must:
- Illustrate removal of no more than 20 high- priority trees from combined sites. A tree will be considered removed if girdled, if 30 percent or more of the trunk circumference is injured, if 30% or more of the crown is trimmed, if an oak is trimmed between April 1st and July 15th, or if the following percentage of the critical root zone is compacted, cut, filled or paved: 30 percent of the critical root zone for all species, except 40 percent

for ash, elm, poplar species, silver maple and boxelder.

- Include a note that tree removal for the general site improvements (driveway, utility services, stormwater, etc.) may not occur until after issuance of a grading permit.
- e. Final tree mitigation plan must meet minimum landscaping and mitigation requirements as outlined in the ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions. The plan must:
- Indicate that any trees to be planted within the wetland buffer area are native species only and appropriate to the location proposed.
 - Illustrate that any deciduous trees to be planted will be located at least 15 feet from the road and coniferous trees at least 20 feet from the road.
 - Include three, two inch trees as mitigation for the three, non-native Colorado spruces that will be removed.
 - Include 55 feet of conifers for removal of tree #234.
- f. Final wetland buffer plan must:
- Include a planting list. Only native vegetation is allowed.
 - Include a note that, if the area is established through seeding, a qualified restoration company will maintain the seeded area for a minimum of three years or until fully established.

- Include a note that surface stormwater practices may be allowed by city staff within the buffer area provided those areas are established with native vegetation.
- 5) A copy of the approved MPCA NPDES permit.
 - 6) Evidence of closure/capping of any existing wells, septic systems, and removal of any existing fuel oil tanks.
 - 7) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
 - 8) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to construct streets and utility improvements, comply with grading permit, tree mitigation requirements, wetland buffer establishment, and to restore the site. One itemized letter of credit is permissible, if approved by staff. The city will not fully release the letters of credit or cash escrow until: (1) as-built drawings have been submitted; (2) a letter certifying that the streets and utilities have been completed according to the plans approved by the city has been submitted; (3) vegetated ground cover has been established; (4) required tree mitigation has survived one full growing season; and (5) the wetland buffer area seeding has been maintained for a minimum of three years or the area has been fully established.
 - 9) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
 - The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other

conditions of approval, or city code standards;
and

- If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.

10) All required administration and engineering fees.

6. Permits may be required from other outside agencies including, Hennepin County, the Minnehaha Creek Watershed District, and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
7. Prior to issuance of the grading permit, install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
8. The grading permit will cover construction of the driveway and any stormwater management facilities required at that time by the city engineer. Home sites must be custom graded in conjunction with the issuance of building permits for the proposed homes.
9. No grading, tree removal, or other site work is permitted until the grading permit has been issued.
10. Prior to issuance of a building permit for the first new house within the development, submit the following documents:
 - a) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - b) Proof of subdivision registration and transfer of NPDES permit.
11. Prior to issuance of a building permit for any of the lots within the development:
 - a) Submit the following items for staff review and approval:
 - 1) Final grading and tree preservation plan for the lot. The plan must:

- Be in substantial conformance with Grading Plan dated August 19, 2016.
 - Show sewer and water services to minimize impact to any significant or high-priority trees. No trees may be removed for installation of services.
- 2) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the sole discretion of staff, mitigation may be decreased.
- 3) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- b) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
- c) Install heavy duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
- d) Submit all required hook-up fees.
- e) Tree removal for the home construction may not occur until issuance of the building permit for each lot.

12. All lots and structures within the development are subject to all R-1 zoning standards. In addition:
 - a) Front, side, and rear property lines for each property are defined on Exhibit B of this resolution.
 - b) Minimum floor elevation is two feet above existing 100-year storm elevation.
 - c) New homes on proposed Lots 2 and 3 must be protected with a 13D automatic fire sprinkler system or an approved alternative system. This requirement is based on the narrow driveway easement and width. This condition may be eliminated by staff, but only if the driveway easement is increased to 26 feet in width, and the driveway is a 24-foot wide solid surface designed to support fire truck loading.
13. The city may require installation and maintenance of signs which delineate the edge of any required conservation easement. This signage is subject to the review and approval of city staff.
14. During construction, the streets must be kept free of debris and sediment.
15. The property owner is responsible for replacing any required landscaping that dies.
16. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 24, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

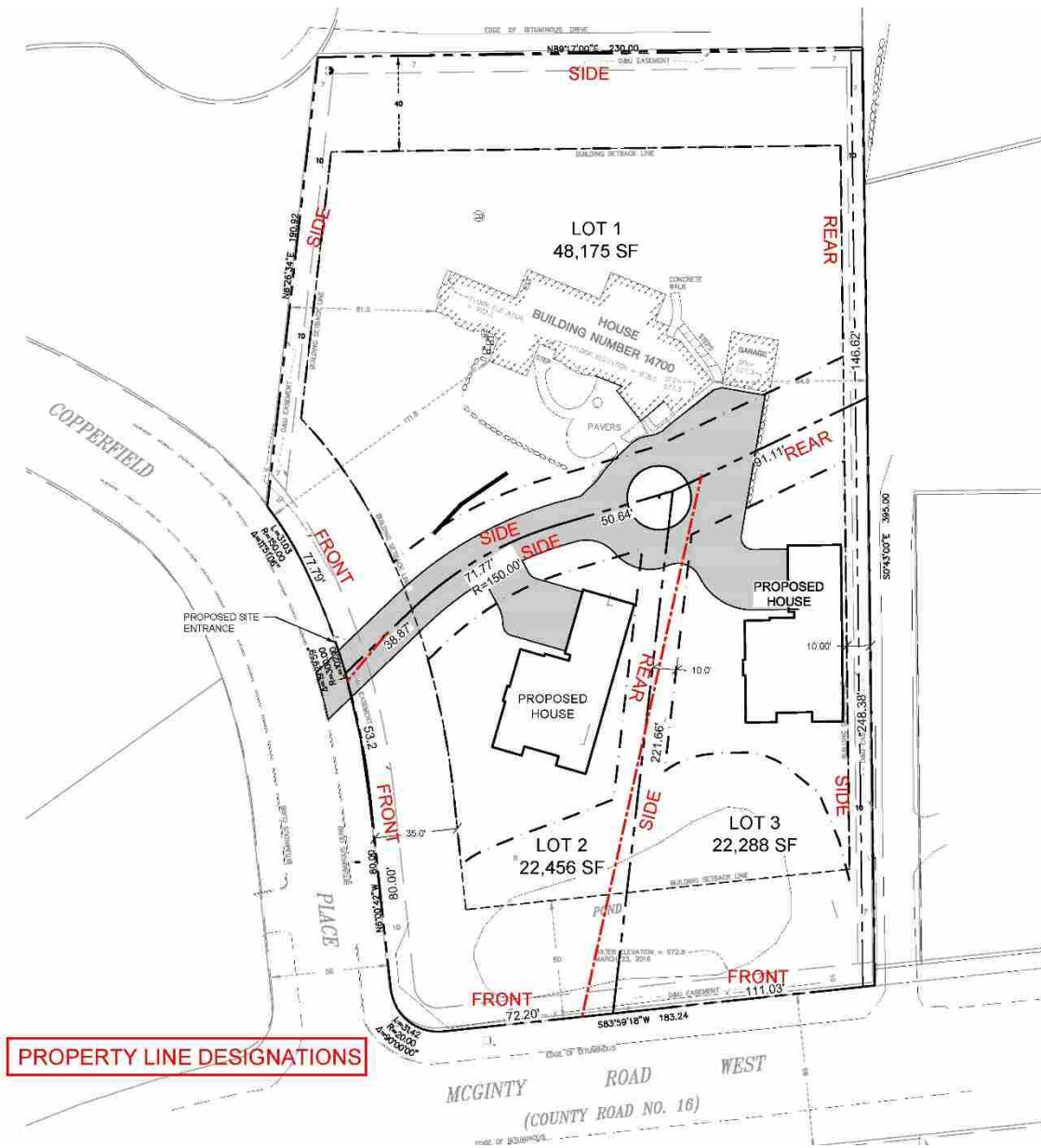
Absent:

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 duly authorized meeting held on October 24, 2016.

David E. Maeda, City Clerk

EXHIBIT B



MINNETONKA PLANNING COMMISSION
October 6, 2016

Brief Description	Items concerning The Enclave at Regal Oak, at 3639 Shady Oak Road and 3627 Regal Oak Lane: <ol style="list-style-type: none">1) Ordinance rezoning the properties from R-1 to PUD;2) Master development plan; and3) Preliminary and final plats
Recommendation	Recommend the city council adopt the resolution denying the requests.

Introduction

Airborne Construction One, LLC has submitted applications for subdivision of the properties at 3639 Shady Oak Road and 3627 Regal Oak. As proposed, the properties would be divided into five lots. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and four new homes would be constructed. (See page A1–A15.)

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 properties are located near the northeast corner of the Shady Oak Road/Regal Oak intersection. The 3639 Shady Oak Road property is roughly 2.2 acres in size. The existing home, constructed in 1960, is located near the highest point of the lot. Grade falls in all directions from this point; there is a 50-foot change in elevation from the highest to lowest point on the property. The 3627 Regal Oak property, on which a home was constructed in 1986, is 0.4 acres in size. It too contains a 50-foot change in elevation, with grade falling from south to north. In addition to mature oak, elm, and boxelder trees, both properties contain a mesic oak forest woodland preservation area (WPA). (See page A10.)
- **Proposed Lots.** The applicant proposes to divide the two existing properties into five, residential lots. The proposed five lots would range in size from 15,000 square feet to over 46,000 square feet. To accommodate the proposed range in lot size, the applicant requests the properties be rezoned to planned unit development (PUD) zoning. (See page A11.)

- **Site impacts.** Significant grading would occur to accommodate construction on the proposed lots and installation of required utilities and stormwater management facilities. (See page A12.)

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 proposed subdivision and staff's findings.

- **Is the use of PUD zoning appropriate?**

No. Under their current R-1 zoning classification, the 3639 Shady Oak Road and 3627 Regal Oak properties could likely be divided into a total of four lots. This number is based solely on possible lot area and configurations. It does not take into account grading, tree removal, and installation of utilities and stormwater management practices. The applicant is requesting that the properties be rezoned to PUD to allow for smaller lots and reduced setbacks. By city code, PUD zoning may be considered when the city finds that its use would result in one of several public benefits. The applicant suggests that the proposed subdivision would result in public benefit. (See pages A7–A9.) However, staff disagrees with this assessment.

Preservation. The applicant indicates they will place a significantly sloped, WPA in conservation easement. As proposed, the entirety of the 3639 Shady Oak Road site would be graded out and the vast majority of trees removed or significantly impacted. In staff's opinion, given the configuration of the site, the proposed PUD would not preserve trees in a greater amount or extent than would an R-1 subdivision. Further, a conservation easement could be dedicated under either PUD or R-1 zoning.

Main Floor Living/Price Point. The applicant indicates they will encourage main-floor living in at least three of the four new homes and intend a home price of roughly \$600,000. In staff's opinion, while good-intentioned, this encouragement will not ensure such construction.

Energy Conservation. The applicant indicates they will require use of geothermal systems in two of the four new homes. While interesting, staff does not believe the inclusion of such system warrants the additional lot that would be "gained" under PUD zoning.

Stormwater Management. The applicant proposes the use of infiltration basins and rain gardens. Staff notes that these stormwater practices are used throughout the community and would be a requirement of any development of the site under

any zoning designation. These are “typical” stormwater management technics, not an “innovative approach” as described in the developer’s project narrative.

- **Would denial of rezoning deny reasonable use of the properties?**

No. The city is legally obligated to allow reasonable use of a property; it is not obligated to allow maximum use. As currently configured, there are two residential lots on the east side of Regal Oak each containing a single-family home. This constitutes reasonable use of the site. In the event that a subdivision were proposed that met existing R-1 zoning standards, as well as the provisions of the tree protection ordinance, that too would constitute reasonable use of the properties.

Summary Comments

Staff recognizes that the 3639 Shady Oak Road property is significantly larger than other properties in the area and, given this, staff anticipates that the property will be subdivided at some time. However, the applicant’s specific proposal to rezone the site and create a total of five lots is not reasonable. The proposal would not result in a significant public benefit. Rather, it would simply result in creation of five lots on an area where four lots could otherwise be achieved.

Staff Recommendation

Recommend the city council adopt the resolution denying the requested rezoning, master development plan, and preliminary and final plats. (See page A18–A21.)

Originator: Susan Thomas, AICP, Assistant City Planner

Through: Loren Gordon, AICP, City Planner

Supporting Information

Surrounding Uses The subject properties are surrounded by single-family residential lots.

Surrounding Lots The properties within 400 feet of the subject properties and 1000 feet along Shady Oak Road have a mean average size of 27,635 square feet and a median average size of 23,079 square feet.

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

Concept Plan In July 2016, the city council conducted concept plan review for subdivision of the existing residential properties at 3639 Shady Oak Road and 3627 Regal Oak Lane. The plan contemplated division of the properties into six, single-family lots ranging in size from 8,600 square feet to 29,000 square feet. The council generally expressed that while single-level living was needed in the community, the proposed number of lots was too high. (See pages A1–A5.)

City Actions The proposal requires:

- **Rezoning.** The subject properties are currently zoned R-1. The applicant requests that the properties be rezoned to PUD.
- **Master Development Plan.** By city code, review and approval of a master development plan is required in conjunction with a rezoning to PUD.
- **Preliminary and Final Plats.** The unplatted property would require platting to achieve the five proposed lots.

Proposed Lots The PUD ordinance does not establish minimum lots sizes or dimensions. The following chart is for informational purposes only.

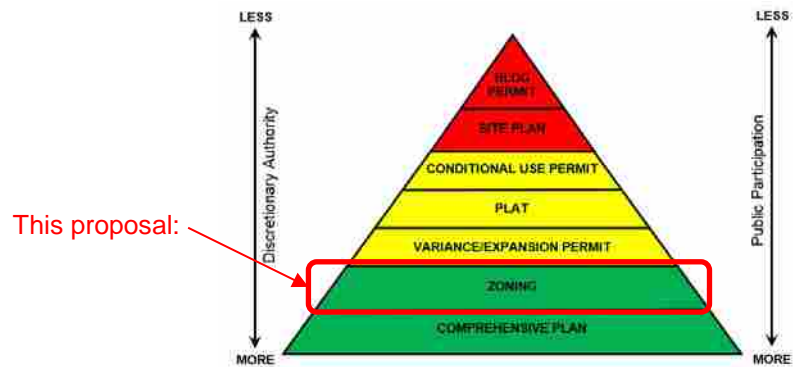
	Area		Width		Depth
	Total	Buildable	Right-of-way	Setback	
Lot 1	16,145 sq.ft.	5,765 sq.ft.	105 ft	110 ft	135 ft
Lot 2	15,020 sq.ft.	7,360 sq.ft.	90 ft	95 ft	140 ft
Lot 3	15,045 sq.ft.	6,365 sq.ft.	85 ft	95 ft	135 ft

Lot 4	22,285 sq.ft.	9,430 sq.ft.	90 ft	95 ft	165 ft
Lot 5	46,100 sq.ft.	11,475 sq.ft.	110 ft	120 ft	325 ft

All numbers rounded down to nearest 5 ft. or 5 sq. ft.

- Grading** Significant grading would occur to accommodate the proposed home sites and installation of utilities and stormwater management practices. Up to twelve feet of excavation would occur on the southerly portion of the development and up to eight feet of fill in the northerly portion. (See page A12.)
- Stormwater** As proposed, runoff from the site would be directed to one of three stormwater management areas, two raingardens which would be constructed adjacent to Regal Oak or an infiltration basin constructed along the northeast property line. It should be noted that staff has several concerns about this larger area. As designed, it would be taking run-off from Arbor Lane to the east. This road runoff would be considered “public runoff” and, as such, the area would need to consider a “public” facility. Access to the facility would have to be given over the *proposed* development site. However, given the significant topography, access would be extremely difficult. (See page A12.)
- Utilities** Public water, sanitary, and storm sewer facilities are available to the site from both Shady Oak Road and Regal Oak.
- NR Ordinances** The city has several natural resource protection ordinances, including: shoreland, wetland, and tree protection, and steep slope regulations. These ordinances attempt to balance the community benefit of preserving natural resources with private development rights. The properties are subject to the tree ordinance. The ordinance regulates tree removal and mitigation. The highest level of protection is provided to woodland preservation areas (WPA) and high-priority trees during subdivision of property. In such cases, just 25 percent of WPA and 35 percent of high-priority trees may be removed or impacted. The proposal would result in removal of, or substantial impact to 15 percent of the WPA. It would result in removal of, or damage to the critical root zones of, 55 percent of the high-priority trees located outside of the WPA. This would be exceed the allowable standard of the tree protection ordinance.
- Outside Agencies** The applicant’s proposal has been submitted to various outside agencies for review, including Hennepin County and Minnehaha Creek Watershed District.

Pyramid of Discretion



Motion Options

The planning commission has four options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the denying the proposal.
2. Disagree with staff’s recommendation. In this case, a motion should be made recommending the city council approve the requested rezoning, master development plan, and final site and building plans. This motion should include a statement as to why approval is recommended.
3. Concur with some of staff’s recommendations and disagree with the others. In this case a motion should be made recommending approval of the some and denial of the others. This motion must include a statement as to why denial is recommended.
4. 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 notice to 116 area property owners and has received one written comment. (See page A17.)

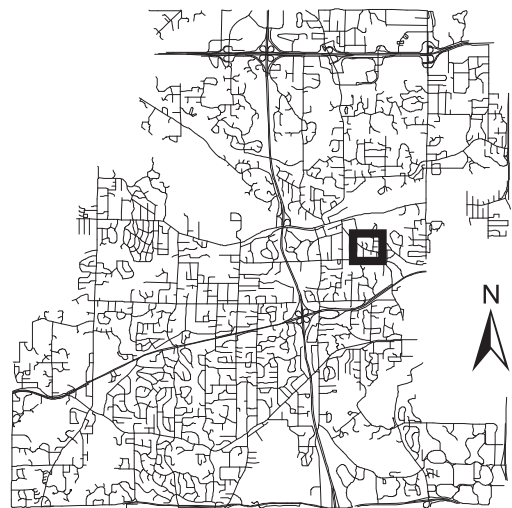
Deadline for Action

December 5, 2016



Location Map

Project: Enclave at Regal Oak
 Applicant: Airborne Construction One LLC
 Address: 3639 Shady Oak Rd
 Project No. 16007.16b

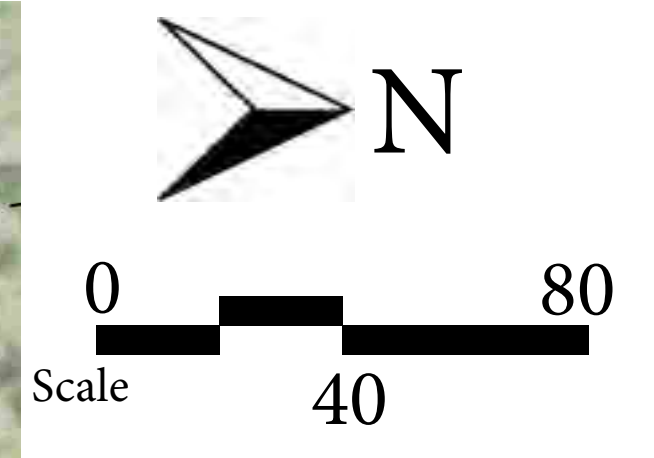


This map is for illustrative purposes only.

CONCEPT PLAN

Enclave At Regal Oak - Concept Plan

Setbacks:
 Front: 20'
 Side: 10'
 Rear: 35'



Larry Barenbaum, a partner at Big Top Liquors in Ridge Square, clarified that the business pays rent on over 8,500 square feet, not 5,000 as the previous speaker mentioned. Total Wine has changed the scope of the business for the better. The consumer benefits by the incredible operation that he has witnessed. There have been improvements over the years to address safety concerns caused by traffic. America provides a competitive retail world. Haskell's is a good retailer in this city and knows how to compete to make it better for their customers. He has a high level of regard for everyone he has dealt with at Total Wine.

The public hearing was closed.

Wiersum moved, Bergstedt seconded a motion to continue the public hearing to September 12, 2016. All voted "yes." Motion carried.

14. Other Business:

A. Concept plan review for The Enclave at Regal Oak, 3639 Shady Oak Road

City Planner Loren Gordon provided the staff report.

In response to Wagner's question, Gordon answered that the surrounding lot sizes are generally the same as the standard for an R-1 single-family lot.

Roger Anderson, owner of Anderson Engineering representing the applicant, stated that he likes the site because it has a flow to it. The utilities are there, it is a nice street, and the drainage would work. The product is one that buyers want. Residents love to stay here. Housing to allow downsizing is needed for empty nesters and those who travel south for the winter. The basements would generally be lookouts with a bedroom for the grandchildren. There would be a snow and mow association. The grading and storm water on individual sites would be done to allow capture of roof drainage and minimize the size of the pond. There is an existing gully that could route runoff to a pond to control erosion.

Michael Halley, builder for the applicant, stated that the proposed houses would be from 1,400 square feet to 1,700 square feet on the main floor. The average buyer would be in their 70s and have lived in the city 30 years. Three of the five houses would be geothermal. Large trees would be planted to provide privacy. He has met with neighbors who live on Regal Oak. If the property would be divided into three lots, then the amount of square footage created would be equal to what would be created by the proposal of five smaller houses. There are not a lot of

options in the city to provide this product that would be affordably priced around \$650,000.

Schneider disclosed that he previously worked with Anderson Engineering on projects.

Allendorf's first reaction was that the proposal would not fit. Then he considered the need for diversity of housing types. The proposal would provide needed housing.

Bergstedt had a reaction similar to Allendorf's reaction. Councilmembers and planning commissioners felt the original proposal's 10 lots would be too dense. There is a need for this type of housing and diversification. He still has a problem with five lots. He would be more comfortable with four lots so that the subdivision would fit in better with the surrounding area and provide diversified housing.

Wagner acknowledged that the one-level housing type is needed. An 11,000-square-foot lot would make him pause. The concept is good. The conservation easement and storm water management would be great.

Ellingson thought that a floor-area ratio (FAR) requirement might be appropriate. Providing housing for young families is a priority. A house priced at \$650,000 seemed high to be considered affordable. He did not see a real justification for a planned unit development. Five lots would not fit in the neighborhood.

Schneider sees a need for single-floor living for seniors. The conservation easement reduces the overall size of the lots. An 8,600-square-foot lot is probably pushing too hard to make the proposal work. He could see four lots. The lot to the northwest would be significantly larger than the rest. The five lot proposal would be a hard sell.

Allendorf heard from seniors who want single-story living in Minnetonka. It is a needed housing type.

Cheryl Smith, 3624 Arbor Lane, stated that the size of the lots would be out of character with the neighborhood. She moved here because she loves the wildlife. There are currently a lot of water issues. There is a hill between Lots three and four. Her lot is downhill of the proposal and has a drainage pipe. The houses on her side of the street sell for \$350,000. She requested councilmembers consider the proposal carefully.

FORMAL
APPLICATION

PROJECT NARRATIVE FOR “ENCLAVE” AT REGAL OAK

Minnetonka, MN

Development Narrative

As the developer and land owner of the proposed “Enclave” at Regal Oak, we offer the following information to assist in your plan review. We propose to develop the property into a four-lot single family home development in accordance with the City of Minnetonka’s Planned Unit Development (PUD) Zoning ordinance. The following information is for the City’s consideration:

- I. Four (4) single family homes are proposed on the 2.25 acre parcel. An area of 0.75 acres is proposed to be preserved with a conservation easement so that the existing woodlands may remain intact.

The conservation easement dedication meets the City of Minnetonka Code of Ordinances Chapter 3 Zoning Regulations, Section 300.22 PUD item #2A “Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development”.

- II. The developer hopes to achieve diversity of curb appeal consistent with the City of Minnetonka’s existing varied housing styles rather than a monotone look. This will also allow prospective homeowners a range of options for the exterior design of their home.
- III. In consideration of the concept plan as proposed, the developer will encourage that at least three of the four homes be designed and built with a main floor master bedroom. As the City is aware, main floor living design for new construction in Minnetonka is in short supply. The preliminary market research indicates a need for homes that will be purchased by “empty nesters” looking to downsize to a home that meets a lifestyle of minimal maintenance, one-story living, with room for the relatives on occasion, and the ability to have the home unattended when owner travels. This may include a “snow and mow”: type of a homeowner association to provide the most efficient services.

In effort to keep the neighborhood housing type uniform, the proposed PUD is intended to moderate housing builds. 3639 Shady Oak Road lays within an R1 neighborhood. With the present R1 zoning requirements, three \$1,000,000 would likely be constructed

and these homes would be out of place within the established neighborhood. Nearby homes within the adjacent cul-de-sac have property values between \$250,000 and \$600,000 while the homes bordering the proposed development on the west side of the site have property values in the range of \$175,000 - \$300,000. The proposed PUD is intended for \$600,000 homes for high income retirees, as these homes conform to the established economical neighborhood.

The target housing market meets the City of Minnetonka City of Ordinances Chapter 3 Zoning Regulations, Section 300.22 PUD item #2C "Provision of a housing type or target housing price that is desirable to the city" and item #2E "Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts".

- IV.** Recognizing that every efficiency is a city priority, and in consideration of the four-lot design, the developer will require that energy conservation items not be limited to code required items, but we will encourage builders and buyers to construct homes with geothermal heating and cooling systems, networked energy monitoring and control systems, and other energy reducing items. Two of the four homes will be required to have geothermal systems.

The energy conservation provisions meet the City of Minnetonka Code of Ordinances Chapter 3 Zoning Regulations, Section 300.22 PUD item #2F "Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development".

- V.** The developer offers an innovative approach to the management of stormwater. We are intending to minimize the use of ponding and reduce grading by constructing a bioretention basin for storm water treatment. The infiltration area will handle the specified storm events and was designed to provide needed rate control for large storm flows. This will also provide for periodic ponding to attract wildlife, a request of the neighbors during the concept plan review.

We also have provided small infiltration basins in the front yard areas to manage roof and front yard drainage entering the street. These areas will be "rain gardens" and appear to be mulch landscape areas, but with a hidden function of infiltrating storm water runoff.

- VI.** The developer intends to maintain control of the designs, orientation, size and exterior finishes of the homes by limiting the selection of builders. We will control review and approval of all proposed building plans, and insure the construction is maintained to the standards shown in the attached concept house plans.

In conclusion, we request that the City consider the multiple creative benefits proposed by the developer of this project during your discussion and review of the plans.

Preliminary Development Data

Existing Zoning:

Zoning: R-1

Proposed Design Parameters:

Zoning: PUD (with R-1A requirements)

Setbacks: Front: 25'

Side: 10'

Rear: 35'

Lot 1: 16,149 Square Feet
0.37 Acres

Lot 2: 15,024 Square Feet
0.34 Acres

Lot 3: 15,048 Square Feet
0.34 Acres

Lot 4: 22,289 Square Feet
0.51 Acres

Lot 5:
(Existing Home) 46,111 Square Feet
1.06 Acres

Proposed Conservation
Easement: 32,826 Square Feet
0.75 Acres

Total: 114,621 Square Feet
Lot Size 2.63 Acres

HUNTINGDON POND

REGAL OAK 2ND

ADDITION

REGAL OAK LANE

THE SOUTHWEST CORNER THE WEST 130 FEET OF THE EAST 361 FEET OF THE NORTH 25 ACRES OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER LING NORTH OF SHADY OAK ROAD

THE WEST LINE OF THE WEST 130 FEET OF THE EAST 361 FEET OF THE WEST 115 ACRES OF THE NORTH 25 ACRES OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER

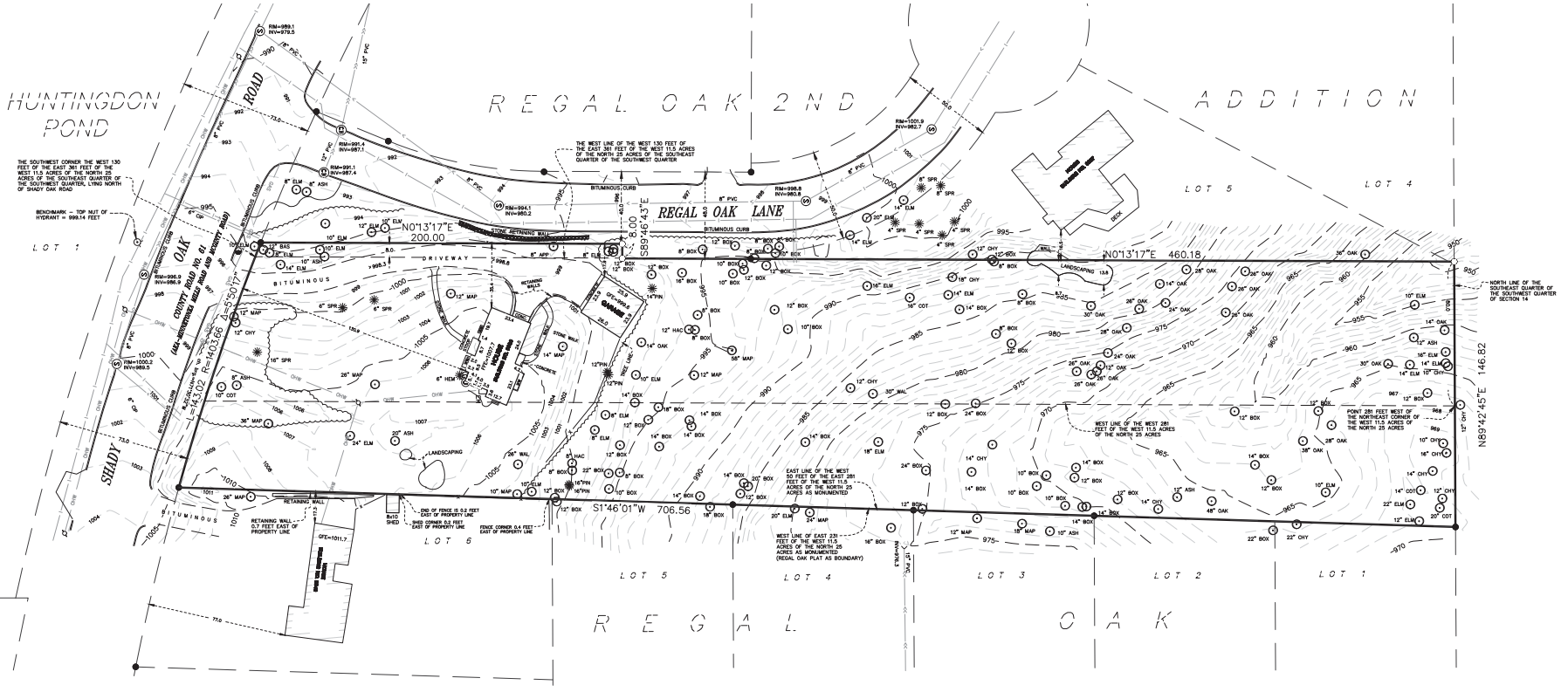
N013°17'E 460.18

NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14



TREE LEGEND

COT	COTTONWOOD
MPL	MAPLE
HAC	HACKBERRY
CHY	CHERRY
BOX	BOX ELDER
BIR	BIRCH
ASH	ASH
OAK	OAK
ELM	ELM
BAS	BASSWOOD
SPR	SPRUCE
HEM	HEMLOCK
PIN	PINE



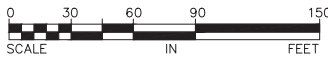
AIRBORNE CONSTRUCTION ONE, LLC.

SURVEY FOR: AIRBORNE CONSTRUCTION ONE, LLC.
 PROPERTY ADDRESS: 3639 Shady Oak Road, Minnetonka, Minnesota.

LEGAL DESCRIPTION:
 That part of the West Eleven and one-half (11½) acres of the North Twenty-five (25) acres of the Southeast one-quarter (SE¼) of the Southwest one-quarter (SW¼) of Section Fourteen (14), Township One Hundred Seventeen (117), North Range Twenty-two (22), West of the 5th Principal Meridian, bounded by a line beginning at a point in North line of West Eleven and one-half (W 11½) acres of the North Twenty-Five (25) acres of the Southeast one-quarter (SE¼) of the Southwest one-quarter (SW¼) of said Section Two Hundred Eighty-one (281) feet West of the Northeast corner of said West Eleven and one-half (W 11½) acres; thence West Eighty (80) feet; thence South along a line parallel with the East line of said Eleven and one-half (11½) acre tract to the North line of the Minnetonka Mills Road; thence Easterly along the North line of said Road to a point Two Hundred Eighty-one (281) feet West of East line of said Eleven and one-half (11½) acre tract; thence North along a line parallel with the East line of said Eleven and one-half (11½) acre tract to the point of beginning.

Also, the West Fifty (50) feet of the East Two Hundred Eighty-one (281) feet of that part of the West Eleven and fifty one hundredths (11.50) acres of the North Twenty-five (25) acres of the Southeast one-quarter (SE¼) of the Southwest one-quarter (SW¼) of Section Fourteen (14), Township One Hundred Seventeen (117), Range Twenty-two (22), lying North of the County Road No. Seventy-one (71) (McGinty Road), according to U.S. Government Survey.

Beginning at the Southwest corner of the West 130 feet of the East 361 feet of that part of the West 11½ acres of the North 25 acres of the Southwest Quarter of the Southwest Quarter of Section 14, Township 117, Range 22, lying North of Shady Oak Road (County Road No. 61); thence Northwesterly along the Northeasterly line of said road to a point distant 8 feet West at right angles of the West line of the said West 130 feet; thence North and parallel with the West line of the said West 130 feet a distance of 200 feet; thence East and parallel to the North line of the Southeast Quarter of the Southwest Quarter of said section a distance of 8 feet; thence South along the West line of the West 130 feet to the point of beginning, according to U.S. Government Survey.



CERTIFICATION:
 I hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.
 Dated: May 3, 2016
 Anderson Engineering of Minnesota, LLC
 by: *Jack Bolke*
 Jack Bolke
 Minnesota License No. 20281

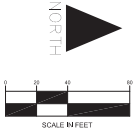
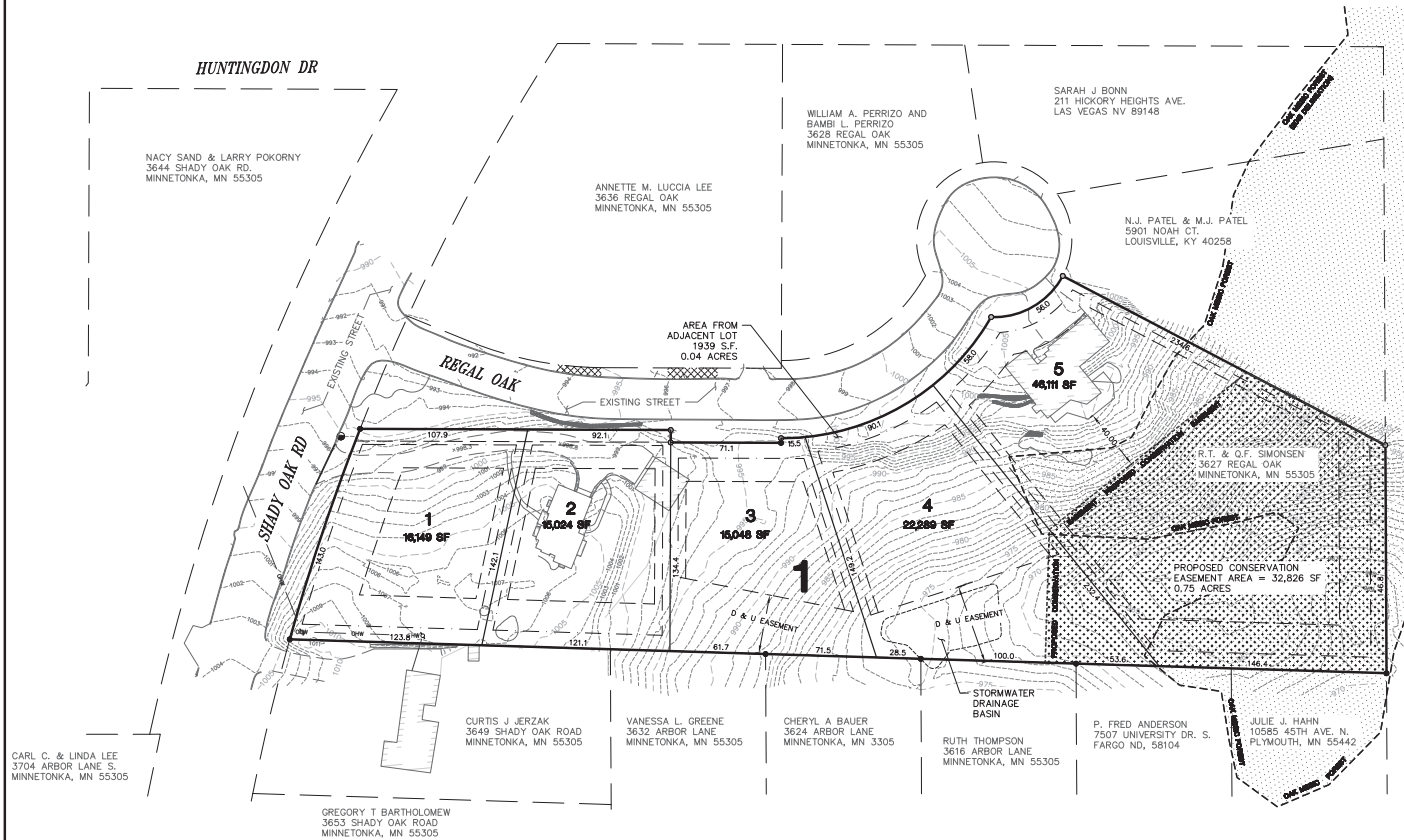
- NOTES:**
- The horizontal datum and bearings are based on the Hennepin County Coordinate System.
 - The vertical datum is NAVD 88. The site benchmark is the top nut of hydrant located 68 feet south of the southwest corner of the subject property on the south side of Shady Oak Road. Elevation = 999.14.
 - The area of the property described hereon is 95,489 square feet or 2.1921 acres.
 - The location and extent of underground utilities, if shown, are based upon existing drawings provided by the utility companies, above ground evidence and Gopher State One Call markings per ticket number 161023298. There is no guarantee as to the accuracy or the completeness of this information. The size and location should be considered approximate. Additional underground utilities may be present. Verification of the existence and location of all utilities should be obtained from the utility owners prior to any planning or design. In accordance with Minnesota Statute, the location of utilities shall be confirmed prior to any demolition or construction.
 - The tree information shown hereon was collected during the field survey by non-forestry trained Anderson Engineering of Minnesota survey personnel. Tree sizes are estimates and locations are accurate to plus or minus three feet.

LEGEND

- > CULVERT
- ⊕ CLEAN OUT
- ⊕ CATCH BASIN
- ⊕ COMMUNICATION JUNCTION BOX
- ⊕ ELECTRIC BOX
- ⊕ ELECTRIC OUTLET POST
- ⊕ ELECTRIC METER
- ⊕ ELECTRIC MANHOLE
- ⊕ GAS METER
- ⊕ HYDRANT
- ⊕ HANDHOLE ELECTRIC
- ⊕ LIGHT POLE
- ⊕ MANHOLE
- ⊕ POWER POLE
- ⊕ SANITARY MANHOLE
- ⊕ STORM MANHOLE
- ⊕ SIGN
- ⊕ STOP BOX
- ⊕ WINDOW WELL
- ⊕ TELEPHONE MANHOLE
- ⊕ WATER VALVE
- ⊕ CONIFEROUS TREE
- ⊕ DECIDUOUS TREE
- POWER POLE ANCHOR
- FENCE
- GAS — GAS MAIN
- OHW — OVERHEAD WIRES
- S — SANITARY SEWER
- S — STORM SEWER
- T — TELEPHONE
- UE — UNDERGROUND ELECTRIC
- W — WATER MAIN
- COMM — COMMUNICATION
- DENOTES FOUND IRON MONUMENT
- DENOTES SET IRON PIPE WITH P.L.S. NO. 20281

ANDERSON ENGINEERING
 ENGINEERING • ARCHITECTURE • LAND SURVEYING
 ENVIRONMENTAL SERVICES • LANDSCAPE ARCHITECTURE
 Anderson Engineering of Minnesota, LLC
 13605 1st Avenue North
 Suite 100
 Plymouth, MN 55441
 763-412-4000 (o) 763-412-4090 (f)
 www.ae-mn.com

PRELIMINARY PLAT OF: THE ENCLAVE AT REGAL OAKS



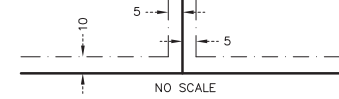
SITE DATA: EXISTING ZONING: R1 RESIDENTIAL PROPOSED ZONING: R1-A RESIDENTIAL ALTERNATIVE DISTRICT PROPOSED LOT DESIGN: MIN LOT SIZE: 15,000 SQFT MIN LOT WIDTH AT SETBACK: 75' MIN LOT DEPTH: 125' SETBACKS: FRONT: 25 FT (25' R1-A STREET) SIDE: 10 FT (25' CORNER LOT) REAR: 35 FEET OR 20% OF LOT DEPTH.	LOT TABULATION MIN. LOT AREA: 15,000 SQFT LOT 1: 16,149 SQFT (0.37 AC) LOT 2: 15,024 SQFT (0.34 AC) LOT 3: 15,048 SQFT (0.34 AC) LOT 4: 22,289 (0.51 AC) LOT 5: 46,111 (1.06 AC) PROPOSED CONSERVATION EASEMENT: 32,826 SQFT (0.75 AC)
--	---

LOT AREAS: 5 R1-A LOTS, 1 CONSERVATION EASEMENT LOT GROSS SITE: 2.63 AC. - LOTS 1-5 AND CONSERVATION EASEMENT RIGHT OF WAY: 0.00 AC. TOTAL: 2.63 AC. NET AREA (W/O CE): 1.96 AC. DENSITY: 5/1.96 = 2.55 UNITS/AC. AVERAGE LOT SIZE: 17,075 SF. AVG.

DRAWING DATA:
 DATA BASED ON SURVEY TAKEN BY ANDERSON ENGINEERING IN APRIL OF 2016.

SHEET	INDEX
C1	PRELIMINARY PLAT
C2	EXISTING CONDITIONS SURVEY
C3	GRADING AND EROSION CONTROL PLAN
C4	ROADWAY & UTILITY PLAN
C5	DETAIL PLAN
C6	TREE INVENTORY AND REMOVAL PLAN
C7	PRELIMINARY TREE REPLACEMENT PLAN
-	FINAL PLAT

TYPICAL: DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



BEING 10 FEET IN WIDTH AND ADJOINING RIGHT-OF-WAY LINES AND 10 FEET IN WIDTH AND ADJOINING LOT LINES UNLESS OTHERWISE SHOWN ON THIS PLAT.

LEGEND	
	PROPERTY LINES
	LOT LINES
	BUILDING SETBACK
	LOT LINES (EASEMENT)
	OAK MESSIC FOREST
	PROPOSED CONSERVATION EASEMENT

APPLICANT:
 ARBORNE CONSTRUCTION, LLC.
 ROGER ANDERSON
 13605 1ST AVE. N., SUITE 100
 PLYMOUTH, MN 55441
 PH. (763) 412-4000
 FX. (763) 412-4090

ENGINEER/SURVEYOR:
 DANE JASTER
 ANDERSON ENGINEERING OF MN
 13605 1ST AVE. N., SUITE 100
 PLYMOUTH, MN 55441
 PH. (763) 412-4000
 FX. (763) 412-4090

NO.	DATE	DESCRIPTION OF REVISIONS
1	8/22/16	PRELIMINARY PLAT, FINAL PLAT, AND REZONING APPLICATION

DESIGNED: DAJ	I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. PRINT NAME: DANE A. JASTER, P.E. SIGNATURE: NOT FOR CONSTRUCTION DATE: AUGUST 22, 2016. LICENSE # 49535
DRAWN: IJW	
CHECKED BY: DAJ	
DATE: 8/22/16	

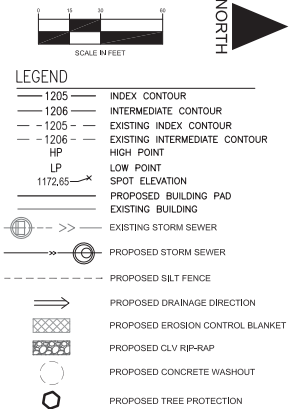
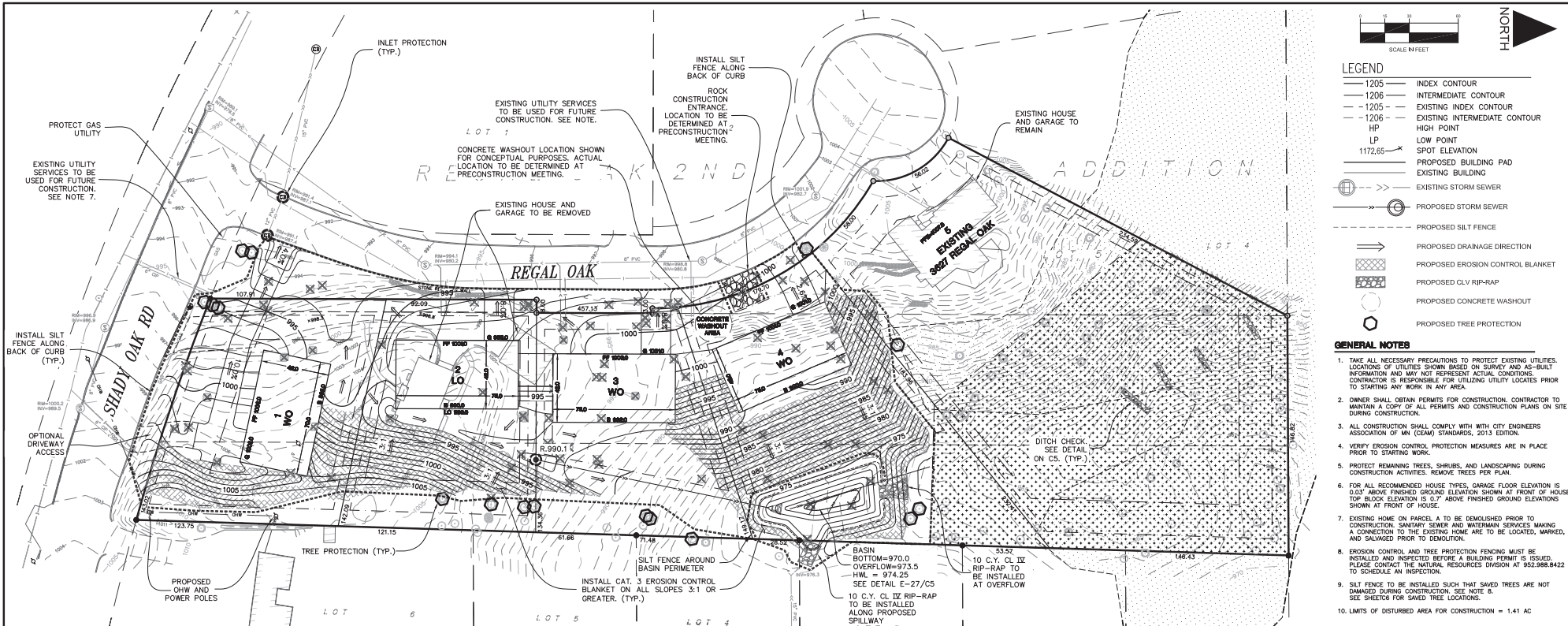
ANDERSON ENGINEERING
 ENGINEERING • ARCHITECTURE • LAND SURVEYING
 ENVIRONMENTAL SERVICES • LANDSCAPE ARCHITECTURE

Anderson Engineering of Minnesota, LLC
 13605 1st Avenue North
 Suite 100
 Plymouth, MN 55441
 763-412-4000 (p) 763-412-4090 (f)
 www.ae-mn.com

THE ENCLAVE AT REGAL OAKS MINNETONKA, MINNESOTA	PRELIMINARY PLAT	COMM. NO. 14300	PLOTTED: 8/22/16
		DRAWING NO. C1	

Y:\14300\14300 ARBORNE CONST ONE - 3639 SHADY OAK ROAD - MINNDWG-CSC02614300_P14T.dwg
 8/22/16 10:51 AM
 User: rjaster

11/13/2016 14:00:00 UNDESIGNED CONST ONE - 3639 SHADY OAK ROAD - W/UTILITY/CONCRETE/BLANKET/GRADING PLAN

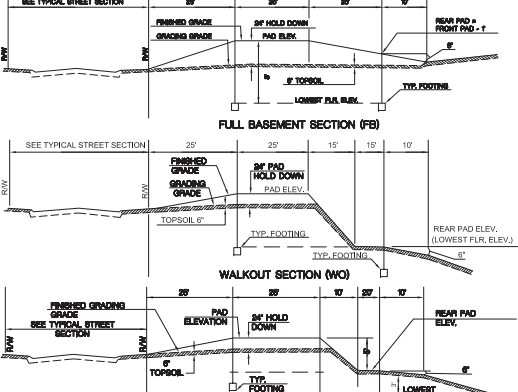
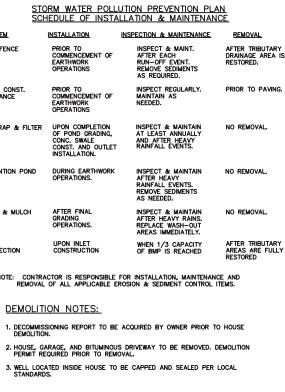


- STORM WATER POLLUTION PREVENTION PLAN NOTES:**
1. GRADING CONTRACTOR SHALL VERIFY LOCATIONS AND ELEVATIONS OF ALL UNDERGROUND UTILITIES WITH THE RESPECTIVE UTILITY COMPANIES PRIOR TO CONSTRUCTION.
 2. ALL EROSION CONTROL MEASURES CALLED FOR ON THESE PLANS AND SPECIFICATIONS, WHICH MAY INCLUDE SILT FENCE, SEDIMENTATION BASINS OR TEMPORARY SEDIMENT TRAPS, SHALL BE CONSTRUCTED AND SERVICED IN A MANNER OF 90 FEET.
 3. ROCK CONSTRUCTION ENTRANCES A MINIMUM OF 50 FEET.
 - A. SILT FENCE
 - B. TEMPORARY SEDIMENTATION BASINS AND OUTLET FACILITIES
 - C. TEMPORARY SEDIMENTATION BASINS AND OUTLET FACILITIES
 - D. STORM WATER POND CONSTRUCTION
 - E. CONCRETE WASHOUT AREAS (CONCRETE WASHOUT)
 - F. SEED AND MULCH OF SOIL
 - G. BED-RULL BARRIERS IN PAVED GRAZED AREAS
 - H. INLET AND OUTLET FACILITIES SUBSEQUENT TO STORM SEWER WORK
 4. GRADING CONTRACTOR SHALL PROTECT AND MAINTAIN ALL EROSION CONTROL MEASURES IN ACCORDANCE WITH CITY AND NEPA PHASE I PERMITTING REQUIREMENTS AS WELL AS EROSION CONTROL MEASURES AS MAY BE SHOWN ON THESE PLANS OR SPECIFICATIONS. GRADING CONTRACTOR SHALL IMPLEMENT ANY ADDITIONAL EROSION CONTROL MEASURES AS MAY BE REQUIRED TO PROTECT ADJACENT PROPERTY.
 5. ALL EROSION CONTROL FACILITIES SHALL BE MAINTAINED BY THE CONTRACTOR DURING GRADING OPERATIONS, ANY TEMPORARY FACILITIES WHICH ARE TO BE REMOVED AS CALLED FOR IN THESE PLANS AND SPECIFICATIONS SHALL BE REMOVED BY THE GRADING CONTRACTOR WHO DIRECTED BY THE ENGINEER. THE GRADING CONTRACTOR SHALL THEN RESTORE THE SUBSEQUENTLY DISTURBED AREA IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS.
 6. THE GRADING CONTRACTOR SHALL SCHEDULE THE SOILS ENGINEER SO THAT CERTIFICATION OF ALL CONTROLLED FILLS WILL BE FURNISHED TO THE OWNER DURING AND UPON COMPLETION OF THE PROJECT.
 7. ALL DISTURBED AREAS, EXCEPT AREAS TO BE PAVED AND/OR SPECIFICALLY DESIGNED BY A LANDSCAPE PLAN, SHALL BE COVERED WITH A MINIMUM 4" OF TOP SOIL. ALL DISTURBED AREAS SHALL BE SEED & MULCHED AT THE PRESCRIBED RATES WITHIN 72 HOURS OF FINAL GRADING UNLESS OTHERWISE NOTED.

SEED MIX:	SEED/ACRE: 25-141	SOIL/ACRE (DISP. ANCHORED): 20/ACRE
MULCH:	TYPE 1	TYPE 2
EROSION CONTROL BLANKET:	1500/ACRE	1500/ACRE (DISP. ANCHORED)
FERTILIZER:	100/ACRE	100/ACRE (DISP. ANCHORED)
 8. ALL EXPOSED SOIL AREAS WITH A CONTINUOUS POSITIVE SLOPE WITHIN 200 LINEAL FEET OF ANY SURFACE WATER, MUST HAVE TEMPORARY EROSION PROTECTION OR PERMANENT COVERS FOR THE EXPOSED SOIL AREAS NEAR ROAD, ACCORDING TO THE FOLLOWING TABLE OF SLOPES AND TIME FRAME.

TYPE OF SLOPE	TIME
STEEPER THAN 3:1	7 DAYS
10:1 TO 3:1	14 DAYS
FLATTER THAN 10:1	14 DAYS
 9. THE EXISTING TOPOGRAPHY AND CONTOUR ELEVATIONS SHOWN ON THE PLAN WERE TAKEN FROM A PLAN FURNISHED BY OWNER.
 10. CONTRACTORS GRADING AND EROSION CONTROL OPERATIONS SHALL TAKE PLACE WITHIN THE CONSTRUCTION LIMITS.
 11. IT IS REQUIRED THAT SOILS TRACKED FROM THE SITE BY MOTOR VEHICLES BE CLEANED DAILY FROM PAVED ROADWAY SURFACES THROUGHOUT THE DURATION OF CONSTRUCTION.
 12. PROVIDE TEMPORARY SEDIMENTATION BASINS AS DIRECTED BY THE ENGINEER.
 13. ALL REQUIREMENTS OF THE LOCAL WATERSEED DISTRICT SHALL BE SATISFIED FOR THE APPROVED PERMIT.

12. ALL DROPPED & SEDIMENT CONTROL MEASURES SHOWN ON THIS PLAN AND IMPLEMENTED IN THE FIELD AS DIRECTED BY THE ENGINEER SHALL CONFORM TO THE MPCA'S "PROTECTING WATER QUALITY IN URBAN AREAS: BEST MANAGEMENT PRACTICES FOR MINNESOTA".
13. REWATERING AND/OR BASIN GRASSING DISCHARGE SHALL BE DIRECTED TO SEDIMENTATION BASINS WHEREVER POSSIBLE. ALL DISCHARGE POINTS SHALL BE SECURELY PROTECTED FROM EROSION & SCOUR THROUGH USE OF APPROVED ENERGY DISSIPATION DEVICES.
14. ALL SOLID WASTE/ CONSTRUCTION DEBRIS SHALL BE DEPOSITED OF IN ACCORDANCE WITH MPCA REQUIREMENTS. HAZARDOUS MATERIALS SHALL BE STORED/ DISPOSED OF IN COMPLIANCE WITH MPCA REGULATIONS.
15. CONTRACTOR SHALL USE STABILIZATION METHODS FOR MOST 3:1 AS SEES DURING THE COURSE OF THE WORK TO MAINTAIN CONFORMANCE WITH THE CITY AND NEPA'S PERMIT REQUIREMENTS. THIS WORK SHALL CONSIST OF OPERATIONS NECESSARY TO RAPIDLY STABILIZE SMALL CRITICAL AREAS TO PREVENT OFF SITE EROSION TO COMPLY WITH PERMIT REQUIREMENTS. THE WORK MAY BE PERFORMED AT ANY TIME DURING THE CONTRACT AND DURING NORMAL WORKING HOURS. THIS WORK WILL BE CONDUCTED ON SMALL AREAS THAT MAY OR MAY NOT BE ACCESSIBLE WITH NORMAL EQUIPMENT. THIS WORK SHALL BE DONE IN ACCORDANCE WITH THE APPLICABLE MOST STRINGENT SPECIFICATIONS DETAILS SHOWN IN THE PLANS AND THE FOLLOWING:
 - 1. THERE ARE FIVE STABILIZATION METHODS APPROVED FOR THESE OPERATIONS. THESE METHODS MAY BE CONDUCTED INDEPENDENTLY OR IN COMBINATION.
 - METHOD 1: APPLY TYPE 1 MULCH AND TRACK WITH TYPE 5 HYDRAULIC SOIL STABILIZER
 - METHOD 2: APPLY TYPE 2 MULCH AND TRACK WITH TYPE 5 HYDRAULIC SOIL STABILIZER
 - METHOD 3: APPLY TYPE 1 MULCH AND TRACK WITH TYPE 5 HYDRAULIC SOIL STABILIZER
 - METHOD 4: HAND INSTALL SEED, FERTILIZER AND EROSION CONTROL BLANKET CATEGORY 3 METHOD 6C
 - METHOD 5: PLACE GEOTEXTILE AND RIP-RAP CLASS II IN VARIOUS CONFIGURATIONS
 - 2. THESE EFFORTS WILL BE IN ADDITION TO THE EROSION CONTROL BID ITEM.
16. CHANGE OF COVERAGE: FOR STORM WATER DISCHARGES FROM CONSTRUCTION PROJECTS WHERE THE OWNER OR OPERATOR CHANGES, (E.G. AN ORIGINAL DEVELOPER SELLS PORTIONS OF THE PROPERTY TO VARIOUS BUILDERS). THE NEW OWNER OR OPERATOR MUST SUBMIT A SUBMISSION REGISTERATION WITHIN 7 DAYS OF ASSUMING OPERATIONAL CONTROL OF THE SITE, COMMENCING WORK ON THEIR PORTION OF THE SITE, OR OF THE LEGAL TRANSFER, SALE OR CLOSING ON THE PROPERTY.
 - A. STIPED FIBER LOG BUILT AT BACK OF ALL CURB EXCEPT AT CONSTRUCTION/DROPPED ENTRANCE
 - B. SILT FENCE ON ALL DOWN GRADIENT SLOPES FROM CONSTRUCTION AREA. SILT FENCE SHALL HAVE THE BOTTOM DITCH IN WITH SOIL FIRMLY COMPACTED.
 - C. ROCK CONSTRUCTION ENTRANCE HAVING 1" TO 2" CLEAR ROCK OVER GEOTEXTILE FABRIC.
 - D. STREET CLEANING AS MAY BE REQUIRED SHOULD VEHICLE TRACKING OCCUR.
17. INDIVIDUAL SITE BUILDERS SHALL BE RESPONSIBLE FOR PROVIDING ANY AND ALL NECESSARY EROSION CONTROL MEASURES AS MAY BE REQUIRED. REQUIRED ERM'S SHALL CONSIST OF BUT NOT BE LIMITED TO THE FOLLOWING:
 - A. STIPED FIBER LOG BUILT AT BACK OF ALL CURB EXCEPT AT CONSTRUCTION/DROPPED ENTRANCE
 - B. SILT FENCE ON ALL DOWN GRADIENT SLOPES FROM CONSTRUCTION AREA. SILT FENCE SHALL HAVE THE BOTTOM DITCH IN WITH SOIL FIRMLY COMPACTED.
 - C. ROCK CONSTRUCTION ENTRANCE HAVING 1" TO 2" CLEAR ROCK OVER GEOTEXTILE FABRIC.
 - D. STREET CLEANING AS MAY BE REQUIRED SHOULD VEHICLE TRACKING OCCUR.
18. CONTRACTOR SHALL PROVIDE A TEMPORARY SEDIMENTATION BASIN ON SITE FOR CONSTRUCTION WASH OUT USE. TEMPORARY BASIN SHALL BE LOCATED AS TO PROVIDE EASY ACCESS FOR CONSTRUCTION VEHICLES AND CONCRETE TRUCKS AS NECESSARY.
19. INLET SEDIMENTATION CONTROL IS TO BE PROVIDED TO ALL STORM SEWER CATCH BASINS THROUGHOUT CONSTRUCTION. MEASURES APPLIED SHALL COMPLY WITH BEST MANAGEMENT PRACTICES FOR MINNESOTA AND APPLICATIONS OF NEPA PHASE I AS APPROPRIATE FOR PHASE OF CONSTRUCTION.
20. IRRIGATION COMPONENTS WITHIN THE DISTURBED AREAS INCLUDING BUT NOT LIMITED TO SPRING AND SPRINKLER HEADS SHALL BE CAPPED AND SALVAGED FOR FUTURE USE. IF CAPPING OR OTHER MEASURES WILL BE REQUIRED TO PROTECT ANY DAMAGE CAUSED BY THE CONTRACTOR NOT WARRANTED FOR THE CONSTRUCTION OF THE WATERMAIN CONNECTION SHALL BE REPAIRED AND REPLACED AT THE EXPENSE OF THE CONTRACTOR.



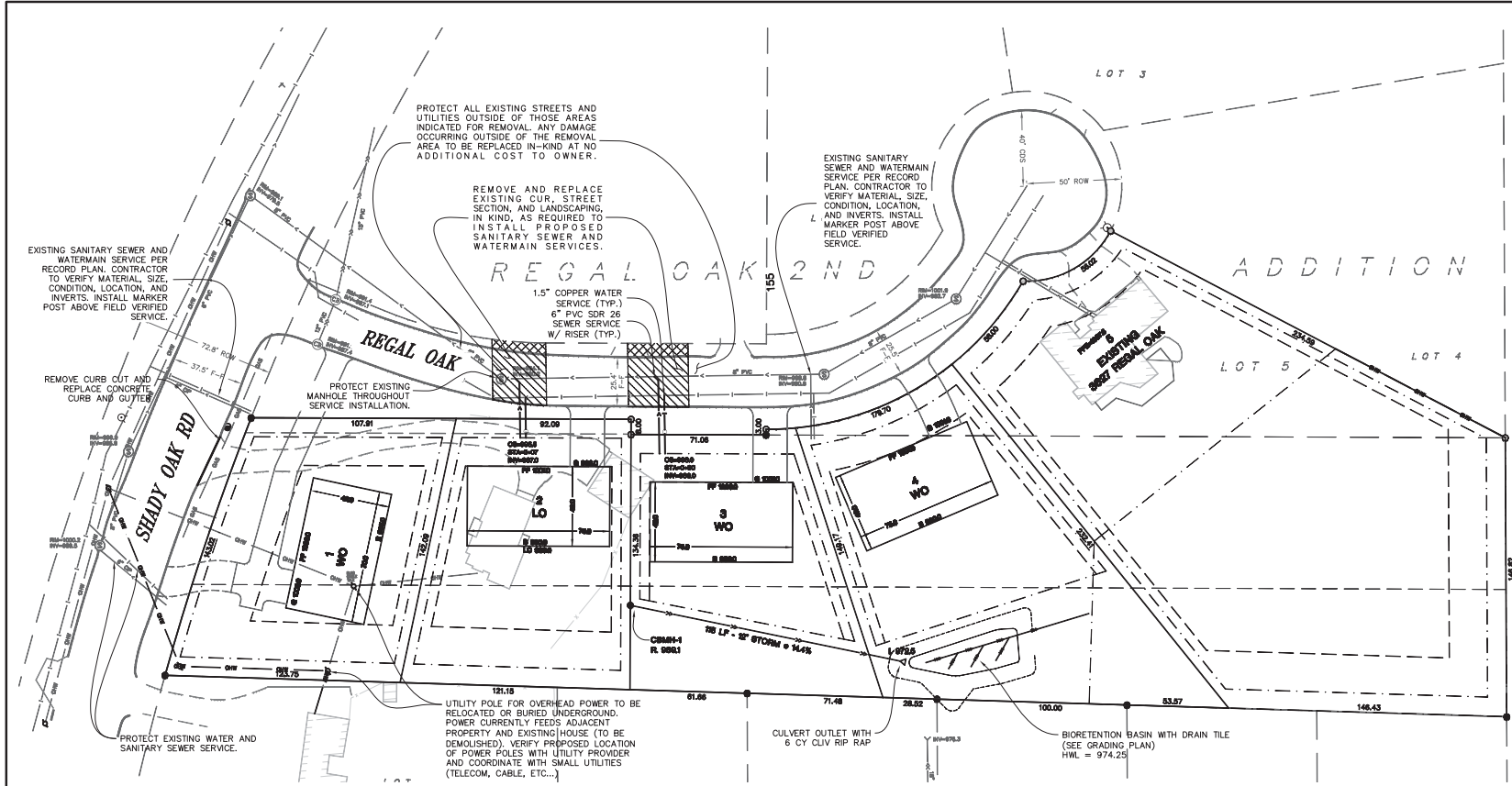
NO.	DATE	DESCRIPTION OF REVISIONS	DESIGNED:	DRAWN:	CHECKED BY:
1	8/22/16	PRELIMINARY PLAT, FINAL PLAT, AND REZONING APPLICATION	DAJ	IJW	DAJ

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE SEAL AND IN THE STATE OF MINNESOTA.
 SIGNATURE: DANIE A. JASTER, P.E.
 PRINT NAME: DANIE A. JASTER, P.E.
 LICENSE NO.: 49535
 DATE: AUGUST 22, 2016

ANDERSON ENGINEERING
 ENGINEERS • ARCHITECTS • LAND SURVEYORS
 ENVIRONMENTAL SERVICES • LANDSCAPE ARCHITECTURE
 Anderson Engineering of Minnesota, LLC
 13005 1st Avenue North
 Suite 100
 Plymouth, MN 55441
 763-412-4000 (p) 763-412-4000 (f)
 www.ae-mn.com

THE ENCLAVE AT REGAL OAKS
 MINNETONKA, MINNESOTA
 COMM. NO. 14300
 PLOTTED: 8/22/16
 DRAWING NO. C3
GRADING AND EROSION CONTROL PLAN

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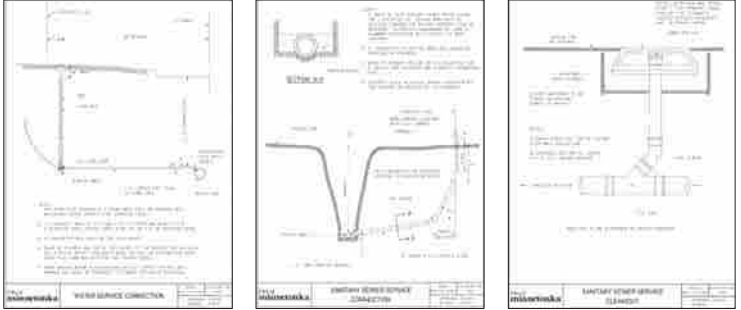
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SCALE IN FEET

LEGEND

- PROPERTY LINES
- LOT LINES
- - - - - BUILDING SETBACK
- - - - - LOT LINES (EXISTING)
- PROPOSED WATERMAIN SERVICE
- PROPOSED SANITARY SERVICE
- EXISTING WATERMAIN SERVICE
- EXISTING SANITARY SERVICE
- EXISTING BUILDING
- PROPOSED BUILDING PAD

- NOTE**
- 1 ALL CONSTRUCTION SHALL COMPLY WITH RECOMMENDATIONS OF THE SOIL ENGINEER UNLESS DIRECTED OTHERWISE.
 - 2 ALL CONSTRUCTION SHALL COMPLY WITH CITY OF MINNETONKA ENGINEERING STANDARDS AND THE 2016 EDITION OF MNDOT STANDARD CONSTRUCTION SPECIFICATIONS (INCLUDING SUPPLEMENTS) UNLESS DIRECTED OTHERWISE.
 - 3 ALL CONSTRUCTION SHALL COMPLY WITH APPLICABLE MUNICIPAL, WATERSHED DISTRICT, COUNTY, MPCA, DEPT. OF HEALTH, AND MNDOT PERMITS.
 - 4 THE LOCATION AND TYPE OF EXISTING UTILITIES SHOWN ON THE PLANS ARE FOR GENERAL INFORMATION ONLY. THE INFORMATION IS NOT WARRANTED TO BE ACCURATE OR COMPLETE. THE CONTRACTOR, IN COOPERATION WITH THE APPROPRIATE UTILITY COMPANY OR MUNICIPALITY, IS RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UNDERGROUND UTILITIES.
 - 5 PROVIDE MINIMUM 10' HORIZONTAL & 18" VERTICAL SEPARATION OF ALL WATERMAIN CROSSINGS FROM STORM OR SANITARY SEWER.
 - 6 ALL JOINTS & CONNECTIONS IN THE STORM SEWER SYSTEM SHALL BE WATER TIGHT. APPROVED RESILIENT RUBBER JOINTS MUST BE USED TO MAKE WATER TIGHT CONNECTIONS TO MANHOLES AND GATCH BASINS.
 - 7 ALL NEW NON METALLIC SANITARY AND WATER SERVICE PIPE SHALL HAVE TRACER WIRE, PER SPECIFICATIONS.
 - 8 PROTECT EXISTING UTILITIES UNLESS OTHERWISE NOTED.



NO.	DATE	DESCRIPTION OF REVISIONS
1	8/22/16	PRELIMINARY PLAT, FINAL PLAT, AND REZONING APPLICATION

DESIGNED: GRJ
 DRAWN: IJW
 CHECKED BY: GRJ

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

PRINT NAME: DANE A. JASTER, P.E.
 SIGNATURE: NOT FOR CONSTRUCTION
 DATE: AUGUST 22, 2016. LICENSE # 49535



Anderson Engineering of Minnesota, LLC
 13605 1st Avenue North
 Suite 100
 Plymouth, MN 55441
 763-412-4000 (o) 763-412-4090 (f)
 www.ae-mn.com

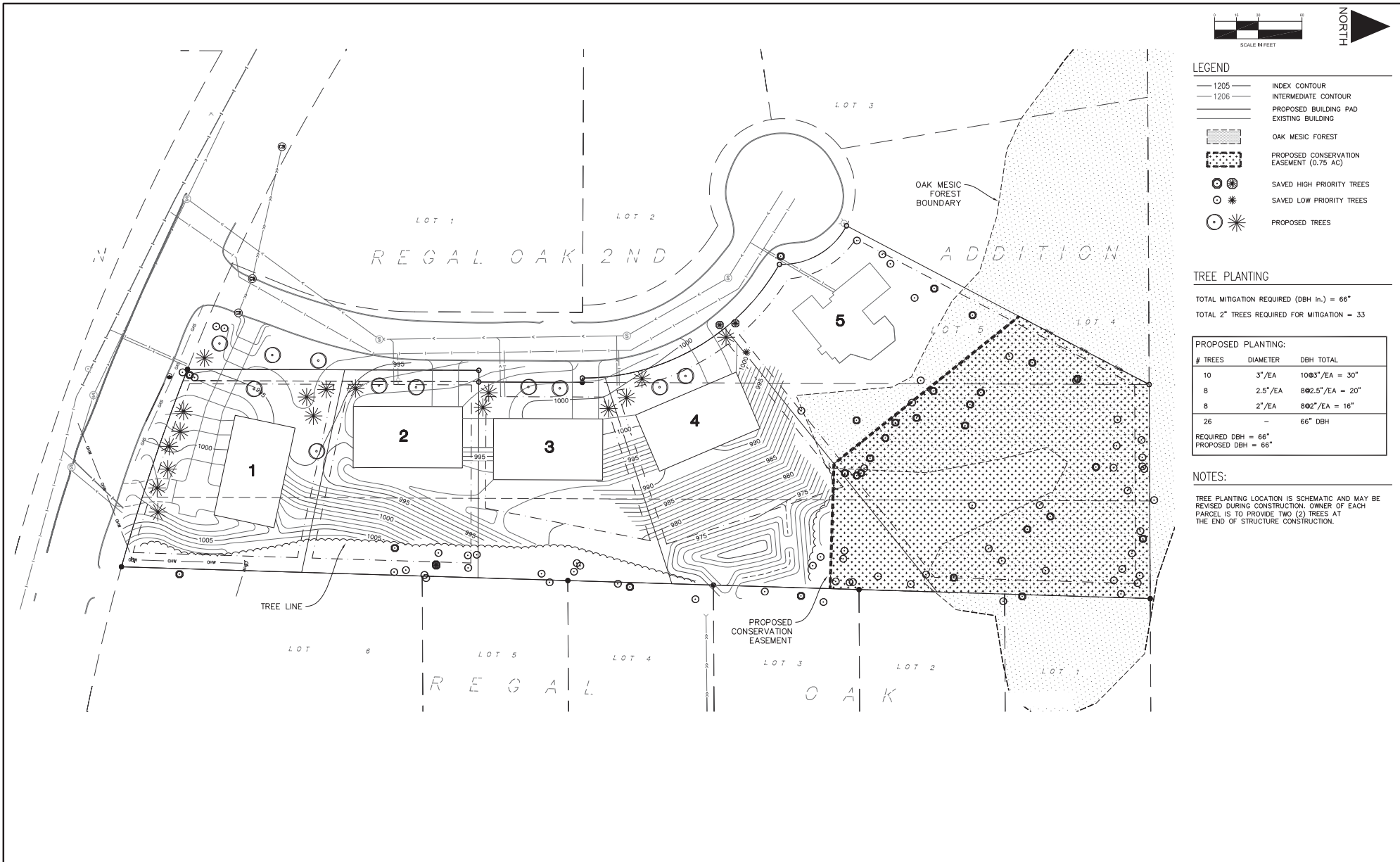
THE ENCLAVE AT REGAL OAKS
 MINNETONKA, MINNESOTA

ROADWAY & UTILITY PLAN

COMM. NO. 14300	PLOTTED: 8/22/16
DRAWING NO. C4	

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LEGEND

- 1205 — INDEX CONTOUR
- 1206 — INTERMEDIATE CONTOUR
- — PROPOSED BUILDING PAD
- — EXISTING BUILDING
- ▨ OAK MESIC FOREST
- ▤ PROPOSED CONSERVATION EASEMENT (0.75 AC)
- ⊙ SAVED HIGH PRIORITY TREES
- ⊙ SAVED LOW PRIORITY TREES
- ⊙ PROPOSED TREES

TREE PLANTING

TOTAL MITIGATION REQUIRED (DBH in.) = 66"
 TOTAL 2" TREES REQUIRED FOR MITIGATION = 33

PROPOSED PLANTING:

# TREES	DIAMETER	DBH TOTAL
10	3"/EA	10@3"/EA = 30"
8	2.5"/EA	8@2.5"/EA = 20"
8	2"/EA	8@2"/EA = 16"
26	—	66" DBH
REQUIRED DBH = 66"		
PROPOSED DBH = 66"		

NOTES:

TREE PLANTING LOCATION IS SCHEMATIC AND MAY BE REVISED DURING CONSTRUCTION. OWNER OF EACH PARCEL IS TO PROVIDE TWO (2) TREES AT THE END OF STRUCTURE CONSTRUCTION.

NO.	DATE	DESCRIPTION OF REVISIONS
1	8/22/16	PRELIMINARY PLAT, FINAL PLAT, AND REZONING APPLICATION

DESIGNED: DAJ
 DRAWN: IJW
 CHECKED BY: DAJ

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.
 PRINT NAME: DANE A. JASTER, P.E.
 SIGNATURE: NOT FOR CONSTRUCTION
 DATE: AUGUST 22, 2016 LICENSE # 49535

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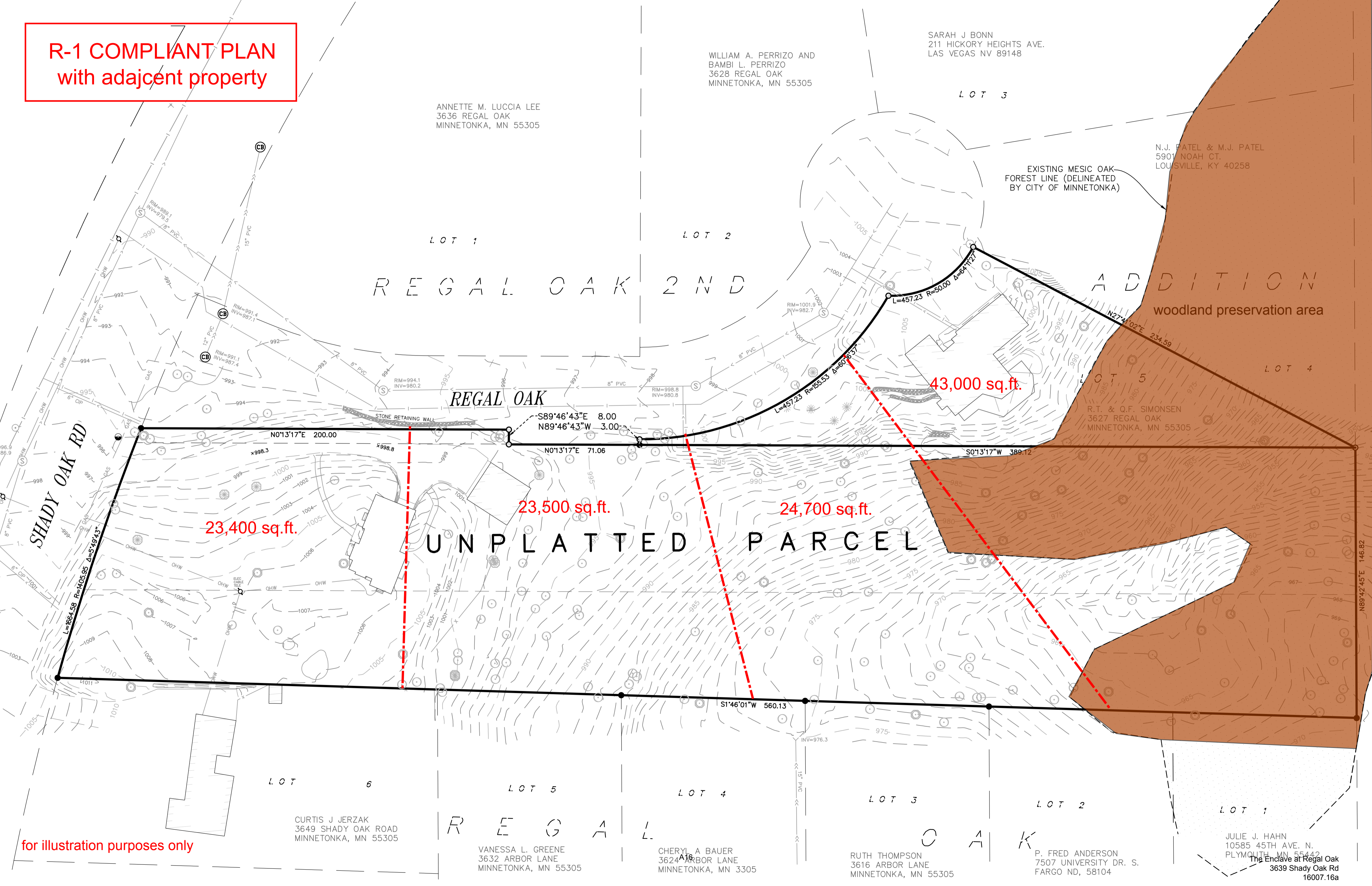
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THE ENCLAVE AT REGAL OAKS
 MINNETONKA, MINNESOTA

PRELIMINARY TREE
 REPLACEMENT PLAN

COMM. NO. 14300	PLOTTED: 8/22/16
DRAWING NO. C7	

**R-1 COMPLIANT PLAN
with adjacent property**



SARAH J BONN
211 HICKORY HEIGHTS AVE.
LAS VEGAS NV 89148

WILLIAM A. PERRIZO AND
BAMBI L. PERRIZO
3628 REGAL OAK
MINNETONKA, MN 55305

ANNETTE M. LUCCIA LEE
3636 REGAL OAK
MINNETONKA, MN 55305

N.J. PATEL & M.J. PATEL
5901 NOAH CT.
LOUISVILLE, KY 40258

EXISTING MESIC OAK
FOREST LINE (DELINEATED
BY CITY OF MINNETONKA)

ADDITION
woodland preservation area

REGAL OAK

43,000 sq.ft.

23,400 sq.ft.

23,500 sq.ft.

24,700 sq.ft.

UNPLATTED PARCEL

for illustration purposes only

CURTIS J JERZAK
3649 SHADY OAK ROAD
MINNETONKA, MN 55305

VANESSA L. GREENE
3632 ARBOR LANE
MINNETONKA, MN 55305

CHERYL A BAUER
3624 ARBOR LANE
MINNETONKA, MN 3305

RUTH THOMPSON
3616 ARBOR LANE
MINNETONKA, MN 55305

P. FRED ANDERSON
7507 UNIVERSITY DR. S.
FARGO ND, 58104

JULIE J. HAHN
10585 45TH AVE. N.
PLYMOUTH, MN 55442
The Enclave at Regal Oak
3639 Shady Oak Rd
16007.16a

Susan Thomas

From: Bill Perrizo
Sent: Tuesday, September 27, 2016 7:52 AM
To: Susan Thomas; Bob Ellingson
Subject: Enclave at Regal Oak

Hello – I live at 3628 Regal Oak.

The property that is proposed to be subdivided is very nasty.

There are nothing but scrub trees, vines and it looks like some back water property you would find in the ugliest part of the bayou.

I do not want my dogs to go in there, in fear of the need to go after them if there were a problem.

So, I am in favor of cleaning up the mess and producing quality homes.

Bill Perrizo
Northern Tool & Equipment
VP International

Resolution No. 2016-

Resolution denying rezoning, master development plan, and preliminary and final plat requests for THE ENCLAVE AT REGAL OAK at 3639 Shady Oak Road and 3627 Regal Oak

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

Section 1. Background.

- 1.01 Airborne Construction One, LLC has proposed subdivision of the properties at 3639 Shady Oak Road and 3627 Regal Oak. The home at 3639 Shady Oak Road would be removed, the home at 3627 Regal Oak would remain, and four new homes would be constructed. The proposal requires approval of:
1. Rezoning from R-1, low-density residential, to PUD, planned unit development;
 2. Master development plan;
 3. Preliminary and final plats
- 1.02 The properties are legally described on EXHIBIT A of this resolution.
- 1.03 On October 6, 2016, the planning commission held a hearing on the applicant's 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 various requests.

Section 2. General Standards.

- 2.01 The lots sizes, lot dimensions, and structural setbacks of the proposed subdivision can be obtained only through PUD zoning or variance.
- 2.02 By City Code §300.22 Subd.2, PUD zoning may be considered by the city when it would result in one of the following public benefits:
1. Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;
 2. Provision of affordable housing;
 3. Provision of a housing type or target housing price that is desirable to the city;
 4. A mix of land use types;
 5. Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts; or
 6. Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development;
 7. Other public benefits as recognized by the city.
- 2.03 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) the proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.
- Section 3. Findings.
- 3.01 As with any rezoning, the decision to rezone a property to PUD is a policy decision that the city council may make in its legislative capacity.
- 3.02 The proposed subdivision would not result in a public benefit as outlined in City Code §300.22 Subd.2

1. But for a significantly sloped woodland preservation area that the applicant indicates would be placed in conservation easement, the entirety of the 3639 Shady Oak Road property would be graded out and the vast majority of trees removed or significantly impacted. The proposal would not preserve trees in a greater amount or extent than would subdivision under the existing R-1 zoning classification. Further, a conservation easement could be dedicated under either PUD or R-1 zoning.
2. Though the applicant indicates they will encourage main floor living in at least three of the four new homes and intend a home price of \$600,000, such encouragement would not ensure such construction.
3. Though the applicant indicates they will require use of geothermal systems in two of the four new homes, inclusion of such systems would not be a substantial benefit to the public.
4. Though the applicant proposes the use of infiltration basins and rain gardens, such stormwater practices are seen throughout the community and would be a requirement of any development of the site under any zoning designation.

3.03 The proposed subdivision would not meet the variance standard as outlined in City Code §300.07 Subd. 1. There are no practical difficulties preventing the applicant from meeting subdivision and setback standards under the existing properties' existing R-1 zoning. Rather, the applicant's request is based on a desire to create five lots where four lots may otherwise be achieved.

Section 4. Council Action.

4.01 The applicant's proposal is hereby denied. Denial is based on the findings outlined in section 3 of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 24, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, 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 duly authorized meeting held on October 24, 2016.

David E. Maeda, City Clerk

MINNETONKA PLANNING COMMISSION
October 6, 2016

Brief Description	Conditional use permit, with variances, for a microbrewery and taproom with outdoor seating area at 14625 Excelsior Boulevard.
Recommendation	Recommend the city council adopt the resolution approving the conditional use permit, with variances.

Introduction

Unmapped Brewing Company, LLC is proposing to operate a microbrewery and taproom in what is currently the Kraemer’s Hardware tenant space at 14625 Excelsior Boulevard. By city code, a microbrewery is defined as a facility that manufactures and distributes malt liquor or wine in total quantity not to exceed 250,000 barrels per year. A taproom is an area within or adjacent to a brewery where the products of the brewery may be sold and consumed. (See pages A1–A12.)

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 Excelsior Boulevard/Eden Prairie Road intersection. The site is improved with a roughly 31,200 square foot neighborhood commercial center – originally constructed in 1958 – and a surrounding parking lot. (See page A4.)

- **Proposed Building.**

Unmapped Brewing Co. would occupy the easternmost tenant space within the commercial center. This space is currently occupied by Kraemer’s Hardware. The Kraemer family recently decided to close the store and sell its real estate holdings in the area. (See the letter from John Kraemer on page A2.)

To accommodate the new business, the interior of the existing tenant space would be completely remodeled. The space would be divided between brewery and taproom. The exterior of the tenant space would also be remodeled. A new vestibule, overhead doors, and windows would be added to the east façade. The parapet wall would be changed, eliminating the various shapes and heights of the existing wall, and the stucco façade would be painted.

An outdoor seating space would be created east of the building. The area would include informal seating, bike racks, and new plantings. (See page A5–A12). As a condition of any liquor license, the area must be surrounded by an uninterrupted enclosure.

- **Proposed Use.**

Unmapped Brewing Co. would offer a variety of “year-round” beers brewed on site, as well as some “limited or special release” beers. Non-alcoholic local craft sodas would also be available. No food would be served at the brewery/taproom. However, as is common for such businesses, patrons may bring food to the brewery/taproom or order food from local restaurants for delivery to the taproom. As currently proposed, the taproom would be open as follows:

	Winter Hours	Summer Hours*
Monday	Closed	3:00 p.m. to 10:00 p.m.
Tuesday	Closed	3:00 p.m. to 10:00 p.m.
Wednesday	3:00 p.m. to 10:00 p.m.	3:00 p.m. to 10:00 p.m.
Thursday	3:00 p.m. to 10:00 p.m.	3:00 p.m. to 10:00 p.m.
Friday	3:00 p.m. to 11:00 p.m.	3:00 p.m. to 11:00 p.m.
Saturday	12:00 p.m. to 11:00 p.m.	12:00 p.m. to 11:00 p.m.
Sunday	12:00 p.m. to 8:00 p.m.	12:00 p.m. to 8:00 p.m.

*Memorial Day to Labor Day

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 proposed Unmapped Brewing Co. and staff’s findings.

- **Is the proposed brewery and taproom use appropriate?**

Yes. The 2030 Comprehensive Guide Plan places special emphasis on a “village center” concept. The purpose of the concept “is to provide development and redevelopment opportunities to encourage vitality, promote identity, and improve livability.”¹ To that end, the Guide Plan suggests a policy of “supporting existing commercial areas and encouraging new development techniques that contribute to the vitality and diversity of the area.”¹

The subject property is located within the Glen Lake village center. The proposed brewery/taproom is consistent with the comprehensive plan’s village center

¹ 2030 Comprehensive Guide Plan, III-8

concept and would further the plan's policies. In staff's opinion, the proposal would add a new and interesting land use to the area and in doing so would contribute to the vitality and diversity of the village center. Further, breweries and taprooms are conditionally-permitted uses in the commercial zoning district.

- **Are the proposed building changes reasonable?**

Yes. From staff's perspective, the proposed changes are reasonable and attractive. The inclusion of glass windows, doors, "leveling" of the existing parapet wall, and update to façade color would result in a more modern building appearance.

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

Yes. The neighborhood commercial center currently contains 135 parking spaces. The Institute of Transportation Engineers (ITE) parking demand data suggests that average parking demand for the center could be accommodated with 132 parking spaces. Though the proposed outdoor seating area would remove some existing parking, the 132 spaces suggested by ITE could be achieved simply by striping three new stalls within the existing parking lot. (See page A13 and the Supporting Information section of this report.)

	Parking Stalls
Existing	135
Existing, with outdoor seating area	129
Available, with new striping	132

- **Can future nuisance issues be addressed?**

Yes. While similar to a restaurant, staff recognizes a brewery/taproom could generate smells, noise, and activity of a different sort and level than other existing uses in the commercial center. However, the city has mechanisms in place to address issues associated with real and perceive nuisances:

1. The city's noise ordinance essentially establishes community "quiet hours" from 10:00 p.m. to 7:00 a.m.
2. As a condition of any conditional use permit, the city council may reasonably add or revise conditions to address any future unforeseen problems. In other words, if nuisance violations occur with frequency or regularity, the city may bring the conditional use permit back before the city council and additional conditions may be applied or the permit may be revoked.

Summary Comments

Staff acknowledges that the proposed brewery/taproom will have some impact in the Glen Lake area. However, staff believes this impact may be positive. Unmapped Brewing Co. would add a new and interesting land use to the area and, in doing so, would contribute to the vitality and diversity of Glen Lake.

Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit, with variances, for a microbrewery and taproom with outdoor seating area at 14625 Excelsior Boulevard (See pages A17–A23.)

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

Supporting Information

Surrounding Land Uses

Northerly: Excelsior Boulevard, daycare under construction
Easterly: Eden Prairie Road, commercial buildings beyond
Southerly: single-family home
Westerly: neighborhood commercial center

Planning

Guide Plan designation: Commercial
Existing Zoning: B-2, limited business

City Actions

The proposal requires the following applications:

- Conditional Use Permit, with parking variance. By City Code §330.18 Subd.4(r), microbreweries and taprooms are conditionally permitted uses in the B-2 zoning district. One of the conditional use permit standards is a specific number of parking stalls. The neighborhood commercial center site would not contain the total number of parking stalls required, as such a variance is necessary. (See the CUP Standards section of this report.)
- Code §330.21 Subd.4(p), outdoor seating areas are conditionally-permitted uses in the B-2 zoning district. One of the conditional use permit standards is a minimum setback between the seating area and residentially zoning properties. The seating area would not meet this setback, as such a variance is necessary. (See the CUP Standards section of this report.)

Traffic

The proposed brewery/taproom would be located at the intersection of Excelsior Boulevard/Eden Prairie Road, both of which are Hennepin County roadways and are classified as “minor expander” or “minor arterial” roadway. Such roadways are designed for a capacity of 5,000 to 30,000 average daily vehicle trips. Traffic volume information from 2015 indicates 10,300 and 6,400 daily vehicle trips on Excelsior Boulevard and Eden Prairie Road respectively.

To evaluate the impact of the proposed brewery/taproom on these roadways, staff looked at anticipated trip generation rates as suggested by ITE. It is important to note, that ITE does not have a specific brewery/taproom land use classification. Rather, staff used the “drinking place” and “high turnover restaurant” ITE classifications. The roughly 8,725 square foot brewery/taproom would generate the following:

	P.M. Peak Hour Rate	P.M. Peak Hour Trips
Drinking Place	11.34 trips/ 1,000 sq.ft.	98
High Turnover Restaurant	18.49 trips/ 1,000 sq.ft.	161

It should be noted that these numbers assume all trips to/from an establishment would be vehicles trips. The numbers do not take into account pedestrians or other modes of transportation. Given the existing traffic volumes on Excelsior Boulevard/Eden Prairie Road, the anticipated impact of the proposed brewery/taproom would be nominal.

Interestingly, a “drinking place” and “high turnover restaurant” would generate fewer p.m. peak hour trips than several other uses that could be considered equally appropriate for the site:

Use	P.M. Peak Hour Rate
Bank with Drive Up Window	26.69 trips/1000 sq.ft.
Convenience Store (non-24 hr)	36.22 trips/1000 sq.ft.
Coffee Shop without Drive Thru	25.81 trips/1000 sq.ft.

Parking

By City Code §330.21 Subd.4(s), the brewery/taproom requires provision of 76 parking spaces. In total, 178 parking spaces are required for the commercial center. There are currently 135 spaces provided on site; the proposed outdoor seating area would reduce this number to 129. As such, a parking variance is required.

ITE suggests that actual parking demand rates for the commercial center would be less than required by city code. It is important to note that neither city code nor ITE has a specific requirement/information for breweries/taprooms. Rather, the requirement/demand for “manufacturing” and “high turnover restaurant with bar” was used.

	Use	Area	Rate	Required
CODE	Brewery	5,125 sq.ft.	1/1000 sq.ft.	5
	Taproom	3,600 sq.ft.	1/50 sq.ft.	72
	Commercial Center	22,480 sq.ft.	4.5/1000 sq.ft.	101

	TOTAL			179
ITE AVERAGE	Brewery	5,125 sq.ft.	1.02/1000 sq.ft.	5
	Taproom*	3,600 sq.ft.	16.3/1000 sq.ft.	59
	Commercial Center*	22,480 sq.ft.	3.02/1000 sq.ft.	68
	TOTAL			132

*Friday p.m. peak hour = highest demand rate

Though simple restriping, the 132 parking stalls suggested by the ITE average parking demand could be met. (See page A13.)

CUP Standards

The proposed microbrewery/taproom would meet the general CUP standards as outlined in City Code §330.21 Subd.2:

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 the public health, safety or welfare.

The proposal requires a variance from the specific conditional use permit standards for microbreweries and taprooms as outlined in City Code §330.21 Subd.4(s):

1. Parking requirements: microbrewery, one parking space for each 1000 square feet of floor area. Taproom: one parking space for each 50 square feet of floor area.

Finding: As noted earlier in this report, taken as an entire site, the commercial center would not meet parking requirements. A variance is required. See the Variance section of this report.

2. Shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant.

Finding: As noted earlier in this report, taken as an entire site, the commercial center would not meet parking requirements. A variance is required. See the Variance section of this report.

3. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of traffic engineers on the roadway system.

Finding: As noted earlier in this report, the proposal is not anticipated to significantly impact existing traffic volumes or levels of service. Further, several other land uses with significantly higher trip generation rates could appropriately occupy the tenant space proposed to be used by the applicant.

The proposal requires a variance from the specific conditional use permit standards for outdoor seating area as outlined in City Code §330.21 Subd.4(p):

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;

Finding: This is included as a condition of approval.

2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

Finding: The outdoor seating area would be located 41 feet from the closest residential property; it would be located over 270 feet from the closest residential building. A variance is required. See the Variance section of this report.

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

Finding: The area would be appropriately located, so as not to interfere with onsite circulation.

4. Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

Finding: The area would be appropriately located, so as not to interfere with onsite circulation.

5. Shall be located adjacent to an entrance to the principal use;

Finding: The area would be appropriately located near the principal entrance to the business.

6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up;

Finding: This has been included as a condition of approval.

7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and

Finding: This has been included as a condition of approval.

8. Shall be located in compliance with building setback requirements.

Finding: The area would meet all minimum building setbacks.

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)

The requested variances would meet the variance standard:

Intent of the Ordinance.

- The intent of the ordinance as it pertains to parking requirements is to ensure adequate parking is provided to meet anticipated parking demand. With striping of three additional stalls, which is included as condition of this resolution, anticipated parking demand could be met. (See page A13.)
- The intent of the ordinance as it pertains to outdoor seating area setbacks is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The proposed outdoor seating area setback would meet this intent. Through the proposed seating area would be just 41 feet from the closest residential property, it would be setback over 320 feet from the home located on that property. It would be over 270 feet from the closest residence, which is actually located across Eden Prairie Road. The seating area would be separated from area homes by existing vegetation to the south and the county road to the east. (See page A14.)

Consistent with Comprehensive Plan.

The subject property is located in the Glen Lake village center. One of the overall themes outlined in the comprehensive plan is to “provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability” in village centers. The requested variances would result in reuse of an existing space as a new and unique gathering space, consistent with the goals of the comprehensive plan.

Practical Difficulties

- Reasonableness and Unique Circumstance.

The requested parking variance is reasonable. While code-required parking would not be met, the ITE anticipated parking demand could be met by simply striping three new stalls on the site. Further, the brewery taproom’s anticipated evening/weekend peak parking demand would be different than the peak parking demand of existing uses in the commercial center – which include a pet supply store, barber, salon, e-cigarette shop, insurance agency, and small pizza parlor. In combination, these circumstances are unique and

not common to every other similarly zoned property in the community.

The requested outdoor seating area setback variance is reasonable. Though the proposed would be just 41 feet from the closest residential property, it would be setback over 320 feet from the home located on that property. It would be over 270 feet from the closest residence, which is actually located across Eden Prairie Road. The seating area would be separated from area homes by existing vegetation to the south and the county road to the east. This physical and visual separation between technically abutting and adjacent commercial and residential uses is a unique circumstance not common in other areas of the community.

- Character of the Neighborhood. The reuse of the existing commercial site, from hardware store to brewery/taproom would likely alter the general atmosphere of the area. However, the requested variances themselves would not.

Noise

The city has reviewed several outdoor seating/eating areas in recent years. During these reviews surrounding property owners have raised concerns regarding possible noise from these patios. Police and planning staff recently reviewed noise complaints received over the last five years at three “newer” outdoor eating areas and found:

- Scoreboard Bar and Grill, Sanibel Drive: No noise complaints.
- The Big Thrill Factory, County Road 101: No noise complaints.
- BLVD, Wayzata Boulevard: One evening noise complaint, several early morning complaints related to deliveries and garbage collection prior to 7:00 a.m.

Area Breweries

Staff recently contacted the cities of Hopkins and Waconia regarding brewery/taprooms operating in their communities. Staff was particularly interested to know what, if any, complaints have been received about the brewing/taproom activities. Staff chose these specific cities to reach out to, because: (1) their breweries/taprooms are of similar size to the Unmapped Brewing Co. proposal; and (2) the locations of their breweries/taprooms, in village-type centers, is similar to Glen Lake. Both cities indicate they have received no complaints to date about noise or smell. Hopkins has received some parking complaints.

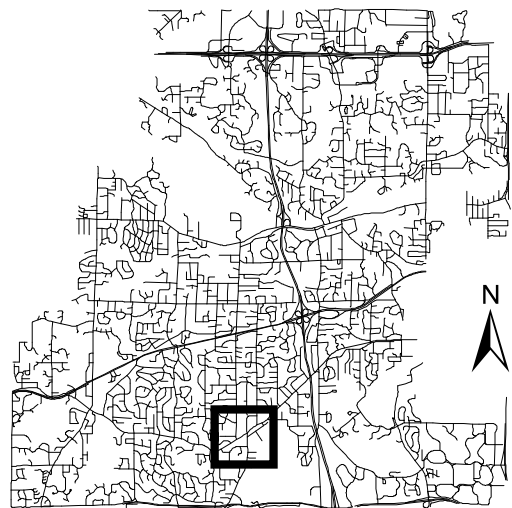
Liquor License	As part of the Unmapped Brewing Co. proposal, the owner is requesting a liquor license. The city council has the authority to approve or deny liquor licenses; such licenses are not the purview of the planning commission. The commission must consider the proposal's conformance with the requirements and the intent of conditional use permit standards.
Stormwater	The proposal would not alter impervious surface on the site. As such, new stormwater management infrastructure is not required.
Outside Agencies	The applicant's proposal has been submitted to various outside agencies for review, including Hennepin County.
Motion Options	The planning commission has three options: <ol style="list-style-type: none">1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution approving the requests.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 372 property owners and has received one comment to date. (See pages A15–A16).
Deadline for Action	December 19, 2016



Location Map

Project: Unmapped Brewing Co
 Address: 14625 Excelsior Blvd
 Project No. 91043.16a

City of
minnetonka



A1

This map is for illustrative purposes only. Unmapped Brewing Co.

14625 Excelsior Boulevard
 #91043.16a

Susan Thomas

From: Susan Thomas
Sent: Thursday, September 15, 2016 3:13 PM
To: Susan Thomas
Subject: unmapped

From: John Kraemer
Date: Tuesday, September 13, 2016 4:53 PM
To: Julie Klemp-Wischnack <jwischnack@eminnetonka.com>

Dear Julie and Minnetonka Council and neighbors,

I am writing to you about the prospect of Unmapped Brewery taking over the hardware space to establish a brewery/tap room. First, I'd like to say I am very excited about the possibility of this "re-purpose" of the space for the brewery. It will be a real asset for Glen Lake to have this kind of meeting place for families, cyclists, walkers and weary travelers!

For a little clarification, I own the Kraemer's Hardware business myself and together with my siblings, own the real estate in Glen Lake. We recently decided to sell our Glen Lake properties. We sold the old hardware building to make way for the Prestige Academy and sold the BP station to the man that has been its tenant for the last 20 years or so and now have this proposal from Unmapped Brewery and Kriss Novak to buy the shopping center. Kriss offered to take over the hardware space for the brewery and since I have been planning to retire I accepted his offer.

Although the hardware store is profitable, my kids have all gone off to bigger and better things and I could not find a suitable buyer for the hardware business. It is encouraging that the turnover to young families is beginning to take place in Glen Lake but it's a little too late for me I am afraid. So, I am looking forward to retirement.

Needless to say it was a difficult decision to let go of the hardware store after being in our family for over 100 years.

It has been a pleasure getting to know you during this long process and I am grateful to you for all that you have done during the planning phase of Glen Lake's latest re-incarnation.

Sincerely

John M Kraemer


Written Statement

The portion of the Glen Lake Center building pertinent to this Conditional Use Permit application is located at the address of 14625 Excelsior Boulevard, Minnetonka, MN 55345. This Conditional Use Permit application is for a proposed use of "microbrewery" by Unmapped Brewing Company, LLC.

The address of 14625 Excelsior Boulevard, Minnetonka, MN 55345 falls within the boundaries of "B-2 Limited Business District" as defined in the City of Minnetonka Zoning Map. According to Section 300.18 in the City of Minnetonka Code of Ordinances, the City of Minnetonka has defined "Microbrewery" as a conditional use of the B-2 Limited Business District zone.

Therefore, as Unmapped Brewing Company, LLC plans to operate at 14625 Excelsior Boulevard, Minnetonka, MN 55345 as a microbrewery producing less than 5,000 bbl per year without food service, the intended use falls within the guidelines of the conditional use of "microbrewery" in the B-2 Limited Business District zone as defined in Section 300.18 in the City of Minnetonka Code of Ordinances.

As the CEO and President of Unmapped Brewing Company, LLC, I, the undersigned John David Park attest that Unmapped Brewing Company, LLC will utilize the aforementioned portion of Glen Lake Center located at the address of 14625 Excelsior Boulevard, Minnetonka, MN 55345 in the exact manner that was defined in this written statement as "microbrewery."



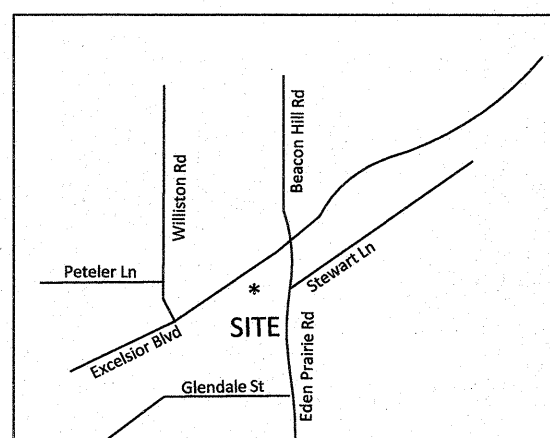
John David Park, CEO and President

Date: 8/31/16

LEGEND

- SET MONUMENT
- SET MAG NAIL
- SET CHISLED "X"
- FOUND MONUMENT
- FOUND MAG NAIL
- FOUND CAST IRON MONUMENT
- LIGHT POLE
- MAIL BOX
- SIGN
- BOLLARD
- POWER POLE
- GUY WIRE
- UTILITY BOX
- ROOF DRAIN
- TRANSFORMER
- GAS VALVE
- GAS METER
- HYDRANT
- GATE VALVE
- LIFT STATION
- FLARED END SECTION
- CATCH BASIN
- CATCH BASIN MANHOLE
- MANHOLE
- COMMUNICATION MANHOLE
- ELECTRIC MANHOLE
- CHAIN LINK FENCE
- OVERHEAD POWER LINE
- RETAINING WALL
- PARKING STALL COUNT
- DISABLED PARKING STALL
- SCHEDULE B EXCEPTION NO.
- CONCRETE SURFACE
- EXISTING SPOTELEVATION
- EXISTING CONTOUR

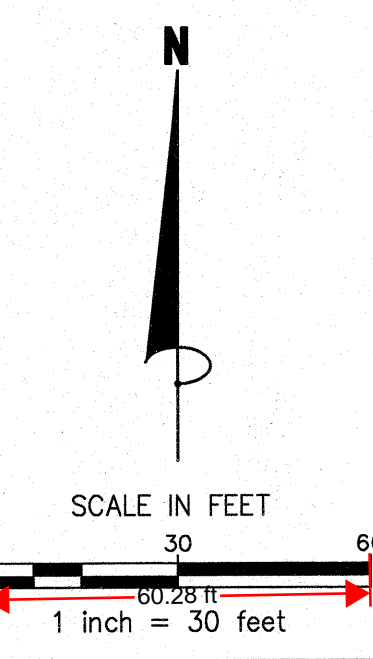
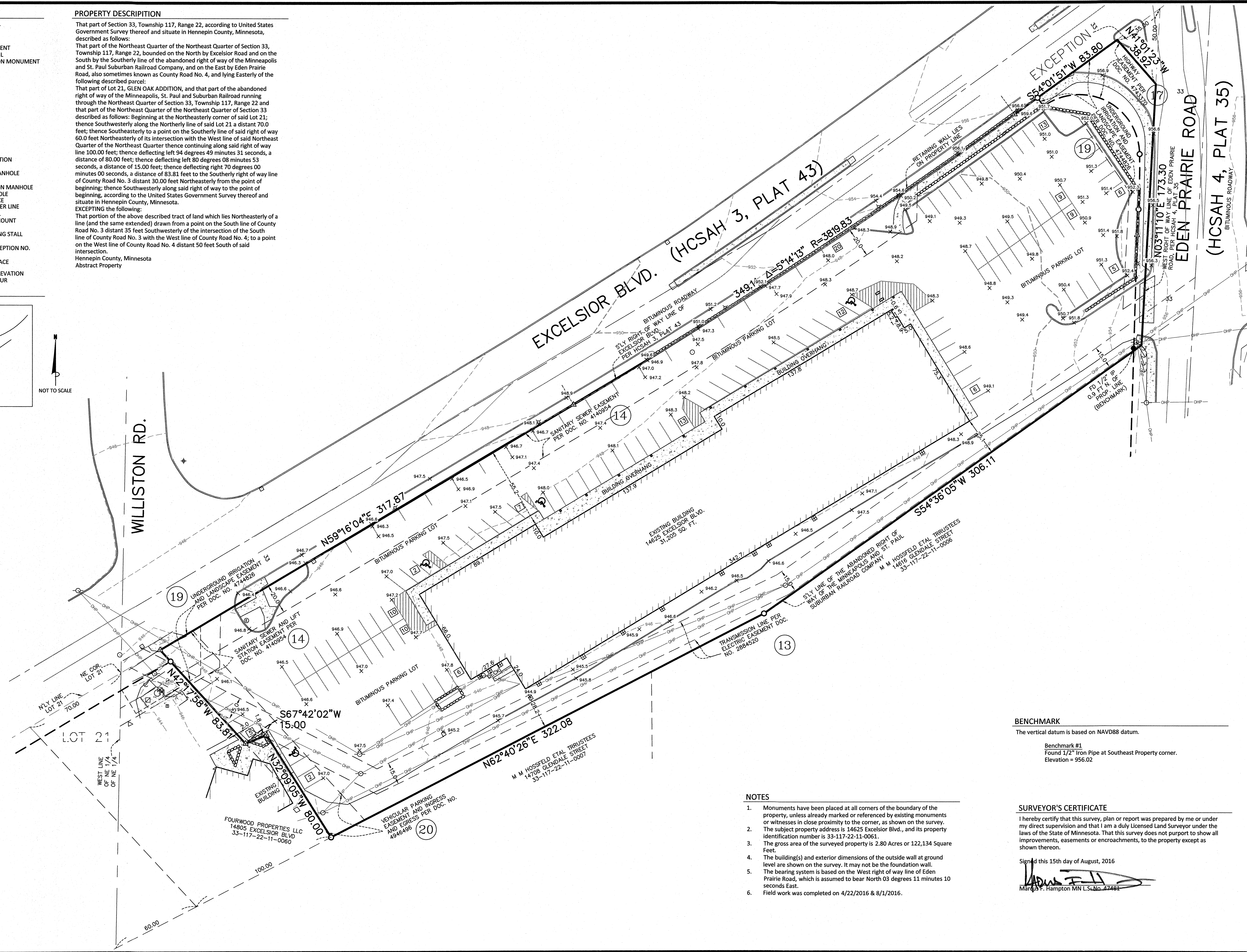
VICINITY MAP



NOT TO SCALE

PROPERTY DESCRIPTION

That part of Section 33, Township 117, Range 22, according to United States Government Survey thereof and situate in Hennepin County, Minnesota, described as follows:
 That part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 117, Range 22, bounded on the North by Excelsior Road and on the South by the Southerly line of the abandoned right of way of the Minneapolis and St. Paul Suburban Railroad Company, and on the East by Edin Prairie Road, also sometimes known as County Road No. 4, and lying Easterly of the following described parcel:
 That part of Lot 21, GLEN OAK ADDITION, and that part of the abandoned right of way of the Minneapolis, St. Paul and Suburban Railroad running through the Northeast Quarter of Section 33, Township 117, Range 22 and that part of the Northeast Quarter of the Northeast Quarter of Section 33 described as follows: Beginning at the Northeasterly corner of said Lot 21, thence Southwesterly along the Northerly line of said Lot 21 a distant 70.0 feet; thence Southwesterly to a point on the Southerly line of said right of way 60.0 feet Northeasterly of its intersection with the West line of said Northeast Quarter of the Northeast Quarter then continuing along said right of way line 100.00 feet; thence deflecting left 94 degrees 49 minutes 31 seconds, a distance of 80.00 feet; thence deflecting left 80 degrees 08 minutes 53 seconds, a distance of 15.00 feet; thence deflecting right 70 degrees 00 minutes 00 seconds, a distance of 83.81 feet to the Southerly right of way line of County Road No. 3 distant 30.00 feet Northeasterly from the point of beginning; thence Southwesterly along said right of way to the point of beginning, according to the United States Government Survey thereof and situate in Hennepin County, Minnesota.
 EXCEPTING the following:
 That portion of the above described tract of land which lies Northeasterly of a line (and the same extended) drawn from a point on the South line of County Road No. 3 distant 35 feet Southwesterly of the intersection of the South line of County Road No. 3 with the West line of County Road No. 4; to a point on the West line of County Road No. 4 distant 50 feet South of said intersection.
 Hennepin County, Minnesota
 Abstract Property



BENCHMARK
 The vertical datum is based on NAVD88 datum.
 Benchmark #1
 Found 1/2" Iron Pipe at Southeast Property corner.
 Elevation = 956.02

- NOTES**
1. Monuments have been placed at all corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner, as shown on the survey.
 2. The subject property address is 14625 Excelsior Blvd., and its property identification number is 33-117-22-11-0061.
 3. The gross area of the surveyed property is 2.80 Acres or 122,134 Square Feet.
 4. The building(s) and exterior dimensions of the outside wall at ground level are shown on the survey. It may not be the foundation wall.
 5. The bearing system is based on the West right of way line of Edin Prairie Road, which is assumed to bear North 03 degrees 11 minutes 10 seconds East.
 6. Field work was completed on 4/22/2016 & 8/1/2016.

SURVEYOR'S CERTIFICATE
 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. That this survey does not purport to show all improvements, easements or encroachments, to the property except as shown thereon.
 Signed this 15th day of August, 2016
 Mark F. Hampton MN L.S. No. 47481

James R. Hill, Inc.
 PLANNERS / ENGINEERS / SURVEYORS
 2500 W. Cty. Rd. 42, Suite 120, Burnsville, MN 55337
 PHONE: (952)890-6044 FAX: (952)890-6244
 www.jrhinc.com

Glen Lake Shopping Center
 14625 Excelsior Blvd., Minneapolis, MN 55345
BOUNDARY AND TOPOGRAPHIC SURVEY
 FOR
True North Investment

DRAWN BY	JCB/PLM
DATE	8/15/16
REVISIONS	
CAD FILE	23267-10s.DWG
PROJECT NO.	23267-10
SHEET 1 OF 1	

**UNMAPPED
BREWING CO**

14625 EXCELSIOR BLVD
MINNETONKA, MN 55435
Project Number: 2015.06

CLIENT

JD PARK
3941 Brown Lane,
Minnetonka, MN 55345
Contact
jd@unmappedbrewing.com
803.606.7704

ARCHITECTURE

CHRISTIAN DEAN
ARCHITECTURE, LLC
Minneapolis, MN

Contact

Christian Dean
cdean@deanarch.com
612.886.2814 t

ENGINEER


Contact

LANDSCAPE ARCHITECT

Contact

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

PRINT NAME: Christian Dean, AIA

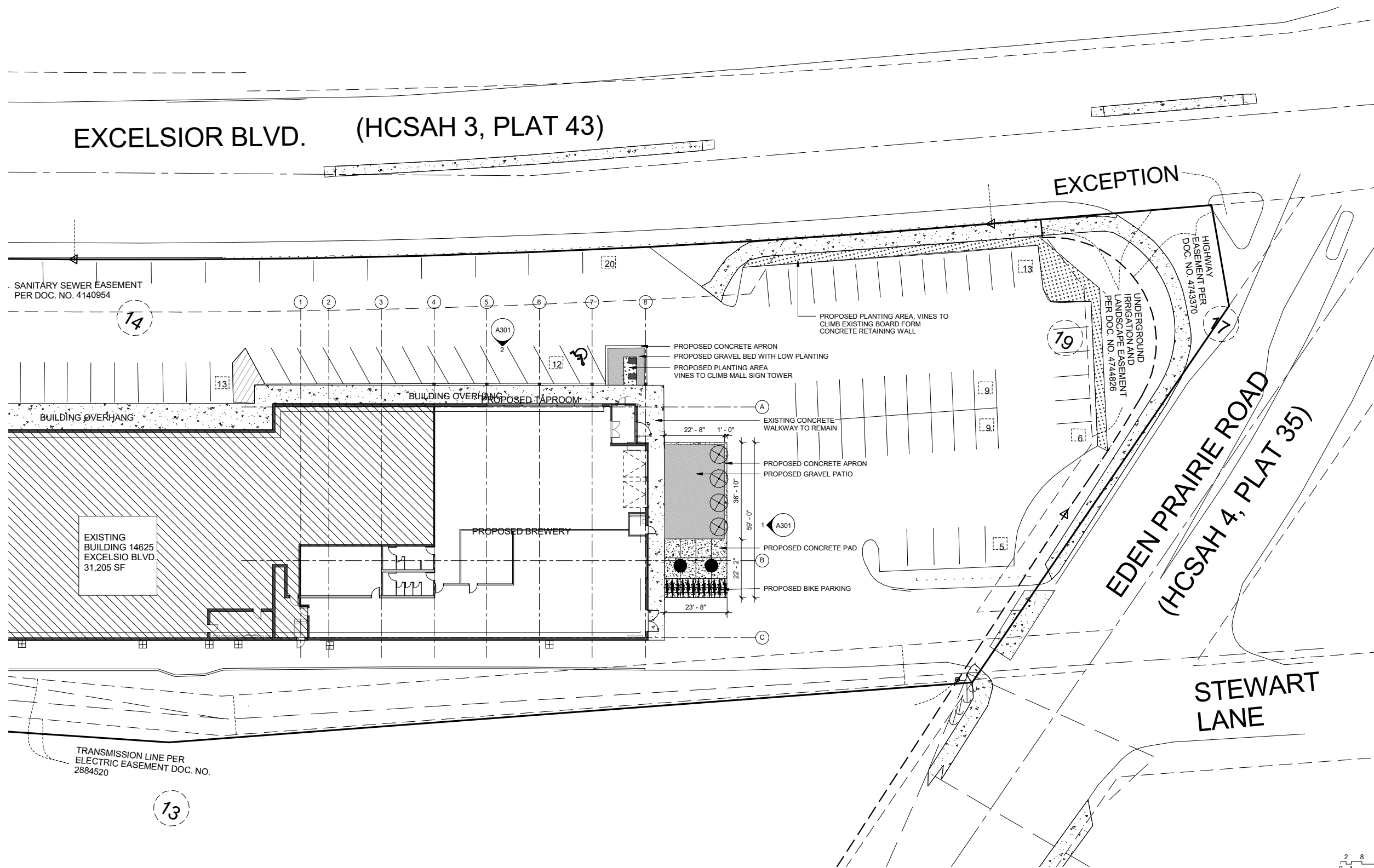
SIGNATURE: 
LICENSE NO.: 44768

Issue Schedule

DESCRIPTION	DATE
CUP	09.07.2016

Revision Schedule

NO.	DESCRIPTION	DATE
-----	-------------	------



1 SITE
1" = 20'-0"

**UNMAPPED
BREWING CO**

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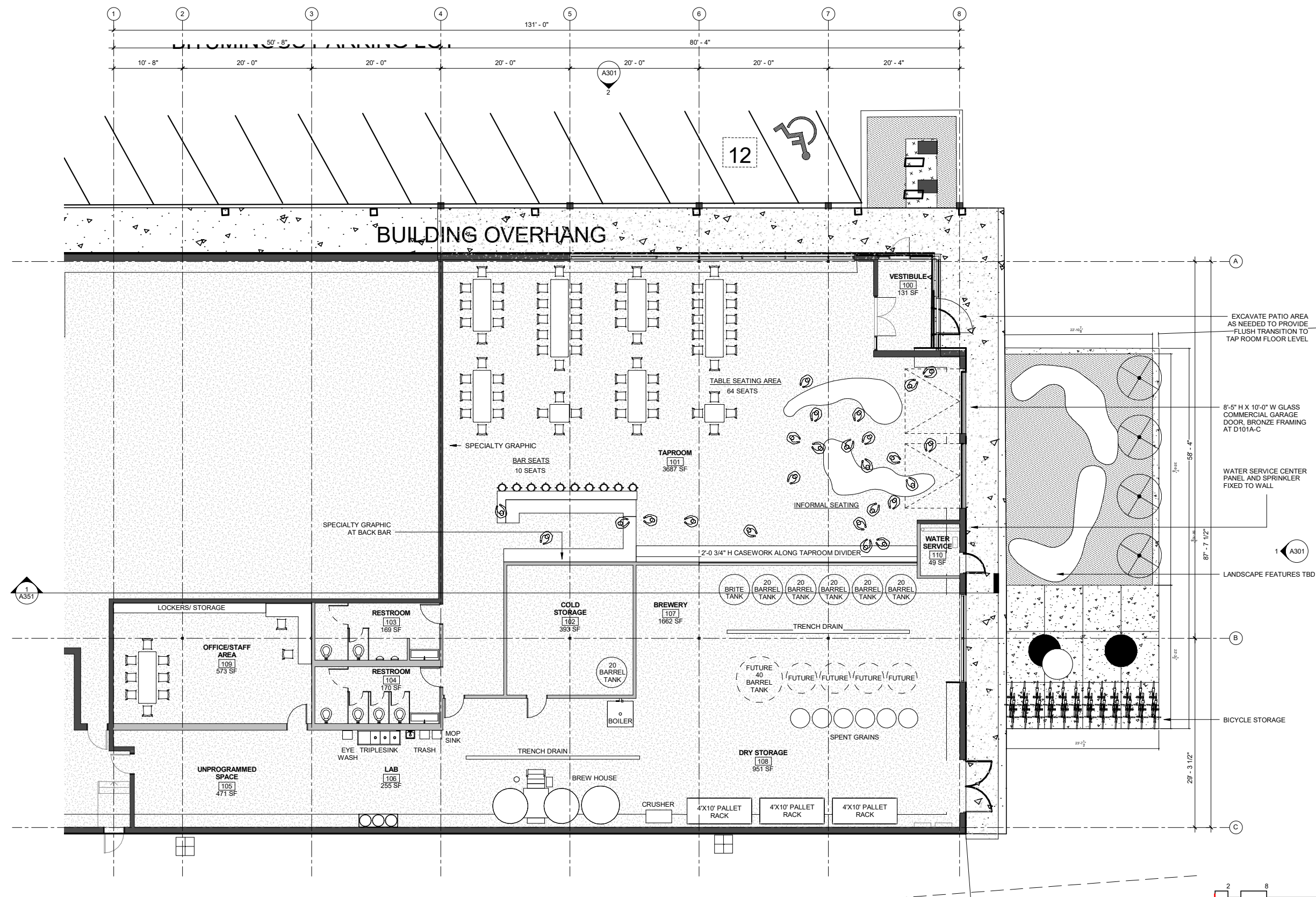
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- PLAN NOTES**
- FIRST FLOOR FINISHED FLOOR ELEVATION 0'-0" = GEODETIC SURVEY MARKER ELEVATION 880.4'
 - FIELD VERIFY ALL DIMENSIONS
 - GRIDS TO FACE OF SHEATHING
 - INTERIOR DIMENSIONS TYPICALLY TAKEN FROM STRUCTURAL FACE OF EXTERIOR WALLS TO CENTERLINE OF INTERIOR STUD WALLS
 - REFERENCE STRUCTURAL DRAWINGS AND SPECIFICATIONS FOR ALL FRAMING REQUIREMENTS, SIZES AND CONFIGURATIONS. COORDINATE WITH ARCHITECTURE LAYOUT AND REVIEW DISCREPANCIES WITH ARCHITECT.
 - PLAN CUT AT 4'-0" ABOVE FLOOR LEVEL

Area Schedule (Rentable)

Name	Area
TAPROOM	4397 SF
BREWERY	4053 SF
OFFICE/STAFF AREA	630 SF
PATIO	824 SF

LEVEL 1 - PLAN

Unmapped Brewing Co.
14625 Excelsior Blvd
#91043.16a

1 LEVEL 1
1/8" = 1'-0"

A6

CHRISTIAN DEAN ARCHITECTURE

2909 Bryant Ave #304
 Minneapolis, MN 55408
 612.886.2814 t
 www.deanarch.com

UNMAPPED BREWING CO

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 MINNETONKA, MN 55435
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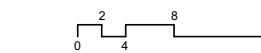
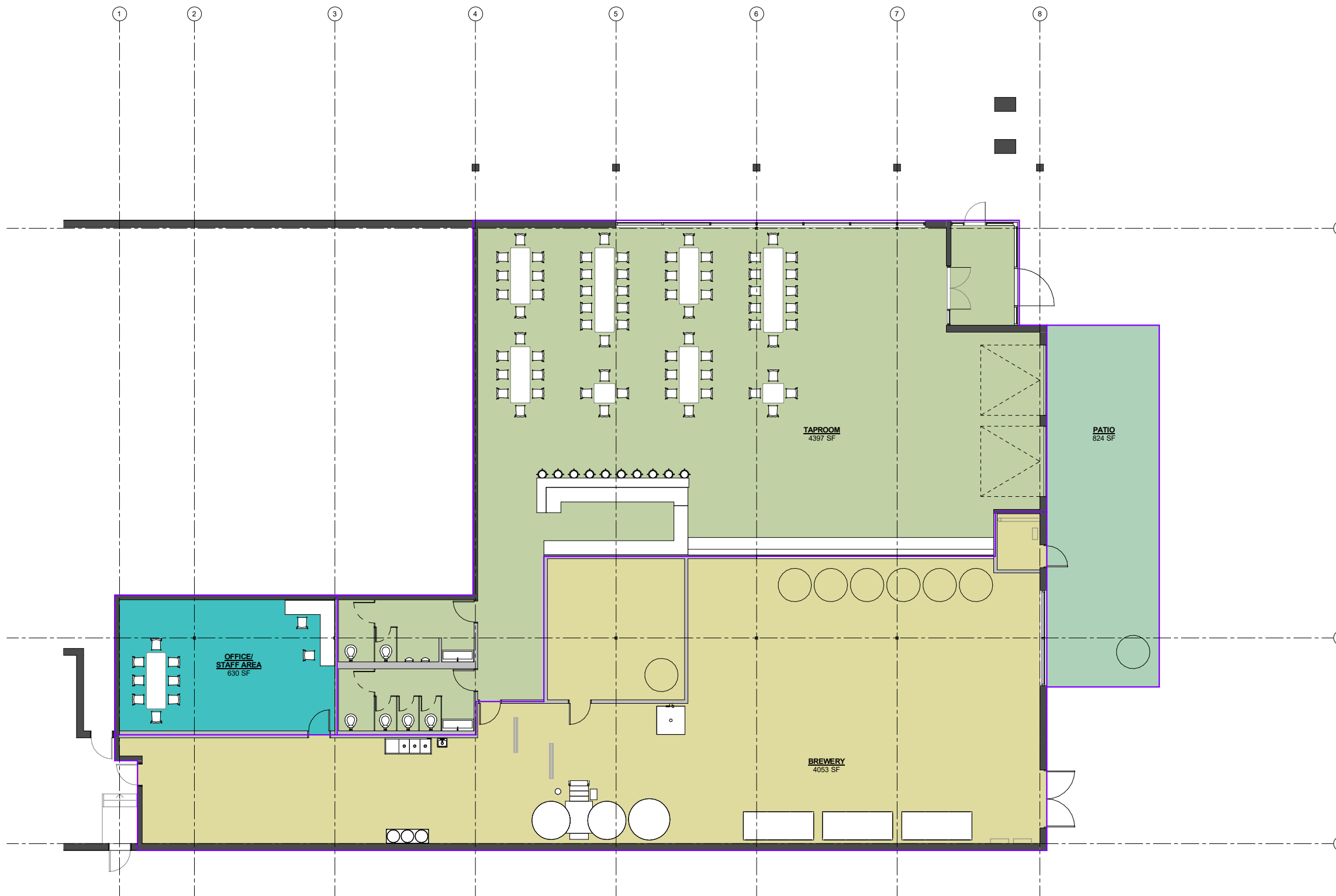
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DESCRIPTION	DATE
CUP	09.07.2016

Revision Schedule

NO.	DESCRIPTION	DATE
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Area Schedule (Rentable)	
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BREWERY	4053 SF
OFFICE/STAFF AREA	630 SF
PATIO	824 SF

1 LEVEL 1
 1/8" = 1'-0"

A7

LEVEL 1 - AREA PLAN
 Unmapped Brewing Co.
 14625 Excelsior Boulevard
 #91043.16a



//CONCEPT RENDERINGS - CUP APPLICATION

project: UNMAPPED BREWING

client: UNMAPPED BREWING

A8 date / issue: SEPTEMBER 07, 2016 / CONDITIONAL USE PERMIT

CHRISTIAN DEAN ARCHITECTURE
 Unmapped Brewing Co.
 14625 Excelsior Boulevard
 #91043.16a



//CONCEPT RENDERINGS - CUP APPLICATION

project: UNMAPPED BREWING

client: UNMAPPED BREWING

A9 date / issue: SEPTEMBER 07, 2016 / CONDITIONAL USE PERMIT

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Unmapped Brewing Co.
14625 Excelsior Boulevard
#91043.16a



BIKE PARKING

SPENT GRAINS
SILO

OUTDOOR PATIO



//CONCEPT RENDERINGS - CUP APPLICATION

project: UNMAPPED BREWING

client: UNMAPPED BREWING

A10 late / issue: SEPTEMBER 07, 2016 / CONDITIONAL USE PERMIT

CHRISTIAN DEAN ARCHITECTURE
 Unmapped Brewing Co.
 14625 Excelsior Boulevard
 #91043.16a



//CONCEPT RENDERINGS - CUP APPLICATION

project: UNMAPPED BREWING

client: UNMAPPED BREWING

A1 date / issue: SEPTEMBER 07, 2016 / CONDITIONAL USE PERMIT

CHRISTIAN DEAN ARCHITECTURE
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14625 Excelsior Boulevard
#91043.16a

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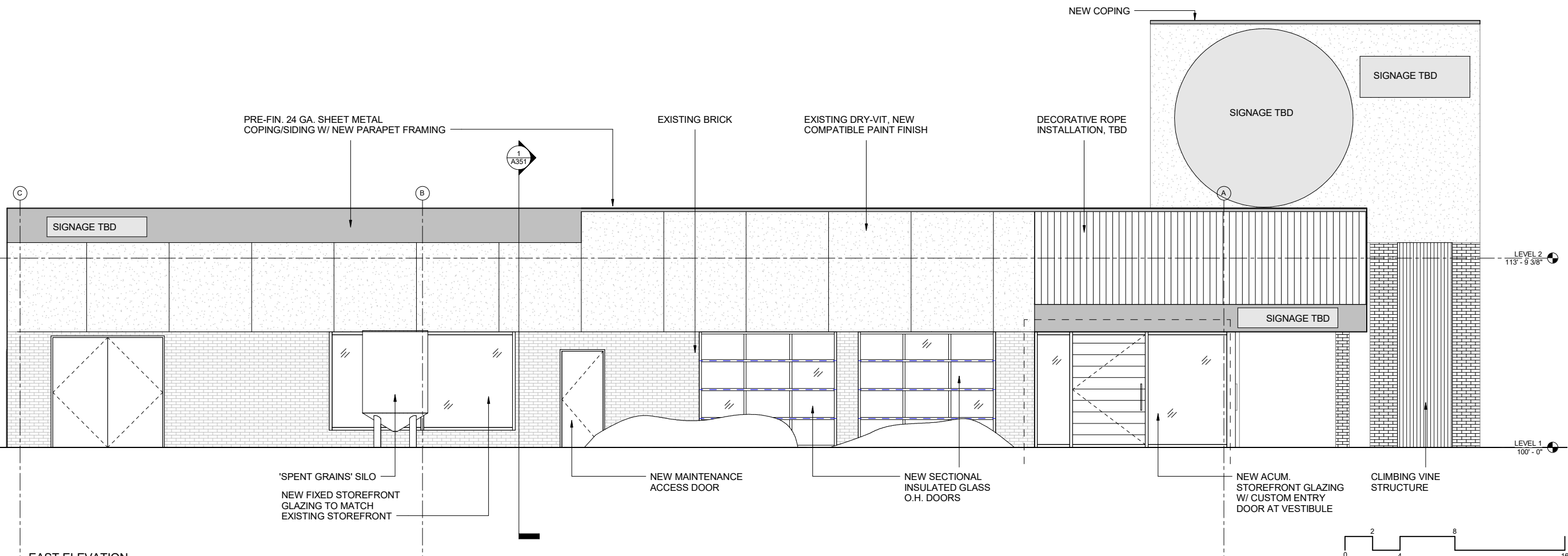
DESCRIPTION	DATE
CUP	09.07.2016

Revision Schedule

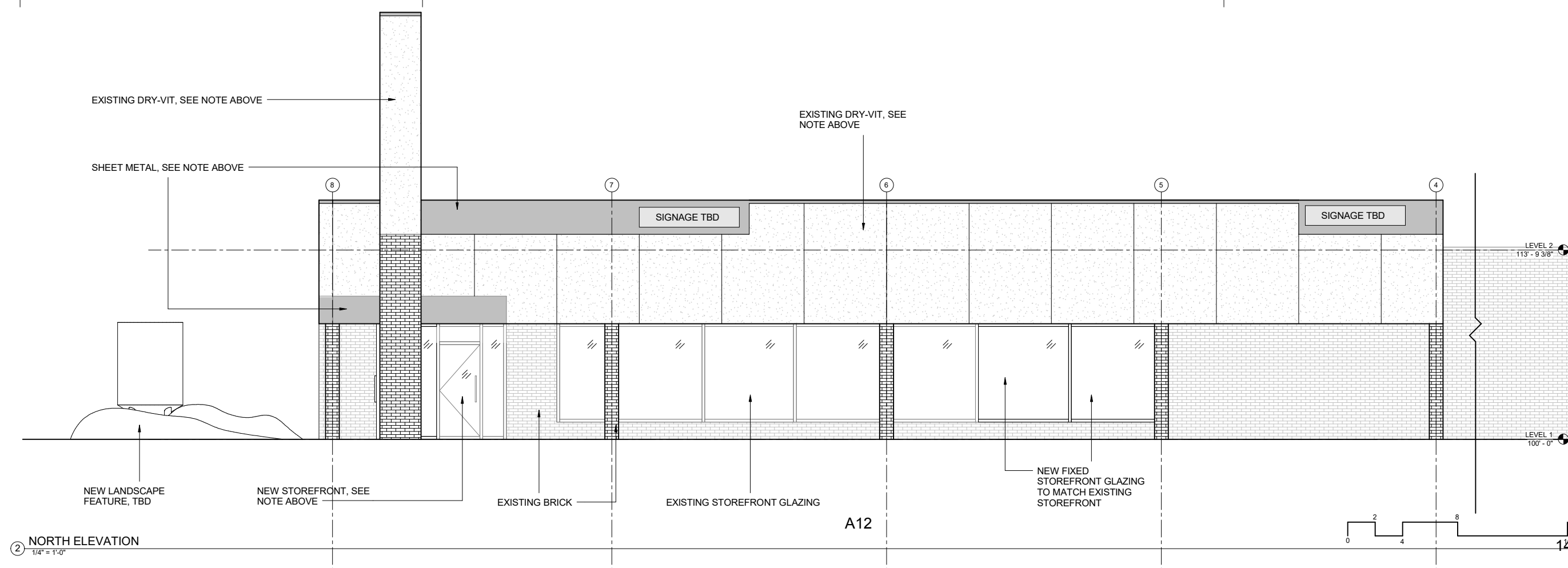
NO.	DESCRIPTION	DATE
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Building Elevations

Unmapped Brewing Co.
14625 Excelsior Boulevard
#91043.16a



① EAST ELEVATION
1/4" = 1'-0"



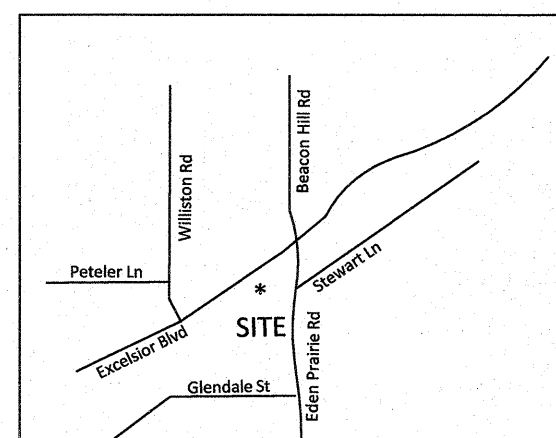
② NORTH ELEVATION
1/4" = 1'-0"

9/7/2016 1:21:30 PM C:\Users\Christian Dean\Dropbox\CD Architecture\CDA-2015.06-UNMAPPED BREWING\2015.06-UNMAPPED BREWING\2016 NEW SITE REV\UNMAPPED TAPROOM_08092016.rvt

LEGEND

- SET MONUMENT
- SET MAG NAIL
- SET CHISLED "X"
- FOUND MONUMENT
- FOUND MAG NAIL
- FOUND CAST IRON MONUMENT
- LIGHT POLE
- MAIL BOX
- SIGN
- BOLLARD
- POWER POLE
- GUY WIRE
- UTILITY BOX
- ROOF DRAIN
- TRANSFORMER
- GAS VALVE
- GAS METER
- HYDRANT
- GATE VALVE
- LIFT STATION
- FLARED END SECTION
- CATCH BASIN
- CATCH BASIN MANHOLE
- MANHOLE
- COMMUNICATION MANHOLE
- ELECTRIC MANHOLE
- CHAIN LINK FENCE
- OVERHEAD POWER LINE
- RETAINING WALL
- PARKING STALL COUNT
- DISABLED PARKING STALL
- SCHEDULE B EXCEPTION NO.
- CONCRETE SURFACE
- EXISTING SPOTELEVATION
- EXISTING CONTOUR

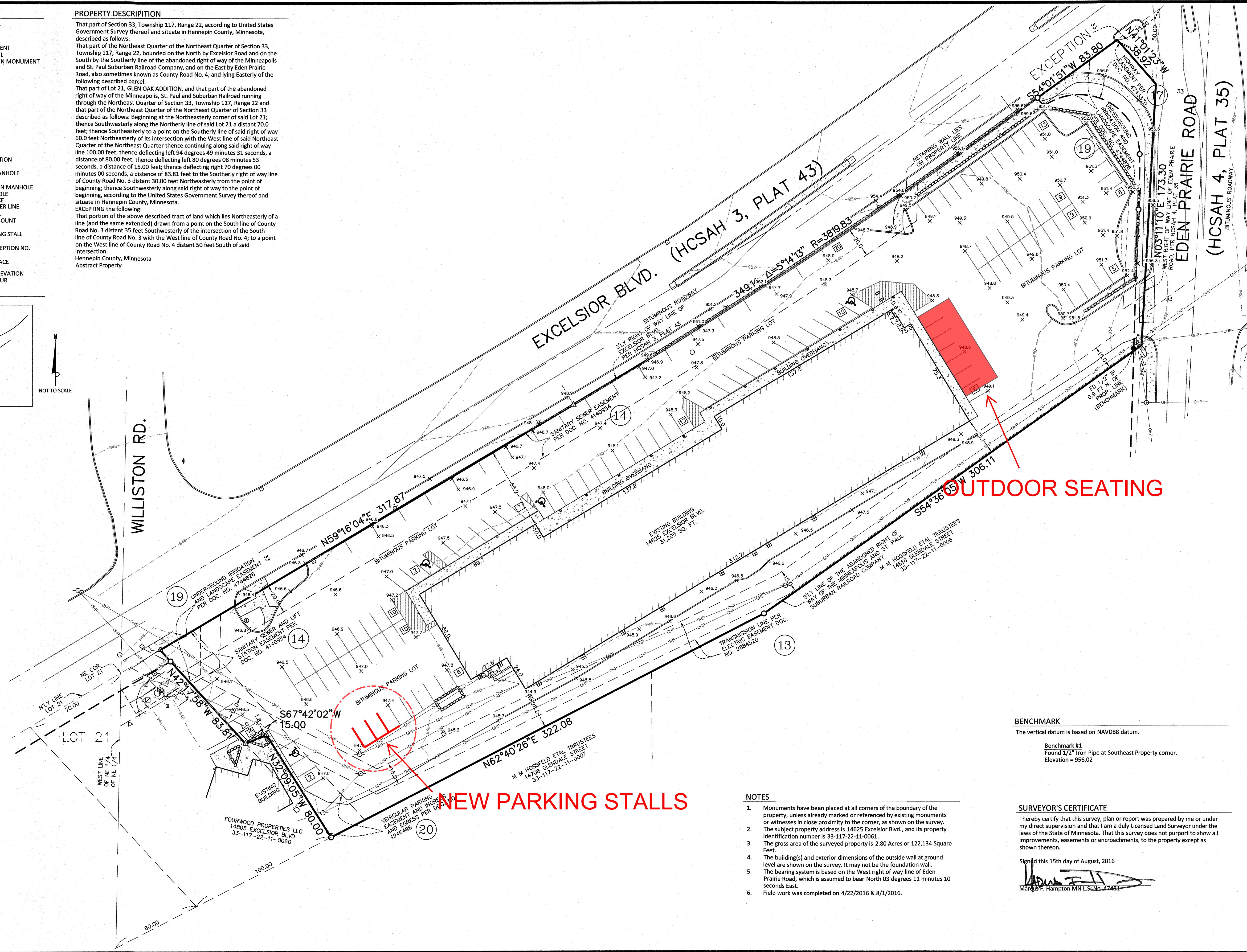
VICINITY MAP



NOT TO SCALE

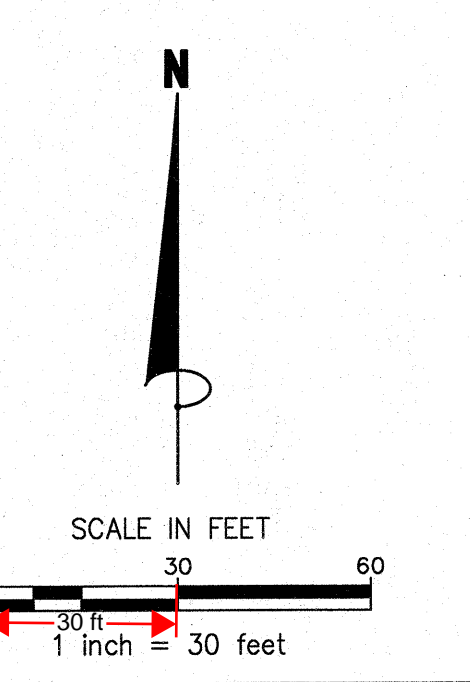
PROPERTY DESCRIPTION

That part of Section 33, Township 117, Range 22, according to United States Government Survey thereof and situate in Hennepin County, Minnesota, described as follows:
 That part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 117, Range 22, bounded on the North by Excelsior Road and on the South by the Southerly line of the abandoned right of way of the Minneapolis and St. Paul Suburban Railroad Company, and on the East by Edin Prairie Road, also sometimes known as County Road No. 4, and lying Easterly of the following described parcel:
 That part of Lot 21, GLEN OAK ADDITION, and that part of the abandoned right of way of the Minneapolis, St. Paul and Suburban Railroad running through the Northeast Quarter of Section 33, Township 117, Range 22 and that part of the Northeast Quarter of the Northeast Quarter of Section 33 described as follows: Beginning at the Northeasterly corner of said Lot 21, thence Southwesterly along the Northerly line of said Lot 21 a distant 70.0 feet; thence Southeasterly to a point on the Southerly line of said right of way 60.0 feet Northeasterly of its intersection with the West line of said Northeast Quarter of the Northeast Quarter then continuing along said right of way line 100.00 feet; thence deflecting left 94 degrees 49 minutes 31 seconds, a distance of 80.00 feet; thence deflecting left 80 degrees 08 minutes 53 seconds, a distance of 15.00 feet; thence deflecting right 70 degrees 00 minutes 00 seconds, a distance of 83.81 feet to the Southerly right of way line of County Road No. 3 distant 30.00 feet Northeasterly from the point of beginning; thence Southwesterly along said right of way to the point of beginning, according to the United States Government Survey thereof and situate in Hennepin County, Minnesota.
 EXCEPTING the following:
 That portion of the above described tract of land which lies Northeasterly of a line (and the same extended) drawn from a point on the South line of County Road No. 3 distant 35 feet Southwesterly of the intersection of the South line of County Road No. 3 with the West line of County Road No. 4; to a point on the West line of County Road No. 4 distant 50 feet South of said intersection.
 Hennepin County, Minnesota
 Abstract Property



OUTDOOR SEATING

NEW PARKING STALLS



BENCHMARK

The vertical datum is based on NAVD88 datum.
 Benchmark #1
 Found 1/2" Iron Pipe at Southeast Property corner.
 Elevation = 956.02

NOTES

1. Monuments have been placed at all corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner, as shown on the survey.
2. The subject property address is 14625 Excelsior Blvd., and its property identification number is 33-117-22-11-0061.
3. The gross area of the surveyed property is 2.80 Acres or 122,134 Square Feet.
4. The building(s) and exterior dimensions of the outside wall at ground level are shown on the survey. It may not be the foundation wall.
5. The bearing system is based on the West right of way line of Edin Prairie Road, which is assumed to bear North 03 degrees 11 minutes 10 seconds East.
6. Field work was completed on 4/22/2016 & 8/1/2016.

SURVEYOR'S CERTIFICATE

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. That this survey does not purport to show all improvements, easements or encroachments, to the property except as shown thereon.

Signed this 15th day of August, 2016

 Mark F. Hampton MN L.S.No. 47481

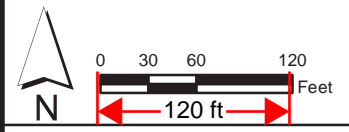
James R. Hill, Inc.
 PLANNERS / ENGINEERS / SURVEYORS
 2500 W. Cty. Rd. 42, Suite 120, Burnsville, MN 55337
 PHONE: (952)890-6044 FAX: (952)890-6244
 www.jrhinc.com

Glen Lake Shopping Center
 14625 Excelsior Blvd., Minneapolis, MN 55345
BOUNDARY AND TOPOGRAPHIC SURVEY
 FOR
True North Investment

DRAWN BY	JCB/PLM
DATE	8/15/16
REVISIONS	
CAD FILE	23267-10s.DWG
PROJECT NO.	23267-10
SHEET 1 OF 1	



**OUTDOOR
SEATING AREA**



Not an accurate survey.
For illustration purposes only.

14616 Glendale St
Minnetonka, MN 55345

September 26, 2016

Dear Minnetonka Council Members and City Staff:

I'm writing concerning the application for two liquor licenses and a conditional use permit by Unmapped Brewing Company, LLC, for a microbrewery/taproom in the old Kraemer's Hardware store at 14625 Excelsior Blvd. I understand the liquor licenses will come up initially at the September 26 City Council meeting, and the conditional use permit is currently scheduled for the October 24 Council meeting.

As you know, my property shares the south property line with the Glen Lake Shopping Center, so I will be one of the closest residences to the proposed microbrewery. A brewery/taproom/patio/live music venue is a substantially new and different use for the Kraemers' site from what has been there for over a hundred years. My family has been the Kraemers' neighbors for most of those years, and we have generally seen retail businesses on the site — people park, go in, make purchases and leave. The food businesses that have occupied a few of the spaces over the years (a bakery, a few restaurants and pizza) have been fairly small and opened onto the north side of the business away from my house. The brewery use intends to spill into the east side of the shopping center site with no barrier between its activity and my house.

I have many concerns and fears about the effects of a brewery and taproom with an outdoor patio, live music, and food trucks immediately adjacent to my home: smells, noise, nuisance activity and, potentially, crime. As a result, I think this application requires heightened scrutiny whether it's an appropriate fit so close to several homes for the following reasons.

I am concerned about **smell** from the brewery coming onto my property and into my house. Over the years, several of the shopping center's businesses have produced smells that have reached me: roasting coffee, dry cleaning fumes, bakery smells, restaurant smells and tar smells when reroofing the building. This shows that it is very hard to contain smells inside the building, and they travel directly to my house.

I am concerned about increased **noise** coming from the taproom and patio: from noisy customers and, in particular, the live music the applicant outlines in the proposal. The applicant states they may "from time to time host outdoor events that may include live music." Having live music immediately next to my house is extremely frightening. It's unlikely any amount of mitigation (reduced volume, limited hours) could minimize the unbearable situation of having live music coming in my windows from next door. The applicant also states they may "from time to time offer live music events that would be hosted inside the taproom with all exterior doors closed." I think it's questionable if the sound from live music could be contained inside the building. Surely we've all experienced being outside buildings holding live events that appeared to boom and vibrate with noise from inside.

Finally, I am deeply concerned about **nuisance activity** and **crime** increasing as a result of establishing a business involving alcohol. Since my property is immediately adjacent to the shopping center, with essentially no security or barrier between the two properties, I fear that drunken, rowdy or dangerous behavior could spill onto my property because of its closeness to the brewery. My property is heavily wooded and over the years, because of its secluded, wooded character, has seen several activities some of which required police intervention: squatters, trespassers, drunken individuals, BB gun shots, search helicopters, police apprehension of runaways, and, most recently, teenagers trespassing and playing on my frozen pond.

So in conclusion, my question is: what is my protection as a homeowner against these many potentially negative things? A brewery/taproom/outdoor patio/live music venue is a substantially different use from anything previously on Kraemers' site. I may be one person against others who would like to see a brewery/taproom, but I'm a property owner with rights and interests that are equal to the business owner's.

What is the plan for venting smells from the brewery manufacturing? If I call the police because of noise violations, will I have their support to get the business to respond in real time to turn down the volume? What guarantee do I have that increased nuisance or criminal activity from the business — whose primary intent is to serve alcohol — will not impact my property or my personal safety? Will the new business put safeguards and security in place?

As this application goes through its process, please question rigorously the appropriateness of putting a brewery/taproom business into the Kraemers' Hardware considering its closeness to residences. I'm sure you will be learning as you go just as I am. I first heard of this proposed business less than a week ago and have been scrambling since to learn what I can, since it's will potentially impact the quiet enjoyment of my home.

Sincerely

Anne Malm Hossfeld

Resolution No. 2016-

Resolution approving a conditional use permit, with variances, for a microbrewery and taproom with outdoor seating area at 14625 Excelsior Boulevard

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

Section 1. Background.

1.01 Unmapped Brewing Company, LLC., is requesting a conditional use permit for a microbrewery and taproom with outdoor seating area. The request includes the following variances:

1. Parking variance from 179 to 132 spaces; and
2. Setback variance from residential property from 200 feet to 41 feet for the outdoor eating area.

1.02 The property is located at 14625 Excelsior Boulevard. It is legally described on Exhibit A of this resolution.

1.03 On October 6, 2016, the planning commission held a hearing on the request. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The commission recommended the city council approve the conditional use permit, with variances.

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 the public health, safety or welfare.

2.02 City Code §330.21 Subd.4(s) lists the following specific conditional use permit standards for microbreweries and taprooms:

1. Parking requirements: microbrewery, one parking space for each 1000 square feet of floor area. Taproom: one parking space for each 50 square feet of floor area.
2. Shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant.
3. Shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of traffic engineers on the roadway system.

2.03 City Code §300.21 Subd.4(p) lists the following specific standards for accessory sidewalk cafes and outdoor eating/seating areas:

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;
2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
4. Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;
5. Shall be located adjacent to an entrance to the principal use;
6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up;
7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and
8. Shall be located in compliance with building setback requirements.

2.04 By City Code §300.07 Subd.1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. FINDINGS.

3.01 But for the requested variances, the proposed microbrewery, taproom, and outdoor seating area would meet the specific standards as outlined in City Codes §300.21 Subd.4(s) and §300.21 Subd.4(p) and the staff report associated with the applicant's request.

3.02 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1:

1. Intent of the Ordinance.
 - a) The intent of the ordinance as it pertains to parking requirements is to ensure adequate parking is provided to meet anticipated parking demand. With striping of three

additional stalls, which is included as condition of this resolution, anticipated parking demand could be met.

- b) The intent of the ordinance as it pertains to outdoor seating area setbacks is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The proposed outdoor seating area setback would meet this intent. Through the proposed seating area would be just 41 feet from the closest residential property, it would be setback over 320 feet from the home located on that property. It would be over 270 feet from the closest residence, which is actually located across Eden Prairie Road. The seating area would be separated from area homes by existing vegetation to the south and the county road to the east.
2. Consistent with Comprehensive Plan. The subject property is located in the Glen Lake village center. One of the overall themes outlined in the comprehensive plan is to “provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability” in village centers. The requested variances would result in creation of a new and unique gathering space, consistent with the goals of the comprehensive plan.
 3. Practical Difficulties. There are practical difficulties in complying with the ordinance:
 - a) Reasonableness and Unique Circumstance.
 - 1) The requested parking variance is reasonable. While code-required parking would not be met, the ITE anticipated parking demand could be met by simply striping three new stalls on the site. Further, the brewery taproom’s anticipated evening/weekend peak parking demand would be different than the peak parking demand of existing uses in the commercial center – which include a pet supply store, barber, salon, e-cigarette shop, insurance agency, and small pizza parlor. In combination, these circumstances are unique and not common to every other similarly zoned property in the community.
 - 2) The requested outdoor seating area setback variance is reasonable. Through the proposed would be just 41

feet from the closest residential property, it would be setback over 320 feet from the home located on that property. It would be over 270 feet from the closest residence, which is actually located across Eden Prairie Road. The seating area would be separated from area homes by existing vegetation to the south and the county road to the east. This physical and visual separation between technically abutting and adjacent commercial and residential uses is a unique circumstance not common in other areas of the community.

- b) Character of the Neighborhood. The reuse of the existing commercial site, from hardware store to brewery/taproom would likely alter the general atmosphere of the area. However, the requested variances themselves would not.

Section 4. City Council Action.

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

1. Subject to staff approval, the property must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan, dated September 7, 2016
 - Area plan, dated September 7, 2016
 - Building elevations, dated September 7, 2016
2. Three additional parking stalls must be striped on the property.
3. The outdoor patio must be controlled and cordoned off with an uninterrupted enclosure, with access only through the principal building.
4. The outdoor patio must be equipped with refuse contains and regularly patrolled for litter pick-up.
5. Speakers or audio equipment which is audible from adjacent parcels is not allowed.
6. The outdoor eating area must be closed by 10:00 p.m. Sunday through Thursday and by 11:00 Friday and Saturday.

- 7. The brewery/taproom and outdoor seating area must conform to all aspects of the City Code Chapter 8, Public Health and Public Nuisance Ordinances.
- 8. This resolution does not approve any signs. Sign permits are required.
- 9. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 10. 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.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 24, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, 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 duly authorized meeting held on October 24, 2016.

David E. Maeda, City Clerk

SEAL

EXHIBIT A

That part of Section 33, Township 117, Range 22, according to United States Government Survey thereof and situate in Hennepin County, Minnesota, described as follows:

That part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 117, Range 22, bounded on the North by Excelsior Road and on the South by the Southerly line of the abandoned right of way of the Minneapolis and St. Paul Suburban Railroad Company, and on the East by Eden Prairie Road, also sometimes known as County Road No. 4, and lying Easterly of the following described parcel:

That part of Lot 21, GLEN OAK ADDITION, and that part of the abandoned right of way of the Minneapolis, St. Paul and Suburban Railroad running through the Northeast Quarter of Section 33, Township 117, Range 22 and that part of the Northeast Quarter of the Northeast Quarter of Section 33 described as follows: Beginning at the Northeasterly corner of said Lot 21; thence Southwesterly along the Northerly line of said Lot 21 a distant 70.0 feet; thence Southeasterly to a point on the Southerly line of said right of way 60.0 feet Northeasterly of its intersection with the West line of said Northeast Quarter of the Northeast Quarter thence continuing along said right of way line 100.00 feet; thence deflecting left 94 degrees 49 minutes 31 seconds, a distance of 80.00 feet; thence deflecting left 80 degrees 08 minutes 53 seconds, a distance of 15.00 feet; thence deflecting right 70 degrees 00 minutes 00 seconds, a distance of 83.81 feet to the Southerly right of way line of County Road No. 3 distant 30.00 feet Northeasterly from the point of beginning; thence Southwesterly along said right of way to the point of beginning, according to the United States Government Survey thereof and situate in Hennepin County, Minnesota.

EXCEPTING the following:

That portion of the above described tract of land which lies Northeasterly of a line (and the same extended) drawn from a point on the South line of County Road No. 3 distant 35 feet Southwesterly of the intersection of the South line of County Road No. 3 with the West line of County Road No. 4; to a point on the West line of County Road No. 4 distant 50 feet South of said intersection.

Hennepin County, Minnesota
Abstract Property

MINNETONKA PLANNING COMMISSION
Meeting of October 6, 2016

Brief Description	Ordinance amending the city code regarding floodplain districts
Recommendation	Recommend the city council adopt the ordinance

Background

The city's first floodplain ordinance was adopted in 1974. The original ordinance prohibited subdivision of properties subject to flooding and prescribed permitted uses, conditionally permitted uses and minimum lot standards for properties within the floodplain district. The ordinance has been periodically amended to respond to changes in federal and state law, as well as to address local issues. Two recent amendments include:

- 2004. The floodplain ordinance was amended to ensure compliance with Federal Emergency Management Agency (FEMA) and state standards for floodplain districts and non-conforming uses within floodplain districts. It was in this ordinance amendment that non-FEMA, or city 100-year floodplain/stormwater ponds, were incorporated into the ordinance. Up to this time FEMA floodplain and 100-year floodplain had been regulated differently. This differentiation between areas that – to non-experts – looked and functioned similarly, had resulted in much confusion and frustration for property owners and city staff alike. The amendment removed much of this confusion and frustration.
- 2011. The floodplain ordinance was amended to ensure compliance with Minnehaha Creek Watershed District rules. Compliance with the rules was required in order to maintain the city's Memorandum of Understanding (MOU) with the district. It is the MOU that allows the city to be a "one stop shop" for community residents who would otherwise need to seek approvals from both the city and the watershed district.

Introduction

The city is again required to address local floodplain regulations to satisfy changes to other state and federal regulations. FEMA has updated the federal flood insurance rate maps (FIRM) for the city and the remainder of Hennepin County. The updated maps are set to become effective on November 4, 2016 and will replace the maps adopted September 2, 2004. To complement these maps, the Minnesota Department of Natural Resources (DNR) distributed mandatory ordinance updates for local government and water management agency adoption. These updates are required in order to reflect the federally and state mandated changes and ensure continued participation in the National Flood Insurance Program.

Map Amendments.

As noted above, the city is required to adopt the new FEMA FIRMs, which provide additional information on floodplain boundaries. The new maps include two technical changes from the earlier maps:

1. **City-wide Change.** The primary change to the new FEMA flood hazard maps, is digitization of the floodplain boundaries. The 2004 FEMA maps consisted of hardcopy, paper maps with electronic versions available. With the proposed 2016 update, the flood hazard boundaries are now digitally drawn over satellite imagery, allowing a greater level of accuracy in determining where the boundary falls on the landscape.
2. **Incorporation of Updated Data.** The new maps include updated hydrologic and hydraulic modeling for Minnehaha Creek and Nine Mile Creek Watersheds. The modeling for these creek corridors in Minnetonka greatly assists flood boundary interpretation, and relates flood elevations to current topographic data (LiDAR). Staff has reviewed the Minnehaha Creek and Nine Mile Creek corridors to compare the regulated flood areas and corresponding flood elevations. The following interesting changes between the 2004 and 2016 maps were noted:

Minnehaha Creek:

- The regulated 100-year flood elevation from Minnetonka Mills to Highway 169 is lower than currently regulated. This elevation ranges from 1 to 4 feet lower.
- The existing 100-year flood elevation in the Greenbrier Road area has been removed.

Nine Mile Creek:

- The 2004 maps did not include a 100-year flood elevation. The 2016 maps establish a 100-year flood elevation. This is a benefit to adjacent properties for flood protection purposes.

The areas outside of Minnehaha Creek and Nine Mile Creek, including Purgatory Creek, isolated lakes, and Lake Minnetonka, do not have updated modeling data associated with the new maps. In essence, this means the flood boundaries in these areas are very similar or identical to the previous iteration of FEMA flood hazard maps, however the boundaries have been digitally rendered over satellite imagery.

In addition to these technical changes, the updated FEMA maps will show any property that had a floodplain boundary revision between 2004 and 2016, unless the modeling usurped these revisions.

The changes since the last FEMA flood hazard maps have been quantified to determine the number of parcels affected by the proposed update. The changes fall into three categories:

- 1. Newly In.** This category includes properties for which the updated flood boundaries now encompass a structure on the properties. They are “newly in” the floodplain. These property owners will be federally required to carry flood insurance if they have a loan or mortgage on the home.
- 2. Still in or Too Close to Call.** This category includes properties that: (1) already had a structure located in the floodplain, which remains in the floodplain under the updated maps; and (2) properties where the new boundary is too close to an existing structure to make a definitive determination on whether a structure is in or out of the new floodplain boundary. These property owners will either need survey data to prove their structure is outside the floodplain or they will need to continue to carry flood insurance.
- 3. Out as Shown.** This category includes properties that contain a floodplain boundary, but structures on the property is “out as shown” based on aerial imagery. These property owners may be contacted by their lenders asking them to either prove they are outside the floodplain or immediately acquire flood insurance.

Based on staff review of the roughly 17,000 properties in Minnetonka, the FEMA floodplain boundary updates will impact 890 properties. Of those 890, 461 will see an increase in special flood hazard boundaries. The updated maps will have the following impact:

	Number of Properties
Newly In	0
Still In or Too Close to Call	18 or 0.1% of all properties
Out as Shown	293 or 1.7% of all properties

* Approximately 152 of these parcels are owned by the City, County, or homeowners associations with no structures, and, therefore, were excluded from this table.

The city has mailed specific notice to the owners of those 18 properties for which impact cannot be determined. General notice will be sent to those 293 properties where some increase in floodplain boundary has occurred, but where structures are “out as shown.”

Staff will also be contacting those property owners who have had their parcels completely removed from the floodplain, as they may no longer be federally required to carry flood insurance. Beginning October 12th, FEMA, in cooperation with the DNR and Hennepin County, will have an on-line interactive tool to assist property owners in identifying applicable flood information for their property.

Ordinance Amendments.

The DNR provided a model ordinance to local governments and water management agencies earlier this year for local adoption. City staff found that the model ordinance did not adequately address the unique natural resources within the city. As such, rather than repeal the existing ordinance and adopt the model ordinance, staff elected to amend the existing ordinance language to meet all federal and state requirements. No major substantive changes are made to the existing ordinance.

The following is intended to summarize the new or amended language:

- Establishes a clear procedure for persons contesting the location of the floodplain boundary.
- Requires a flood warning system for facilities which are used by employees or the general public to allow for adequate evacuation times during times of high velocity floods.
- Prohibits the storage or processing of materials that are explosive, flammable or dangerous to human, animal or plant life during times of flooding.

City staff sent a draft of the amended ordinance to the DNR for review and comments. The DNR responded with some minor clarifications but overall commended the city for its floodplain protection efforts, and has issued a conditional approval of the draft.

Staff Recommendation

Recommend the city council adopt the attached ordinance.

Originator: Susan Thomas, AICP, Assistant City Planner
Tom Dietrich, Water Resources Engineering Coordinator

Through: Loren Gordon, AICP, City Planner

Ordinance No. 2016-__

**An Ordinance amending city code section 300.24,
regarding the Floodplain Overlay District**

The City of Minnetonka ordains:

Section 1. Section 300.24 of the Minnetonka City Code is amended to read as follows:

1. Purpose, Authority.

a) This ordinance regulates development in the flood hazard areas within the City. The purpose of the floodplain district is to recognize, preserve, and protect recreational and hydrological resources and functions of the city's creeks and associated lakes and drainageways by regulating the use of the creeks, associated lakes and adjacent properties in order to minimize loss of life, property damage, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and the impairment of the tax base due to flooding, ~~and property damage due to flooding,~~ and thereby promote the public health, safety, and welfare. The intent is to apply the regulations and standards of this district as an overlay zone, further regulating the use of land as allowed by the other use districts of this ordinance and to maintain a no net loss of floodplain volume.

b) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail.

a)c) This ordinance does not imply that areas outside of the floodplain districts, as defined by this ordinance, or lands uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Minnetonka or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

e)d) This section is adopted pursuant to Minn. Stat. chapters 103F and 462 as amended.

The ~~stricken~~ language is deleted; the underlined language is inserted.

~~d)e~~ This section is adopted to comply with the rules and regulations of the national flood insurance program codified as 44 code of federal regulations (CFR), parts 59 - 78, as amended, to maintain the community's eligibility in that program.

(Amended by Ord. 2011-28, adopted December 19, 2011)

2. Boundaries of Floodplain District.

a) Districts. The boundaries of the floodplain district are comprised of two areas categorized into two areas, those: (1) areas designated by FEMA as floodplain ("FEMA floodplain"); and (2) these areas in addition to located outside the FEMA floodplain ("additional-Additional floodplain").

a)1) FEMA floodplain. The boundaries of the floodplain district designated by FEMA are those areas designated as lying within the 100-year flood boundary on the most recent flood insurance rate maps dated ~~September 2, 2004~~November 4, 2016, contained in the flood insurance study for the city of Minnetonka titled Hennepin County, MN, All Jurisdictions Volume 1 and Volume 2 dated ~~September 2, 2004~~November 4, 2016, and prepared by FEMA. These maps may also be amended by other studies adopted by ordinance ~~accepted by~~ the city and that are not less restrictive than the 100-year flood elevation and the floodways as published by FEMA. These maps constitute the official floodplain district map for the city. All notations, references, and data shown on the maps are incorporated by reference into this ordinance. The FEMA floodplain is comprised of the following three separate districts:

1a. Floodway district: the FEMA floodway district includes these areas within Zone AE that have a floodway delineated as shown on the Flood Insurance Rate Map (FIRM) adopted in this subdivision 2(a). For lakes, wetlands and other basins within Zone AE that do not have a floodway delineated, the FEMA floodway district also includes those areas that are at or below the ordinary high water level (OWHL) as defined in the Minnesota Statutes, Section 103G.005, Subd. 14.

2b. Flood fringe district: the FEMA flood fringe district includes areas within Zones AE that have a floodway delineated on the FIRM adopted in this subdivision 2(a), but are located outside of the floodway. For lakes, wetlands, and other basins within Zone AE that do not have a floodway delineated, the FEMA flood fringe district also includes those areas below the 1% annual chance (100-year) flood elevation but above the OHWL as defined in Minnesota Statutes, Section 103G.005, Subd. 14.

3c. General floodplain district: the General Floodplain district includes those areas within Zones A or AE that do not have a delineated floodway as shown on the FIRM adopted in this subdivision 2(a).

~~b)2)~~ Additional Floodplain. ~~The floodplain district also includes the following additional~~ Additional floodplain area consists of:

~~1a.~~ 4a. those areas designated within the 100-year flood elevation in the city's water resources management plan or a study conducted by a government agency or other organization and accepted by the city;

~~2b.~~ 2b. the 931.5-foot elevation for the area surrounding Lake Minnetonka westward from the Gray's Bay dam based on the hydrological study conducted by the Minnehaha Creek Watershed District until such time as this study is amended;

~~3c.~~ 3c. the flood profiles and floodplain delineations in the Riley Purgatory - Bluff Creek Watershed District's watershed management plan, adopted in 1996 as amended; and

~~4d.~~ 4d. the flood profiles and floodplain delineations in the Nine Mile Creek Watershed District's watershed management plan, adopted in 1996 as amended.

~~eb)~~ eb) Sub-districts. This ordinance establishes regulations and standards based on two floodplain sub-districts each of which contains portions of the FEMA floodplain and a ~~Additional floodplain.~~

1) Floodway Sub-district. This sub-district consists of:

1a. The FEMA floodway district as described in Subdivision 2(a)(1)(a) above; and

2b. Those portions of the Additional floodplain as described in subdivision 2(a)(2) above that are within channels having definable beds and banks capable of conducting generally confined runoff from adjacent lands, but not including roadside ditches created by excavation or human construction activity.

2) Other Floodplain Sub-district. This sub-district consists of:

a. The FEMA flood fringe and FEMA general floodplain districts as described in subdivision 2(a)(1)(b) and (2)(a)(1)(c) above; and

b. Those portions of the aAdditional floodplain as described in Subdivision 2(a)(2) above that are outside of the Floodway sub-district.

ec) Protected wetland districts and "public waters" as classified by the Minnesota department of natural resources are regulated by sections 300.23, 300.25, and 300.26 respectively, of this ordinance. The official floodplain may contain type 1,2, 3, 4, 5, 6, 7 and 8 wetlands. In such instances, the more restrictive regulations apply.

(Amended by Ord. 2011-28, adopted December 19, 2011)

3. Interpretation of Floodplain Boundaries.

The boundaries of the floodplain district will be determined by scaling distances on the official floodplain district map and by the use of the water surface profile of the 100-year flood as shown in the flood insurance study, or by other approved studies. Where interpretation is needed regarding the exact location of the boundary of the district as shown on the official floodplain district map, or where there appears to be a conflict between the location of the boundary shown on the official floodplain district map and actual field conditions, all decisions will be based on the 100-year flood elevations shown on the flood insurance study and maps, if available. When evidence of fill exists the ground elevations that existed on the site as of September 2, 1974 must be submitted and will be used in this determination. If a 100-year flood elevation is not available on the flood insurance study maps, the city engineer may establish the boundary at the 100-year flood elevation as defined in the city's water resources management plan. The city engineer may also require the submission of a registered survey of the property and such other information as is necessary or convenient to reach a determination. This may include items listed in subdivision 7 in this section.

Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(Amended by Ord. 2011-28, adopted December 19, 2011)

4. Permitted Uses.

a) Land may be used in the ~~floodplain district~~ FEMA floodplain and Additional floodplain, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve placement of a structure in the floodway, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of

excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6 and subdivision 8:

- 1) agricultural uses such as general farming, pasture and grazing;
- 2) residential lawns, gardens, landscaped ponds, and play areas and swimming areas such as beaches, if any of the preceding uses is accessory to a low-density residential use on the same site;
- 3) wildlife and nature preserves;
- 4) public and private parks, playfields, and picnic grounds; or
- 5) non-structural pervious hiking, skiing, and horseback riding trails.

b) Land may be used in the FEMA and Additional Floodplain ~~district~~ but outside of the floodway, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6. If no delineated Floodway exists refer to subdivision 7(h):

- 1) fences and retaining walls;
- 2) detached decks and patios located 10 or more feet from the principal use;
- 3) tennis courts and sport courts;
- 4) recreational trails and boardwalks;
- 5) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;
- 6) residential boat docks and boat ramps;
- 7) public ponding and drainage facilities, associated appurtenances and approved flood control structures;
- 8) public utilities that are flood-proofed in accordance with the state building code or elevated to a minimum of two feet above the 100-year flood elevation;

9) overhead utility poles that are less than two feet in diameter, underground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service; or

10) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)

5. Conditional Uses.

Land may be used within the FEMA and Additional floodplain ~~district~~, but outside of the ~~floodway~~Floodway, for the following by first obtaining a conditional use permit and conforming with the standards specified in subdivisions 6 and 8 of this section. If no delineated Floodway exists, refer to subdivision 7(h):

- a) outdoor nurseries;
- b) public or private, nonresidential or commercial boat docks and boat ramps, marinas, and boat slip rental;
- c) recreational uses including private and public golf courses, game farms, shooting ranges, public and private swimming pools and spas, and swimming areas such as beaches that are not a permitted use;
- d) a permitted use that involves excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards;
- e) railroads, streets, bridges, utility transmission lines and pipelines;
- f) commercial extraction and storage of sand, gravel, equipment, machinery and other materials;
- g) construction of additions to non-conforming homes built before September 9, 1974, if the construction uses stilts, pilings, parallel walls, above-grade enclosed areas such as crawl spaces or tuck-under garages, or other approved methods that do not obstruct the flow of floodwater;

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- h) a use permitted by subdivision 4 that involves moving 1,000 cubic yards of material per acre or more if in compliance with section 300.28 subdivisions 15-18;
 - i) private ponding and drainage facilities, associated appurtenances, and approved flood control structures;
 - j) a structure placed on fill or flood proofed meeting the flood protection standards of this code; or
 - k) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)

6. Performance Standards.

All applicable permits must be obtained before any of the following takes place within the floodplain: erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any part of a building or structure; commencement of the use or change of use of a building, structure, or land; construction of a dam, fence, or on-site septic system; change or extension of a nonconforming use; repair of a structure that has been damaged by flood, fire, tornado, or any other source; or placement of fill, excavation of materials, or the storage of materials or equipment. The necessary permits may not be granted until the applicant has obtained all necessary state and federal permits. The activity allowed by the permit must comply with the provisions of this section 300.24, including the following:

- a) the use must have a low damage potential and must not obstruct flood flows or increase flood elevations in the floodway, and must not result in net fill within the subject floodplain;
- b) fill, dredge, spoil and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method;
- c) if regulated trees, wetlands, existing wetland buffers, or public easements exist in the location of the proposed excavation or fill activity, administrative approval is not allowed;
- d) moving of 1,000 cubic yards of material per acre or more requires a separate conditional use permit.

(Amended by Ord. 2011-28, adopted December 19, 2011)

7. Information to be Submitted.

An applicant for a permit under subdivisions 5 and 6 of this section may be required to furnish the following information as deemed necessary by the city:

- a) a concept plan indicating ultimate utilization of the property;
- b) a survey of existing conditions prepared by a registered land surveyor having, at a minimum, spot elevations or contours of the ground, any existing structures, the 100-year flood elevation and the boundary of the applicable FEMA flood zone (e.g. floodway, Zone A and Zone AE);
- c) a grading plan consistent with 300.28 prepared by a licensed engineer or land surveyor showing existing and proposed spot elevations or contours of the ground, erosion control measures, existing and proposed structures on the site, fill or storage elevations, location and elevations of adjacent streets, photographs showing existing land uses upstream and downstream, and soil type;
- d) supporting drainage calculations for fill, existing storage volumes, compensatory volumes, and flood elevations;
- e) a landscaping or re-vegetation plan;
- f) a legal document approved by the city attorney, filed against the subject property, and recorded with the county, acknowledging that construction in the floodplain or a deviation from the standards under subdivision 8 of this section will result in an increased risk of flooding to the subject property or structures on the property;
- g) a review of the proposal by the Minnesota department of natural resources, if applicable, and the appropriate watershed district;
- h) a hydrologic analysis and, if necessary, a hydraulic analysis, to determine the 100-year flood elevation, the floodway and or the floodplain boundary. The analysis must include existing channel cross sections, existing and proposed stream profiles, must estimate the peak 100-year flood discharge and designate the floodway without a flood stage increase of more than .1 foot if applicable, ~~and;~~

1. The City Engineer, or their designee, will review the submitted information and assess the technical evaluation and the recommended Floodway and/or

Flood Fringe district boundary. The assessment must include the cumulative effects of pervious floodway encroachments. The City Planner may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the City Planner may approve or deny the application.

2. Once the Floodway and Flood Fringe district boundaries have been determined, the City Planner must process the permit application consistent with the applicable provisions of subdivision 4 and 5 of this ordinance.

- i) other information that may be required by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011)

8. Standards for Floodplain Districts and Neighboring Lands.

The following standards apply to all land within the floodplain district and to neighboring lands:

a) except as modified or regulated by the standards of the floodplain district, all requirements of the underlying zoning district and section 300.29 will apply;

b) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of 4 upon occurrence of the regional (1%) flood;

c) The storage of materials or equipment must be elevated on fill to the Regulatory Floodplain Elevation;

d) The storage or processing of materials that are, in times of flooding, flammable, explosive, or potentially injurious to human, animal or plant life is prohibited;

~~b)e~~ no structure, fill, deposit, obstruction, storage of materials or equipment, or other use that will cause an increase in the stage of the 100-year flood in the floodway or decrease in existing storage volume in the floodplain is allowed;

~~e)f~~ parking or driveway areas, except those accessory to single-family dwellings, may not be located within 10 feet of the floodplain district and must be a minimum of one foot above the designated 100-year flood elevation;

e)g) driveways accessory to a single family dwelling must be a minimum of one foot above the 100-year flood elevation;

e)h) new principal structures, attached garages, or additions to existing structures must be set back a minimum of 20 feet upland from the edge of the floodplain district and have a minimum lowest floor elevation not less than two feet above the designated 100-year flood elevation. Any addition above the first floor will be exempt from this setback requirement. For purposes of this section first floor will mean the portion of the principal structure that is above grade. This does not apply to any structure or additions for which a conditional use permit is required;

f)i) attached decks and patios, outside stairways, cantilevered building areas, porticos and similar architectural features, may extend a distance not to exceed 10 feet into the required setback and must be 1.5 feet above the 100-year flood elevation and made of flood resistant materials;

g)j) detached pools and their associated apron have no setback from floodplain. For purposes of this section a pool is considered detached if no part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the water's edge of the pool. Detached pools must be anchored and have all utilities designed or located to prevent water damage;

h)k) attached pools may extend a distance not to exceed 10 feet into the required setback as measured from the water's edge of the pool and must be 1.5 feet above the 100-year flood elevation as measured from the water's edge of the pool. For purposes of this section a pool is considered attached if any part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the pool;

i)l) other accessory structures must:

1. not be designed for human habitation and must not contain sanitary facilities;
2. must be setback a minimum of 10 feet upland from the edge of the floodplain district except as otherwise indicated in this subdivision;
3. must have a minimum lowest floor elevation of not less than 1.5 feet above the designated 100-year flood elevation;

4. ~~water-orientated accessory~~ water-orientated accessory structures less than 120 square feet ~~must not be in~~ may have a 0-foot setback from the floodway~~Floodway~~, provided they are not located in the Floodway, ~~must are not be~~ designed for human habitation, ~~must do~~ not contain sanitary facilities, ~~must be made~~ are constructed out of flood resistant materials and ~~must be~~ are anchored; and

5. for purposes of this ordinance accessory structures in subdivision 4(b) and 5(d) of this section have no setback from the floodplain district if they are located outside of the floodplain district.

~~j)m)~~ j)m) principal structures must have areas within 15 feet of the structure at least ½ foot above the designated 100-year flood elevation or have an approved evacuation route from the structure directly to land above the designated 100-year flood elevation; ~~and~~

~~k)n)~~ k)n) in the floodplain above-grade fully enclosed non-basement areas such as crawl spaces or other uninhabitable spaces within a structure, that are used to elevate a structure's lowest floor to two feet above the 100-year elevation, must be constructed to flood internally and must meet the following standards:

1. a minimum of two automatic openings must be included, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. openings must be on at least two sides of the structure;

3. when openings are placed in a structure's wall to provide for entry of floodwater to equalize pressures, the bottom of all openings must be no higher than one-foot above grade;

4. openings may be equipped with screens, louvers, valves, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

5. the enclosed area must be constructed of flood-resistant materials in accordance with the state building code and be used solely for building access or storage. The enclosed space cannot be finished;

~~l)o)~~ l)o) before issuance of the certificate of occupancy, the applicant will be required to submit as-built drawings and certification by a licensed professional engineer

or registered land surveyor that the finished fill and lowest floor elevation of all structures were accomplished in compliance with the provisions of this ordinance;

~~m)p)~~ hard surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district. Treatment may include site retention, skimmers, weirs, infiltration basins, or storm water ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner;

~~n)q)~~ discharge into the floodplain must not occur at a rate greater than allowed by the city engineer in accordance with the city's water resources management plan and appropriate watershed district requirements;

~~o)r)~~ development proposals must be designed in compliance with the city's water resources management plan and must incorporate the requirements of the appropriate watershed district, the Minnesota department of natural resources and other governmental agencies;

~~p)s)~~ in areas with land-locked basins that have no outlet, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of two-feet above the flood elevation of two back-to-back 100-year storm events as calculated by a licensed professional engineer, or a minimum of two feet above the natural overflow elevation of the basin, as directed and approved by the city engineer;

~~q)t)~~ the 100-year flood elevation will be based on the following criteria; in floodplain areas where the 100-year flood elevation is not readily available, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of three-feet above the Minnesota department of natural resources' ordinary high water level or two feet above the highest known water level, whichever is more restrictive and is acceptable to the city engineer;

~~r)u)~~ no development may adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodplain or other encroachment limit has not been specified on the official zoning map;

~~s)v)~~ all recreational vehicles that are not travel-ready must meet the same standards as any other single family dwelling unit. For purposes of this section "travel-ready" means that the unit must be ready to travel on a roadway, including that it:

1. have a current, valid license to operate on public roads;

2. rest on inflated tires or an internal jacking system that can quickly return the unit to its inflated tires;
3. be attached to the site by no more than the quick-disconnect type of utilities commonly used in transitory campgrounds; and
4. have no permanent structures attached to it;

~~t~~w) all manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, lateral movement, and they must meet the same standards as any other single family dwelling unit. Methods of anchoring may include use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces;

~~u~~x) no land may be subdivided that is unsuitable because of flooding or inadequate drainage, water supply or sewage treatment facilities. Lots within the floodplain district must be able to contain a building site outside of the floodplain overlay district or above the 100-year flood elevation and comply with the requirements of this code. Subdivisions must have water and sewage treatment facilities that comply with city standards and have road access to the subject property that complies with the requirements of this code. For subdivisions in the floodplain district, all access roads must be clearly labeled on all subdivision drawings and platting documents. An applicant for a subdivision must provide the information required in section 300.24 (8) to determine the 100-year flood elevation and the floodplain district boundaries for the subdivision site;

~~v~~y) public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the state building code or elevated to one foot above the 100-year flood elevation;

~~w~~z) railroad tracks, roads, and bridges to be located within the floodplain must comply with section 300.24, subdivision 8. Elevation to a minimum of one foot above the 100-year flood elevation must be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety; and

~~x~~aa) where public utilities are not provided:

1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and they must not be subject to impairment or contamination during times of flooding. A sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is deemed to be in compliance with this provision.

bb) the city will review all permit applications to ensure that all proposed building sites in floodplain will be:

1) anchored to prevent flotation, collapse, or lateral movement;

2) use flood-resistant materials;

3) use construction methods and practices that minimize flood damage;

and

4) ensure that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed and/or located to prevent water entry and accumulation.

(Amended by Ord. 2011-28, adopted December 19, 2011)

9. Alteration of the Floodplain.

a) Activities that constitute an alteration of the floodplain district include the physical alteration of the size, depth and contour of the floodplain. No alteration of the floodplain district is allowed without a floodplain alteration permit, except that only a grading permit approved by the city planner is required for permitted uses that do not involve excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards of land located outside of the floodway.

b) An alteration permit is subject to the recommendation of the planning commission and approval of the city council.

c) In reviewing alteration permits, the city will consider whether the following general standards are met:

1. The magnitude of the alteration is appropriate relative to the size of the floodplain district.

2. The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

3. The alteration will not negatively impact the hydrology of the floodplain.

4. Floodplain mitigation areas will not negatively impact adjacent properties.

5. The alteration will meet the intent of the city's water resources management plan and the subdivision and zoning ordinances;

6. The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

7. The alteration will not have an undue adverse impact on the public health, safety or welfare.

d) Notwithstanding the general standards, no alteration permit will be granted unless the following specific standards are met.

1. On all properties within the city:

a. Water storage must be maintained and provided in an amount at least equal to that filled unless acceptable hydrologic engineering data has been presented and approved by the city engineer indicating that conditions have changed such that the floodplain characteristics will be maintained even with proposed floodplain fill.

b. Floodplain fill area must be located no more than 20 feet from any existing or proposed structure, except where required by the city engineer to achieve a required evacuation route.

c. Where floodplain alteration is required for construction of a driveway, the driveway must be no wider than 12 feet and must be located to minimize impact to the floodplain.

d. Floodplain alteration, including the creation of compensatory water storage, must not result in removal of regulated trees, adversely impact wetlands or existing wetland buffers, or be located within public easements. The city council may waive this condition if the proposed alteration would improve existing site conditions.

e) If the alteration will change the boundary of the floodplain district, a zoning map amendment is also required under subdivision 10 below.

(Amended by Ord. 2011-28, adopted December 19, 2011)

10. Removal of Lands from the Floodplain District.

This subsection applies to new principal structures or additions to existing principal structures constructed in accordance with section 300.24, subdivisions 5 and 8. It does not apply to accessory structures or other uses.

a) The following applies to only the FEMA floodplain areas:

1. Changes in the official floodplain district map must meet FEMA technical conditions and criteria and must receive prior FEMA approval before adoption by the city. The applicant must obtain a conditional letter of map revision from FEMA before the city council considers the request, and a subsequent letter of map revision from FEMA within 90 days after issuance of the certificate of occupancy. The FEMA standards should be considered before initiation of site preparation if a change of special flood hazard area designation will be requested.

2. All amendments to this ordinance, including amendments to the official floodplain district map as defined in section 300.24, subdivision 2, must be submitted to and approved by the commissioner of the Minnesota department of natural resources before adoption by the city. The commissioner must be given 10-days written notice of the hearing to consider an amendment to this ordinance, and the notice must include a draft of the ordinance amendment or technical study under consideration.

b) The following applies to the FEMA floodplain and the ~~additional~~ Additional floodplain areas;

1. Land may be removed from the floodplain district only by a zoning map amendment pursuant to the provisions of section 300.09 of this ordinance. The floodplain designation on the official floodplain district map will not be removed from a floodplain area unless it can be shown that the designation is in error or that the area has been filled to one foot above the elevation of the 100-year flood and stage increase, and is contiguous to land outside of the floodplain per state standards.

2. When land is removed from the floodplain district, water storage must be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented which indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation. Removal of

land from the flood plain or creation of compensatory water storage cannot be located where there are any regulated trees, wetlands, existing wetland buffers, or public easements, unless approved by the city council. In addition to other application requirements, the city may require submission and approval of information listed under subdivision 8(b) in this section.

(Amended by Ord. 2011-28, adopted December 19, 2011)

11. Public Control of Floodplains.

The proponents of development on properties containing a floodplain district may be required to dedicate all or a part of the floodplain or to convey an easement over all or a part of the floodplain to the city if consistent with the intent and procedures of this ordinance.

(Amended by Ord. 2011-28, adopted December 19, 2011)

12. Administration.

a) A person who has obtained a permit pursuant to section 300.24, ~~subdivision 7~~ must submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section 300.24. Flood-proofing measures must be certified by a registered professional engineer or registered architect.

b) The city planner must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The city planner must also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

c) The city planner must notify, in riverine situations, adjacent communities and the commissioner of the department of natural resources before the city authorizes an alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stat. chapter 103G, this will suffice as adequate notice to the commissioner of natural resources. The city planner must also send a copy of the notification to the Chicago regional office of FEMA.

d) As soon as is practicable, but no later than six months after the date the supporting information becomes available, the city planner must notify the Chicago regional office of FEMA of the physical changes that increase or decrease the 100-year flood elevation by submitting a copy of the technical or scientific data.

e) When granting variances to the provisions of section 300.24, the following additional variance criteria of FEMA must be satisfied:

1. Variances may not be issued within a designated regulatory floodplain if an increase in flood levels during the 100-year flood discharge would result.

2. Variances may only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the Regulatory Floodplain Elevation for the particular area, or permit standards lower than those required by law.

f) The city planner must notify the applicant for a variance that (1) the issuance of a variance to construct a structure below the 100-year flood elevation will result in significantly increased premium rates for flood insurance, (2) construction below the 100-year flood elevation increases risks to life and property. This notification must be maintained with a record of the variance action. The city planner must maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.

g) Before the hearing on a conditional use permit or variance for a use or activity in the floodplain, the city planner must mail a copy of the application to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing. The city planner must mail a copy of all decisions granting a conditional use permit or a variance to the commissioner within ten days after the action.

(Amended by Ord. 2011-28, adopted December 19, 2011)

13. Non-Conforming Uses.

a) This subdivision 13 applies to all legal non-conformities defined in section 300.29, subdivision 2. Those legal non-conformities that are in the floodplain are also subject to the provisions in section 300.29.

b) A legal non-conformity in the floodplain may not be expanded, changed, enlarged, or altered in a way that increases its non-conformity. A non-conforming use or structure in a floodplain may only be changed, repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program and would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway. No variance may be granted to this requirement.

c) A structural alteration or addition to a non-conforming structure or non-conforming use that would result in increasing the flood damage potential of that structure or use must be protected to the regulatory elevation in accordance with the flood protection standards as defined in subdivisions 6 and 8 of this code or flood-proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) must be implemented as allowable in the state building code, except as further restricted in (d) and (f) below.

d) The cost of all structural alterations or additions to a non-conforming structure over the life of the structure must not exceed 50 percent of the market value of the structure unless the conditions of this paragraph are satisfied. The cost of all structural alterations and additions constructed after the adoption of the city's initial floodplain controls must be calculated into today's current cost, including all costs such as construction materials and a reasonable amount for labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of this section 300.24 for new structures.

e) If a non-conforming use or structure is substantially damaged, as defined in section 300.02, it may be reconstructed only in conformity with the provisions of this section 300.24 for new structures.

f) If a substantial improvement occurs, as defined in section 300.02, from any combination of an addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing non-conforming building, then the building addition and the existing non-conforming building must meet the requirements of this section 300.24 for new structures.

(Amended by Ord. 2011-28, adopted December 19, 2011)

14. Exception for Compensatory Flood Storage Provisions.

The ~~stricken~~ language is deleted; the underlined language is inserted.

Activities undertaken by a government unit to eliminate or minimize the flooding of existing roadways that are located in the floodplain district are exempt from the provisions of section 300.24 as long as the work to eliminate or minimize flooding does not occur in the floodway, cause an increase in the flood stage by more than .1 foot, or cause flooding impacts on neighboring properties.

(Amended by Ord. 2011-28, adopted December 19, 2011; amended by Ord. 2008-24, adopted March 24, 2008; amended by Ord. #2007-17, adopted May 7, 2007; Ord. #2004-24, adopted August 23, 2004)

Section 2 . A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on _____, 2016.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

Action on this ordinance:

- Date of introduction:
- Date of adoption:
- Motion for adoption:
- Seconded by:
- Voted in favor of:
- Voted against:
- Abstained:
- Absent:
- Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on _____, 2016

David E. Maeda, City Clerk