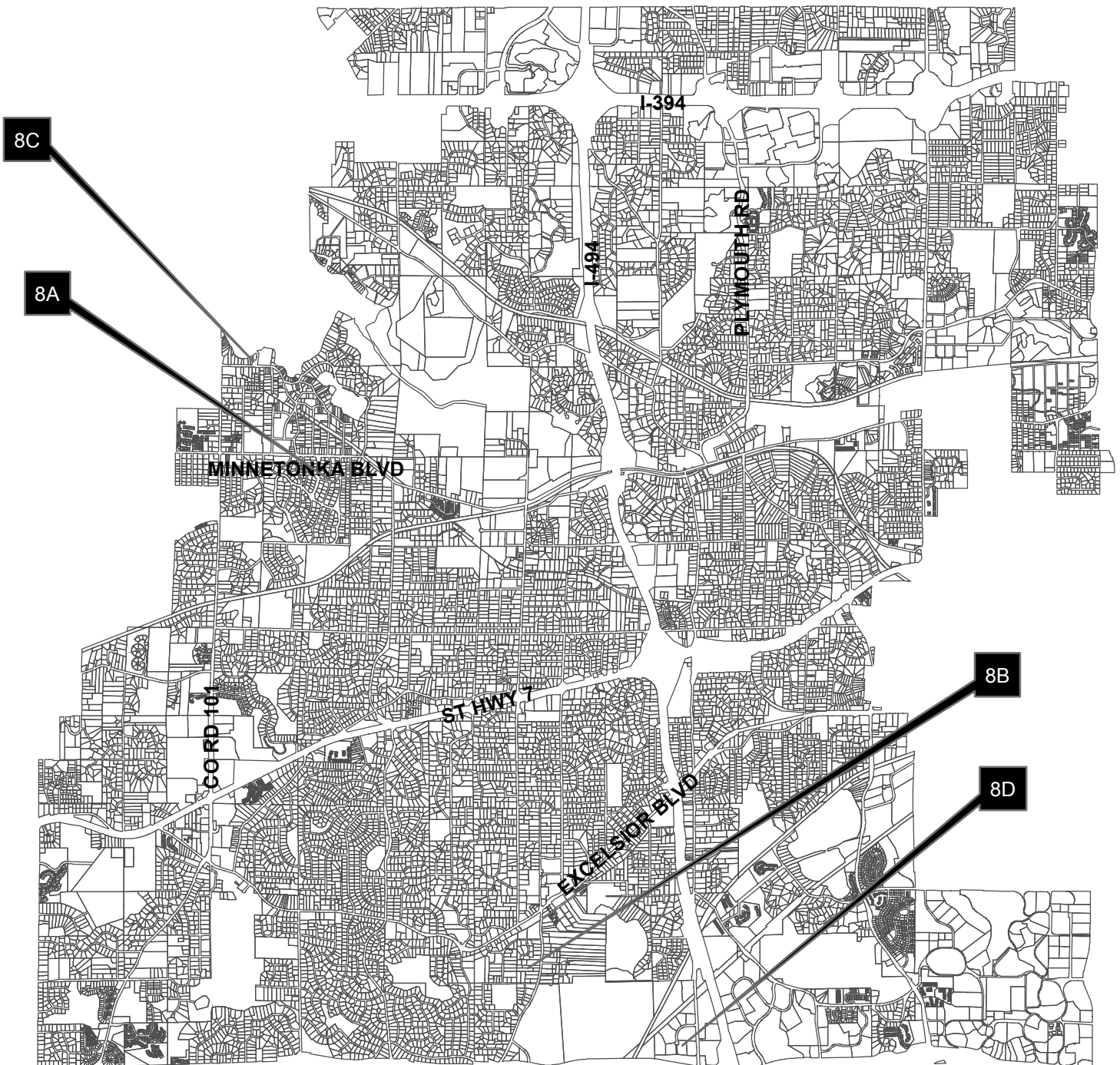




**CITY OF MINNETONKA
PLANNING COMMISSION
OCTOBER 20, 2016**

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Planning Commission Agenda

October 20, 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: October 6, 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. Expansion permit and variance to construct a new single-family home at 5718 Eden Prairie Road.

Recommendation: Adopt the resolution approving the requested expansion permit and variance (5 votes)

- Final Decision Subject to Appeal
- Project Planner: Drew Ingvalson

C. Front yard setback variance for a new home at 17300 County Road 101.

Recommendation: Adopt the resolution approving the variance (5 votes)

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

D. Parking variance for a self-storage facility at 6031 Culligan Way.

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

- Final Decision Subject to Appeal
- Project Planner: Drew Ingvalson

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 November 3, 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

Ward/Council Member: 1—Bob Ellingson

Staff: Ashley Cauley

Section: 36

Project Description: The City of Minnetonka is proposing to construct a cold storage building on the Public Works property at 11522 Minnetonka Boulevard. The proposal requires approval of: (1) a conditional use permit; and (2) site and building plan review.

Project No.: 01056.16a

Ward/Council Member: 2—Tony Wagner

Staff: Loren Gordon

Section: 14

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**

October 6, 2016

1. Call to Order

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

2. Roll Call

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

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

3. Approval of Agenda

Odland moved, second by Knight, to approve the agenda with additional comments, a modification to the September 22, 2016 meeting minutes, and postponement of Item 8A to the October 20, 2016 planning commission meeting as outlined in the change memo dated October 6, 2016.

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

4. Approval of Minutes: September 22, 2016

Odland moved, second by Calvert, to approve the September 22, 2016 meeting minutes as submitted with the modification outlined in the change memo dated October 6, 2016.

Odland, Powers, Calvert, Hanson, Knight, and Kirk voted yes. O'Connell 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 26, 2016:

- Adopted a resolution approving final plat approval of Highview Place at 4301 Highview Place.

- Introduced an ordinance for the Enclave at Regal Oak proposal.
- Adopted a resolution approving vacation of a drainage and utility easement at 4273 Manor Court Road.
- Adopted a resolution approving vacation of a drainage and utility easement at 283 and 287 Bellwether Path.

The city's open house was well attended.

The next planning commission meeting will be October 20, 2016. The Imagine Minnetonka meeting which is open to the public will be held at 7 p.m. on October 12, 2016.

6. Report from Planning Commission Members: None

7. Public Hearings: Consent Agenda: None

8. Public Hearings

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

This item has been postponed until the October 20, 2016 planning commission meeting.

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

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.

Powers noted that the access to Copperfield Place is only viable if the planning commission approves the application. Thomas agreed.

Elizabeth Wright, 13564 Westernesse Road, stated that:

- She has lived in Minnetonka her entire life. She appreciated the neighbors wanting to keep the neighborhood as it is.
- There are numerous cul-de-sacs in the area. The proposal is the same as the existing enclaves made up of three or four houses. The proposal fits with the size of lots on Copperfield Place.

- She remodeled the house instead of starting over to keep the history.
- The best way to access the two lots is from a shared driveway.
- She requested commissioners approve the proposal.
- She and her engineer were available for questions.

The public hearing was opened.

Mark Jansa, 14731 Copperfield Place, stated that:

- He previously provided written comments that are in the agenda packet.
- He appreciated the commission's role.
- He requested the proposal be denied. It would require three houses to share a driveway.
- He opposed the removal of trees.
- The plan would locate two houses in a disproportionate part of the parcel.
- There would be a safety concern from overcrowding and moving the driveway.
- He favored limiting the project to one additional house, preserving trees and open space, and looking at the watershed impact.

Kendal Beck, 14801 Copperfield Place, stated that:

- He asked if the pond is included in the square footage calculation.
- He did not think it would be possible aesthetically to add two houses.
- The neighborhood has water drainage problems.
- Locating the driveway on McGinty Road would be more appropriate for the neighborhood.

Kathleen Parrish, 14701 Copperfield Place, stated that:

- She questioned if the style of the houses would fit with the neighborhood.
- Wayzata is cramming houses on lots. She did not want Minnetonka to go in that direction. She preferred the feel of nature.

Michelle Nelson, 14711 Copperfield Place, stated that:

- The proposed driveway would look like a road.

- The impact on the neighborhood needs to be considered.
- She would like the new houses to be consistent with the neighborhood.
- Adding two houses would destroy the look of the neighborhood.
- The main trees would be removed.

Scott Buss, 2731 Olde Wood Court, stated that:

- He was concerned where children would play.
- The proposed two houses would decrease his property value.

Laura Kennedy, 2720 Chadwell Circle, stated that:

- The neighborhood is awesome and has an association.
- The proposal would be too cramped.
- She highly opposed the proposal.

Paul Parrish, 14701 Copperfield Place, stated that:

- The proposal would deteriorate the neighborhood.
- Copperfield Place is not a through street.
- He opposed the proposal.

Bob Nelson, 14711 Copperfield Place, stated that:

- The driveway would be located on a hill and make the street unsafe for kids.

Sheila Lichty, 2720 Westcote Circle, stated that:

- Her neighborhood is made up of cul-de-sacs, not shared driveways. Moving the driveway would change the feel of the neighborhood.

Tim Wilcox, 14900 Copperfield Place, stated that:

- The proposed lots would be a poor use of space. The basements would walk out on the McGinty Road side and the front yards would not be very large. He challenged the developer to create different designs for the parcel.

Amit Sela, 13564 Westernesse Road, stated that:

- The proposed houses would conform with the neighborhood, have the same square footage as surrounding houses, and be priced from \$700,000 to \$800,000. The proposal would increase the property values.
- The developer is being very conservative with the number of trees being removed. New evergreens would be planted.
- The pond would be preserved.
- All city requirements would be met.
- The driveway would not be a road. Some of it would be made of pavers and some asphalt because the fire marshal required asphalt.
- The workers have been sensitive to the neighbors' needs.
- The association would be given the opportunity to approve the house plans.

Mr. Parrish stated that:

- He did not want the neighborhood to look like a condominium complex.
- The developer wants two houses to pay back the investment made in the first house.

Ms. Parrish stated that she wants the price point in writing.

No additional testimony was submitted and the hearing was closed.

Knight thought that the driveway looks more like a cul-de-sac with three driveways than a shared driveway. He asked if it would meet the requirements for emergency vehicles. Thomas explained that the fire marshal added a condition of approval requiring that either the proposed houses be equipped with fire suppression systems or the width of the driveway would have to be a minimum of 24 feet. There is no maximum width for a residential driveway, but the maximum width of a curb cut is restricted to 30 feet.

Calvert asked if the proposal would reduce the amount of driveway impervious surface. Thomas answered affirmatively. The existing driveway is significantly longer than the proposed driveway.

Powers asked how many trees would be removed due to the driveway. Thomas answered seven.

Calvert supported saving an oak tree. Thomas explained that staff considers any tree that would have more than 30 percent of its root zone impacted as removed. The oak tree is listed as one that would be removed. Colleran explained the tree preservation ordinance and look back clauses.

Odland noted other houses that have driveways on McGinty Road. She asked why the county did not want the proposed houses to have access on McGinty Road. Thomas assumed it was because county staff saw an alternative to locate the driveway on a city street. The county strives to limit the number of curb cuts on county roads.

Powers asked how many trees would be removed if the driveways would access McGinty Road. Thomas estimated the removal of trees would be similar due to the location of utilities and building pads.

Calvert stated that the commission cannot deny an application that meets ordinance requirements. Thomas clarified that the commission could recommend denial of any application. However, if an application meets all ordinance requirements, a court would find the denial arbitrary. The buildable area does not include setbacks, wetlands, or setbacks to wetlands. The proposed lots would exceed the buildable area requirement of 3,500 square feet. The city does not regulate the purchase price of a house.

Chair Kirk noted that all ordinance requirements would be met if one driveway would access McGinty Road. He summarized that the commission's decision would be to recommend approval or denial to the city council regarding whether to locate the proposed shared driveway on Copperfield Road. Thomas stated that the application meets all ordinance requirements, except for a variance to allow the driveway of Lot 3 to be located on Copperfield Place.

In response to Chair Kirk's question, Dietrich explained the site's drainage pattern. The proposal would improve the storm water management for the site.

Odland found it hard to visualize two houses on the site. Thomas pointed out the delineated edge of the wetland and 35-foot setback from the delineated edge of the wetland which meets ordinance requirements. The footprints are examples of what could be built on the proposed lot, not what would be required. Colleran explained that the wetland area buffer is 16.5 feet upland from the delineated wetland edge. The setback for the house would be 35 feet. The wetland area buffer could not be mowed and must contain native vegetation. There is currently no wetland buffer.

Calvert preferred one new house. Odland concurred.

Hanson identified that commissioners must decide the best location for the driveway.

Powers agreed. He stated that there would be no dramatic difference between the proposed drive and every other drive on Copperfield Place. The proposed lots meet all ordinance requirements. He agrees with staff's recommendation.

Chair Kirk noted that the only variance has to do with the driveway. He feels like he must support the proposal. A motion needs to be made to provide a recommendation to the city council.

Powers moved, second by Hanson, to recommend that 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).

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

This item is scheduled to be reviewed by the city council October 24, 2016.

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

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

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

Chair Kirk clarified that the proposal would make two lots into five lots with one existing house that would remain.

Odland confirmed with Thomas that the item could be tabled. Chair Kirk added that the applicant could revise the proposal before it will be reviewed by the city council. Thomas stated that feedback from commissioners would be beneficial.

Thomas reviewed the suggestions provided by the applicant.

Roger Anderson, engineer representing the applicant, stated that:

- The six-lot concept laid out nicely.
- Councilmembers stated that they would prefer four lots.

- The proposal would meet R-1A requirements, but that would not work because the proposal does not include building a street as required by R-1A.
- Three R-1 lots could meet ordinance requirements, but the idea is to make the houses provide one-floor living.
- The floor area ratio (FAR) would comply with R-1A requirements and the applicant is happy with that size. It would restrict the size of the houses somewhat and keep the price point around \$600,000.
- He compared the proposal to Cherrywood Pointe. The public benefit of the proposal would be providing a home for seniors. It is harder to see the public benefit for a 4-unit proposal than 99-unit proposal.
- The proposed type of housing is unavailable in Minnetonka right now. Large lots would support large houses. The proposed houses with floor area restrictions with 1,800-square-foot to 2,000-square-foot main floors and no second floors. That would provide a public benefit.
- Almost two thirds of an acre would be dedicated in a conservation easement.
- A pipe that directs water to the proposed property would be fixed, rain gardens would be installed, and geothermal would be used. The impact to the environment would be the same for four R-1A houses or three R-1 houses. The amount of grading would be approximately the same.
- The best plan is the proposed PUD for ramblers with walkouts and lookouts. The proposal would provide a public benefit by providing new, single-level living houses.

Hanson asked if the existing house on Lot 5 was included in a previous review of the proposal. Mr. Anderson explained that the property owner is a joint applicant who reached an agreement with the original applicant.

Powers asked for the size and price of houses that would be built with R-1 zoning. Mr. Anderson answered that he has received inquiries from buyers who want to build a 6,000-square-foot house.

The public hearing was opened.

Cheryl Smith, 3625 Arbor Lane, thanked Thomas for her responses to her emails. She stated that:

- She did not support the proposal.
- She saw a pileated woodpecker and owls on the site.

- She was concerned with stormwater drainage and the city having access to the retention pond to keep it clean.
- The land would be decimated and the woods would no longer soak up water.

Grace Sheely, 14325 Grenier Road, thought this would be a great opportunity to utilize R-1A zoning. She encouraged thinking long term. She was concerned that there would be a tax base loss due to the next generation not wanting to purchase the current houses. R-1A zoning may be able to save some of the woods, but she did not know. She suggested more stormwater drainage improvements to help the residents downhill.

Vanessa Green, 3632 Arbor Lane, stated that:

- She agreed with the other speakers.
- A river would form in her backyard when she was a kid when it rained. She was concerned that cutting down the trees would cause huge runoff.
- She was concerned with the extensive grading.
- Her neighborhood is all single-level living houses. One of those could be renovated.

Greg Bartholomew, 3653 Shady Oak Road, stated that:

- He had concerns with lot size and density.
- He was concerned with the target market.
- There are ramblers in the neighborhood.
- He asked if landscaping and tree replacement would be required.
- There is a steep grade.
- It would be helpful to see a rendering of what the site would look like. The change in the view would be dramatic.

No additional testimony was submitted and the hearing was closed.

Chair Kirk asked staff to compare PUD and R-1A zoning for the site. Thomas explained that rezoning to R-1A would not require the public benefit, which was necessary when rezoning from R-1 to a PUD. R-1A zoning standards have no control over house design, but there would be some control over house size. The tree ordinance applies to every type of zoning classification. In order to be zoned R-1A, 60 percent of the lots in the area must be less than 22,000 square feet in size or a new public street must be created. Neither of those applies to this proposal.

Dietrich explained the stormwater management requirements which are usually worked out at the time of the grading permit.

Colleran pointed out where grading and tree loss would occur.

In response to Chair Kirk's question, Thomas estimated that tree loss would be similar whether the site would be zoned PUD, R-1A, or R-1. The grading permit would only be issued if all requirements would be met.

Powers noted the steepness and was concerned with the runoff. Mr. Anderson stated that a grading plan, stormwater management plan, and stormwater calculations have been submitted. The proposal meets all requirements. A pond would be built where a neighbor requested a pond to be built. Right now, there is no control of the stormwater. The proposal would pay to manage the stormwater and meet city requirements. A stormwater management system takes up room and causes more grading. The proposal would place a conservation easement over most of the significant trees. The grading plan would fix a three-foot gully to make it function properly. A maintenance agreement would be made with the city to service the pond and stormwater management system.

In response to Knight's question, Mr. Anderson explained that a 3:1 slope is similar to the slope from the front of yard to the back yard of a house with a walk-out basement. Lawn mowers can be ridden on the slope just fine. The maintenance agreements would be recorded on each title.

Calvert agreed that diversified housing stock is needed. She opposed the proposal because it would result in too much tree loss.

Powers liked the developer's ability to present the proposal. He favored three lots instead of four. He is less concerned about the overall size of the houses. He is not concerned with homeowners wanting to downsize to a single level. The overall feeling of the area is better suited for fewer houses.

Odland agreed. Fewer houses would have less impact on the wildlife.

Hanson recalled commissioners asking the applicant to reduce the number of houses from five to four at the concept plan review. He commended the applicant for doing that. Fine tuning needs to be done with the stormwater management. Four new houses could fit the site, but the details need to be more thought out.

Chair Kirk noted that new housing is lacking in Minnetonka. He agreed that the proposal is not ready for approval. The character of the neighborhood should also be taken into consideration.

Calvert appreciated Mr. Anderson's presentation. She did not think the proposal was ready.

Odland moved, second by Calvert, to recommend that the city council adopt the resolution denying the requested rezoning, master development plan, and preliminary and final plats (see pages A18-A21 of the staff report).

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

This item is scheduled to be reviewed by the city council October 24, 2016.

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

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

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

In response to Chair Kirk's question, Gordon explained that the animal hospital is a separate building that uses the west end of the Glen Lake Center parking lot. The lot would need to be restriped to add three stalls.

J.D. Park, 3941 Brown Lane, stated that he and his wife, Megan, are founders of Unmapped Brewing Company. Mr. Park stated that they are excited and proud at the prospect of opening their business in the community that they live. They want Unmapped to be a positive force in the Glen Lake community and city. They want to work with their neighbors to achieve this goal. He looks forward to the discussion.

Chair Kirk asked for the number of seats. Mr. Park explained that there would be tables, informal seating, and standing room. Seating would flow into the patio area.

Chair Kirk asked for the applicant's idea for a "family taproom." Mr. Park answered that alcohol would not be the only beverage available. He would encourage patrons to bring in food. It would not be structured like a restaurant. Patrons would be able to explore and see interesting things. There would be

outdoor games and board and card games for families of all ages to enjoy. It would be a gathering place for people to have conversations. There would be no loud music. Dogs would be encouraged to keep the atmosphere from becoming like a bar. No one under 21 would be served alcohol. Growlers would have to be drunk off site. Only glasses of alcohol would be allowed to be consumed on site. There would be no music or speakers played outside. The patio space would be divided from the parking lot by a wall to help mitigate sound from traveling. Live music events would occur inside the taproom and the door would be closed to the exterior. The only access to the patio would be by going through the taproom.

Odland commented that the surrounding area does not have places that serve food. She asked for the benefits of the proposed location. Mr. Park explained that the space is large enough for a microbrewery. The Pancake House had already leased the Hurricane site. They want to be in Minnetonka because they live in Minnetonka. It is tough to find a space that has enough room to support a brewing operation and taproom in Minnetonka. The proposed space fits the use perfectly. Gina Maria's Pizzeria is close enough to be feasible for patrons to order pizza and bring it over. There are still vacancies in the center. He felt that the brewery would be a draw since it would be a unique place to gather. When a brewery is established, the surrounding businesses benefit from additional customers traveling to the area. He hopes to see additional restaurants move into the center. He would welcome food trucks.

Chair Kirk confirmed with Wischnack that food trucks are allowed to be parked on a site with the property owner's permission. There are additional health regulations.

Wischnack explained how a liquor license regulates events. There is a maximum of three events allowed per year. A parking plan is required for an event.

Gordon stated that one food truck would not change the parking requirement for a business since it would not be permanent. There would be parking requirements reviewed for an event involving food trucks.

The public hearing was opened.

Anne Malm-Hossfeld, 14616 Glendale Street, stated that:

- A letter she wrote to the city council is included in the agenda packet and another letter is included in the change memo.
- The applicant did not mention the neighbors.
- She was concerned with inside noise and outside noise from an outdoor patio.

- She was concerned with the venting process containing smells.
- She was concerned with nuisance and crime increasing on her property.
- The site has been retail for years. She did not know what the new use would look like or be like.
- The potential landowner and business owners have made good overtures to her and told her that all problems would be addressed as they come up. She was encouraged by that.
- The issues she brought up at the city council meeting with noise, potential smells, and nuisance and criminal activities have been addressed by the city and the applicants.
- She asked that a condition be added to require a barrier that would mitigate sound enclose the outside patio.
- She questioned where food trucks would park. That would cause additional sound and smell issues.

Grace Sheely, 14325 Grenier Road, stated that:

- She hopes the application is approved. It would be fun. The business owners being local residents is cool.
- She discussed the difficulty of garbage trucks being able to access the site and turn around.
- The slope at the turn is dangerous. The outdoor patio would be 25 feet into the parking lot.
- She was concerned with a safety issue in the parking lot.
- She questioned where the snow would be located. It used to be pushed off to the side.
- She was excited for more food places.
- She supported reducing smells and mitigating noise.
- She hoped the applicant could find a way to make the proposal work.

Chris Novak, 10327 West 34th Circle, potential buyer of the site, stated that he is excited to have Unmapped Brewing be a tenant and a great asset. City staff are exceptional. He did not like their answers most of the time, but they are exceptional. He wants to address issues head on with the neighbors. He is in the process of restriping the parking lot. The applicants would be great operators. It would bring energy to the corner. He and the applicant are proud of the proposed business and look forward to working with the business community, residential neighbors, and staff. He was available for questions.

No additional testimony was submitted and the hearing was closed.

In response to Odland's question, Gordon stated that the city has not received any complaints regarding the existing microbrewery in Minnetonka and other cities staff spoke with have not receive complaints other than complaints related to parking.

Odland asked if the sidewalk on the north side of the building could be used for the outdoor patio. Gordon explained that that would be more of a disruption for pedestrian traffic. The noise issues would be managed by the conditions.

Chair Kirk noted that there is no street parking in the area.

Powers commented that the neighboring residence is further back on the parcel away from the site. He likes the proposal. The slope to access the parking lot from Eden Prairie Road is steep. He has confidence that the applicants want the business to succeed. He recommends moving forward with it.

Knight pointed out that there is another entrance to the parking lot. He did not see the driveway as being a problem.

Calvert liked the look of the architecture. It would bring vitality to the area.

Wischnack noted that research has shown that smell has not been a concern in other breweries of the same size. If it would be an issue, then it could be addressed at that time.

Chair Kirk thanked John Kraemer for operating the hardware store for many years. Mr. Kraemer thanked his customers for their patronage. He thanked Wischnack and Gordon for their help.

Knight moved, second by Odland, to recommend that 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 with a condition requiring a barrier that would mitigate sound around the outdoor patio (see pages A17-A23 of the staff report).

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

This item is scheduled to be reviewed by the city council October 24, 2016.

E. Ordinance amending the city code regarding floodplain districts.

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

Dietrich reported. He recommended approval of the application based on the findings listed in the staff report.

Chair Kirk thanked Dietrich for the great report.

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

Odland moved, second by Powers, to recommend that the city council adopt the attached ordinance.

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

This item is scheduled to be reviewed by the city council October 24, 2016.

9. Adjournment

Odland moved, second by Calvert to adjourn the meeting at 10:45 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

October 20, 2016

Agenda Item 7

Public Hearing: Consent Agenda

(No Items)

Minnetonka Planning Commission Meeting

October 20, 2016

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
October 20, 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 attachments.)

	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. 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.

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.” 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.

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.

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.

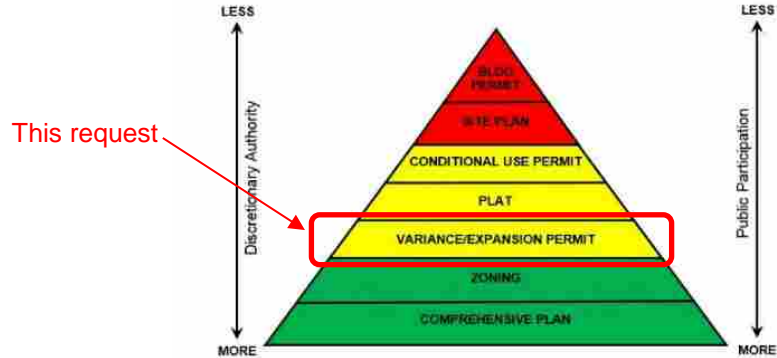
The largest FAR in the defined area is 0.26. As a condition of approval, any new home constructed on the lot could not exceed this FAR.

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

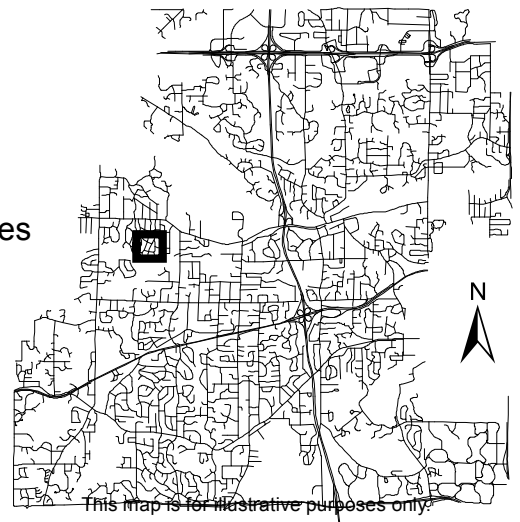
December 19, 2016



Location Map

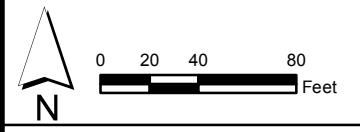
Applicant: Delores Smith
Address: 3628 Hazelmoor Place/adjacent properties

City of
minnetonka
Where quality is our nature



This map is for illustrative purposes only.

**SUBJECT
PARCELS**



**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.**

MALKERSON GUNN MARTIN LLP

1900 U.S. BANK PLAZA SOUTH TOWER
220 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402
TELEPHONE 612-344-1111
FACSIMILE 612-344-1414

Patrick B. Steinhoff, Esq.
Direct Dial No. 612.455.6601
pbs@mgmlp.com

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).

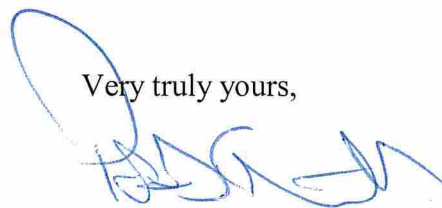
5. *The variance, if granted, would not alter the essential character of the locality.* Most, if not all, of the other residential lots in the same neighborhood have areas similar to the area of the buildable lot proposed by Mrs. Smith. The requested variance, if granted, would therefore not alter the 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

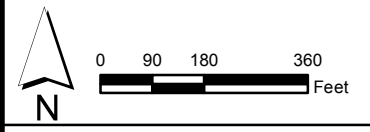
Corrine Heine, City Attorney

Susan Thomas, Assistant City Planner

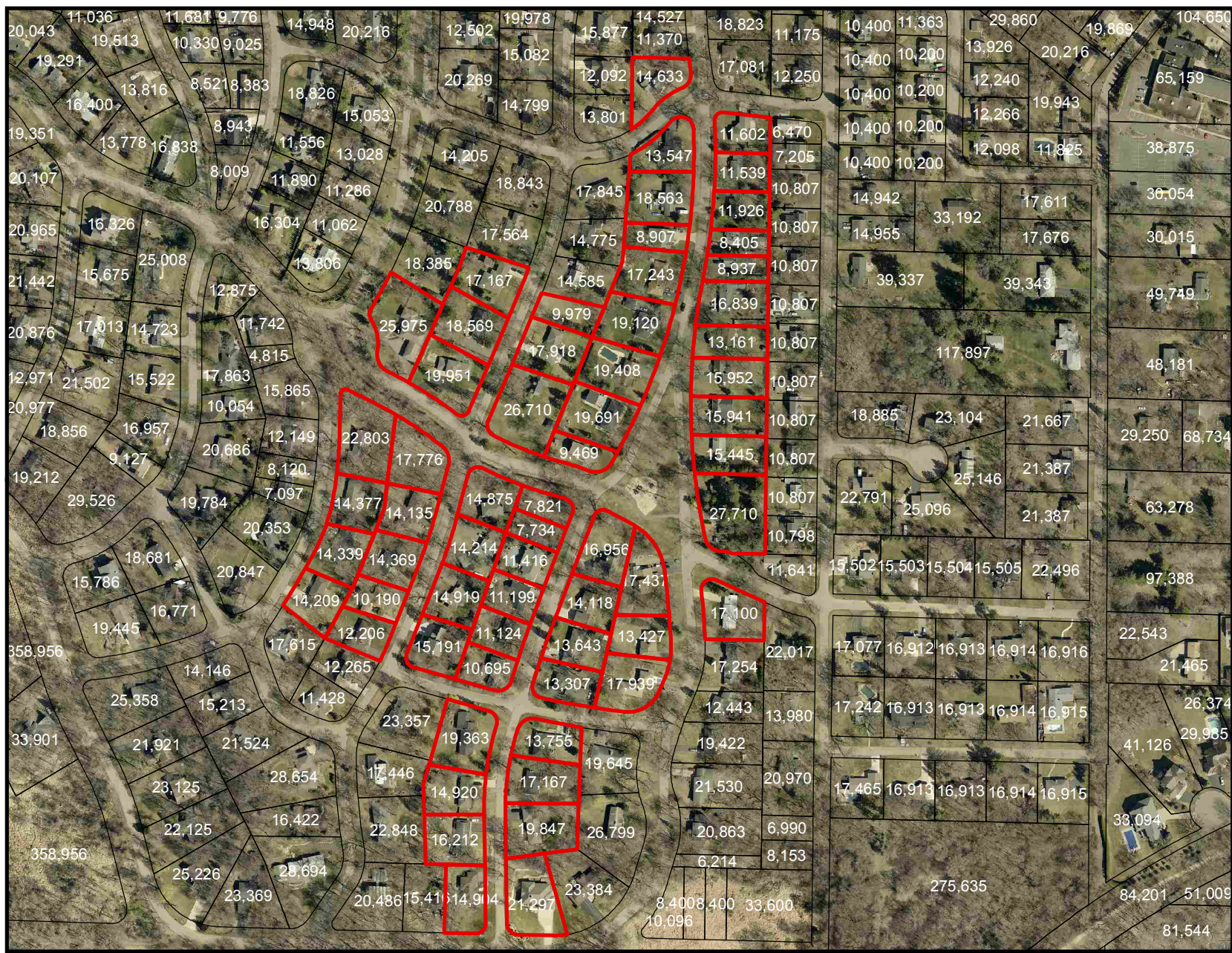
Michael A. Putnam, Esq.



**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

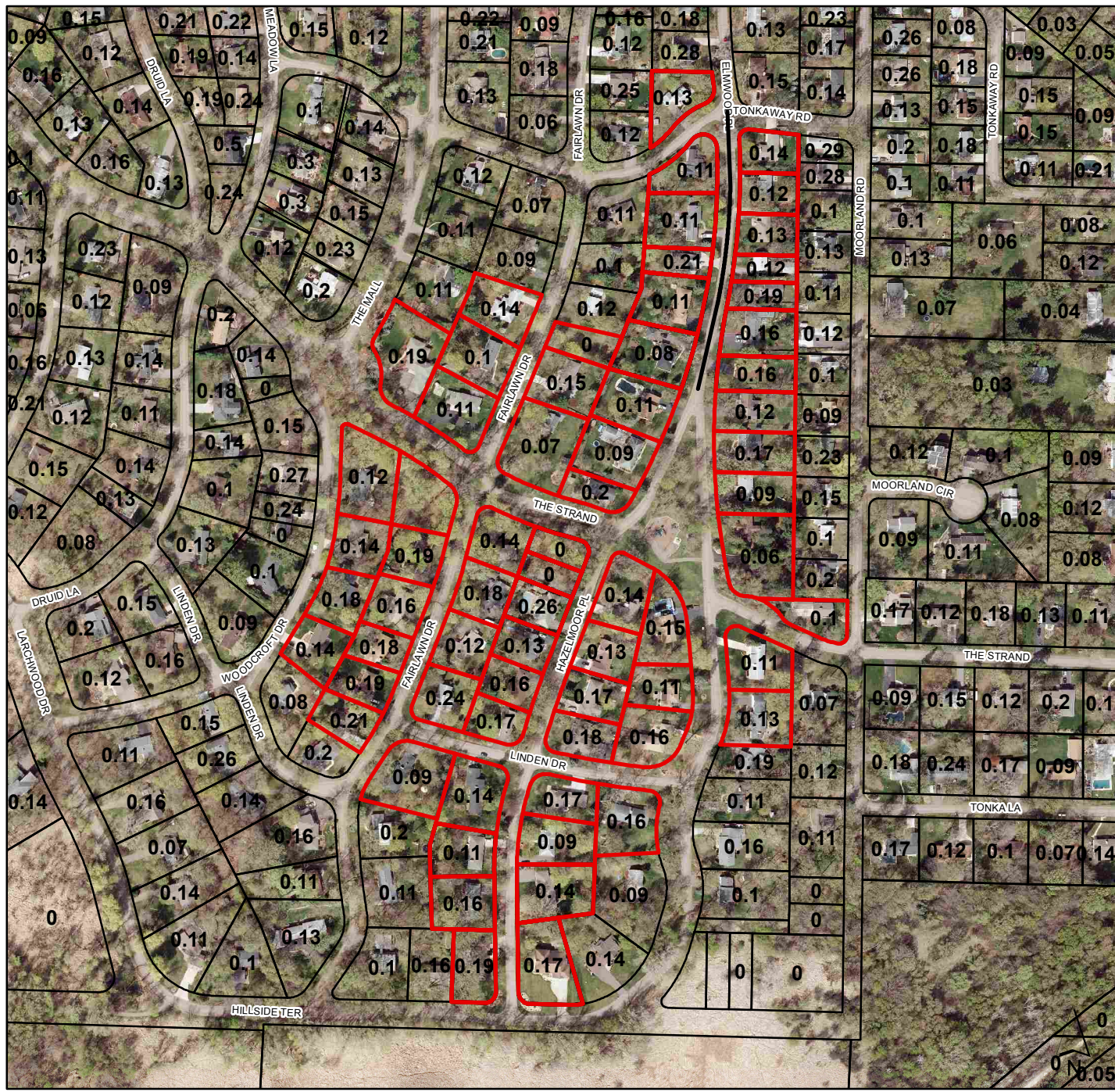
1. Sheds, barns, utility buildings, and recreational facilities are by definition accessory uses or uses incidental to a principal use.
2. The need for accessory structures primarily results from personal circumstances rather than hardship inherent to the property.
3. In light of the above policy to 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

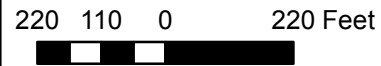
1. Undersized lots of record not meeting the minimum dimensional requirements, may be considered for variances to apply a buildable status.
2. Buildable status will be applied only if a reasonable development opportunity will result.

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

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 20, 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 20, 2016.

Kathy Leervig, Deputy City Clerk

MINNETONKA PLANNING COMMISSION
October 20, 2016

Brief Description Expansion permit and variance to construct a new single-family home at 5718 Eden Prairie Road

Recommendation Adopt the resolution approving the requested expansion permit and variance

Project No. 16018.16b

Property 5718 Eden Prairie Road

Applicant Duane Simon (property owner)

Proposal The applicant, Duane Simon, is proposing to construct a new single-family home at 5718 Eden Prairie Road. Currently, there is a nonconforming single-family home on the property. This structure will be demolished if the expansion permit and variance are approved.

By city code, the new home would be required to maintain a 25 foot setback from both north and south property lines. The proposed structure would maintain the same setback 3.9 foot setback from the north property line as the existing, non-conforming home; this requires an expansion permit. The home would be set back 23.8 feet from the south property line; this requires a variance. (See attachments).

This proposal requires:

	Required	Existing	Proposed
Lot behind lot property line setback (North)	25 ft.	3.9 ft.	23.8 ft.*
Lot behind lot property line setback (South)	25 ft.	51 ft.	23.8 ft.**

* requires expansion permit
 **requires variance

Staff Analysis Staff finds that the applicant’s proposal is reasonable. For purposes of this report, staff has consolidated the variance and expansion permit findings.

1. Purpose and Intent of the Zoning Ordinance:

The proposal, and resulting variance and expansion permit requests, would be in keeping with the city's zoning ordinance. The intent of setback requirements is to ensure that neighborhoods retain residential characteristics and provide adequate space between homes and public right-of-ways. The proposed home would be located over 80 feet from the closest home.

2. Consistent with the Comprehensive Plan:

The proposal would be consistent with the city's comprehensive plan. The intent of the city's comprehensive plan is to maintain, preserve, and support the character of existing neighborhoods. If approved, the setbacks would be similar to those of homes within the subject neighborhood.

3. Practical Difficulties: There are practical difficulties in complying with the ordinance.

- Reasonableness:

Staff has found that the applicant is proposing a reasonable use of the property. The request to construct a new single-family home is reasonable and the new home would enhance the property and neighborhood. The proposed structure would increase the setback from the home to the north property line and would encroach only 1.2 feet into the required southern property line setback.

- Circumstance Unique to the Property:

The current nonconformity of the subject lot is a circumstance unique to the property. The subject lot is only 97 feet in width at the setback. This is nonconforming with current city requirements (110-foot width at setback). In addition, the subject lot has increased southern and northern property line setbacks because the property is defined as a "lot behind lot."

The nonconforming width of the lot, combined with the "lot behind lot" required setbacks, create a practical difficulty with complying with the ordinance.

- Neighborhood Character:

The majority of homes in this neighborhood have setbacks that are similar to the proposed structure. If approved, the new single-family home would not alter the essential character of the subject neighborhood.

Staff Recommendation

Adopt the resolution approving a lot-behind-lot setback variance and expansion permit for construction of a new single-family home at 5718 Eden Prairie Road.

Originator: Drew Ingvalson, Planner
Through: Loren Gordon, AICP, City Planner

Supporting Information

Surrounding Land Uses

Northerly: Low density residential
Easterly: Low density residential
Southerly: Low density residential
Westerly: Low density residential

Planning

Guide Plan designation: Low Density Residential
Zoning: R-1 Single Family Residential

Lot Behind Lot Setbacks

The subject lot is defined by city code as a "lot behind lot" because the property does not have any frontage on a public right-of-way. Lot behind lot properties are required to have a setback from all properties lines of 40 feet or 20% of the average distance between opposite lines, whichever is less, but no less than 25 feet. The proposal would not meet this setback requirement.

R-1 Setbacks (non-Lot Behind Lots)

As stated previously, the subject property is defined as a "lot behind lot" property, thus requiring different setbacks than properties with adequate frontage. Properties with adequate frontage have the following setbacks:

- Front: Minimum 35 feet from the right-of-way of local and neighborhood collector streets and railroad lines, or 50 feet from the right-of-way of major collector or arterial roadways.
- Side: The sum of the side yard setback shall not be less than 30 feet, with a minimum setback of 10 feet.
- Rear: Minimum of 40 feet or 20 percent of the depth of the lot, whichever is less.

Variance v. Expansion

A variance is required for any alteration that will intrude into one or more setback areas beyond the distance of the existing, nonconforming structure. An expansion permit is required for any alteration that maintains the existing non-conformity. The applicant's proposal requires an expansion permit because the proposed structure would have greater setbacks to the northern property line than the existing, nonconforming structure. The applicant's proposal requires a variance because the proposed structure would intrude into the southern property line setback, which is not obstructed by the existing structure.

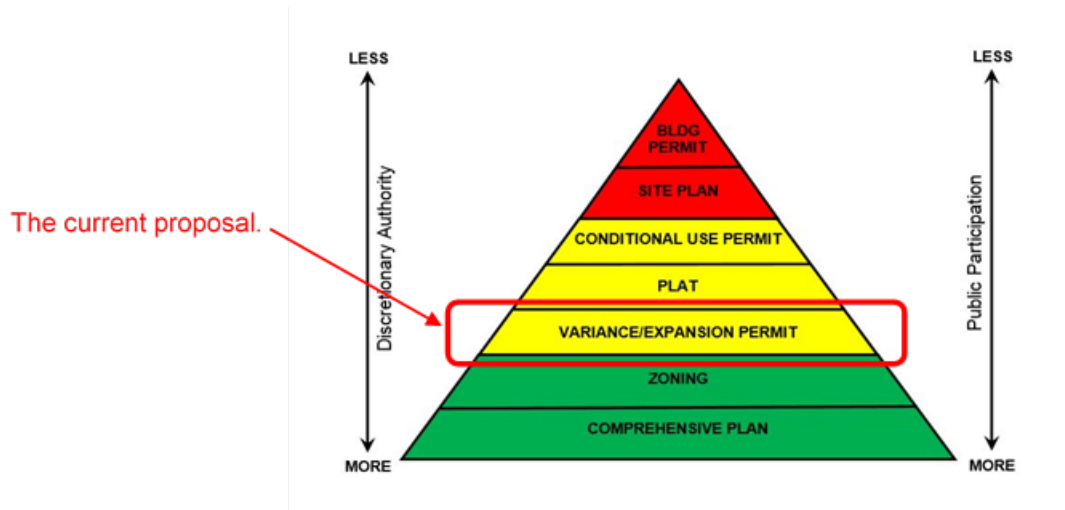
Expansion Permit By city code (City Code §300.29), an expansion permit for a nonconforming use may be granted, but is not mandate, when an applicant meets the burden of proving that:

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

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)

Neighborhood Comments The city sent notices to 45 area property owners and received no comments.

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 to adopt the resolution approving the variance and expansion permit.
2. Disagree with staff's recommendation. In this case, a motion should be made directing staff to prepare a resolution for denying the proposal. This motion must include findings for denial.
3. Table the proposal. In this case, a motion should be made to table the item. The motion should include a statement as to why the proposal is being tabled with direction to staff, the applicant, or both.

Appeals

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

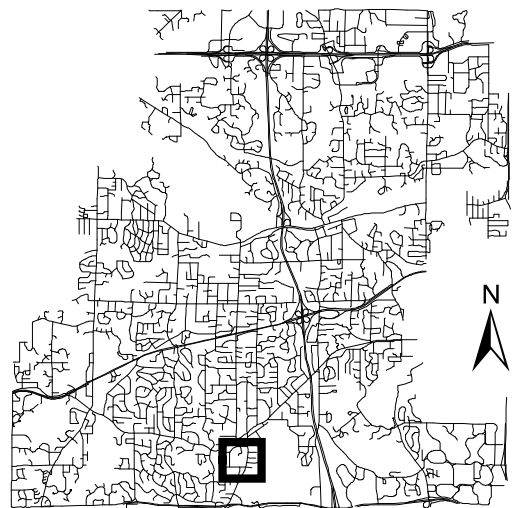
Deadline for Decision

January 21, 2017



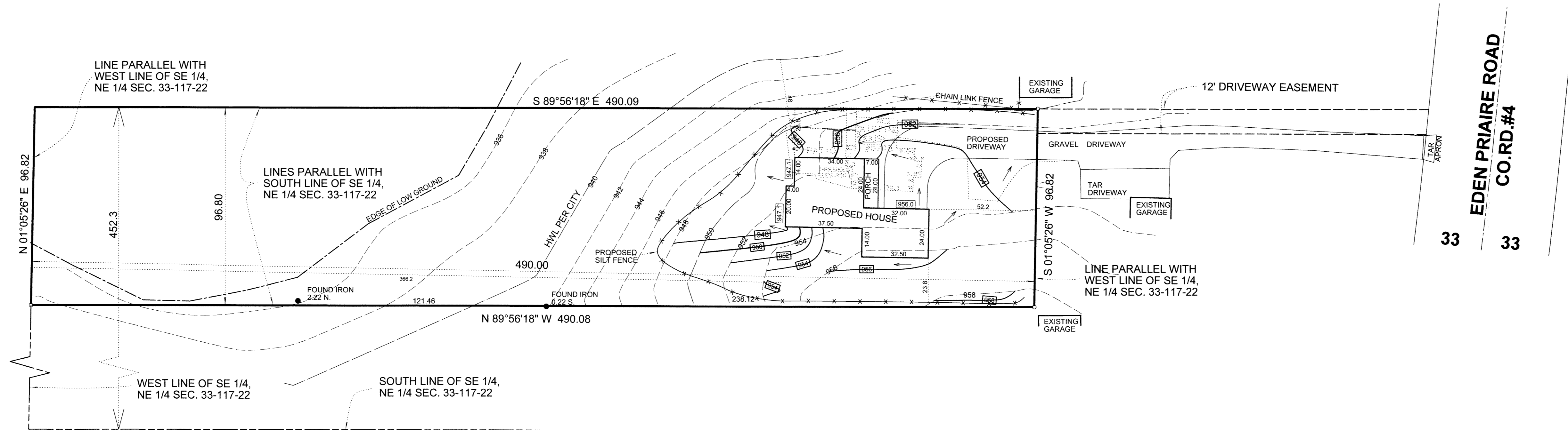
Location Map

Project: Duane Simon
Address: 5718 Eden Prairie Rd
Project No. 16018.16b



This map is for illustrative purposes only.

BOUNDARY AND TOPOGRAPHIC SURVEY FOR DUANE SIMON IN THE NE 1/4 OF SEC. 33-117-22 HENNEPIN COUNTY, MINNESOTA



PROPOSED ELEVATIONS (VERIFY)

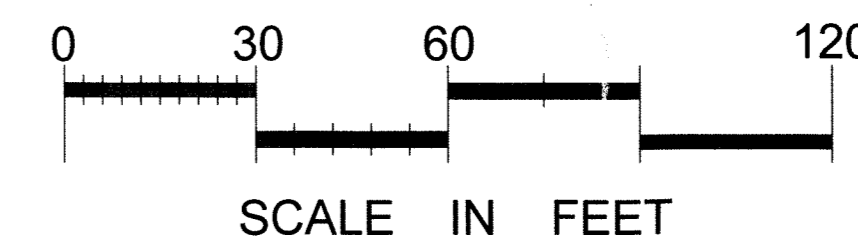
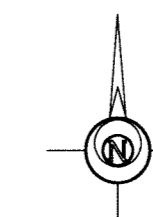
- GARAGE = 956.0
- TOP OF FOUNDATION = 956.3
- BASEMENT = 947.6

LEGAL DESCRIPTION OF PREMISES SURVEYED:

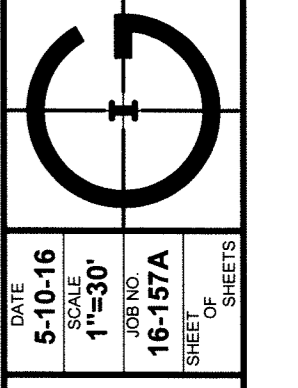
The North 96.8 feet of the South 452.3 feet of the West 490 feet of the Southeast Quarter of the Northeast Quarter of Section 33, Township 117 North, Range 22 West of the 5th Principal Meridian.

This survey shows the boundaries and topography of the above described property, and the location of an existing house, driveway and patio thereon. It does not purport to show any other improvements or encroachments.

- : Iron marker found
- : Iron marker set
- - - 962 : Existing contour line
- - - 944.5 : Proposed contour line
- 944.5 : Proposed spot elevation



GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435



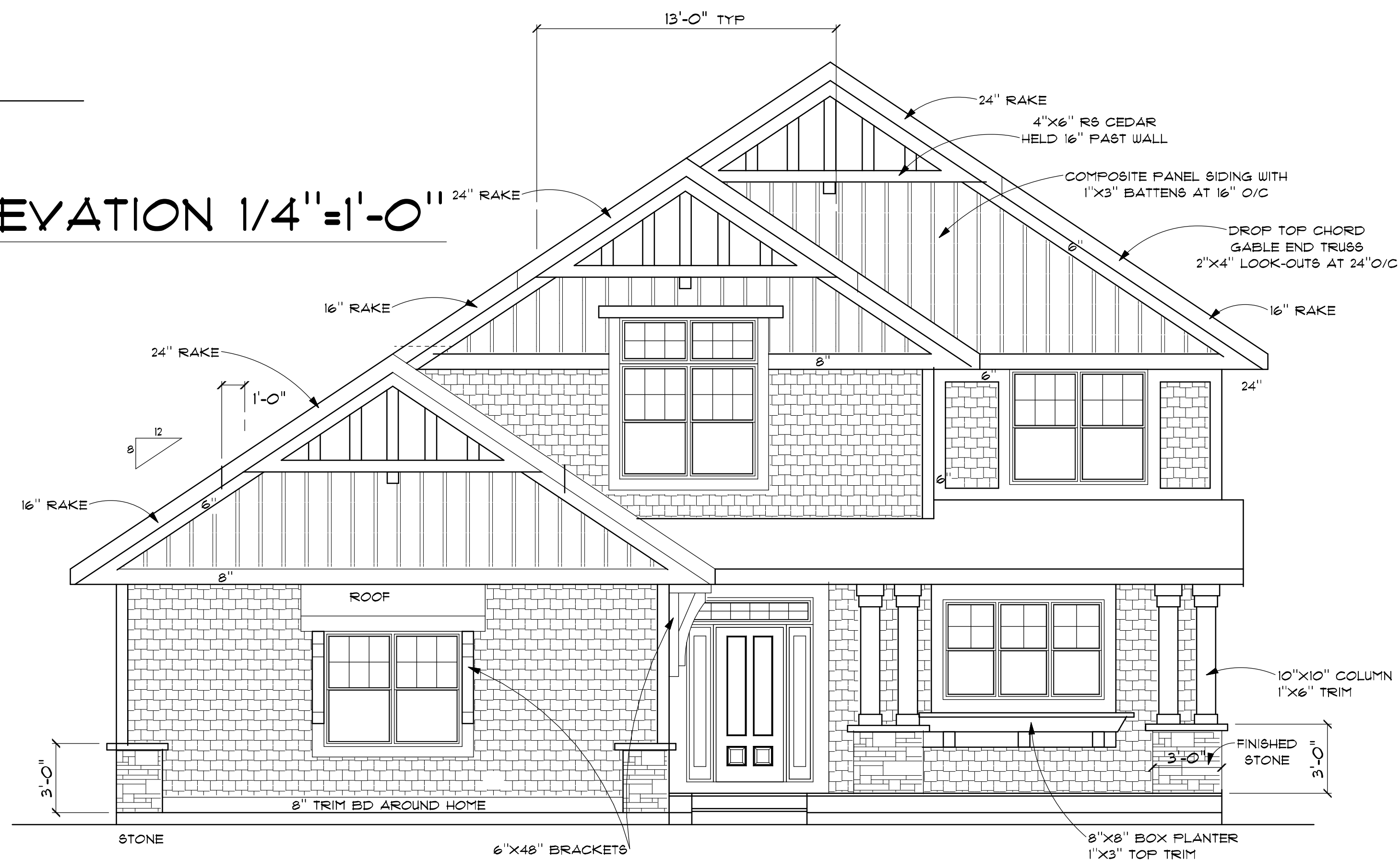
DATE: 7-8-16
SCALE: 1"=30'
JOB NO: 16-157A
SHEET OF: 2

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 Land Surveyor under the laws of the State of Minnesota.
Mark D. Gronberg
DATE: 7-8-16 MINN. LICENSE NUMBER: 227557

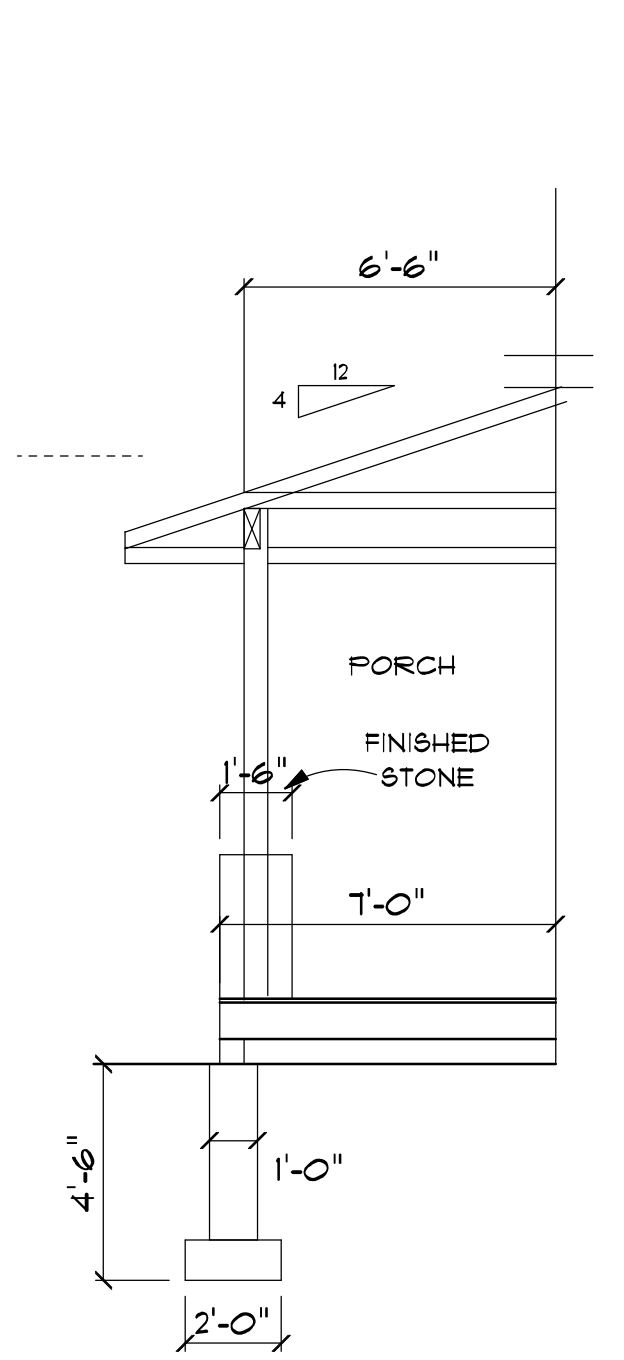
DATE	BY	REVISIONS
7-8-16		REMARKS
9-23-16		PROPOSED ADDITION
10-10-16		REVISED HOUSE, GRADING
		REVISED HOUSE, GRADING



REAR ELEVATION 1/4" = 1'-0"



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



DATE: 9.6.16

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DUANE SIMON
 CONSTRUCTION

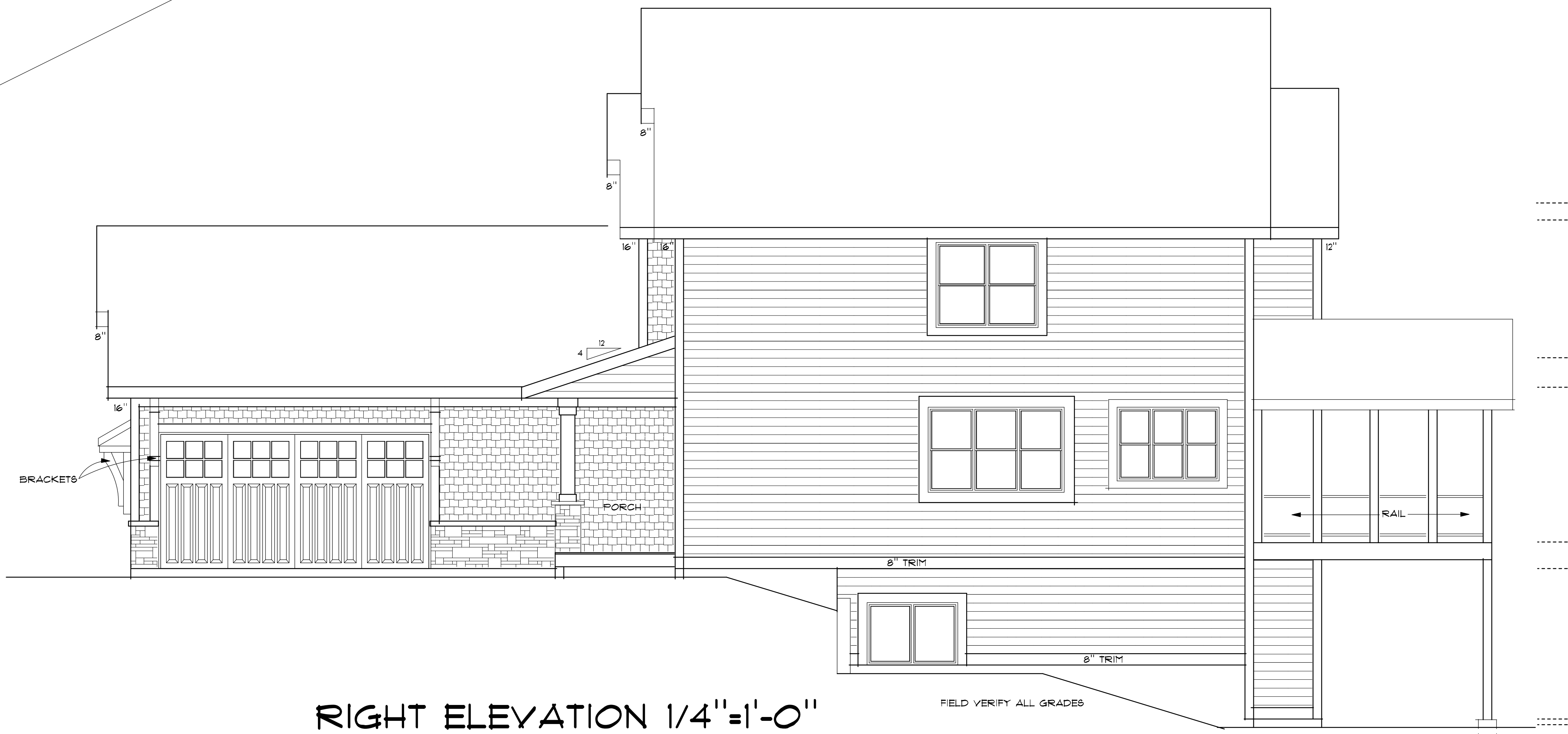
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 www.hallquistdesign.com
 e-mail: brianehallquistdesign.com 952.850.1238

2290.16

1/6



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



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

FIELD VERIFY ALL GRADES

DATE: 9.6.16

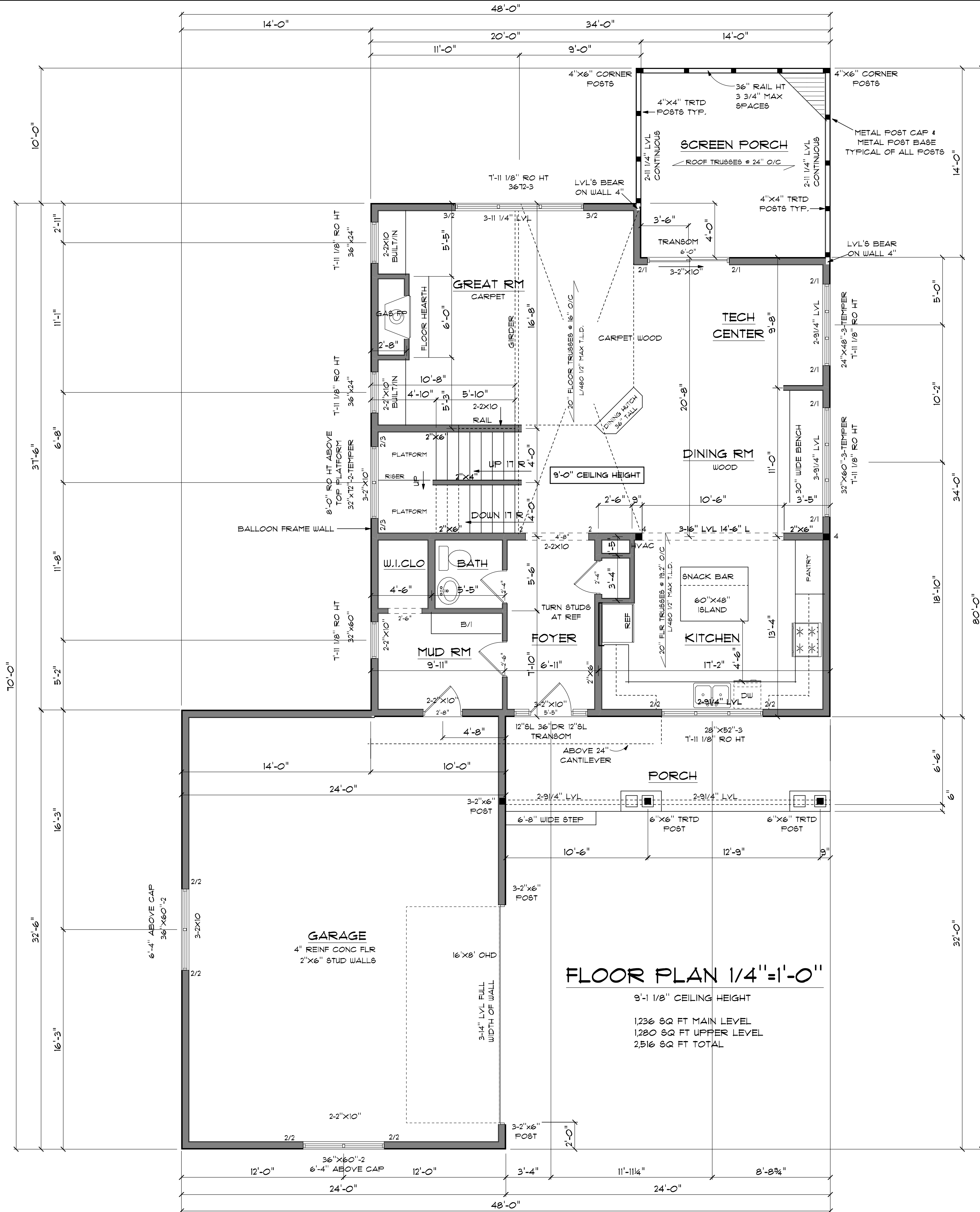
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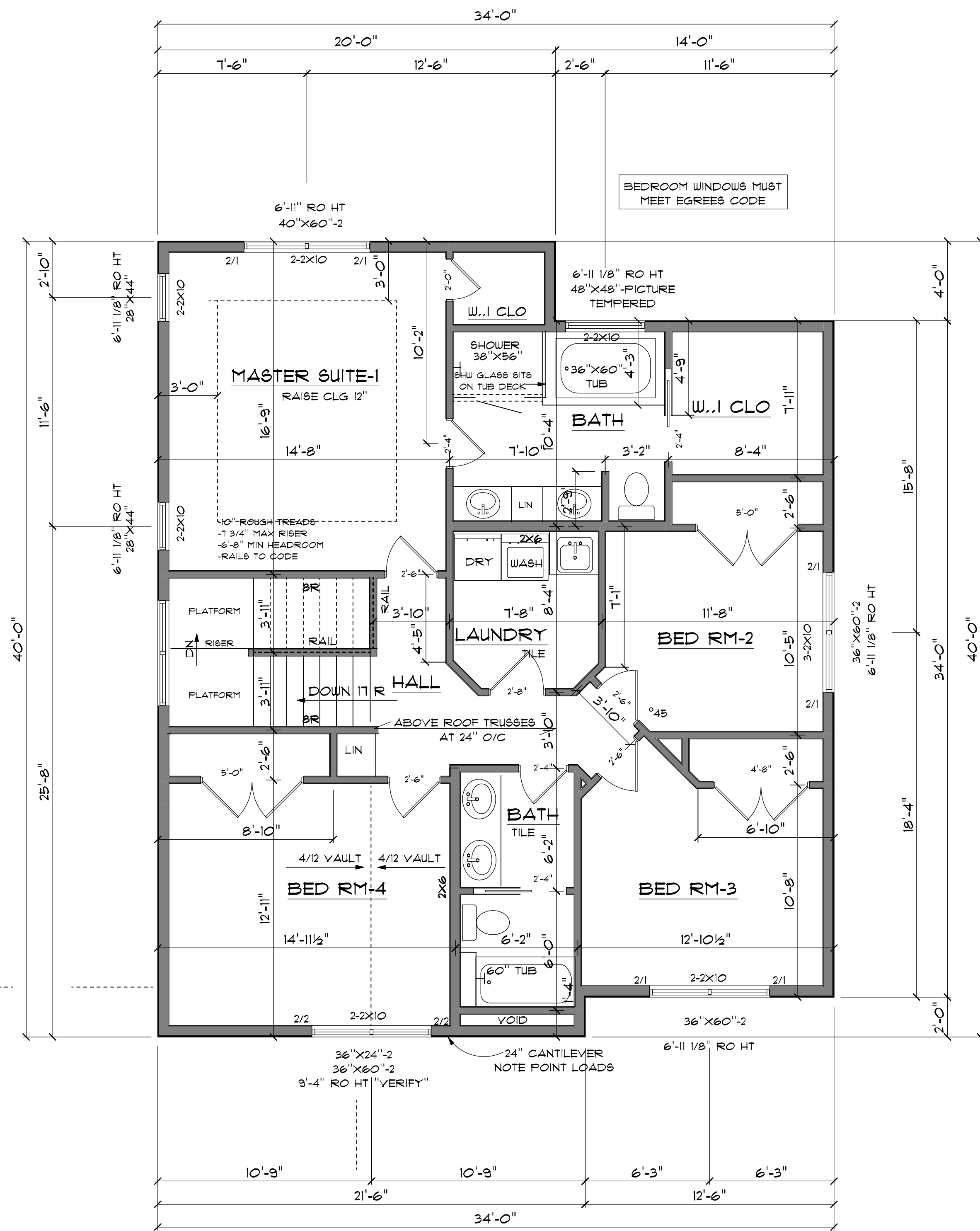
2/6



NOTES:
 - ALL WORK PERFORMED ON THIS STRUCTURE SHALL COMPLY WITH APPLICABLE CODES.
 - WINDOW AND DOOR SIZES INCLUDING ALL DETAILS SHALL BE VERIFIED BY THE SUPPLIER, BUILDER AND OWNER. BEDROOM WINDOWS MUST MEET EGRESS REQUIREMENTS.
 - STRUCTURAL DESIGN, NOTES, DETAILS, DRAWINGS AND INFORMATION SHOWN ON THIS PLAN IS FOR BIDDING PURPOSES ONLY AND MUST BE DETERMINED BY A MINNESOTA LICENSED STRUCTURAL ENGINEER.
 - FRAME OPENINGS TO ALLOW FOR WIDE TRIM.
 - 2-2X10" HEADERS OVER LOAD-BEARING OPENINGS UNLESS NOTED OTHERWISE.
 - HEADERS TO BE HEM-FIR #2 & BTR. LVL'S TO BE MIN 1.8E.
 - 2/1 INDICATES 2-TRIMMERS AND 1-KING STUD POST.
 - 2/2 INDICATES 2-TRIMMERS AND 2-KING STUD POST.
 - 3/1 INDICATES 3-TRIMMERS AND 1-KING STUD POST.
 - 3/2 INDICATES 3-TRIMMERS AND 2-KING STUD POST.
 - 1/1/1 INDICATES 1-TRIMMER 1-KING 1-TRIMMER POST.
 - 1/2/1 INDICATES 1-TRIMMER 2-KING 1-TRIMMER POST.
 - 2 INDICATES 2-STUD POST.
 - 3 INDICATES 3-STUD POST.
 - 4 INDICATES 4-STUD POST
 - PROVIDE 2-TRIMMERS AND 1-KING POST AT LOAD BEARING OPENINGS 5'-0" OR MORE UNLESS NOTED OTHERWISE.
 - TRIMMERS SHALL BE IN DIRECT BEARING OF HEADER, BEAM OR GIRDER. 1-TRIMMER & 1-KING STUD MINIMUM.
 - SEE BUILT-UP POST NAILING & FASTENER DETAILS.
 - IN THE TRUSS OR JOIST SPACE, PROVIDE "MATCHING" SOLID BLOCKING UNDER ALL MULTIPLE MEMBER AND P&L POSTS TO SOLID BEARING. IN LOWER FRAMED WALLS PROVIDE MATCHING POSTS TO SOLID BEARING. ALL POSTS SHALL BE CONTINUOUS TO THE FOUNDATION.
 - INSTALL TRIMMERS/KINGS/POSTS ON EACH SIDE OF THE HEADER, BEAM OR GIRDER.
 - NO ROOF TRUSS/GIRDER TRUSS POINT LOAD/REACTION TO EXCEED 11,000 POUNDS.
 - INSTALL 3-2"x6" STUD POST UP TO 1,000 POUND LOAD OR 5/4"x5/4" PARALLAM P&L POST ABOVE 1,000 POUND LOAD AT ROOF GIRDERS. HEADERS ARE HEM-FIR #2 & BTR.
 LVL'S ARE MIN. 1.8 E

GENERIC WINDOWS SHOWN ARE INDICATED BY UNIT/FRAME SIZES IN INCHES. WINDOW SUPPLIER TO SELECT THE CLOSEST SIZE AVAILABLE.

DATE: 9.6.16



UPPER LEVEL PLAN 1/4"=1'-0"

1280 SQ FT

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4/6

DATE: 9.6.16

NOTE: SEE FOUNDATION WALL DETAILS FOR ADD'L INFORMATION

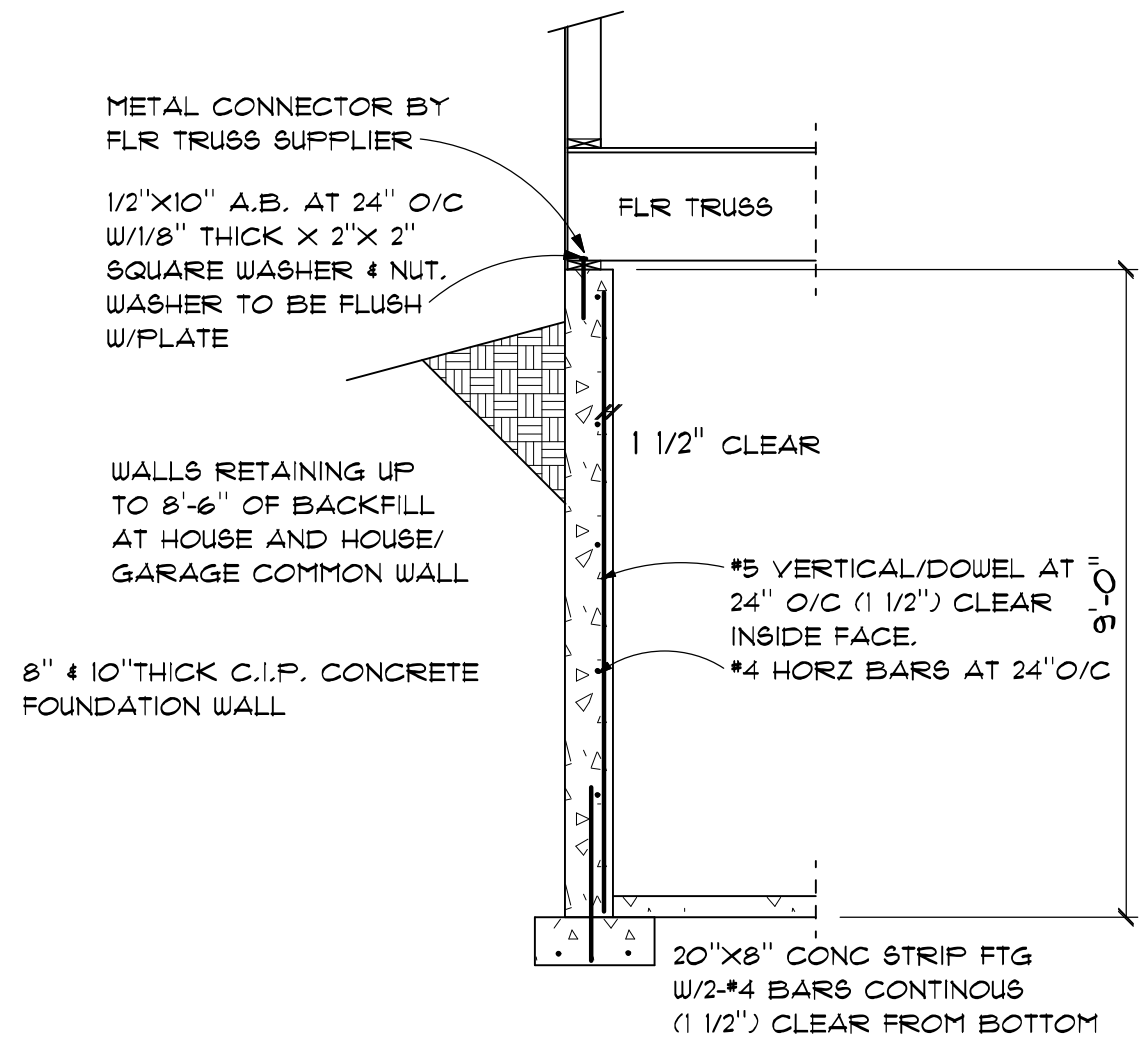
W1 8" CONC WALL W/ VERTICAL REINFORCING AS FOLLOWS:
W1: FULL HEIGHT WALLS AND GARAGE WALLS.
#5'S VERT. @ 24" O/C INSIDE FACE. (1 1/2" CLEAR)

W2 WALLS RETAINING LESS THAN 3'-0"
#5'S VERT. @ 48" O/C CENTERED IN WALL.
TYP AT GARAGE AND WALK-OUT FOUNDATION.

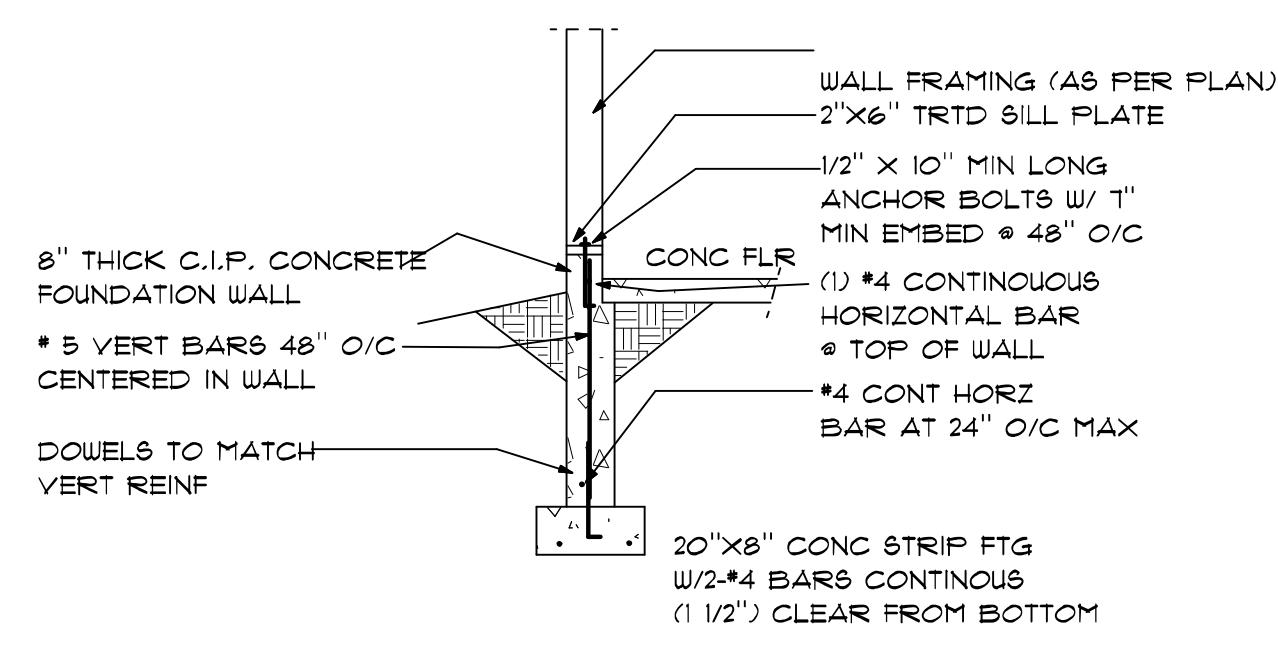
W3 WALL RETAINING LESS THAN 3'-0"
#5 VERT. @ 36" O/C OUTSIDE FACE (1 1/2" CLEAR)
TYP AT DAY-LITE FOUNDATION.

DOWELS TO MATCH VERT. REINF.
#4'S @ 24" O/C HORIZONTAL.
-PROVIDE (2) #4'S AT EACH FACE OF AN OPENING. EXTEND THE REINF. 2'-0" BEYOND THE OPENING.

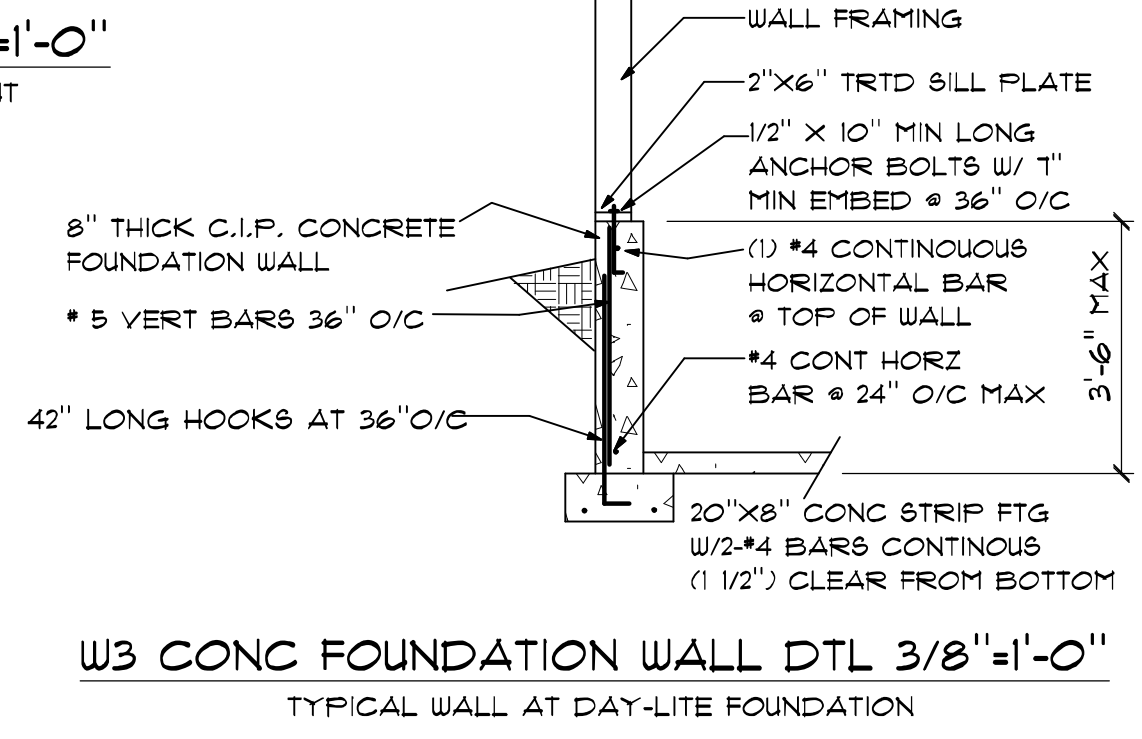
-1/2" X 10" ANCHOR BOLT W/ 1/8" X 2" WASHER MIN. 1" IMBEDMENT.
-FIELD VERIFY EXACT FOUNDATION DTL'S.
-ALL FTG'S MIN 42" BELOW GRADE AND BELOW FROST
-2" X 6" TRTD SILL PLATES IN CONTACT W/ CONCRETE WATERPROOFING
-BACKFILL WITH GRANULAR FILL.
-DRAINTILE ON EACH SIDE OF FOOTING SURROUNDED BY CRUSHED STONE. EXTEND EXTERIOR DRAINTILE TO DAYLITE.



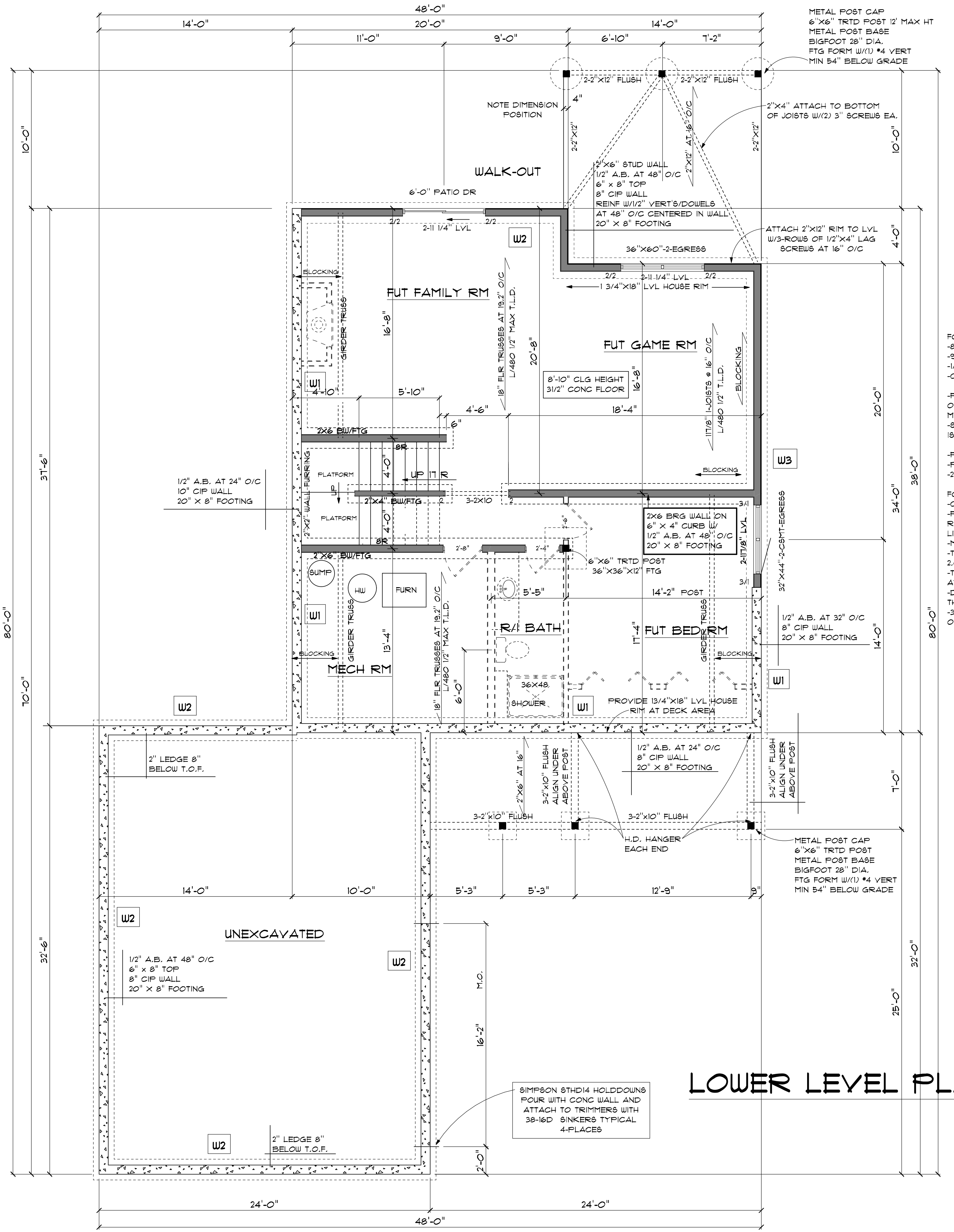
W1 8" X 9" CONC FOUNDATION WALL DTL 3/8" = 1'-0"



W2 CONC FOUNDATION WALL DTL 3/8" = 1'-0" TYPICAL WALL AT GARAGE FOUNDATION AND WALK-OUT



W3 CONC FOUNDATION WALL DTL 3/8" = 1'-0" TYPICAL WALL AT DAY-LITE FOUNDATION



LOWER LEVEL PLAN 1/4" = 1'-0"

DATE: 9.6.16

FOUNDATION WALLS:
-8" #4 10" REINFORCED CONCRETE WALLS
-9'-0" OVERALL WALL HEIGHT.
-1/2" X 10" ANCHOR BOLTS W/ 1/8" X 2" WASHER.
-COUNTERSINK WASHER FLUSH W/ SILL PLATE.

FOUNDATION DESIGN, REINFORCING AND ALL OTHER RELATED DETAILS SHALL BE BY A MINNESOTA LICENSED STRUCTURAL ENGINEER.
-STRUCTURAL INFORMATION SHOWN ON THIS PLAN IS FOR BIDDING PURPOSES ONLY.

FIELD VERIFY EXACT FOUNDATION DETAILS.
-PROVIDE WATER-PROOFING.
-2" X 6" TREATED SILL PLATES.

FOOTINGS:
-CONCRETE FOOTINGS REINF W/ (2) 1/2" BARS
-FOOTING DESIGN, REINFORCING AND ALL OTHER RELATED DETAILS SHALL BE BY A MINNESOTA LICENSED STRUCTURAL ENGINEER.
-MINIMUM OF 42" BELOW GRADE OR FROST LINE.
-TO REST ON SOIL WITH A BEARING VALUE OF 2,000 POUNDS PER SQUARE FOOT OR BETTER.
-THE BUILDER SHALL VERIFY SOIL BEARING VALUE AND SOIL PROPERTY'S.
-DRAINTILE SET ROCK AROUND THE ENTIRE FOUNDATION.
-3/4" CONCRETE FLOOR OVER 6 MILL POLY OVER 4" OF ROCK

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5/6

Resolution No. 2016-

Resolution approving a lot-behind-lot setback variance and expansion permit for construction of a new home at 5718 Eden Prairie Road

BE IT RESOLVED by the Planning Commission of the City of Minnetonka, Minnesota, as follows:

Section 1. Background.

1.01 The applicant, Duane Simon, is proposing to demolish an existing, single story home in order to construct a new, two-story home. (Project No. 16018.16b).

1.02 The property is located at 5718 Eden Prairie Road. It is legally described as:

The North 96.8 feet of the South 452.3 feet of the West 490 feet of the Southeast Quarter of the Northeast Quarter of Section 33, Township 117 North, Range 22 West of the 5th Principal Meridian.

1.03 The existing house was constructed in 1944, prior to the adoption of the city's first zoning ordinance. The house has nonconforming setbacks.

1.04 The proposed new home would have the following setbacks, requiring a variance and expansion permit:

	Required	Existing	Proposed
Lot behind lot property line setback (North)	25 ft.	3.9 ft.	23.8 ft.*
Lot behind lot property line setback (South)	25 ft.	51 ft.	23.8 ft.**

* requires expansion permit
**requires variance

1.05 Minnesota Statute §462.357 Subd. 1(e)(b) allows a municipality, by ordinance, to permit an expansion of nonconformities.

- 1.06 City Code §300.29 Subd. 3(g) allows expansion of a nonconformity only by variance or expansion permit.
- 1.07 On October 20, 2016, the planning commission held a hearing on the application. 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 approved the variance and expansion permit.
- Section 2. Standards.
- 2.01 City Code §300.29 Subd. 7(c) states that an expansion permit may be granted, but is not mandated, when an applicant meets the burden of proving that:
1. The proposed expansion is a reasonable use of the property, considering such things as: functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and improvement to the appearance and stability of the property and neighborhood.
 2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowners convenience, and are not solely because of economic considerations; and
 3. The expansion would not adversely affect or alter the essential character of the neighborhood.
- 2.02 By City Code §300.07 Subd. 1, a variance may be granted from the requirements of the zoning ordinance when: (1) the variance is in harmony with the general purposes and intent of this ordinance; (2) when the variance is consistent with the comprehensive plan; and (3) when the applicant establishes that there are practical difficulties in complying with the ordinance. Practical difficulties means: (1) The proposed use is reasonable; (2) the need for a variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings.

- 3.01 The proposal meets the expansion permit standards as outlined in City Code §300.29 Subd. 7(c):
1. **REASONABLENESS:** It is reasonable to construct a new home that maintains the existing setbacks of an existing home. Despite vertical and horizontal expansion within the established setback, the proposed house, garage and porch would not encroach further into the existing northern property line setback.
 2. **UNIQUE CIRCUMSTANCE:** The expansion permit is the result of the property's unique, nonconforming lot configuration. The subject lot is only 97 feet in width at the setback. This is nonconforming with current city requirements (110-foot width at setback). In addition, the subject lot has an increased northern property line setback because the property is defined as a "lot behind lot." The nonconforming width of the lot, combined with the lot-behind-lot required setbacks, create a practical difficulty with complying with the ordinance.
 3. **NEIGHBORHOOD CHARACTER:** The proposal would not negatively impact the character of the surrounding neighborhood. Approval of the expansion permit would allow the applicant to make reasonable improvements to the property without encroaching further into existing setbacks.
- 3.02 The proposal meets the variance standard outlined in City Code §300.07 Subd. 1(a):
1. **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The proposal, and resulting variance request, would be in keeping with the city's zoning ordinance. The intent of setback requirements is to ensure that neighborhoods retain residential characteristics and provide adequate space between homes and public right-of-ways. The proposed home would be located 80 feet from the closest home.
 2. **CONSISTENT WITH COMPREHENSIVE PLAN:** The proposal would be consistent with the city's comprehensive plan. The intent of the city's comprehensive plan is to maintain, preserve, and support the character of existing neighborhoods. If approved, the setbacks would be similar to those of homes within the subject neighborhood.
 3. **PRACTICAL DIFFICULTIES:** There are practical difficulties in complying with the ordinance:

- a) REASONABLENESS: The request to construct a new single-family home is reasonable and the new home would enhance the property and neighborhood. The proposed structure would encroach only 1.2 feet into the required southern property line setback.
- b) UNIQUE CIRCUMSTANCE: The current nonconformity of the subject lot is a circumstance unique to the property. The subject lot is only 97 feet in width at the setback. This is nonconforming with current city requirements (110-foot width at setback). In addition, the subject lot has increased southern and northern property line setbacks because the property is defined as a lot-behind-lot. The nonconforming width of the lot, combined with the lot-behind-lot required setbacks, create a practical difficulty with complying with the ordinance.
- c) CHARACTER OF LOCATILITY: The majority of homes in this neighborhood have setbacks that are similar to the proposed structure. If approved, the new single-family home would not alter the essential character of the subject neighborhood.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
 - Survey dated October 10, 2016
 - Building Plans dated September 6, 2016
2. Prior to issuance of a building permit:
 - a) A copy of this resolution must be recorded with Hennepin County.
 - b) The property owner must:
 - 1) Submit a conservation easement for review and approval to the city attorney. The easement must cover the wetland and 25-foot wetland buffer. The easement must be recorded against the property.

- 2) Provide a stormwater management plan to the city's engineering staff for review, comment, and approval. The plan must show a proposed stormwater practice and supplemental calculations that detail conformance with one inch of volume abstraction over the site's impervious surface.
 - 3) Provide payment for delinquent taxes and sewer and water bills.
 - 4) Provide plans for sprinklering the home to the city's fire department staff for review, comment, and approval.
 - 5) The property owner must upgrade the driveway to 12 feet in width with bituminous concrete, blacktop or equivalent paving. Final driveway pavement may not drain to the adjacent property to the north.
 - 6) Provide final tree preservation plan subject to staff approval.
 - 7) 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.
 - 8) Erosion control and tree protection must be installed and inspected prior to building permit being issued.
3. This variance will end on December 31, 2017, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 20, 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 20, 2016.

Kathy Leervig, Deputy City Clerk

MINNETONKA PLANNING COMMISSION
October 20, 2016

Brief Description Front yard setback variance for a new home at 17300 County Road 101

Recommendation Adopt the resolution approving the variance

Background The subject property and surrounding properties were originally platted in 1887. Over the next 130 years, property lines were altered as roads were constructed and reconstructed as the community developed and redeveloped. Most recently, city staff administratively approved division of a vacant, county-owned property situated between 17300 and 17306 County Road 101. As approved, the property was to be split and the two resulting “portions” added to the properties on either side. (See attachments.)

Proposal Homestead Partners, LLC is proposing to construct a new home on the newly configured site. The new home would replace a structure demolished in 2014. The proposed one-story, walkout would have a footprint of 3,310 square feet. A front yard setback of 50 feet is required. The applicant is proposing a setback of 35 feet. Therefore, a variance is necessary. (See attachments.)

Staff Analysis Staff finds that the requested variance would meet the variance standard as outlined in city code:

- **Reasonableness and Neighborhood Character.**

The proposed front yard setback is reasonable and would not negatively impact neighborhood character. The 35-foot setback would be double the 17-foot setback of the home previously on the property. Further, a variety of structures along County Road 101 have reduced front yard setbacks. (See attachments.)

- **Unique Circumstance.**

Given the required setbacks from Lake Minnetonka, FEMA floodplain, County Road 101, and the location of a variety of utility easements, just 17% of the subject property is considered buildable. While not necessarily unique in the immediate area, this relatively small percentage of

buildable area is not common to all similarly zoned properties in the community. (See attachments.)

Staff Recommendation

Adopt the resolution approving a front yard setback variance for a new home at 17300 County Road 101.

Originator: Susan Thomas, AICP, Assistant City Planner

Through: Loren Gordon, AICP, City Planner

Supporting Information

Surrounding Uses North: Lake Minnetonka
 South: County Road 101 and single-family homes beyond
 East: County Road 101 and marina beyond
 West: Single-family home

Planning Guide Plan designation: Low-density residential
 Zoning: R-1

Sewer Easement The subject property contains a sewer service line located within a public easement. The line serves the adjacent residence located at 17306 County Road 101. The city recently approved vacation of the public easement, effective upon: (1) the relocation of the sanitary service line; and (2) proper filing of a private easement over the relocated line. To date, the applicant and the owners of 17306 County Road 101 have not come to an agreement about relocation of the line. The 17306 owners have requested that the city withhold any variance approval until such agreement is reached. After consulting with the city attorney, staff determined it was appropriate to move forward with the variance request and simply include conditions reflecting those of the approved vacation; a building permit would not be granted until the sewer line is relocated and an appropriate private easement granted.

The city would certainly not allow construction that removes sewer service to an existing home. However, were the city to decline to act on the variance application at the request of the neighboring owners, the city would be inserting itself into what is essentially a private negotiation and issue.

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.

By City Code §300.02, 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.

By the same code, FAR is defined as “the floor area of a building as defined by [this] ordinance, divided by area of the lot on which the building is located. Area zoned as wetland, floodplain, or below the ordinary high water level of a public water is excluded from the lot area for purposes of the floor area ratio calculation.”

The largest FAR in the area is 0.25. As proposed, the property would have an FAR of 0.20, complying with the McMansion Policy.

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)

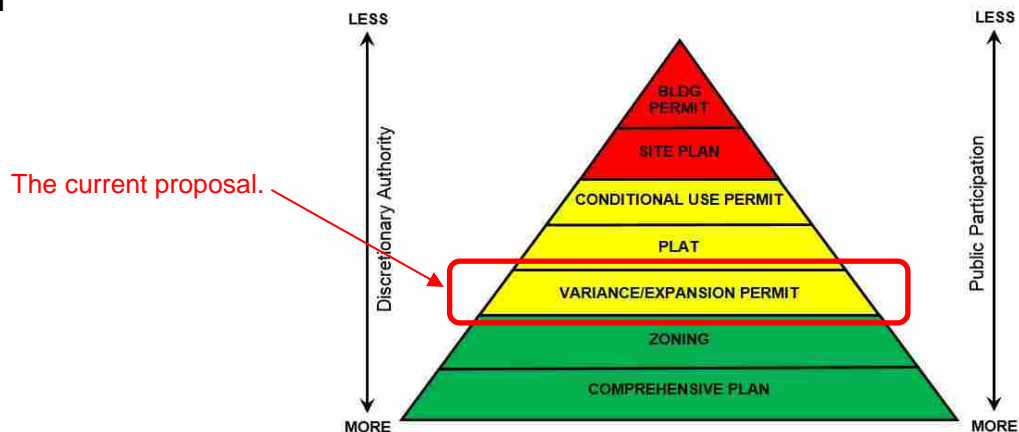
Natural Resources

Best management practices must be followed during the course of site preparation and construction activities. This would include installation and maintenance erosion control fencing.

Neighborhood Comments

The city sent notices to 45 area property owners. Aside from the neighboring owners’ request to decline action, no comments have been received.

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 to adopt the resolution approving the request.
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.

Appeals

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

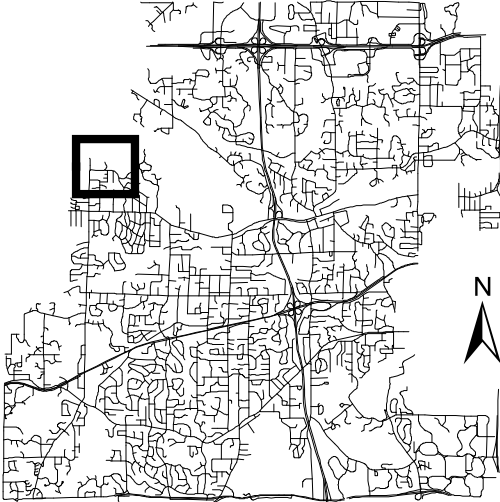
**Deadline for
Decision**

December 19, 2016



Location Map

Project: Homestead Partners
Address: 17300 Co Rd 101
Project No. 16025.16b



This map is for illustrative purposes only.

Existing Conditions Survey for: JMS CUSTOM HOMES, LLC

House Address:
2838 County Road No. 101, Minnetonka

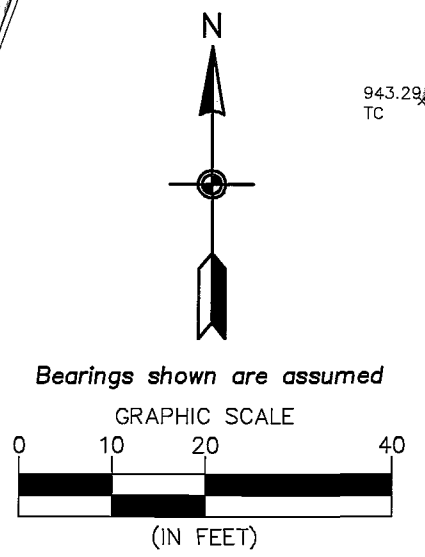
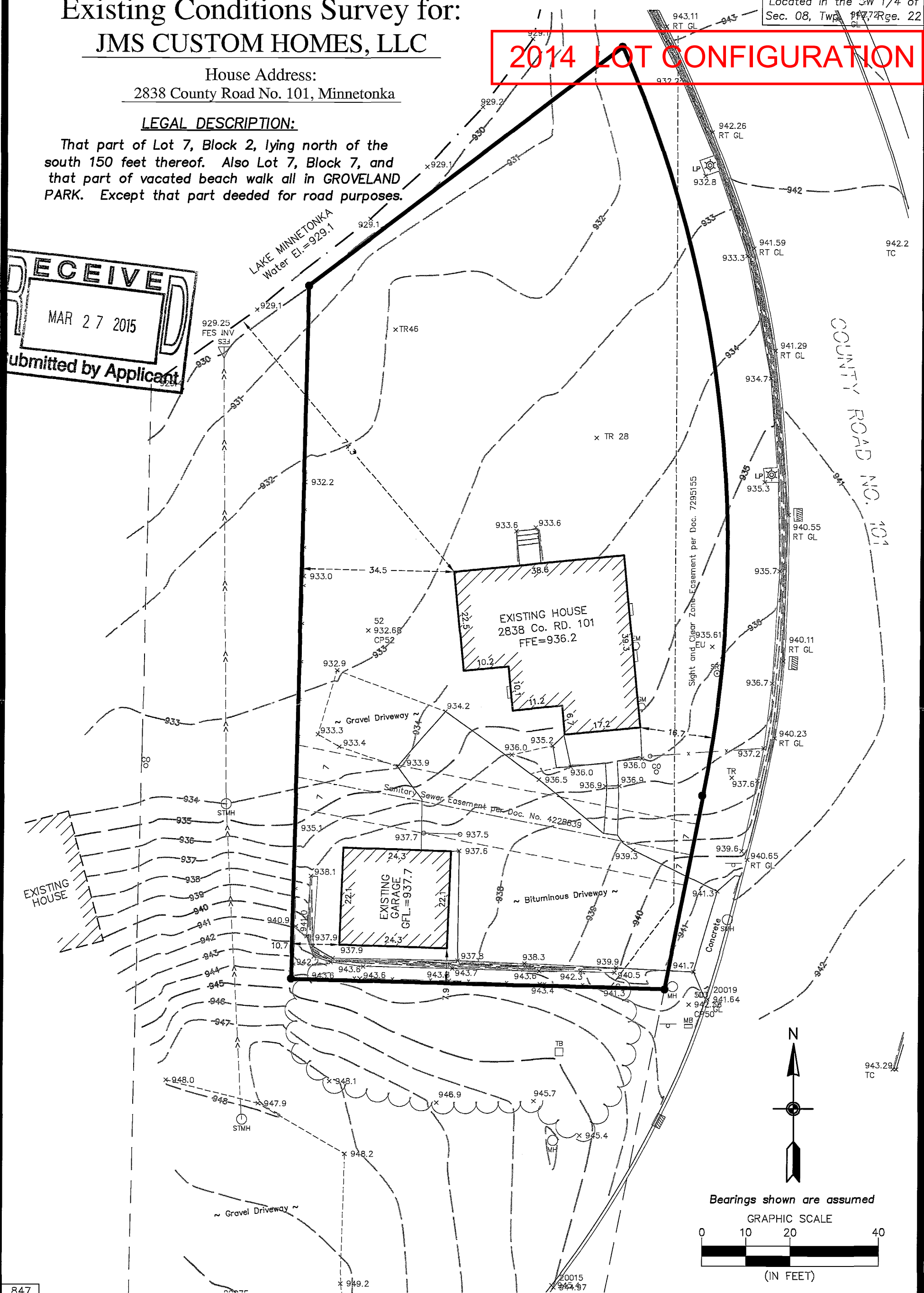
LEGAL DESCRIPTION:

That part of Lot 7, Block 2, lying north of the south 150 feet thereof. Also Lot 7, Block 7, and that part of vacated beach walk all in GROVELAND PARK. Except that part deeded for road purposes.

Located in the SW 1/4 of
Sec. 08, Twp. 117, Rge. 22

2014 LOT CONFIGURATION

RECEIVED
MAR 27 2015
Submitted by Applicant



847

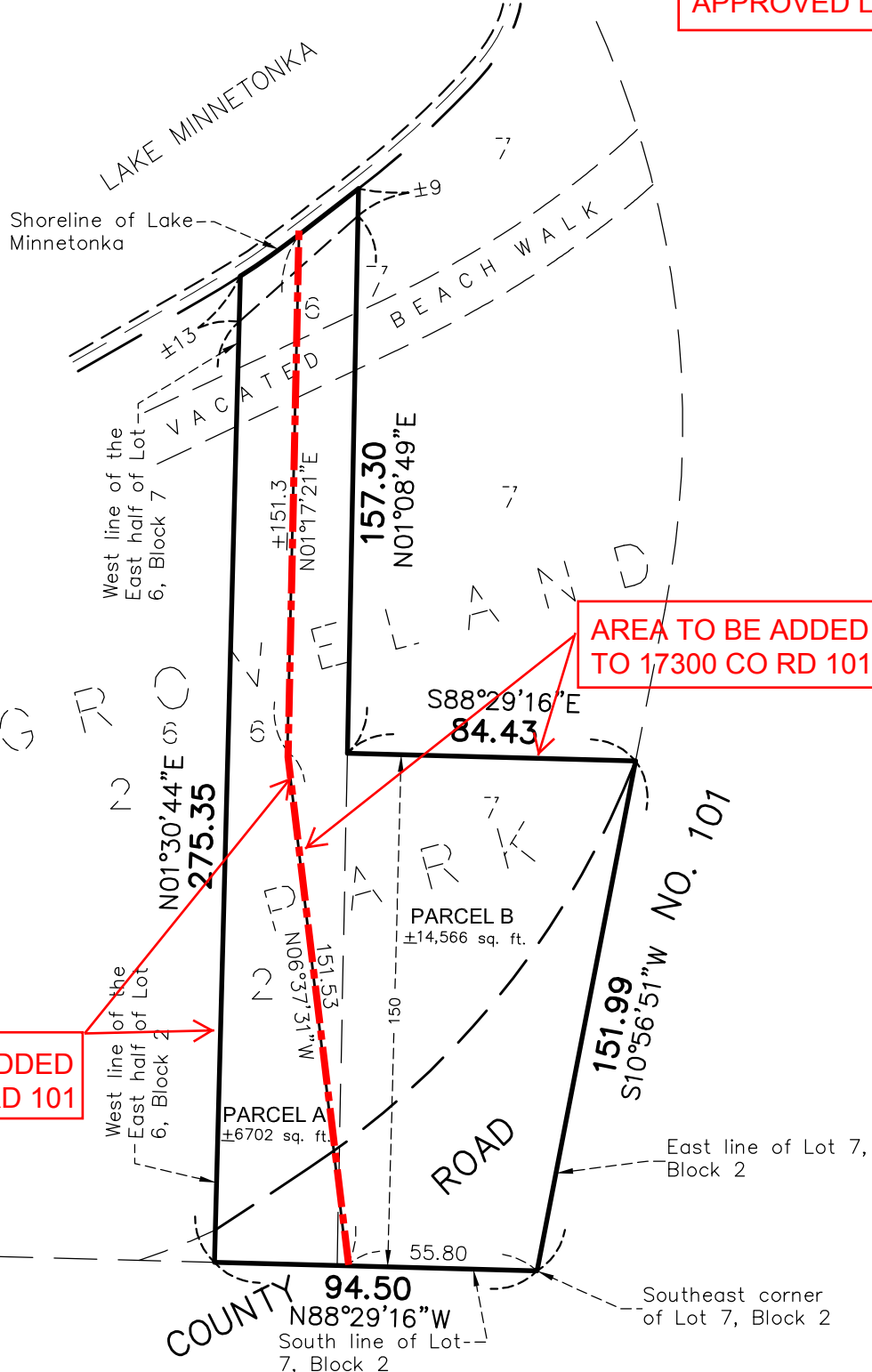
**Carlson
McCain**
ENVIRONMENTAL • ENGINEERING • SURVEYING
248 Apollo Dr, Suite 100, Lino Lakes, MN 55014
Phone: 763-489-7900 Fax: 763-489-7959

I hereby certify to xxxxxxxxxxxxxxxxxxxxxxxx that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.
Dated this XXXX day of XXX, 2014.
Signed: Carlson McCain, Inc.
By: _____
Thomas R. Balluff, L.S. Reg. No. 40361

Save Date: 04/29/14 | f:\jobs\5064 - 2838 co rd 101\acad\survey\5064_xtp.dwg

Parcel Split Description Sketch

APPROVED LOT DIVISION



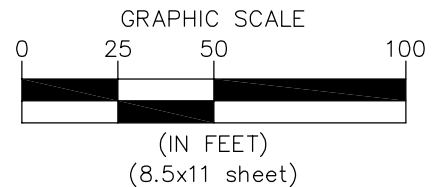
AREA TO BE ADDED TO 17306 CO RD 101

AREA TO BE ADDED TO 17300 CO RD 101

REVIEW COPY

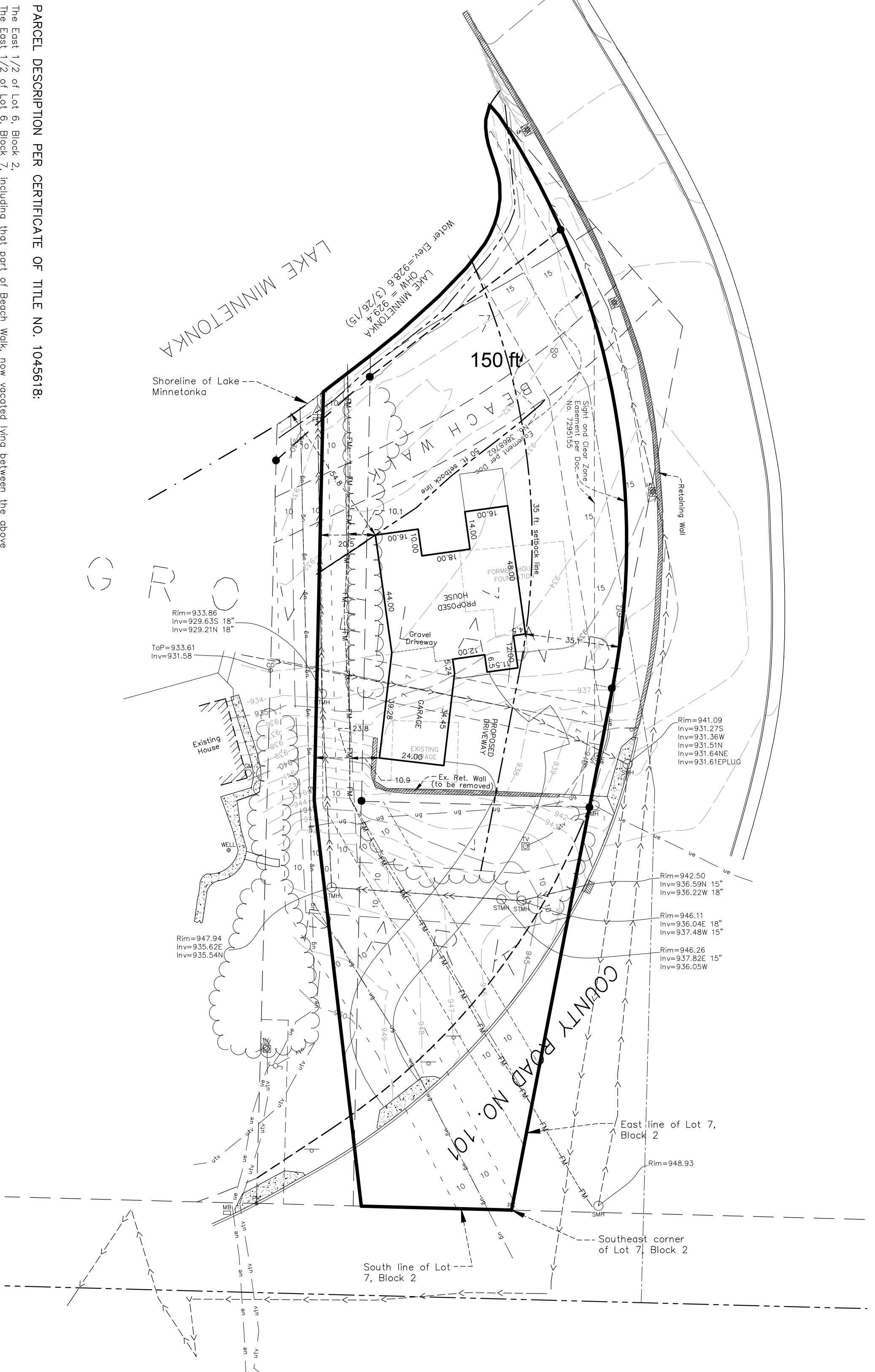


ENVIRONMENTAL • ENGINEERING • SURVEYING
 3890 Pheasant Ridge Drive NE,
 Suite 100, Blaine, MN 55449
 Phone: 763-489-7900 Fax: 763-489-7959



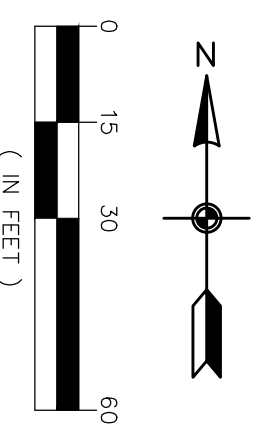
Save Date: 05/23/16 f:\jobs\5061 - 5080\5064 - 2838 co rd 101\cad\survey\5064_parcel split descriptions.dwg

2016 LOT CONFIGURATION



PARCEL DESCRIPTION PER CERTIFICATE OF TITLE NO. 1045618:

The East 1/2 of Lot 6, Block 2,
 The East 1/2 of Lot 6, Block 7, including that part of Beach Walk, now vacated lying between the above
 described tracts and between extensions of the side line of said lots,
 The South 150 feet of Lot 7, Block 2
 "Groveland Park";
AND
 That part of the following described parcel:
 The East 1/2 of Lot 6, Block 2,
 The East 1/2 of Lot 6, Block 7, including that part of Beach Walk, now vacated lying between the above
 described tracts and between extensions of the side line of said lots,
 The South 150 feet of Lot 7, Block 2
 "Groveland Park";
 Lying easterly of the following described line and its northerly and southerly extensions thereof:
 Commencing at the southeast corner of said Lot 7; thence North 88 degrees 29 minutes 16 seconds West,
 assumed bearing, along the South line of said Lot 7, a distance of 55.80 feet to the point of beginning of the
 line to be described; thence North 06 degrees 37 minutes 31 seconds West, 151.53 feet; thence North 01 degree
 17 minutes 21 seconds East, 151.3 feet, more or less, to the shoreline of Lake Minnetonka and said line there
 terminating.



Located in the SW 1/4 of
 Sec. 08, Twp. 117, Rge. 22

**Carlson
McCain**
 ENVIRONMENTAL · ENGINEERING · SURVEYING
 3890 Pheasant Ridge Drive NE,
 Suite 100, Blaine, MN 55449
 Phone: 763-489-7900 Fax: 763-489-7959

**CERTIFICATE OF
SURVEY**

**17300 County
Road No. 101**
 Minnetonka, Minnesota

**JMS CUSTOM
HOMES, LLC**
 Street Address
 City, ST, Zip

REVISIONS

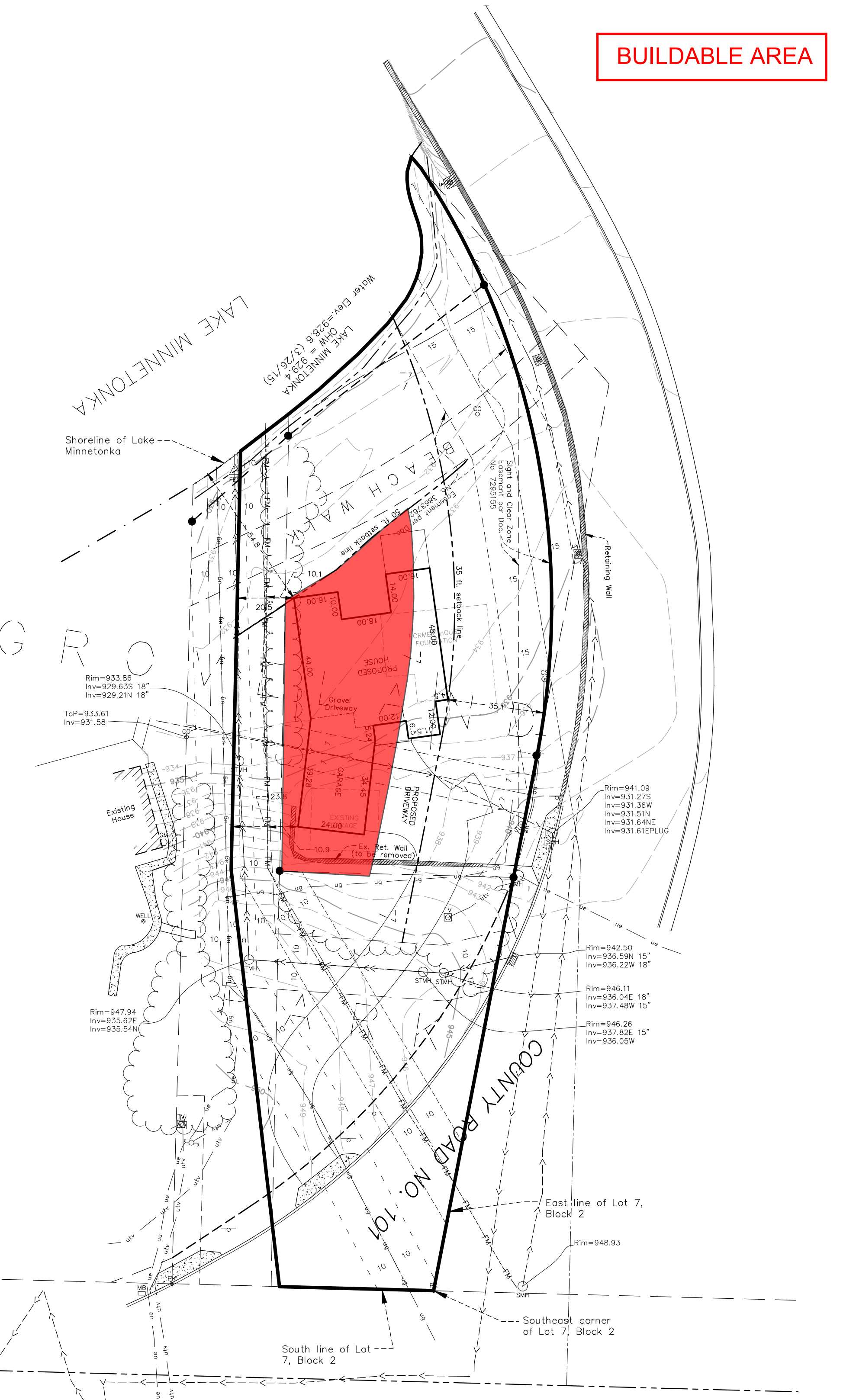
1.	
2.	
3.	
4.	
5.	
6.	

DRAWN BY: _____ C# _____
 ISSUE DATE: 09/15/16
 FILE NO: XXX

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.

Name: Thomas R. Balluff
 Signature: _____
 Date: 09/15/16 License #: 40361

BUILDABLE AREA



ELEVATION NOTES:

- *-SOFFIT: CUT-TO WIDTH ON RAKES, CUT-TO WIDTH ON EAVES 3/8" VENTED
- *-FASCIA: STEEL CUT-TO WIDTH, SIDERS EDGE
- *-SHINGLES: 30 YEAR CERTANTEED ARCHITECTURAL SHINGLES
- *-ROOF AND PLUMBING VENTS TO BACK OF ELEVATION

PENETRATION BLOCKS: LP FABRICATED ON SITE (PROPORTIONAL TO FIXTURE) PROVIDE ALL NECESSARY FLASHING



FRONT ELEVATION (SOUTH)
SCALE: 1/8"=1'-0" (2x SCALE ON 24X36 SHEETS)



LEFT ELEVATION (WEST)
SCALE: 1/8"=1'-0" (2x SCALE ON 24X36 SHEETS)

*NOTE: HOME ELEVATION EXAMPLE
NEW HOME PLAN IS IN DEVELOPMENT STAGE
TO MATCH PROPOSED HOME FOOTPRINT!*

SITE ADDRESS

LOT	BLOCK
7	7

REVISIONS

DATE	DESCRIPTION
02/23/2015	CAD PLAN #1
04/28/2015	CAD PLAN #2
05/22/2015	CAD PLAN #3
09/03/2015	CAD PLAN #4
09/24/2015	CAD PLAN #5
10/23/2015	CAD PLAN #6
10/27/2015	SURVEY
11/23/2015	CAD PLAN #7
11/24/2015	CAD PLAN #7
12/07/2015	CAD PLAN #8
03/21/2016	BD SET #1
04/09/2016	BD SET #1
04/07/2016	BD SET #1

APPROX SQ FT
1990 SQ FT LL
2450 SQ FT ML
4440 T SQ FT

1013 SQ FT GARAGE

PLANS PREPARED BY RICK S

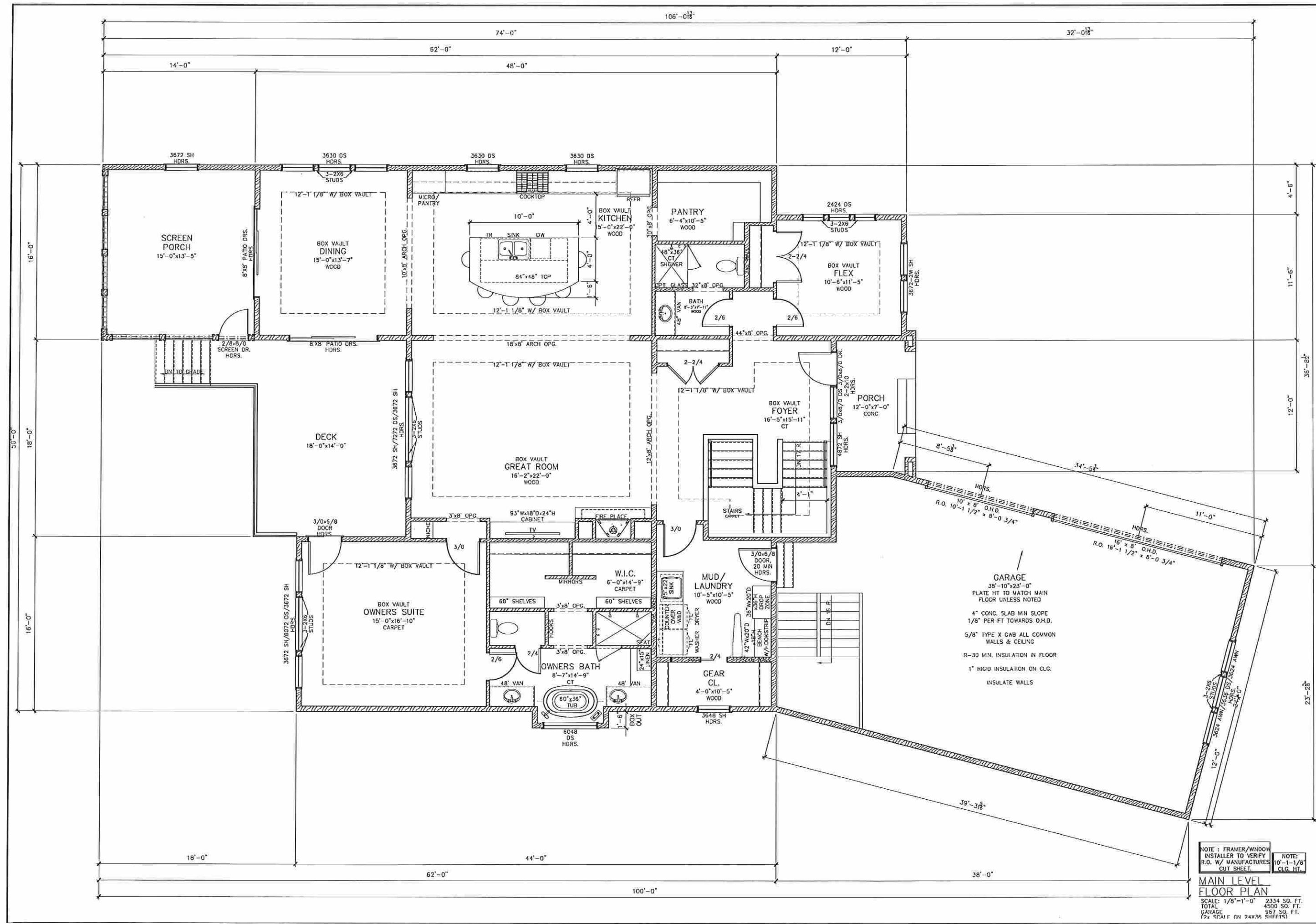
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DATE 07-08-2015

PAGE A1.1

WIPPERFURTH RESIDENCE
17300 CO. RD. #101 MINNETONKA
WAYZATA, MN. 55391



SITE ADDRESS

LOT	BLOCK
REVISIONS	

APPROX SQ FT

2166 SQ FT LL
2334 SQ FT ML
224 SQ FT SP
4500 SQ FT
4724 GT SQ FT

967 SQ FT GARAGE

PLANS PREPARED BY RICK S

COPYRIGHT

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DATE 08-09-2016

PAGE A2.1

NOTE: FRAMER/WINDOW INSTALLER TO VERIFY R.O. W/ MANUFACTURER'S CUT SHEET.

NOTE: 10'-1-1/8" CLG. HT.

MAIN LEVEL FLOOR PLAN

SCALE: 1/8"=1'-0" 2334 SQ. FT.
TOTAL 4500 SQ. FT.
GARAGE 967 SQ. FT.
(2x 24" SCAFF ON 24x36 SHEFTS)

EXISTING
FLOOR AREA RATIOS

160 80 0 160 Feet

17300 County Road 101

Map prepared by: City of Minnetonka



Planning Commission Resolution No. 2016-

Resolution approving a front yard setback variance for a new home at 17300 County Road 101

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

Section 1. Background.

- 1.01 Homestead Partners, LLC. has requested a front yard setback variance for construction of a new home.
- 1.02 The property is located at 17300 County Road 101. It is legally described on Exhibit A of this resolution.
- 1.03 City Code §300.10 Subd. 5(b) requires a minimum front yard setback of 50 feet.
- 1.04 The applicant is proposing a setback of 35 feet.
- 1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the Planning Commission to grant variances.

Section 2. Standards.

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

Section 3. Findings.

- 3.01 The proposal would meet the variance standard as outlined in City Code §300.07 Subd. 1:
1. **INTENT OF THE ORDINANCE.** The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the front yard setback requirement is to provide for: (1) consistent building lines within a neighborhood; and (2) adequate separation between structures and roadways for aesthetic and safety purposes. The proposal would meet this intent:
 - a) Structures in the area have varied front yard setbacks. There is no consistent building line in the area.
 - b) The proposed home would be located 46 feet from the paved surface of County Road 101 and along the inside curve of this roadway. Generally, traffic slows along an inside curve.
 2. **CONSISTENT WITH COMPREHENSIVE PLAN.** The proposed variance is consistent with the comprehensive plan. The guiding principles in the comprehensive guide plan provide for maintaining, preserving and enhancing existing single-family neighborhoods. The requested variance would preserve the residential character of the neighborhood and would provide investment into a property to enhance its use.
 3. **PRACTICAL DIFFICULTIES.** There are practical difficulties in complying with the ordinance:
 - a) **REASONABLENESS AND CHARACTER OF THE LOCALITY:** The proposed front yard setback is reasonable and would not negatively impact neighborhood character. The 35-foot setback would be double the 17-foot setback of the home previously on the property. Further, a variety of structures along County Road 101 have reduced front yard setbacks.
 - b) **UNIQUE CIRCUMSTANCE:** Given the required setbacks from Lake Minnetonka, FEMA floodplain, County Road 101, and the location of a variety of utility easements, just 17% of the subject property is considered buildable. While not necessarily unique in the immediate area, this relatively small percentage of buildable area is not common to all similarly zoned properties in the community.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
 - Site Plan, dated September 15, 2016
 - Building Elevation, dated July 8, 2015
 - Floor Plans, dated August 9, 2016
2. Prior to issuance of a building permit:
 - a) A copy of this resolution must be recorded with Hennepin County.
 - b) The previously approved administrative lot division must be recorded with Hennepin County and proof of recording submitted to the city.
 - c) The existing private sewer line must be relocated and appropriate, private easement dedicated over the line.
 - d) A revised survey must be submitted indicating:
 - 1) The home will meet required 20 foot horizontal setback from 100-year floodplain;
 - 2) The home will meet required two foot vertical separation from the 100 year floodplain elevation; and
 - 3) No more than 30 percent of the area 150 feet upland of the 929.4 elevation will be covered by impervious surface.
 - e) The applicant must install erosion control fencing as required by staff for inspection and approval. These items must be maintained throughout the course of construction.

3. This variance will end on December 31, 2017, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 20, 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 20, 2016.

Kathy Leervig, Deputy City Clerk

EXHIBIT A

PARCEL DESCRIPTION PER CERTIFICATE OF TITLE NO. 1045618:

The East 1/2 of Lot 6, Block 2,
The East 1/2 of Lot 6, Block 7, including that part of Beach Walk, now vacated lying between the above described tracts and between extensions of the side line of said lots,
The South 150 feet of Lot 7, Block 2

"Groveland Park".

AND

That part of the following described parcel:

The East 1/2 of Lot 6, Block 2,
The East 1/2 of Lot 6, Block 7, including that part of Beach Walk, now vacated lying between the above described tracts and between extensions of the side line of said lots,
The South 150 feet of Lot 7, Block 2

"Groveland Park".

Lying easterly of the following described line and its northerly and southerly extensions thereof:

Commencing at the southeast corner of said Lot 7; thence North 88 degrees 29 minutes 16 seconds West, assumed bearing, along the South line of said Lot 7, a distance of 55.80 feet to the point of beginning of the line to be described; thence North 06 degrees 37 minutes 31 seconds West, 151.53 feet; thence North 01 degree 17 minutes 21 seconds East, 151.3 feet, more or less, to the shoreline of Lake Minnetonka and said line there terminating.

MINNETONKA PLANNING COMMISSION
October 20, 2016

Brief Description Parking variance for a self-storage facility at 6031 Culligan Way

Recommendation Adopt the resolution approving the request

Project No. 16024.16a

Property 6031 Culligan Way

Applicant Todd Jones, Premier Storage, LLC

Proposal The applicant, Todd Jones of Premier Storage, LLC, is proposing to reconfigure the building and parking lot at 6031 Culligan Way. The applicant proposes to use the property as a self-storage, or mini-warehouse, facility with accessory outdoor storage. To complete this project, the applicant is proposing to:

- Reconfigure the interior of the subject building to create two usable stories and internal drive through. The second story addition will occur within the interior of the existing structure. Essentially an additional floor will be added between the floor of the structure and the existing, high ceiling. This second story will increase the gross floor area of the building from 35,000 square feet to 67,000 square feet. The addition will increase the number of parking stalls required for the subject property.
- Add outdoor storage spaces within existing parking spaces on the subject property. This will result in a reduction of parking spaces below the number required by city ordinance. (See narrative and plans in attachments).

Proposal requirements:

This proposal requires a parking variance. The addition of building square footage and removal of parking spaces would reduce available parking spaces below the number required by city ordinance.

	Required	Existing	Proposed
Number of parking spaces required for a 67,000 square foot building*	67 spaces	53 spaces	21 spaces

*City ordinance requires 1 parking space per 1,000 square feet of gross floor area

Approving Body

The planning commission action will be final action subject to the right of appeal. (City Code §300.07.4)

Staff Analysis

Staff finds that the applicant's proposal is reasonable as:

1. Purpose and Intent of the Zoning Ordinance:

The proposal, and resulting variance request, would be in keeping with the city's zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. Based on parking analysis in the Institute of Transportation Engineers (ITE) Parking Generation manual, the mini-warehouse use would require an average peak period parking demand of 0.16 parking spaces per 1,000 square feet of gross floor area. In other words, the applicant's proposal would require 11 parking spaces. Staff finds that the proposed reduction in parking spaces would meet the intent of the ordinance because the proposed use would actually demand less parking than required by ordinance.

2. Consistent with the Comprehensive Plan:

The proposal would be consistent with the city's comprehensive plan. The intent of the city's comprehensive plan is to provide a range of "light" industrial uses in business parks – such as Opus and Carlson – and in areas close to State Highway 62 and Interstate Highway 494. The proposed use of the property is consistent with this policy and the intended future land use of the property.

3. Practical Difficulties: There are practical difficulties in complying with the ordinance.

- Reasonableness:

Staff has found that the request for a variance from the required number of parking spaces is reasonable.

- The work completed to reconfigure the structure to create two stories would be done completely to the interior of the building. The interior drive through would serve as a minor change to the

existing structure and would provide an additional storage area for vehicles as clients visit their personal storage space.

- The self-storage, or mini-warehouse, use is a permitted use and outdoor storage is a permitted accessory use within the Industrial District.
- The reduction in parking spaces is reasonable as the proposed number of parking spaces for the subject building would satisfy the average peak period parking demand based on the parking generation study completed by the Institute of Transportation Engineers in 2004.

- Circumstance Unique to the Property:

Per the 2004 ITE parking generation manual, the proposed use of the property would require less parking spaces than the ordinance suggests for wholesale business, storage, or warehouse establishments. While similar to other warehouse uses within the city, mini-warehouse storage facilities require significantly less parking.

- Neighborhood Character:

The subject neighborhood is located within an industrial use “neighborhood.” If approved, the changes proposed for the subject property would not alter the essential character of the surrounding area.

- The second story addition would be completed interior to the structure and will not change the character the neighborhood.
- The outdoor storage area would be screened from the public right-of-way by a 6-foot tall wood fence.
- The reduction in parking spaces would not alter the essential character of the neighborhood.

Staff Recommendation

Adopt the resolution approving a parking variance at 6031 Culligan Way.

Originator: Drew Ingvalson, Planner

Through: Loren Gordon, AICP, City Planner

Supporting Information

Project No.	16024.16a
Property	6031 Culligan Way
Applicant	Todd Jones, Premier Storage, LLC
Surrounding Land Uses	All properties to the north, south, east, and west are all zoned Industrial District (I-1). The properties to the north, south, east, and west are all guided for industrial uses and are improved with industrial use buildings.
Planning	Guide Plan designation: Industrial Zoning: I-1
Site Features	The subject property was platted in its current configuration in 1972. The property is improved with a 35,000 square foot, one-story building that was originally constructed in 1985. The existing building appears to have a nonconforming front yard setback; however, the applicant is not proposing to alter the exterior of the structure within this setback, so no additional variances are required. (See attachments).
Outdoor Storage	The applicant is requesting to add outdoor storage to the subject property. The subject property is zoned Industrial (I-1). Outdoor storage is a permitted accessory use for I-1 zoned properties, provided that it is screened from general public view. The applicant has proposed to screen the outdoor storage areas from public view with a 6-foot tall, opaque fence.
Floor Area Ratio Maximum	The maximum floor area ratio (FAR) permitted for properties within the Industrial District is 1.0. The existing structure has an FAR of 0.29. The applicant has proposed to increase the gross floor area of the structure from 35,000 square feet to 67,000 square feet. This will create an FAR of 0.56, which is within the maximum permitted by ordinance.
Parking at Other Premier Storage Locations	A review of parking, provided by the applicant, at other Premier Storage locations shows that all of their mini-warehouse storage facilities have significantly less parking than what is required by city ordinance – 1 parking space per 1,000 square feet of gross floor area. (See attachments). The majority of the existing buildings have less than 0.27 parking spaces per 1,000 square feet of gross floor area, and several have less than 0.10 spaces per 1,000 square feet of gross floor area. The applicant is proposing 0.31 spaces per 1,000 square feet of gross floor area.

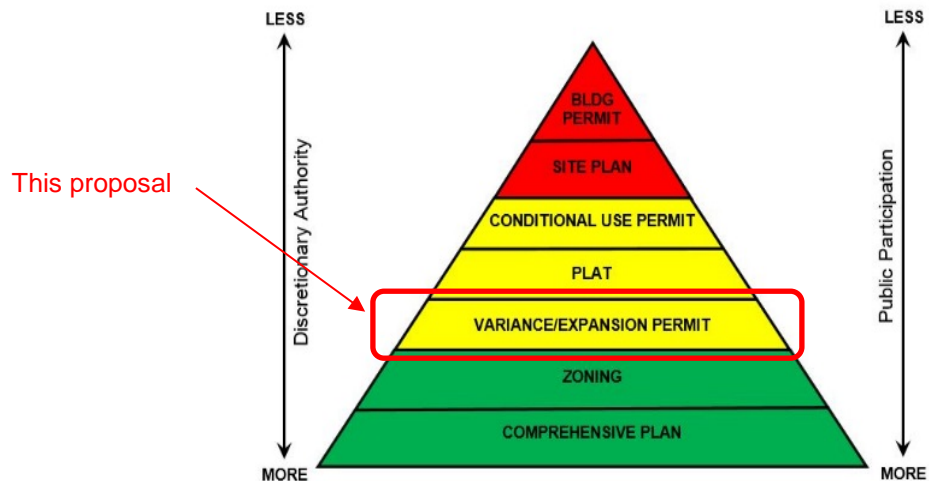
Mini-Warehouse Parking Variances

The city does not have an extensive history of granting variances for mini-warehouse parking. Upon staff review, one case was found when the city did grant a parking variance for this type of use. In 1994, Minikahda Mini Storage, located at 10830 Greenbrier Road, requested a parking variance. At the time, the subject use required 132 parking spaces, but the city council approved a variance to allow for only 79 parking spaces.

Variance Standard

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

Pyramid of Discretion



Motion Options

The planning commission has three options:

1. Concur with staff's recommendation. In this case a motion should be made approving the variance.
2. Disagree with staff's recommendation. In this case a motion should be made denying the variance. 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 be made 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 46 area property owners and has received no comments.

**Deadline for
Decision**

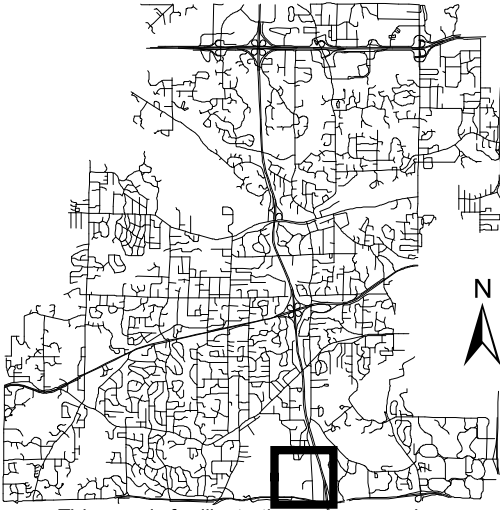
January 16, 2017



Location Map

Project: Premier Storage
Address: 6031 Culligan Way
Project No. 16024.16a

City of
minnetonka



This map is for illustrative purposes only.

FRANK R. CARDARELLE
(612) 941-3031

Land Surveyor
Eden Prairie, MN 55344

Certificate Of Survey

Survey For Gemini Digital Products, Corp.
6031 Culligan Way
Minnetonka, MN

*Parking Variance
Self Storage Use*

Outdoor Storage Spaces

15 Parking Spaces

Building Drive Through

6 parking spaces

* NOTE - FRONT BUILDING SETBACK VARIANCE TO 25.0' MINIMUM AS PER CITY APPROVED SITE PLAN NO. 134-A



New Wrought Iron Gate
New 6' Fence

I hereby certify to Gemini Digital Products Corp., a Florida corporation, or assigns; M&I Marshall & Ilsley Bank; Commercial Partners Title, LLC and Chicago Title Insurance Company and to their successors and assigns, that I have surveyed, on the ground, the property legally described hereon; that this plat of survey is a true, correct and accurate drawing and representation of said property and of the size, location, exterior dimensions and boundaries thereof; that the street addresses, locations and dimensions of all buildings, and the locations of all parking areas, of all other improvements upon said property, of all streets, roads, utility lines (to their visible easements, of all fences thereon, of all recorded and/or points of connection with the public systems) and of all building which affect, benefit or burden said property, and of all building setback lines which affect said property are correctly and accurately shown hereon; that there are not discrepancies, conflicts, impairs, boundary disputes, shortages in area, encroachments of improvements over boundary lines from or onto said property or upon easements, overlapping of improvements, visible easements, overlapping of easements, road, alleys, rights-of-way or building setbacks lines which affect said property, and of all other improvements that there are not fences, light posts or other improvements appurtenant to said property which are located within the boundary lines of adjoining property, except as shown hereon; that the legal description of said property, as set out hereon, is correct, complete and accurate; and that any portion of said property which is located in a flood plain or in any other flood hazard or flood danger area, as designated by applicable governmental authorities, is shown and identified as such hereon.

Frank R. Cardarelle State Reg. License No. 6508
Date 11-25-02

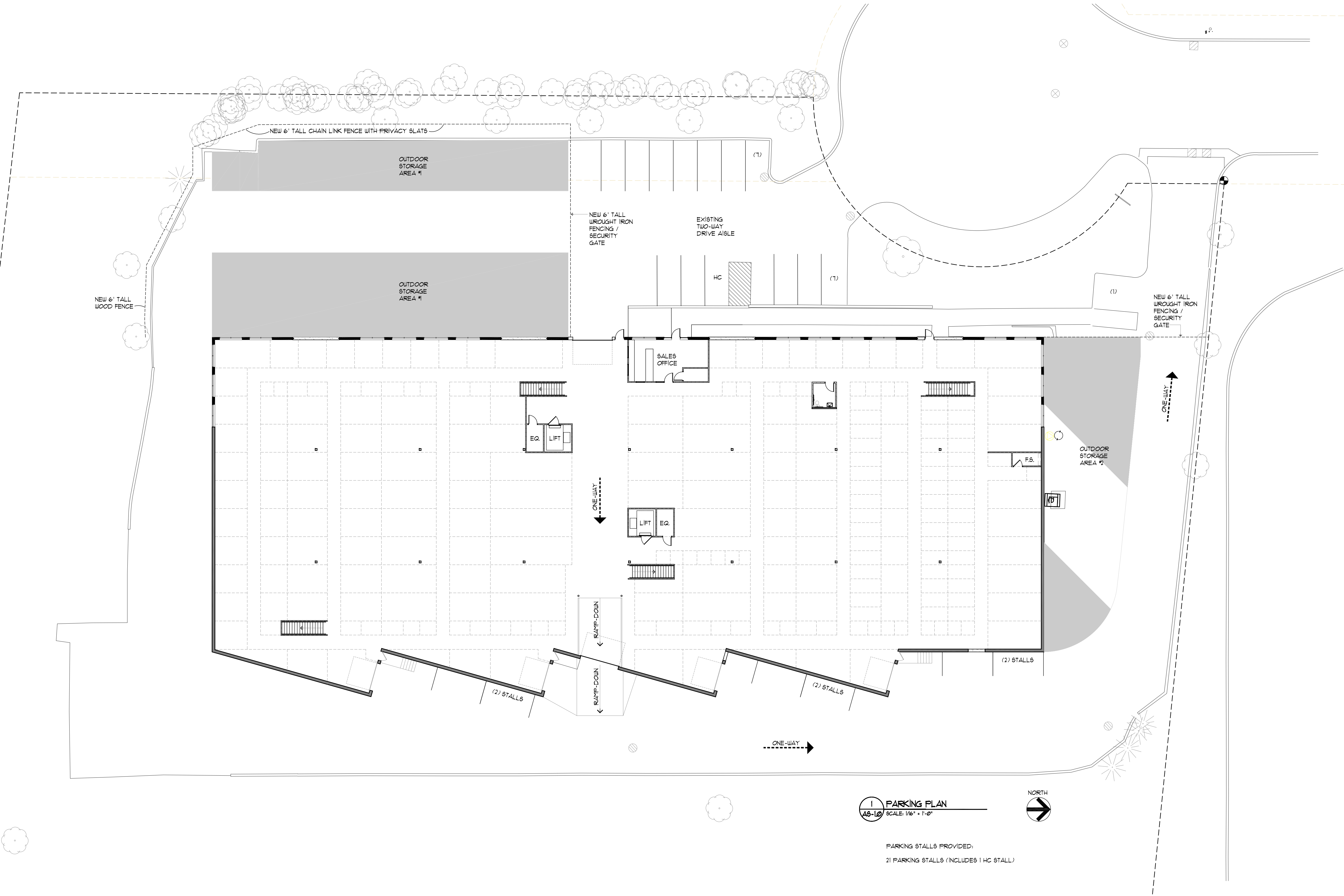
Description:
Lot 3, Block 2, and Outlot C, Culligan Industrial Park, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

NOTES:
Land Area: 118,525 sq.ft./2.72 Acres
Building Area: 35,150 sq.ft.
Site contains 53 parking spaces + 4 dock spaces + (gravel parking)
Survey based on Chicago Title Insurance Company Commitment No. 20550, dated October 15, 2002.
Underground Utilities per City Utility location.

Frank R. Cardarelle Land Surveyor
6440 Flying Cloud Drive
Eden Prairie, Minnesota 55344
(612) 941-3031

SURVEY FOR: Gemini Digital Products Corp.
6031 Culligan Way
Minnetonka, MN 55345

Scale	Revisions	Drawn By	Date
1"=30'	Easement # 6633541	FR	9-29-97
Date 9/23/1997	Per Signer	FR	11-24-02
Dr'n FRC Ckd MCH			
Job No. 4418	Book	Page	



1 PARKING PLAN
 AS-10 SCALE: 1/16" = 1'-0"

PARKING STALLS PROVIDED:
 21 PARKING STALLS (INCLUDES 1 HC STALL)

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REVISION NUMBER	DATE	REVISION NUMBER	DATE
CLIENT REVIEW	09-26-16		
CITY SUBMITTAL	09-29-16		

PROJECT:
CROSTOWN SELF STORAGE
 MINNETONKA, MN

SHEET TITLE:
PARKING PLAN

JOB: 2016.454.0
 DRAWN BY: DUB
 CHECKED BY: DXF
 SHEET NO.:

AS-1.0

Local Self Storage Facilities
 Parking Space Count Comparison
 9-27-16

<u>Facility Name</u>	<u>Location</u>	<u>Parking Spaces</u>	<u>Estimated Gross Sq. Ft.</u>	<u>Estimated Total Spaces</u>	<u>Spaces per 1,000 square feet of Gross Floor Area</u>
Crosstown Self Storage (Subject)	Minnetonka	21	67,000	500	0.31
Public Storage	Minnetonka	18	67,000	500	0.27
North Star Mini Storage	Minnetonka	4	84,000	600	0.05
Central Self Storage	Edina	12	105,000	825	0.11
Public Storage Hwy #7	Shorewood	5	65,000	475	0.08
Metro Self Storage	Eden Prairie	13	75,000	575	0.17
Public Storage (Flying Cloud Dr.)	Eden Prairie	5	115,000	925	0.04
Public Storage (Hwy #4)	Eden Prairie	4 5	95,000	750	0.47
Central Self Storage	Bloomington	8	110,000	750	0.07
Lock Up	Plymouth	11	85,000	700	0.13
Public Storage (Xenium Ln)	Plymouth	8	104,000	850	0.08
Public Storage (Hwy#55)	Plymouth	6	80,000	625	0.08
Central Self Storage	Minneapolis	8	54,000	420	0.15



Larkin Hoffman

8300 Norman Center Drive
Suite 1000
Minneapolis, Minnesota 55437-1060

GENERAL: 952-835-3800
FAX: 952-896-3333
WEB: www.larkinhoffman.com

September 27, 2016

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

Re: Premier Storage Parking Variance for Proposed Self-Storage Facility at 6031 Culligan Way; Our File #28,882-0

Dear Planning Commission:

This firm represents Premier Storage, LLC (“Premier”) with regard to the application for a parking variance for the proposed self-storage facility at 6031 Culligan Way (the “Property”) in the City of Minnetonka (the “City”). Premier intends to construct a self-storage facility with accessory outdoor storage at the Property, which is zoned I-1 Industrial District. Self-storage with accessory outdoor storage is a permitted use in the I-1 Industrial Zoning. The purpose of this letter is to provide the required findings to support Premier’s request in the attached application to reduce the required off-street parking requirement from 67 spaces to 21 spaces.

Proposed Improvements

The project will include the internal construction of an approximately 32,000 square foot second level floor within the existing building envelope and the addition of a drive through lane through the building. This will create an approximately 67,000 gross square foot fully climate controlled self-storage facility, consisting of approximately 450 individual storage spaces. Customers will conduct their loading and unloading activities within the enclosed structure. The facility will do business as “Crosstown Self Storage.” Improvements are to commence mid-November of this year with an anticipated opening date of April 1, 2017.

Required Findings

The proposed facility will provide 21 parking spaces. Based on the City zoning ordinance (the “City Code”) requirement of 1 parking space per 1,000 square feet of floor area, Premier requires a variance from 67 spaces to 21 spaces. In accordance with Minnesota law and City Code Section 300.07, Premier’s request meets the required findings to warrant a variance to reduce the number of required off-street parking spaces, as follows:

1. The proposed variance is in harmony with the general purpose and intent of the zoning ordinance;

The proposed variance is in harmony with the purpose and intent of the zoning ordinance, which is intended to promote the health, safety, and general welfare of the City. The purpose and intent of the City's off-street parking requirements is to prevent overcrowding of public streets and ensure the parking demand driven by individual uses is accommodated on site. The proposed reduction in parking spaces will be consistent with the purpose and intent of the ordinance. The nature of a self-storage unit is that customers require far less parking than traditional warehousing and storage uses as customer trips are short in duration and consist of loading and unloading. The vast majority of all customer traffic will be handled through the newly constructed internal driveway, which allows customers to quickly access their storage units within the climate-controlled building, eliminating the need for outdoor parking. The result is a very low demand for the off-street parking spaces. As a result, the proposed variance will not result in increased on-street parking or street congestion, or adversely affect the health, safety, and general welfare of the City.

2. The proposed variance is consistent with the comprehensive plan; and

The proposed variance is consistent with the City's Comprehensive Plan. The Property is guided with a future land use category of "Industrial," which is described as a range of light industrial uses, including warehousing, showroom, manufacturing and service uses. *Comprehensive Plan IV-39*. The proposed variance is consistent with this policy and will allow the Property to be used in an efficient manner as self-storage, with accessory outdoor storage. Self-storage is a light industrial use, comparable to warehousing, that is consistent with the intended future land use of the Property.

3. There are practical difficulties in complying with the ordinance standard from which Premier is requesting a variance. Practical difficulties means:

a. The proposed use is reasonable;

The proposed use of self-storage with accessory outdoor storage is a permitted and reasonable use within the I-1 District. The immediate vicinity consists of industrial warehousing, manufacturing, and accessory office uses. The nature of the self-storage use and largely internal operations will reduce the need for off-street parking and make the proposed request reasonable and consistent with the properties in the immediate vicinity and the I-1 District.

b. The need for the variance is caused by circumstances unique to the property, not created by the property owner, and not solely based on economic considerations; and

The Property consists of an industrial building with approximately 53 off-street parking spaces in the south of the structure and 4 loading docks on the north. The structure is an industrial warehouse with a 20-foot ceiling height. The ceiling height necessitates the construction of a second level in order to ensure a secure facility with practically feasible storage spaces. Absent a

second level, the storage spaces would either be impractically 20 feet tall, or result in a substantial portion of the building functioning as “dead space” where a second floor would be located. The dead space creates operational (heating, cooling, security, safety, etc.) concerns. Economic considerations are not the primary issue to be remedied by the variance. The proposed use is a permitted use, but practical difficulties arise out of the design, construction, and operation of a facility in which a portion of the structure remains dead space that must be designed around but also heated, cooled, and secured.

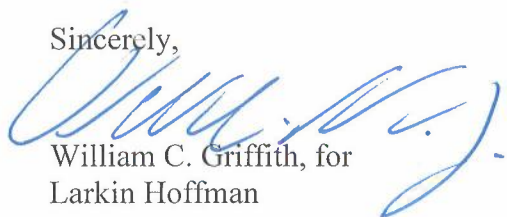
c. **The proposed use would not alter the essential character of the surrounding area.**

The addition of the second internal level results in a near-doubling of the off-street parking requirement without any change to the exterior building envelope. The variance, if granted, will have no impact on the essential character of the locality because all changes to the structure will be fully enclosed and entirely within the existing building envelope. Based on anticipated projections, the 21 spaces provided will exceed the peak demand projections as the vast majority of customers will access the facility internally. By allowing the reduced parking, which is necessitated by the second level, the immediate market will be more fully served, which will decrease the off-site impacts in the locality by satisfying the market demand and reducing the likelihood of future self-storage facilities in the vicinity.

Conclusion

As required under the law, the findings described above have been satisfied. Premier’s request is consistent with the spirit and intent of the City Code and Comprehensive Plan and will allow the reuse of the existing industrial building on the Property while still addressing the anticipated peak parking demands. The existing configuration of the physical structures on the Property, in conjunction with the unique nature of the self-storage use, results in a reduced parking need that can be appropriately met with the proposed parking configuration. Accordingly, we respectfully request that the Planning Commission grants this variance request.

Sincerely,



William C. Griffith, for
Larkin Hoffman

Direct Dial: 952-896-3285
Direct Fax: 952-842-1729
Email: wgriffith@larkinhoffman.com

cc: Premier Storage

Planning Commission Resolution No. 2016-

Resolution approving a parking variance for a self-storage facility at 6031 Culligan Way

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

Section 1. Background.

1.01 Todd Jones, of Premier Storage, has requested a parking variance for a self-storage facility. (Project #16024.16a).

1.02 The property is located at 6031 Culligan Way. It is legally described as:

Lot 3, Block 2 and Outlot C, Culligan Industrial Park, Hennepin County, Minnesota.

1.03 City Code §300.28 Subd. 12(c)(2)(aa) requires one parking space for each 1,000 square feet of gross floor area for any building used solely in a storage capacity.

1.04 The applicant is proposing 0.31 parking spaces for each 1,000 square feet of gross floor area.

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

Section 2. Standards.

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

economic considerations; and (3) the proposed use would not alter the essential character of the surrounding area.

Section 3. Findings.

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

1. **INTENT OF THE ORDINANCE.** The proposal, and resulting variance request, would be in keeping with the city's zoning ordinance. The intent of the ordinance, as it pertains to parking requirements, is to ensure adequate parking is provided to meet the anticipated parking demand of the subject site. Based on the parking generation study completed by the Institute of Transportation Engineers (ITE) in 2004, the mini-warehouse use would require an average peak period parking demand of 0.16 parking spaces per 1,000 square feet of gross floor area. In other words, the applicant's proposal would require 11 parking spaces. Staff finds that the proposed reduction in parking spaces would meet the intent of the ordinance because the proposed use would actually demand less parking than required by ordinance.
2. **CONSISTENT WITH COMPREHENSIVE PLAN.** The proposal would be consistent with the city's comprehensive plan. The intent of the city's comprehensive plan is to provide a range of "light" industrial uses in business parks – such as Opus and Carlson – and in areas close to State Highway 62 and Interstate Highway 494. The proposed use of the property is consistent with this policy and the intended future land use of the property.
3. **PRACTICAL DIFFICULTIES.** There are practical difficulties in complying with the ordinance:
 - a) **REASONABLENESS.** The proposal is reasonable.
 - 1) The work completed to reconfigure the structure to create two stories would be done completely to the interior of the building. The interior drive through would serve as a minor change to existing structure and would provide an additional storage area for vehicles as clients visit their personal storage space.

- 2) The self-storage, or mini-warehouse, use is a permitted use and outdoor storage is a permitted accessory use within the Industrial District.
 - 3) The reduction in parking spaces is reasonable as the proposed number of parking spaces for the subject building would satisfy the average peak period parking demand based on the parking generation study completed by ITE.
- b) CHARACTER OF THE LOCALITY: The subject neighborhood is located within an industrial use “neighborhood.” If approved, the changes proposed for the subject property would not alter the essential character of the surrounding area.
 - c) UNIQUE CIRCUMSTANCE: Per the 2004 ITE parking generation manual, the proposed use of the property would require less parking spaces than the ordinance suggests for wholesale business, storage, or warehouse establishments. While similar to other warehouse uses within the city, mini-warehouse storage facilities require significantly less parking.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, except as modified by the conditions below:
 - Site Plan dated City Submittal September 29, 2016
2. Prior to issuance of a building permit:
 - a) A copy of this resolution must be recorded with Hennepin County.
 - b) All delinquent taxes must be paid.
 - c) Outdoor storage areas must be screened by a 6-foot tall, opaque fence.

3. The structure must provide at least 12 feet of clearance from the bottom of the proposed ramp to the curb in the back of the building for fire apparatus to pass through.
4. The building ramps must be constructed, or drive aisles altered, to not impede fire access around the entire building.
5. This variance will end on December 31, 2017, unless the city has issued a building permit for the project covered by this variance or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on October 20, 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 20, 2016.

Kathy Leervig, Deputy City Clerk