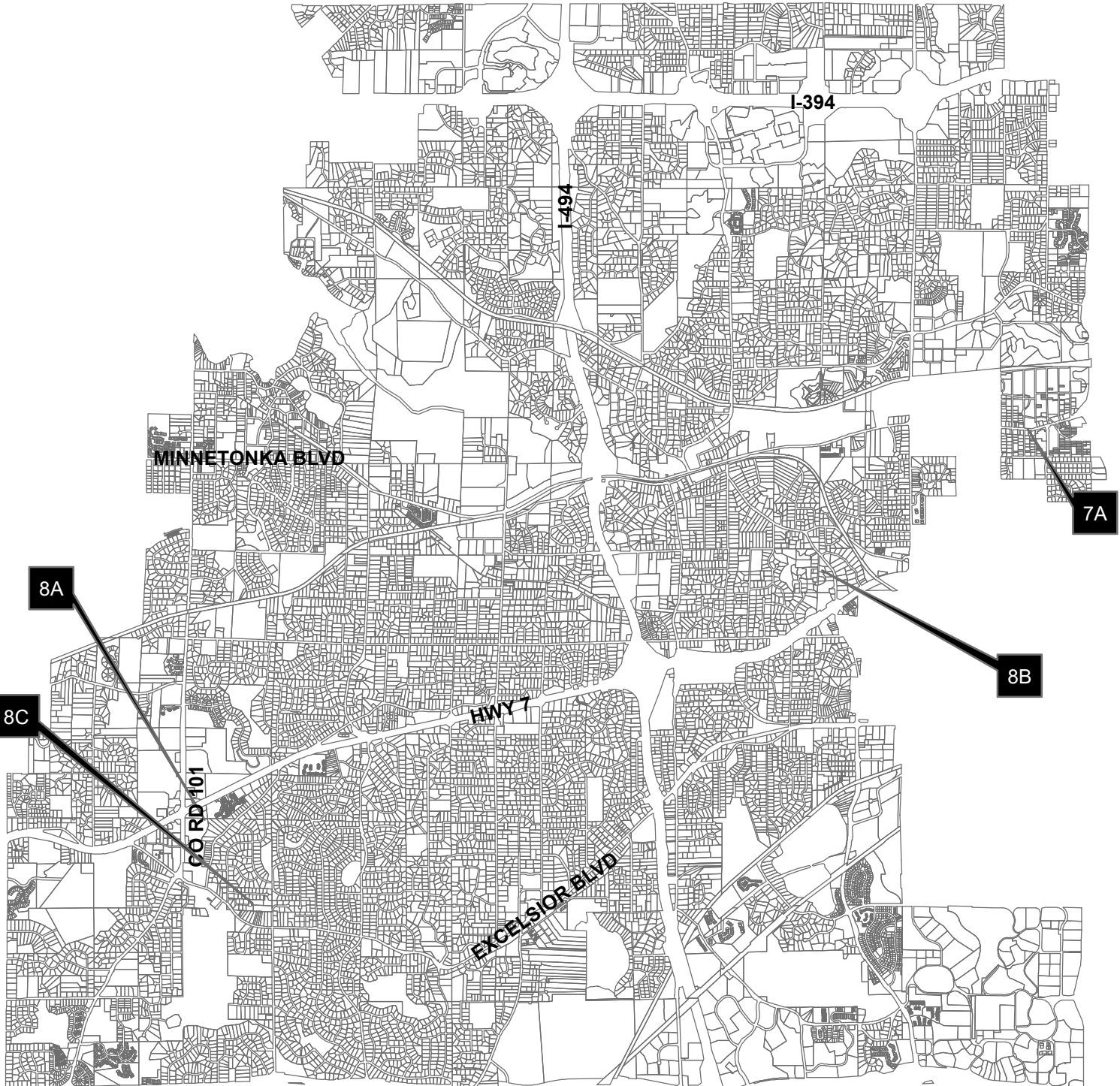




CITY OF
MINNETONKA

**CITY OF MINNETONKA
PLANNING COMMISSION
MARCH 5, 2020**

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





Planning Commission Agenda

March 5, 2020 – 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:** Feb. 13, 2020
- 5. Report from Staff**
- 6. Report from Planning Commission Members**
- 7. Public Hearings: Consent Agenda**
 - A. Front yard setback variance for an entry feature at 10101 Minnetonka Blvd.
Recommendation: Adopt the resolution approving the variance (5 votes)
 - Final Decision, subject to appeal
 - Project Planner: Ashley Cauley
- 8. Public Hearings: Non-Consent Agenda Items**
 - A. Interim use permit for a garden market at 17555 Hwy 7.
Recommend the city council adopt the resolution approving the permit (4 votes)
 - Recommendation to City Council (March 23, 2020)
 - Project Planner: Susan Thomas
 - B. Conditional use permit for licensed residential care facility at 3727 Shady Oak Road.
Recommend the city council adopt the resolution approving the permit (4 votes)

Planning Commission Agenda

March 5, 2020

Page 2

- Recommendation to City Council (March 23, 2020)
- Project Planner: Drew Ingvalson

C. Preliminary plat, with lot width at setback variance, for FRETAM 29th ADDITION at 16856 Sherwood Road.

Recommend the city council adopt the resolution denying the plat, with variance (4 votes)

- Recommendation to City Council (March 23, 2020)
- Project Planner: Susan Thomas

D. Ordinance amending the zoning ordinance and subdivision ordinances relating to appeals.

Recommend the city council adopt the ordinance (4 votes)

- Recommendation to City Council (March 23, 2020)
- Project Planner: Susan Thomas

9. Elections

- Election of Planning Commission Chair
- Election of Planning Commission Vice Chair

10. Planning Commission Bylaws and Policies

11. Adjournment

Planning Commission Agenda

March 5, 2020

Page 3

Notices

1. Please call the planning division at (952) 939-8290 to confirm meeting dates as they are tentative and subject to change.
2. There following applications are tentatively schedule for the March 19, 2020 agenda.

Project Description	Ridgedale Area Park Improvements
Project Location	Ridgedale Shopping Center and Crane Lake
Assigned Staff	Ashley Cauley
Ward Councilmember	Rebecca Schack, Ward 2

Minnetonka Planning Commission Meeting

Agenda Item 4

Previous Meeting Minutes

**Unapproved
Minnetonka Planning Commission
Minutes**

Feb. 13, 2020

1. Call to Order

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

2. Roll Call

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

Staff members present: City Planner Loren Gordon, Senior Planner Ashley Cauley, and Natural Resources Manager Leslie Yetka.

3. Approval of Agenda

Hanson moved, second by Henry, to approve the agenda as submitted with modifications provided in the change memo dated Feb. 13, 2020.

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

4. Approval of Minutes: Jan. 30, 2020

Henry moved, second by Hanson, to approve the Jan. 30, 2020 meeting minutes as submitted.

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

5. Report from Staff

Gordon briefed commissioners on meetings being held to gain input from neighbors for the Mills Church site which is exploring housing options. The Saturday meeting had 90 people in attendance. Information on the next three meetings will be posted on the city's website: minnetonkamn.gov.

The next planning commission meeting is scheduled to be held March 5, 2020.

6. Report from Planning Commission Members

Hanson welcomed Amanda Maxwell and David Waterman to the planning commission.

7. Public Hearings: Consent Agenda

No items were removed from the consent agenda for discussion or separate action.

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

A. Rear yard setback variance for an addition to the home at 12825 Greenwood Trail.

Adopt the resolution approving a rear yard setback variance for an addition at 12825 Greenwood Trail.

B. Conditional use permit for an existing accessory apartment at 18508 Ridgewood Road.

Recommend that the city council adopt the resolution approving an existing accessory apartment at 18508 Ridgewood Road.

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

Acting Chair Sewall stated that an appeal of the planning commission's decision must be made in writing to the planning division within 10 days.

8. Public Hearings

A. Items concerning Strandberg East and West at 14616 Woodhaven Road.

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

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

In response to Chair Sewall's question, Cauley answered that the minimum single-family lot size in Minnetonka is 22,000 square feet. The proposed lot with the existing house would equal 33,000 square feet in size and Lot 2 would be 37,000 square feet in size.

Jason Strandberg, representing his parents, the applicants, stated that the intent is to keep as much of the woodland area as possible. He wants to keep the buffer on the rear of the lot. The proposal would not change the view of the property from the rear. More trees may be planted to provide screening. He is working with the neighbors on the east to add more trees and provide more privacy.

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

Henry said that the applicant has worked with neighbors and city staff to maximize protection of existing trees. He likes the layout. He supports staff's recommendation.

Hanson appreciated the applicant discussing the proposal with neighbors. He confirmed that the seventeen percent of woodland preservation area to be removed was onsite and not of the overall nine acres. The proposal is straight forward. He supports staff's recommendation.

Maxwell appreciated the effort the applicant made to work with neighbors, the reduction of the driveway width to 12 feet, moving the driveway east, and reducing the height of the retaining wall.

Waterman appreciated the applicant showing consideration for the neighbors and environmental factors. The lot size would be appropriate for the neighborhood.

Chair Sewall supports staff's recommendation. The proposed lots would be larger than the average lot. Density would not be a problem. The area is sprinkled with different generations of houses.

Henry moved, second by Hanson, to recommend that the city council adopt the following for the property at 14616 Woodhaven Road with modifications provided in the change memo dated Feb. 13, 2020:

- 1. Resolution approving the preliminary plat of Strandberg East and West with a wetland buffer variance.***
- 2. Resolution approving a floodplain alteration permit for the construction of a new house with the Strandberg East and West plat.***

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

The city council is tentatively scheduled to review this item Feb. 24, 2020.

B. Items concerning Legacy Oaks 5th Addition at 15424 Oakcroft Place.

Acting Chair Sewall 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.

Henry asked if adding a pedestrian access to Parkers Lake Road had been considered. Gordon explained that a street reconstruction project and addition of a trail that will connect to sidewalks on Oakcroft Place is scheduled for Parkers Lake Road. The proposal would accommodate the trail.

Mike Waldo, of Ron Clark Construction, applicant, stated that:

- Staff did a good job of describing the proposal.
- The townhomes would fall in the \$600,000 to \$800,000 range.
- He met with current Legacy Oaks residents and shared the plan with them. He received a lot of positive feedback. Neighbors felt it would be a nice, complementary project to what is already planned.
- The proposal shows the 20-foot driveway.
- He suspects that it would take 24 months to sell all of the units.
- He felt the product would do well.
- Snow would be hauled off site.
- The trees and berm on the south border would remain.
- Construction would begin in June.

The public hearing was opened.

Clark Gilbertson, 408 Parkers Lake Road, stated that:

- This summer, an area with cattails and a little pond that he thought was a mini wetland was covered with dirt. He asked for more information on that.
- He asked what the red line defines. He questioned if the 50-foot buffer area for utilities extends to the south border of the townhouses. The driveway would then be located in the buffer area.
- It seems that the drawing may be disingenuous showing full-size trees.
- He asked if the whole thing would be built at once or as each building would be sold.

Karen Lawrie, 408 Parkers Lake Road, stated that:

- She was concerned that construction traffic would tear up the new street.
- There is a significant slope on the southeast corner. There is a spring underneath the center of the Wildwood Condominium's parking lot. The parking lot had to be redone. She hoped that the site's drainage would not travel onto Wildwood Condominium's parking lot.
- There is very little space for visitor parking. Four parking spaces would not be enough. There is no visitor parking for the condominium building.

No additional testimony was submitted and the hearing was closed.

Mr. Waldo stated that:

- Two of the trees located in the buffer would probably be shrubs, but the rest of the rendering looks accurate.

- He expects to construct the building on the left in June, the building on the north in September or October, and the south building after that in the spring.

Yetka explained that for a wetland to be protected, the wetland must have soils that were naturally formed and created under consistently wet conditions without manmade assistance; must have vegetation that grows in wetland areas that can withstand being flooded; and must have water. Minnetonka has a mapped wetland inventory. Grading of a site may create a low-lying area that collects water. That area may be perceived as a wetland, especially when cattails grow there, but if the wetland area was created by grading or another man-made activity, then it is not a protected wetland area. It must be a naturally occurring wetland to be protected.

Gordon explained that engineering staff would review the drainage patterns and stormwater management requirements for the site.

Yetka noted that the runoff calculations would be reviewed by engineering staff and be required to meet stormwater runoff requirements. The proposal would be required to meet or improve the quality, volume, and rate of runoff currently occurring.

Gordon explained that:

- The red line indicates the property line. The plan shows 50 feet from the property line to the back of the building.
- The heavy construction equipment would be used before the Parkers Lake Road improvement project would be done. An inspection and documentation of the road's conditions would be done by public works staff before the construction project would start and would be compared to the road once the project would be completed. The developer would be responsible for fixing damage to the street.
- There would be parking spaces available on Oakcroft Place. The code requires two parking stalls per unit. The proposal would meet that with the number of internal parking stalls. The 20-foot driveway would allow space between the garage and the curb for parking, so that would provide two additional spots per unit. The four spaces on the south property line would be available for visitor parking. Parking for a large gathering would not be accommodated, but it would accommodate the parking needs most of the time.

Henry asked if there would be on-street parking available on Bellwether Path. Gordon answered affirmatively. One side of the street would allow parking.

Hanson visited the site. He was pleased with the project overall. It would be a tight fit between the buildings. He liked the looks of the project and the concept. The idea of diversifying the home types is intriguing to him. Ron Clark does nice work. He supports staff's recommendation.

Henry was a little concerned with the appearance of the closeness between the buildings, but it would not seem so crowded when done to scale. The four parking spaces on the side would allow some room. He was glad the tree buffer would remain on the south side. That is a big asset and would provide a sense of privacy to the development. This is a great property to provide diversity in the type of housing offered in the city. Once finished, the proposal would create a more complete community than there is now.

Waterman stated that the proposal would be in the spirit of the original master development plan. He was interested in seeing the site develop.

Maxwell concurred with Waterman. There would be no significant change to the original proposal.

Henry noted that engineering staff would review stormwater management requirements for the site and wetland protection requirements for the wetland on the southeast corner of the site.

Chair Sewall felt that the proposal would be a good fit for the site. It would tie in better with the neighborhood. The road would be private, so snow removal would be the responsibility of the property owner. He was confident city engineering staff would confirm the hydrology of the site and implement proper stormwater management requirements.

Henry moved, second by Hanson, to recommend that the city council adopt the resolution approving a minor amendment to the existing master development plan and final site and building plans for Legacy Oaks 5th Addition at 15245 Oakcroft Place with modifications provided in the change memo dated Feb. 13, 2020.

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

9. Adjournment

Maxwell moved, second by Waterman, to adjourn the meeting at 7:52 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

Agenda Item 7

Public Hearing: Consent Agenda

MINNETONKA PLANNING COMMISSION
March 5, 2020

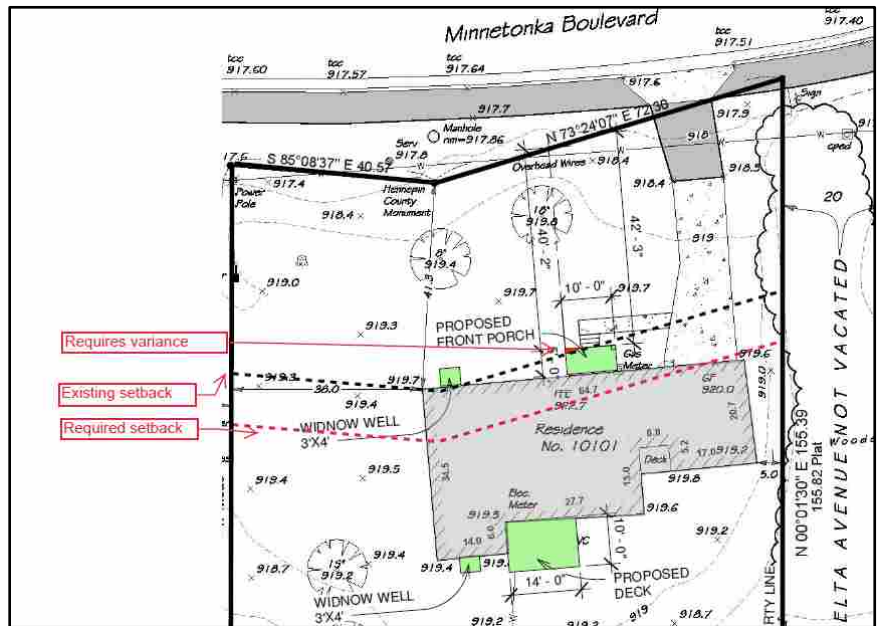
Brief Description Front yard setback variance for an entry feature at 10101 Minnetonka Blvd.

Recommendation Adopt the resolution approving the request

Proposal

The property at 10101 Minnetonka Blvd. is roughly 17,000 square feet in size. The existing home was constructed in 1957 and has a nonconforming¹ front yard setback.² The property owner is proposing renovations to the home, including the construction of a front entry feature.

A very small point intrusion extends beyond the existing setback. As such, the proposal requires a variance to reduce the front yard setback from 50 feet to 40 feet.³



Staff Analysis

Staff finds the applicant's request reasonable as:

¹ By City Code Section 300.29, Subd. 2(a) a “non-conformity” or “non-conforming use” means any land use, structure, physical form of land development, lot of record or sign that is not in full compliance with the regulations of this [zoning] ordinance and either (1) was legally established before the date of the ordinance provision with which it does not comply, or (2) became non-conforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale.

The existing house is non-conforming because it has a nonconforming front yard setback and was constructed prior to the adoption of the city's first zoning ordinance.

² By City Code Section 300.10, Subd. 5(b) the front yard setback is 50 feet from the right-of-way of major collector or arterial roadways as identified by the comprehensive plan. The city's comprehensive guide plan classifies Minnetonka Blvd as an “Arterial minor reliever”.

³ An expansion permit is required for expansions of a non-conforming structure when that expansion maintains the existing nonconforming setback. A variance is required for the expansion of a non-conforming structure when the expansion would encroach further into a required setback beyond the distance of the existing structure.

- The intent of the front yard setback requirement is to provide consistent building lines within a neighborhood and to provide adequate separation between homes and public right-of-ways. Over half of the homes within 1,000 feet of the subject property, along Minnetonka Blvd. have non-conforming setbacks. The proposed front entry feature would have a similar setback to many of the homes within the neighborhood.
- The requested variance is to allow for a small point intrusion beyond the existing established setback.
- The house was constructed in 1957, prior to the adoption of the city's first zoning ordinance. As a result, the house has a nonconforming front yard setback.

Staff Recommendation

Adopt the resolution approving the front yard setback variance for an entry feature at 10101 Minnetonka Blvd.

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

Supporting Information

Surrounding and Subject Property

	Subject Property	North	South	East	West
Use	Single family residential home	Minnetonka Blvd. and apartments beyond	Vacant parcels containing Wetlands	Commercial	Single family homes
Zoning	R-1	B-2	R-1	B-2	R-1
Guide plan designation	Low density residential	High density residential	Low density residential	Commercial	Low density residential

McMansion Policy

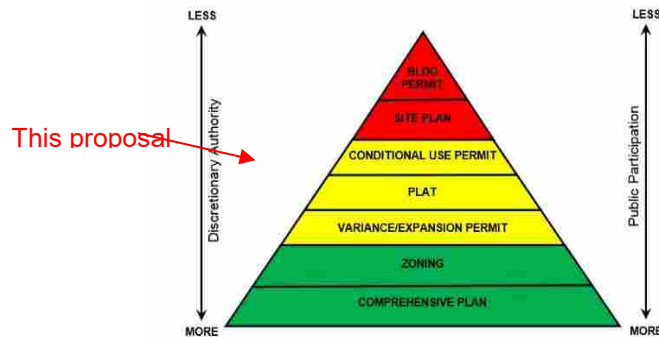
The city's McMansion policy regulates the floor area ratio (FAR) on properties when either the property or the home on the property requires a variance. The policy restricts FAR on such properties/homes to no more than the highest FAR within 400 feet of the subject property and within 1,000 feet along the same roadway.

The unenclosed entry feature would not add floor area as defined by city code. As such, the McMansion Policy does not apply.

Impervious Surface

The city regulates impervious surface maximums on properties within the shoreland overlay district. This property is located outside of that district and therefore does not have a maximum impervious

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 request.

2. Disagree with staff's recommendation. In this case a motion should be denying 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 be made include a statement as to why the request is being tabled with direction to staff, the applicant or both.

Vote and Appeals

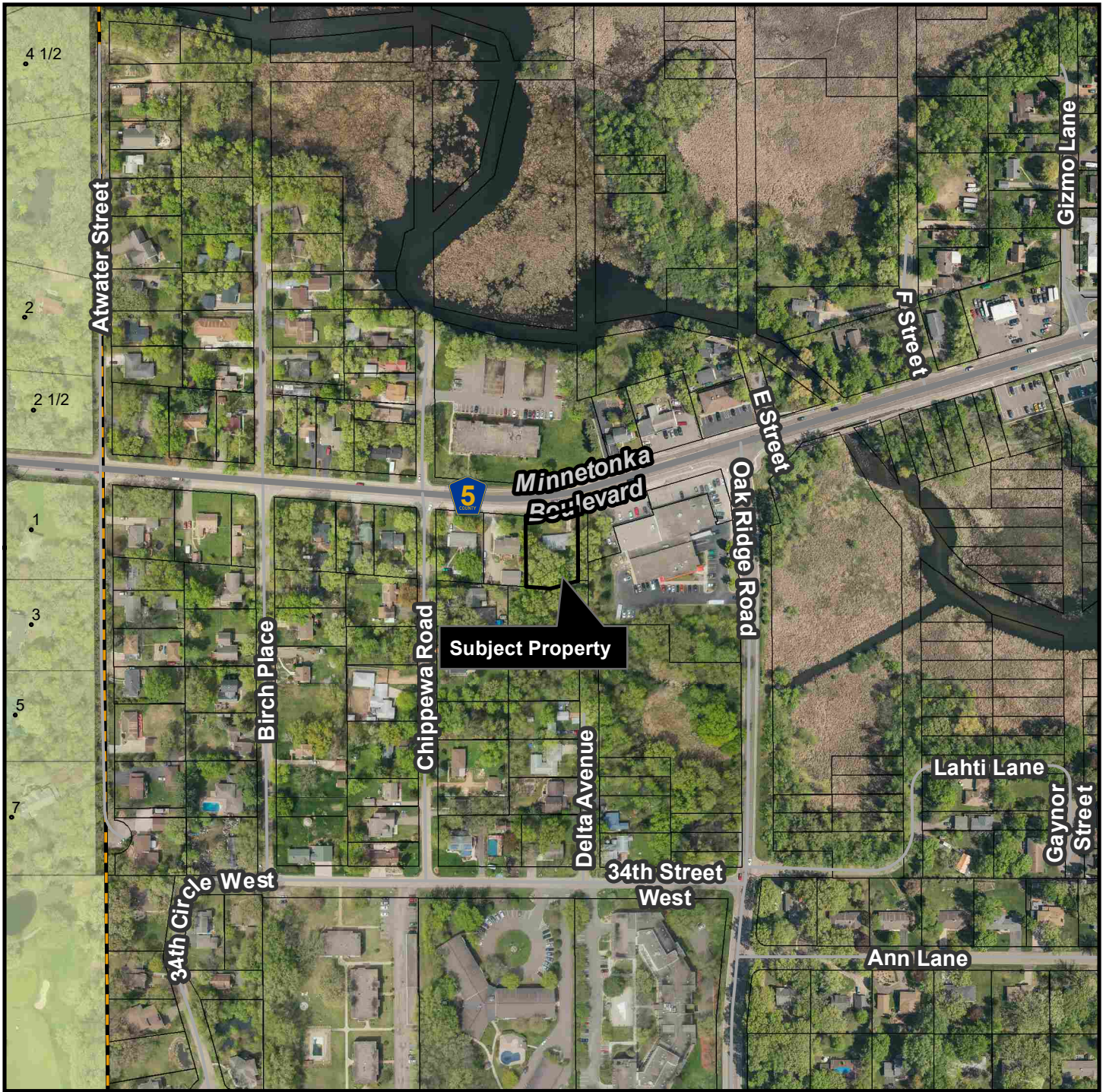
The planning commission has the authority to make the final decision on the variance request. Approval of the variance requires an affirmative vote of five commissioners. Any person aggrieved by the planning commission's decision about the requested variances may appeal such decision to the city council. A written appeal must be submitted to the planning staff within ten days of the date of the decision.

**Neighborhood
Comments**

The city sent notices to 39 area property owners and received no comments.

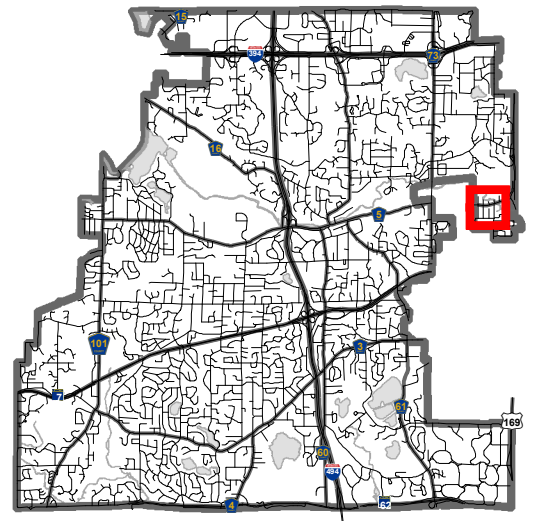
**Deadline for
Decision**

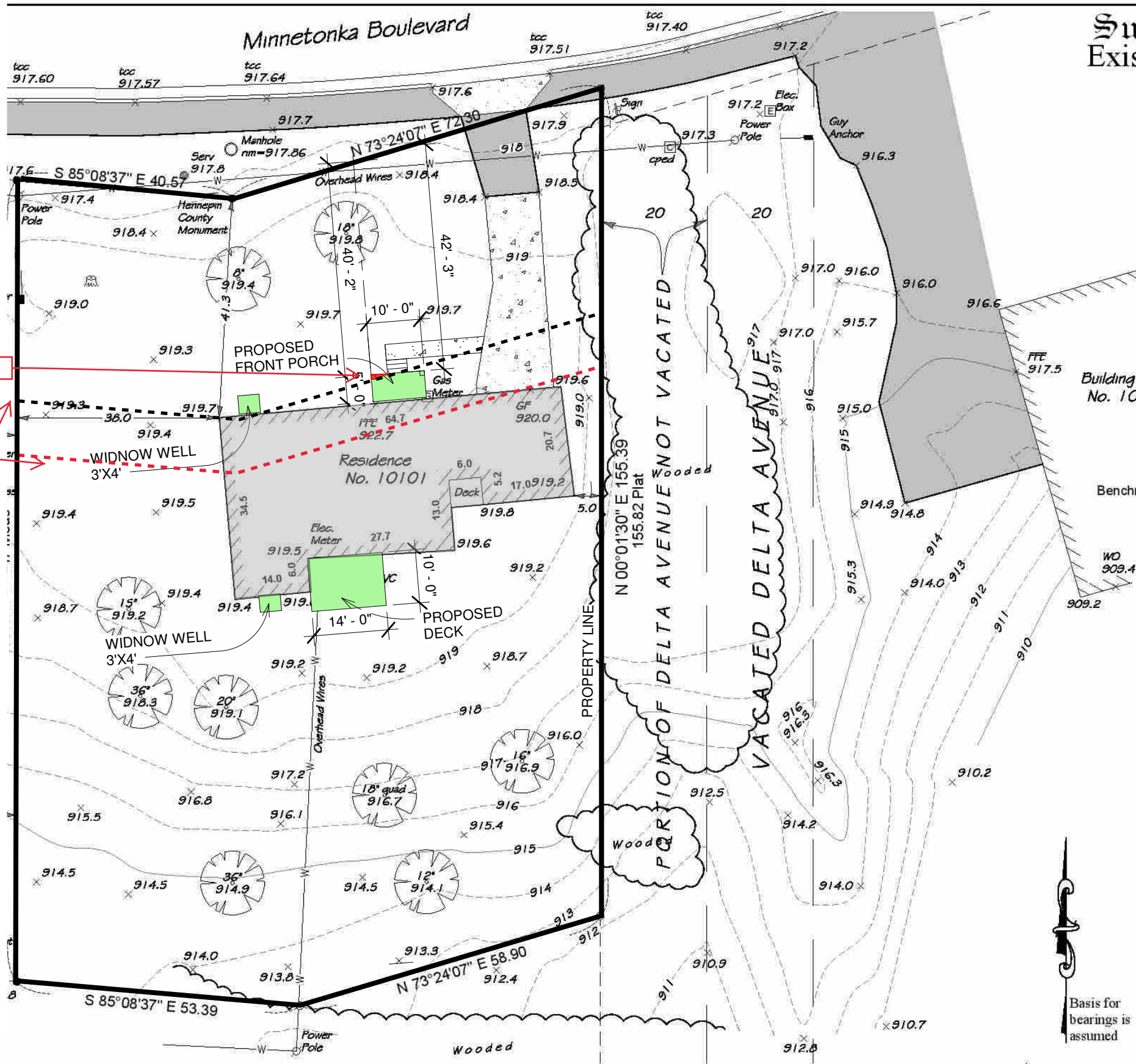
June 3, 2020



Location Map

Project: Damyan Residence
 Address: 10101 Minnetonka Blvd





Requires variance

Existing setback

Required setback

Surveyors Certificate Existing Conditions Survey For:

MATT DAMYAN
 Property located in Section
 13, Township 117, Range 22,
 Hennepin County, Minnesota

	Hardcover
Lot Area	16,804 sq ft
Building	1,717 sq ft
Concrete	414 sq ft
Bituminous	158 sq ft
Deck	31 sq ft
Total	2,320 sq ft
Percentage	13.81%

NOTE: Proposed grades are subject to results of soil tests. Proposed building information must be checked with approved building plan and development or grading plan before excavation and construction. Proposed grades shown on this survey are interpolations of proposed contours from the drainage, grading and/or development plans.

NOTE: The relationship between proposed floor elevations to be verified by builder.

NOTE: The only easements shown are from plats of record or information provided by client.

Benchmark: Top nut of hydrant 140 feet southeast of 10100 Minnetonka Boulevard (Apartment Building) (ID 13-08). Elevation = 919.08 feet

Legal Description
 Lot 1, and 2 and the East Half of Lot 3 all in
 Block 3, J.F. LYONS 3RD ADDITION
 Hennepin County, Minnesota

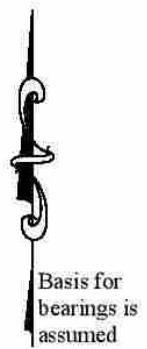
DEMARC
 LAND SURVEYING & ENGINEERING
 7601 73rd Avenue North (763) 560-3093
 Minneapolis, Minnesota 55428 Demarcinc.com

Project No. 88692 Scale: 1" = 20'
 F.B.No. 1095-22 Drawn By J. Dyer
 Address: 10101 Minnetonka Boulevard
 Minnetonka, MN

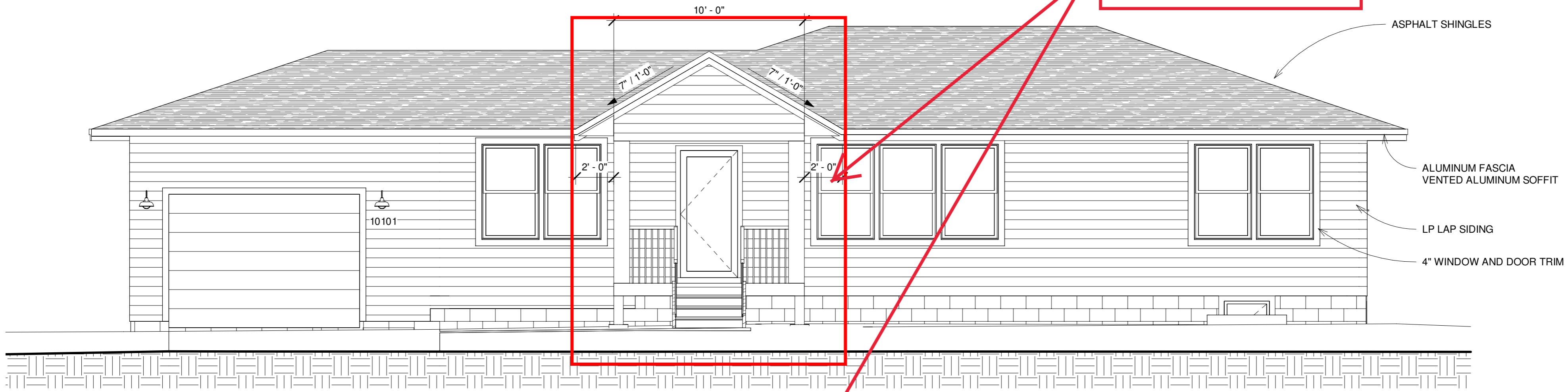
rev

I 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.
 Surveyed this 7th day of October 2019.

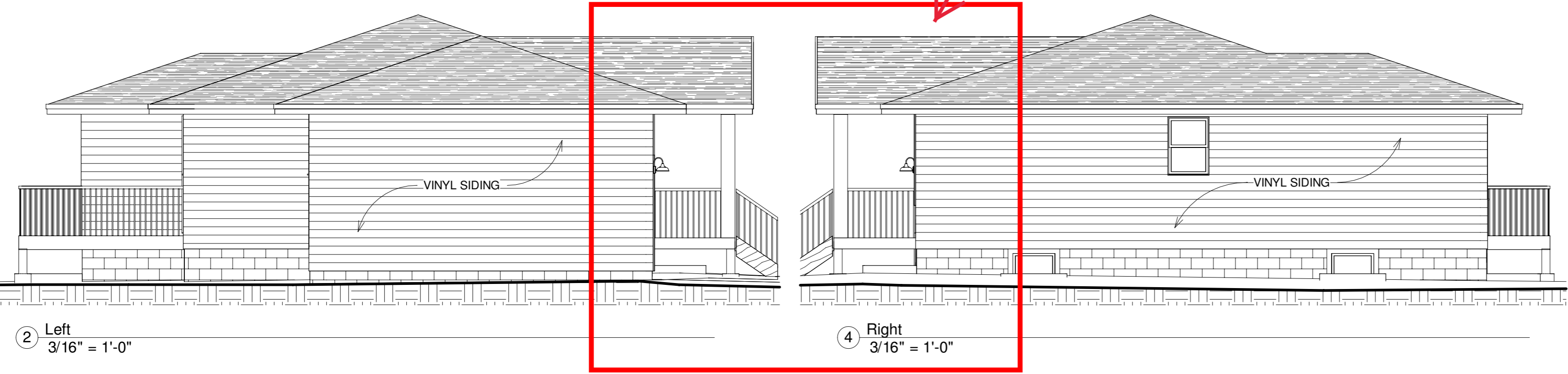
Signed *Gregory R. Prasch*
 Gregory R. Prasch, Minn. Reg. No. 24992



Proposed front porch addition

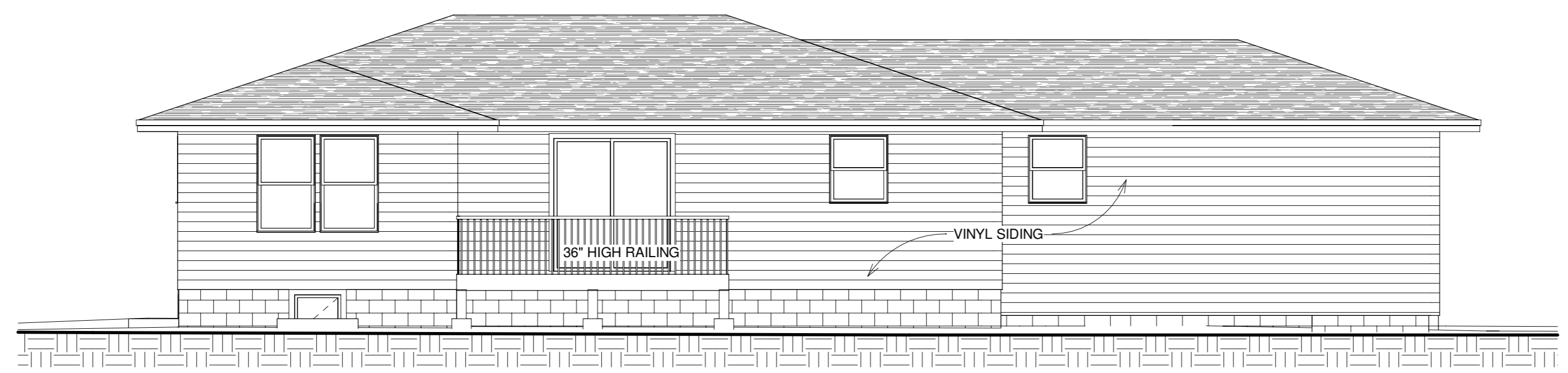


① Front
1/4" = 1'-0"



② Left
3/16" = 1'-0"

④ Right
3/16" = 1'-0"



③ Rear
3/16" = 1'-0"

ALL PLANS ARE TO BE REVIEWED BY THE GENERAL CONTRACTOR AND THE MUNICIPAL BUILDING OFFICIAL PRIOR TO CONSTRUCTION. AVA STUDIO LLC. IS NOT RESPONSIBLE FOR ANY PROBLEM AS A RESULT OF AN ERROR OMISSION ON THESE PLANS.



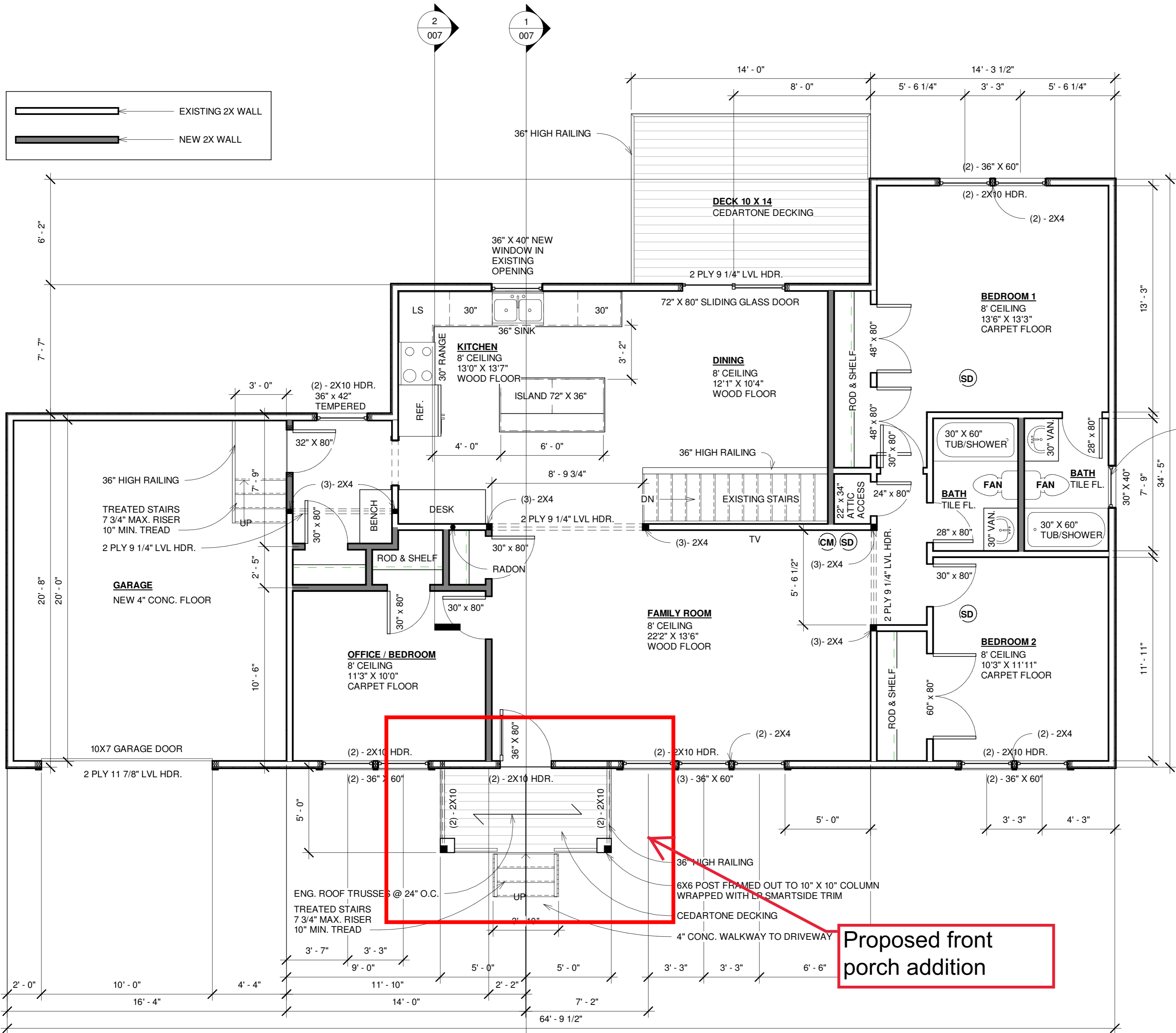
Phone: 612 532 8159
Web: avastudio.houzz.com
Address: 6641 w 18th Street
St Louis Park
Minnesota 55426

10101 Minnetonka Blvd
Minnetonka
Proposed Elevations

Project number 10101
Date 1/13/2020
Drawn by Alexander Bocharnikov
Checked by

004

Scale As indicated



REPLACE EXISTING WINDOW WITH NEW TEMPERED GLASS

ALL PLANS ARE TO BE REVIEWED BY THE GENERAL CONTRACTOR AND THE MUNICIPAL BUILDING OFFICIAL PRIOR TO CONSTRUCTION. AVA STUDIO LLC. IS NOT RESPONSIBLE FOR ANY PROBLEM AS A RESULT OF AN ERROR OMISSION ON THESE PLANS.



Phone: 612 532 8159
Web: avastudio.houzz.com
Address: 6641 w 18th Street
St Louis Park
Minnesota 55426

10101 Minnetonka Blvd
Minnetonka
Proposed Main Level

Project number 10101
Date 1/13/2020
Drawn by Alexander Bocharnikov
Checked by

006

Scale 1/4" = 1'-0"

① Main Level
1/4" = 1'-0"

ROOF :

VENT ROOF 1/300 TH. VALLEYS & ALL ROOF/WALL INTERSECTIONS
 30 YR ARCHITECTURAL ASPHALTIC SHINGLES
 15# ASPHALT FELT
 ICE & WATER SHIELD (FIRST 6'-0" AND ALL VALLEYS AS PER CODE)
 EXISTING ROOF SHEATHING U.N.O.
 EXISTING ROOF JOISTS U.N.O.
 AIR CHUTE (PROVIDE UNOBSTRUCTED AIR FLOW)
 (R-49) BLOW IN INSULATION
 4 MIL. POLY VAPOR BARRIER
 5/8" GYP. CEILING BD.

FASCIA :

2X6 SUB FASCIA
 6" ALUMINUM FASCIA
 ALUMINUM VENTED SOFFIT

EXTERIOR WALL:

EXISTING 1/2" GYP. BD. TYP.
 EXISTING V.B. (4 MIL V.B. AT REMODELING AREAS)
 EXISTING INSULATION (R-15 FIBERGLASS BATT AT REMODELING AREAS)
 1/2" EXISTING SHEATHING
 NEW TYVAKE HOUSE WRAP
 NEW SIDING PER ELEVATION

RIM BOARD :

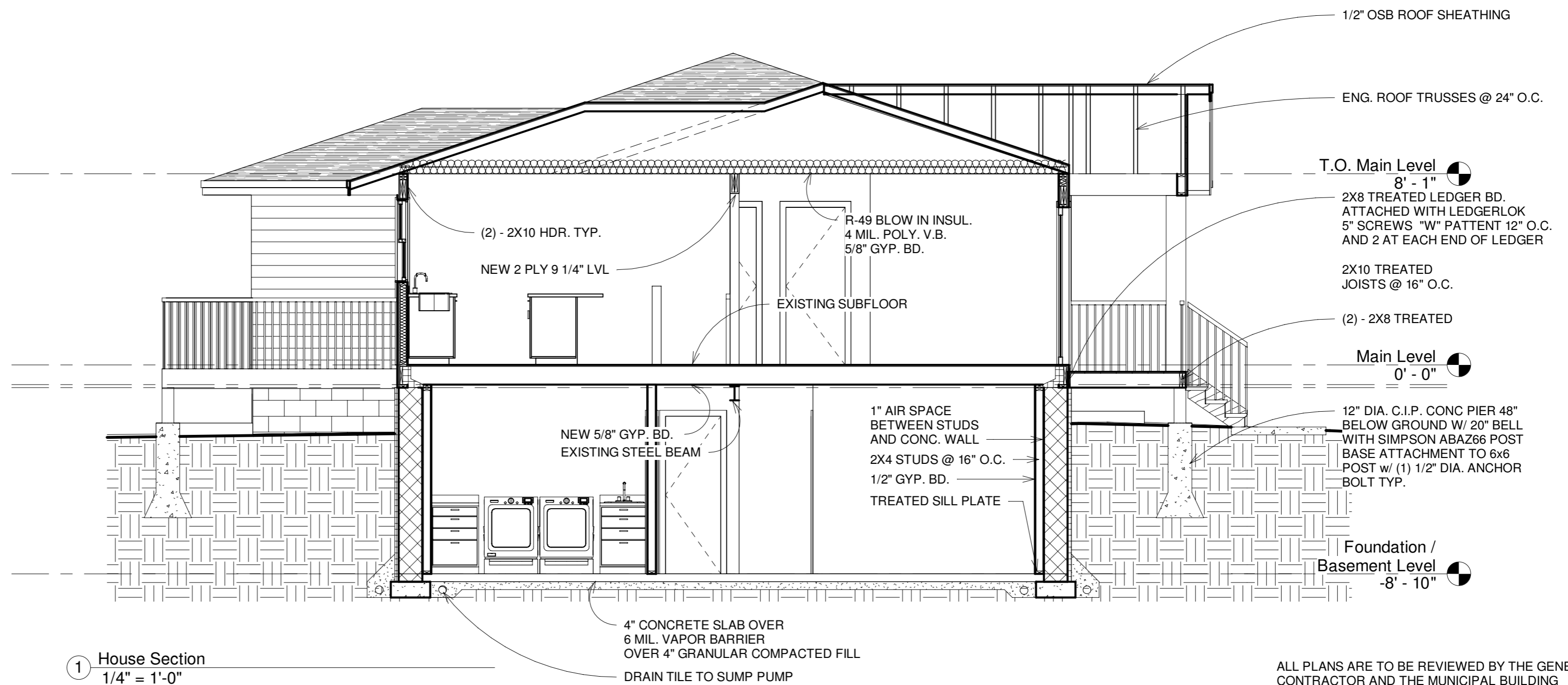
2X10 EXISTING RIM BOARD
 NEW (R-20) CLOSED CELL FOAM INSUL. RIM DURASEAL OR SAME QLTY.

FOUNDATION WALLS :

WEATHER RESISTANT OPAQUE PROTECTIVE COATING TO 6" BELOW GRADE MIN.
 6 MILL CONTINUOUS SLIP SHEET TO TOP OF CONCRETE WALL (R-10) 2" (XPS) FOAM INSULATION COMPLYING WITH ASTM C578
 ASPHALT EMULSION PAINT WATERPROOFING
 EXISTING 12" CMU BLOCK U.N.O.

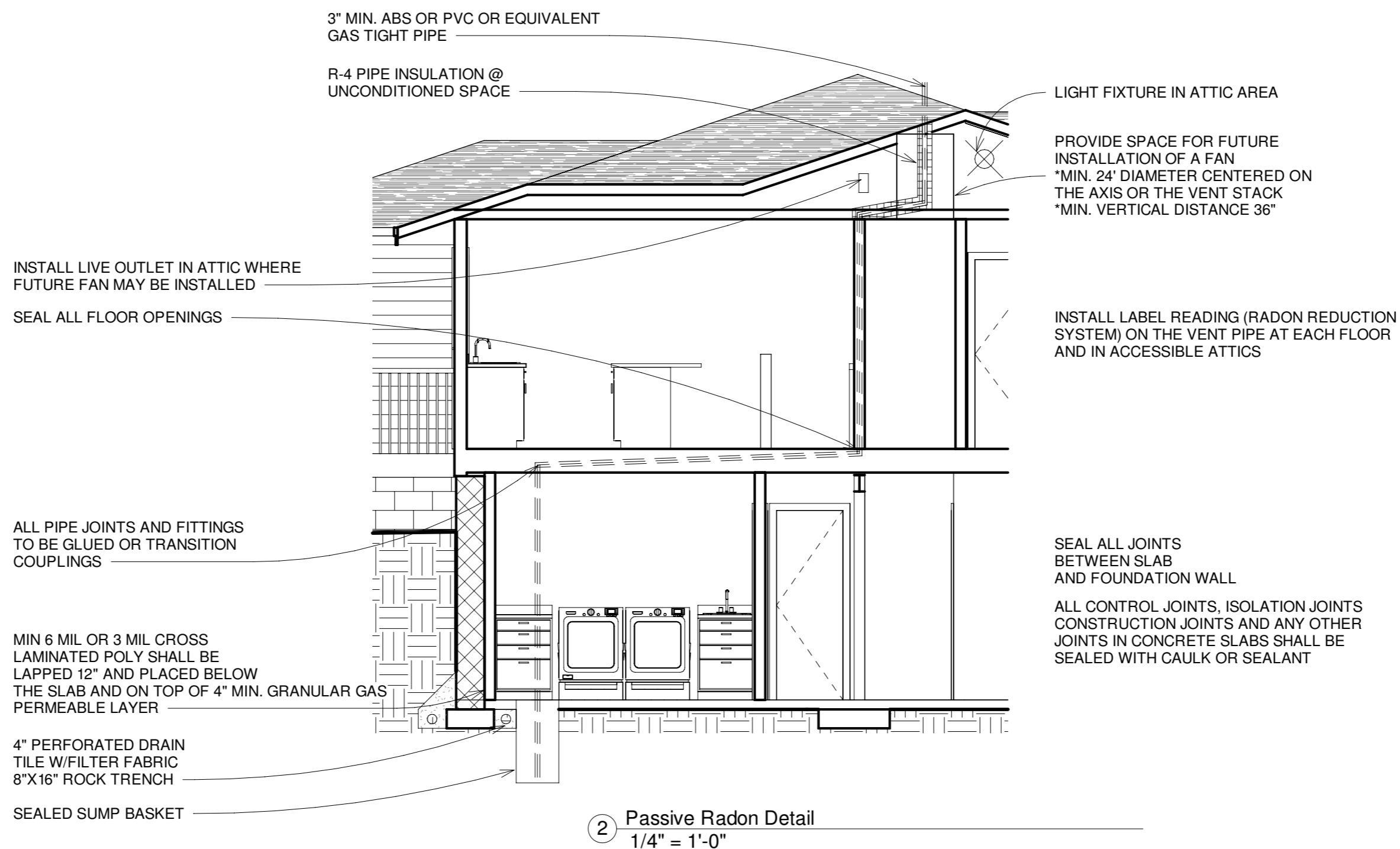
FOOTINGS :

EXISTING FOOTINGS U.N.O.
 NEW DRAIN TILE TO SUMP PUMP

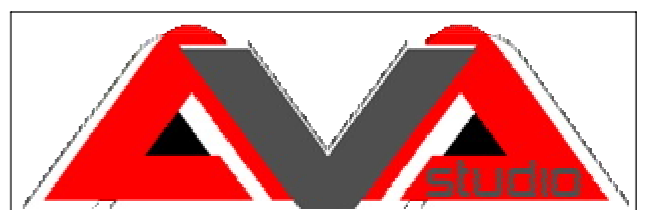


1 House Section
 1/4" = 1'-0"

ALL PLANS ARE TO BE REVIEWED BY THE GENERAL CONTRACTOR AND THE MUNICIPAL BUILDING OFFICIAL PRIOR TO CONSTRUCTION. AVA STUDIO LLC. IS NOT RESPONSIBLE FOR ANY PROBLEM AS A RESULT OF AN ERROR OMISSION ON THESE PLANS.



2 Passive Radon Detail
 1/4" = 1'-0"



Phone: 612 532 8159
 Web: avastudio.houzz.com
 Address: 6641 w 18th Street
 St Louis Park
 Minnesota 55426

10101 Minnetonka Blvd

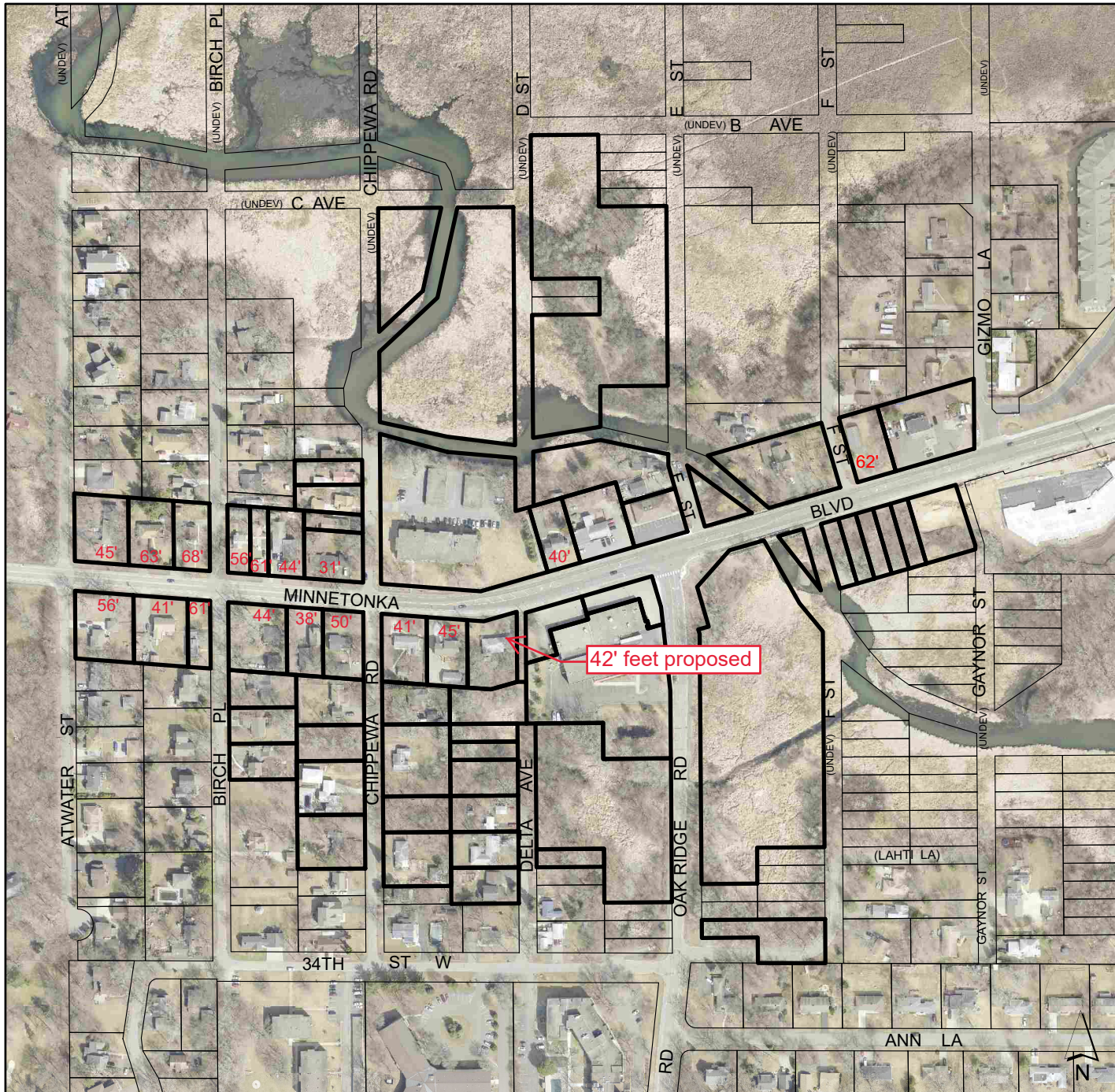
Minnetonka

Section / Radon

Project number	10101
Date	1/13/2020
Drawn by	Alexander Bocharnikov
Checked by	
007	
Scale	1/4" = 1'-0"



CITY OF
MINNETONKA



225 112.5 0 225 Feet

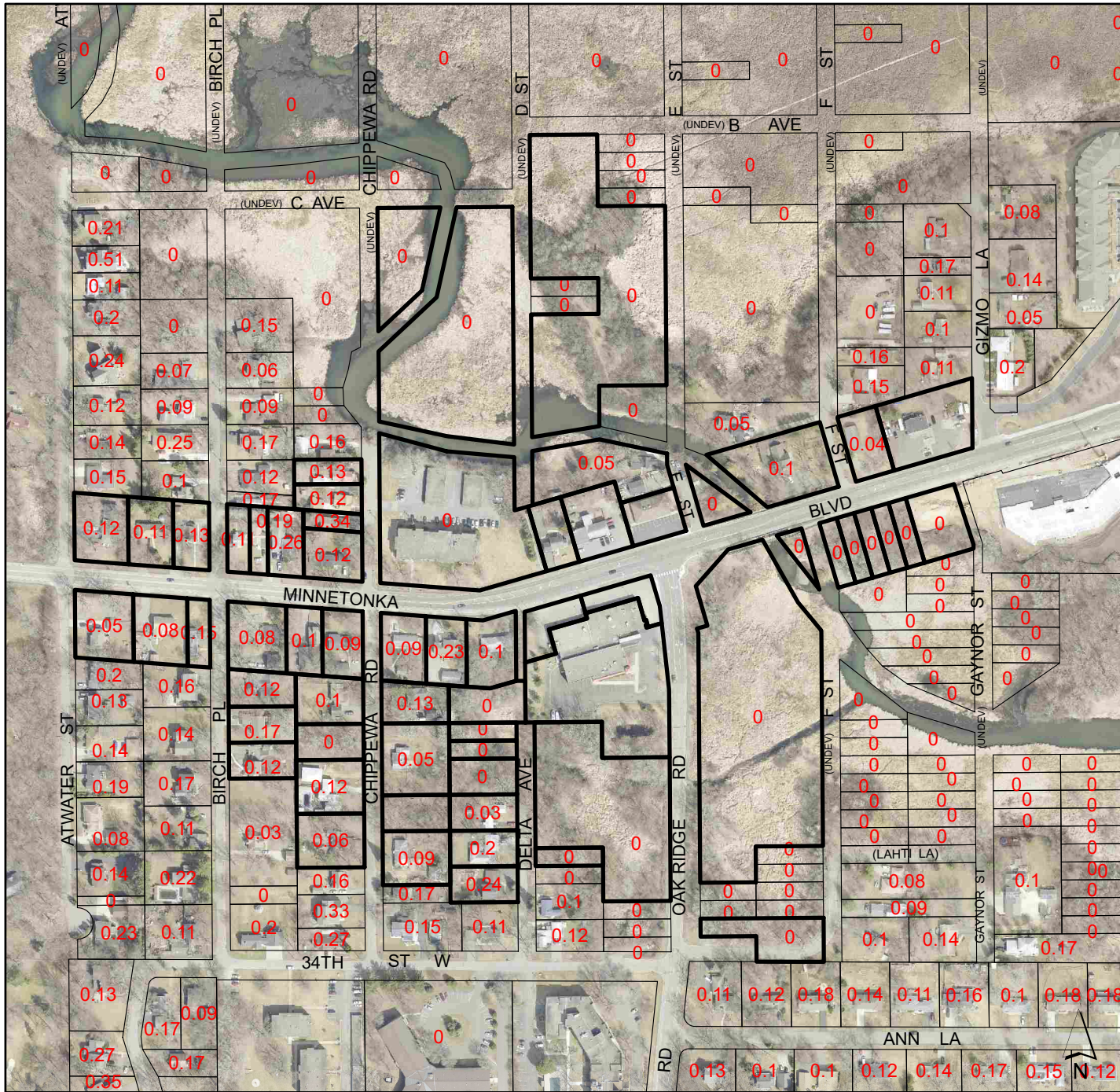


Front yard setback

Map prepared by: City of Minnetonka



CITY OF
MINNETONKA



225 112.5 0 225 Feet



McMansion

Map prepared by: City of Minnetonka

Planning Commission Resolution No. 2020-
Resolution approving a front yard setback variance for an
entry feature at 10101 Minnetonka Blvd

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

Section 1. Background.

- 1.01 Ilya Damyan has requested a variance from the city code to add a front entry feature onto the existing home.
- 1.02 The property is located at 10101 Minnetonka Blvd. It is legally described as:

Lot 1, and 2, and the East Half of Lot 3 all in Block 3, J.F. Lyons 3rd Addition, Hennepin County, Minnesota.
- 1.03 City Code §300.10, Subd.5(b) requires a 50 foot setback from the right-of-way of major collector or arterial roadways as identified in the comprehensive guide plan. Minnetonka Blvd. is classified as an “arterial minor reliever” by the comprehensive guide plan.
- 1.04 The existing home was built in 1957 and has a nonconforming front yard setback of 41.3 feet. The applicant is proposing a front entry feature with a front yard setback of 40 feet. This requires a variance to reduce the front yard setback from 50 feet to 40 feet.
- 1.05 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the planning commission to grant variances and expansion permits.
- 1.06 City Code §300.29 Subd. 3(g) allows expansion of a nonconformity only by variance or expansion permit.
- 1.07 City Code §300.07 authorizes the city to 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 meets the variance standard outlined in City Code §300.07 Subd. 1(a):

1. **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The intent of the front yard setback requirement is to provide consistent building lines within a neighborhood and to provide for adequate separation between homes and public rights-of-way. The proposed front porch would maintain a setback similar to many of the homes within the existing neighborhood and would allow for reasonable separation between the public right-of-way and the home.
2. **CONSISTENT WITH 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:** The variance request reasonable, as it would allow for a very small point intrusion beyond the existing established setback.
 - b) **UNIQUE CIRCUMSTANCE:** The house was originally constructed in 1957, predating the city's first zoning ordinance by a decade. As a result, the existing home has a nonconforming front yard setback. This coupled with the unique configuration of the lot and the orientation of the home on the lot present unique circumstances not common to all similarly zoned properties.
 - c) **CHARACTER OF LOCATILTY:** Over half of the homes within 1,000 feet of the subject property, along Minnetonka Blvd. have non-conforming front yard setbacks. The setback of the front entry feature would enhance the property without visually impacting the surrounding neighborhood.

Section 4. Planning Commission Action.

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

1. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, excepted as modified by the conditions below:
 - Survey, dated Oct. 7, 2019
 - Plans and elevations dated Jan. 13, 2020
2. Prior to issuance of a building permit:
 - a) A copy of this resolution must be recorded with Hennepin County.
 - b) 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 Dec. 31, 2021, 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 March 5, 2020.

Josh Sewall, Chairperson

Attest:

Fiona Golden, Deputy City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Planning Commission of the City of Minnetonka, Minnesota, at a duly authorized meeting held on March 5, 2020.

Fiona Golden, Deputy City Clerk

Minnetonka Planning Commission Meeting

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description Conditional use permit, with setback variance, for a garden market at 17555 Highway 7

Recommendation Recommend the city council adopt the resolution approving the permit

Proposal

Untiedt's Vegetable Farm, Inc. is proposing to operate a garden market within the existing parking lot at 17555 Highway 7. The market would be situated north of the Northern Tool and Equipment tenant space. It would consist of a greenhouse, two gazebos, and various display benches, all of which would be surrounded by a three-foot fence. As proposed, the market would be open seven days a week, May 1 through Oct. 31. Typical hours would be 9 a.m. to 7 p.m.

The proposal requires an interim use permit, with a setback variance.



Interim Use Permits

By definition, an interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. In other words, an interim use is one that has an "end date or event" attached to it. This is significantly different than a conditional use, which can continue in perpetuity so long as the code required and other approved conditions continue to be met.

Transient sales – such as garden markets – are interim uses on commercial properties. One of the standards for transient sales is that no portion of the use may take place within 100 feet of any developed property zoned for residential uses. The proposed Untiedt's market would be 75 feet from the closest residential property.



Staff Analysis

Staff finds that the proposed garden market is an appropriate use of the site.

1. The site has an excess of parking area that is underutilized.
2. Aside from the setback variance, the market would meet all IUP standards. These standards are outlined in the Supporting Information section of this report.
3. The setback variance is reasonable. The sales area would be over 300 feet from the closest residential structure and would be further separated from this structure by existing vegetation, a public trail, and Purgatory Creek.

Staff Recommendation

Recommend that the city council adopt the resolution approving an interim use permit, with setback variance, for a garden market at 17555 Highway 7.

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

Supporting Information

Surrounding Properties

	North	South	East	West
Use	Highway 7	commercial building	Purgatory Creek and homes beyond	vacant restaurant building
Zoning	N/A	B-2	R-3	B-2
Guide Plan Designation	N/A	mixed-use	low-density	mixed-use

Subject Property

	Existing	Proposed
Use	Commercial building	No change
Zoning	B-2	
Guide Plan Designation	mixed-use	

Parking

The building on the subject property is roughly 120,000 square feet in size, requiring 480 parking stalls by city code. There are currently 469 striped parking stalls, with additional area available as proof-of-parking. Given this, and the evidence of significant underuse of the parking area, staff is confident that the proposed garden market would not create a parking demand issue.



April 19, 2019



Aug. 29, 2019



Sept. 24, 2019

IUP Standards

The proposed garden market would meet the general interim use permit standards as outlined in City Code 300.05 Subd.5.

1. The general performance standards in section 300.16, Subd. 2 will be met;

Finding: The proposed garden market would be consistent with city goals and policies, would not have an undue adverse impact on government facilities, utilities or services and would not impact public health safety, or welfare.

2. The use will not delay anticipated development or redevelopment of the site;

Finding: There is no redevelopment currently anticipated in the area. Nevertheless, as a seasonal transient use, the proposed garden center would not impact redevelopment potential of the site.

3. The use will not be in conflict with any provisions of the city code on an ongoing basis;

Finding: The proposed use would not impact required parking, access or setbacks.

4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

Finding: Other than bringing more visitors to the commercial center, the seasonal use is not anticipated to impact the surrounding uses.

5. The property on which the use will be located is currently in compliance with all applicable city code standards;

Finding: Staff knows of no outstanding zoning violations.

6. The use is allowed as an interim use in the applicable zoning district;

Finding: Transient sales are allowed by IUP in the B-2 zoning district.

7. The date or event that will terminate the use can be identified with certainty;

Finding: As a condition of approval, the interim use permit would be granted to Untiedt's Market. If either Untiedt's Market decides

not to operate at the location or the property owner chooses not to renew a lease, the permit would be null and void.

8. The use will not impose additional unreasonable costs on the public; and

Finding: The proposed transient sales are not anticipated to result in any public costs.

9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

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

Aside from setback, the proposed garden market would meet the specific interim use permit standards for transient sales as outlined in City Code 300.18 Subd.7(a).

1. Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

Finding: The garden center would be located in a currently unutilized area of parking.

2. Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

Finding: The garden center would not obstruct site circulation. It would be located in a currently unutilized area of parking.

3. Must have written authorization from property owner;

Finding: A lease agreement has been submitted. As a condition of approval, a letter authorizing use of the site or the final lease agreement must be provided to the city prior to May 1.

4. Business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

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

5. Sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

Finding: The proposal has been reviewed by engineering and public works staff. Site visibility clearances would be provided.

6. No portion of the use may take place within 100 feet of any developed property zoned for residential use;

Finding: The proposed market would be 75 feet from the closest residential property. A variance is required; see the following section of this report.

7. Signs are subject to the following:
 - a. No more than four signs are allowed, which do not exceed 32 square feet in aggregate;
 - b. Incidental product or pricing signs must be placed directly next to the appropriate product;
 - c. Product advertising is permitted, but must be included in the maximum allowed sign area;
 - d. The signs must have a professional appearance and must be securely mounted or erected in a safe location; and
 - e. These limitations apply to all signs associated with the use, including those affixed to vehicles;

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

8. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

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

9. The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

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

10. Violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit;

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

Variance Standard

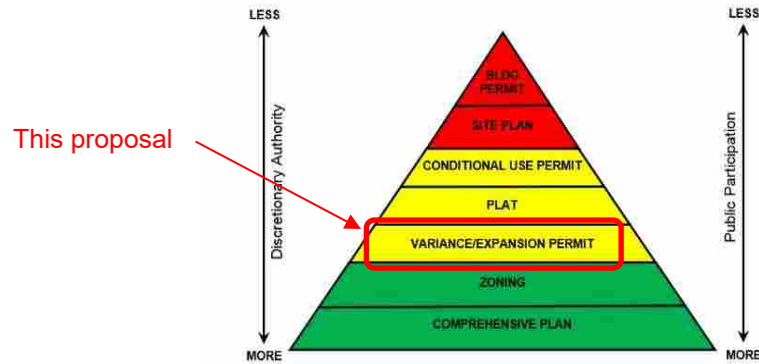
The proposed garden market's 75-foot setback from residential property would meet the variance standard as:

1. **Intent of the Ordinance.** The intent of the setback requirement pertaining to transient sales is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The location of the garden center would meet this intent. Though it would be set back 75 feet from the closest residential property line instead of the required 100 feet, the area would be over 300 feet from the closest residential structure and would be further separated from this structure by existing vegetation, a public trail, and Purgatory Creek.
2. **Consistent with Comprehensive Plan.** The subject property is located in the Highway 7/County Road 101 Area village center. One of the overall themes outlined in the comprehensive plan is to "provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability" in village centers. The requested variance is consistent with this goal.
3. **Practical Difficulties.** There are practical difficulties in complying with the ordinance:
 - **Reasonableness and Neighborhood Character.** The proposed 75-foot setback is reasonable and would not impact the character of the surrounding area. Though the garden center would be set back 75 feet from the closest residential property line instead of the required 100 feet, the area would be over 300 feet from the closest residential.
 - **Unique Circumstance.** The existing shopping center property on which the garden center would be located technically abuts four residential properties. However, the usable area of the commercial property is separated from the useable area of the residential properties by existing vegetation, a public trail, and Purgatory Creek. In total, this a unique circumstance not common to similar commercial properties.

Neighborhood Comments

The city sent notices to 40 area property owners and has received no comments to date.

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 recommending the city council approve the IUP.
2. Disagree with staff's recommendation. In this case a motion should be made recommending denial of 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 be made include a statement as to why the request is being tabled with direction to staff, the applicant or both.

Voting

The planning commission will make a recommendation to the city council, which has final authority on the applicant's request. Approval of the requested IUP requires the affirmative vote of five councilmembers, due to the variance.

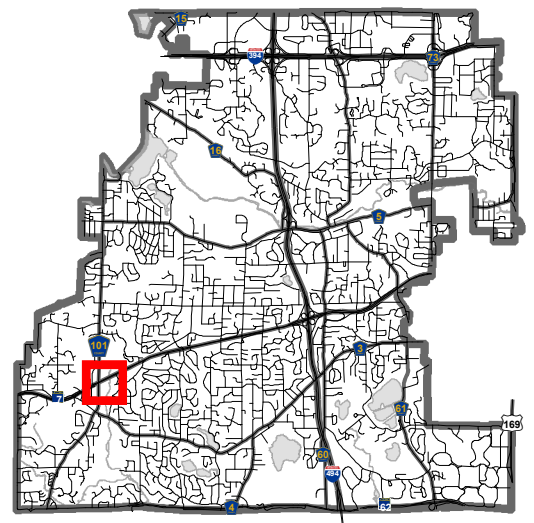
Deadline for Decision

May 4, 2020



Location Map

Project: Untiedt's
Address: 17555 Hwy 7



To: City of Minnetonka

From: Craig Gilb (Untiedt's Vegetable Farm)

Date: January 17, 2020

Re: Interim use permit

Reason for Request

In October of 2019 Westwind Plaza broke its lease with Untiedt's to pursue plans of building a bank. Untiedt's operated a garden center there for 14 years (seasons). This past few months Untiedt's has been talking with Daniel Cohen who represents Minn Associates, Limited Partnership who owns the property known as 17501 Highway 7, Minnetonka, Minnesota about relocating our garden center to their property. We have a lease in place pending city approval.

Background on Untiedt's Vegetable Farm

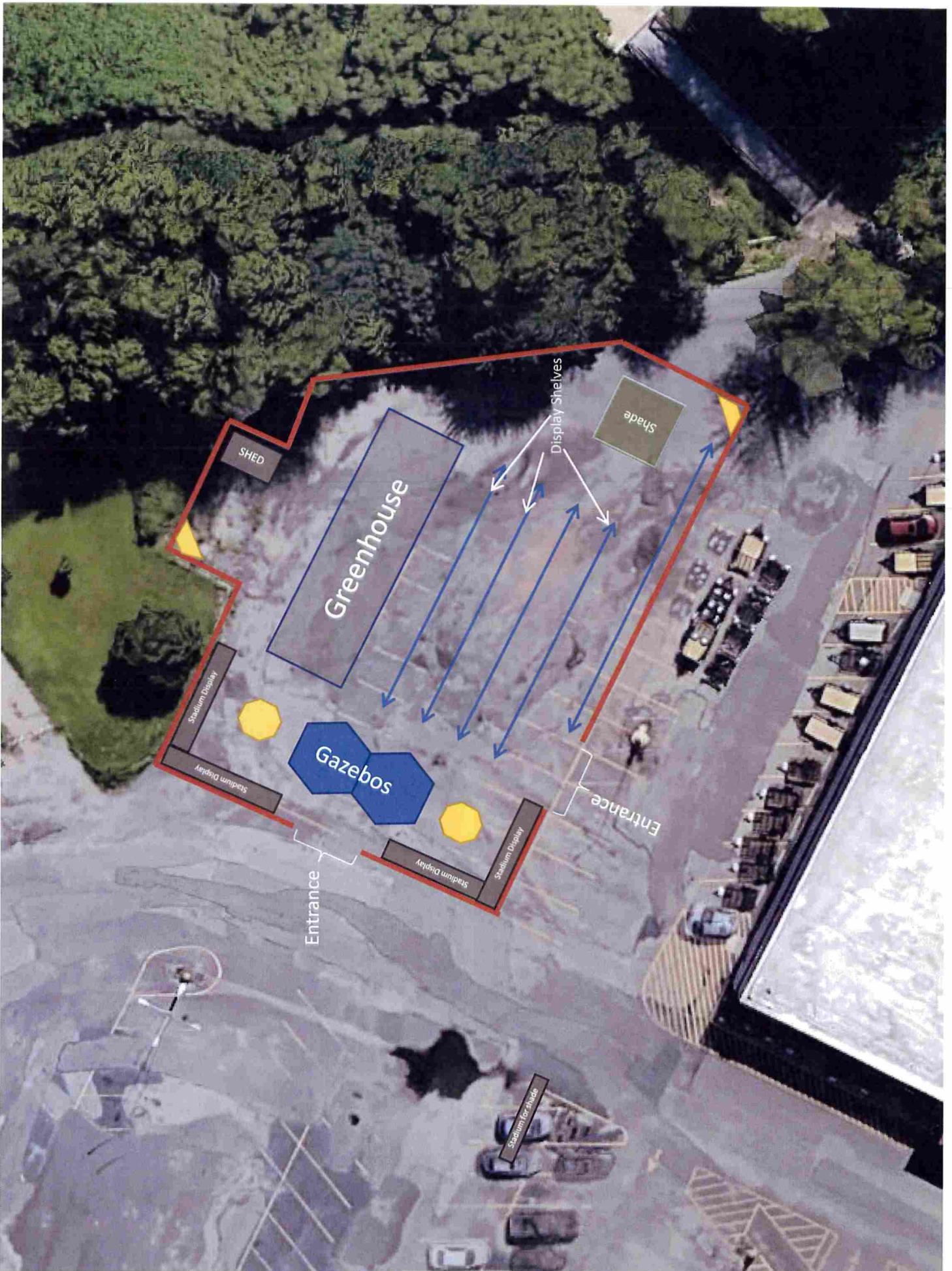
Untiedt's has operated for the past 49 years on approximately 600 acres of land, in the Montrose and Waverly area. Untiedt's is committed to providing quality produce at competitive prices to Twin Cities area residents. The operation is a family farm that includes Jerry Untiedt, his wife Sue and four daughters.

For 47 years, the Untiedt's have offered fresh produce to the Twin Cities markets from the Minneapolis Farmers Market, garden centers, and vegetable stands in 26 locations throughout the Twin Cities. Untiedt's puts a premium on the lay-out of their Garden Markets, the aesthetics of its vegetable/produce stands and the quality of its customer service.

Site Layout

The new garden center will be built in the Northeast corner of the parking lot next to the Northern Store. The Market will be situated away from the storefronts and will not interfere with parking, traffic circulation, or emergency vehicle access. The area will consist of a Greenhouse, 2 covered gazeboes, and display benches placed around the perimeter of the sales area. In addition, a three-foot fence will be placed around the sales area.

The gazeboes measure approximately 16 feet in width and 11 feet in height and will be used to display produce and serve as a checkout area. The Greenhouse measures 21 feet in width and 60 feet in length. The display benches are approximately three to four feet in height. The Market will start May 1st and be open everyday thru October 31st. Hours of operation will be 9:00 a.m. – 7:00 p.m.



SHED

Greenhouse

Shade

Display Shelves

Gazebos

Entrance

Stadium Display

Stadium Display

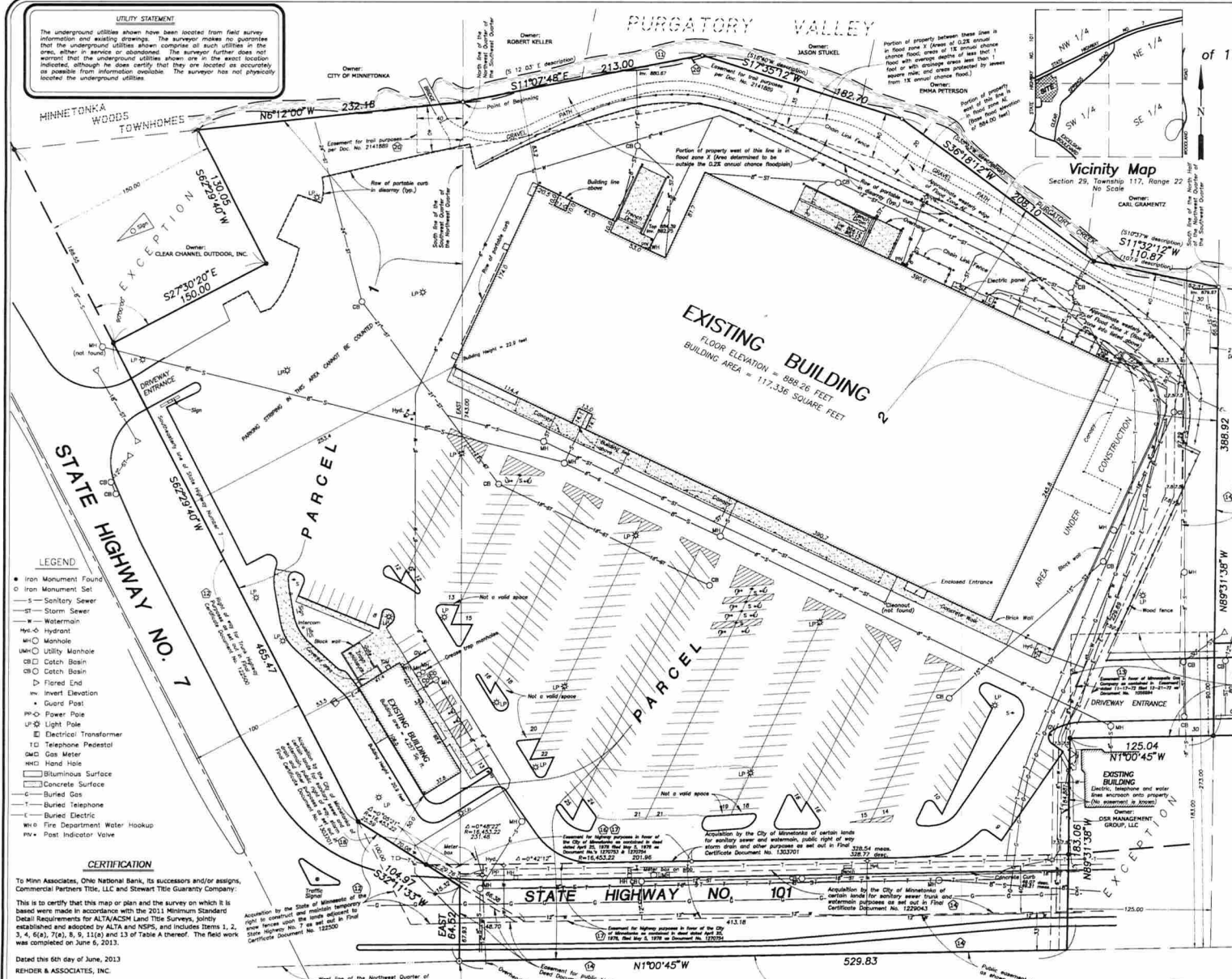
Stadium Display

Stadium Display

Stadium for inside

UTILITY STATEMENT
 The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated, although he does certify that they are located as accurately as available from information available. The surveyor has not physically located the underground utilities.

ALTA/ACSM Land Title Survey for:
MINN ASSOCIATES
 of 17501 State Highway No. 7 - Minnetonka, Minnesota
PROPERTY DESCRIPTION TAKEN FROM COMMERCIAL PARTNERS TITLE, LLC COMMITMENT FILE NO. 37085



- LEGEND**
- Iron Monument Found
 - Iron Monument Set
 - S— Sanitary Sewer
 - S— Storm Sewer
 - W— Watermain
 - H— Hydrant
 - ⊙ Manhole
 - ⊙ Utility Manhole
 - ⊙ Catch Basin
 - ⊙ Catch Basin
 - ⊙ Flood End
 - ⊙ Invert Elevation
 - ⊙ Curb Post
 - ⊙ Flower Pole
 - ⊙ Light Pole
 - ⊙ Electrical Transformer
 - ⊙ Telephone pedestal
 - ⊙ Gas Meter
 - ⊙ Hand Hole
 - ▭ Bituminous Surface
 - ▭ Concrete Surface
 - C— Buried Gas
 - T— Buried Telephone
 - B— Buried Electric
 - ⊙ Fire Department Water Hookup
 - ⊙ Post Indicator Valve

CERTIFICATION
 To Minn Associates, Ohio National Bank, its successors and/or assigns, Commercial Partners Title, LLC and Stewart Title Guaranty Company:
 This is to certify that this map or plan and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(a), 7(a), 8, 9, 11(a) and 13 of Table A thereof. The field work was completed on June 6, 2013.
 Dated this 6th day of June, 2013.
 Thomas J. Adam, Land Surveyor
 Minnesota License No. 43414

Vicinity Map
 Section 29, Township 117, Range 22
 Owner: CARL GARHENTZ

Parcel 1:
 That part of the Southwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, described as follows: Beginning at a point on the South line of said tract 743 feet East of the Southwest corner thereof; thence North 6 degrees and 12 minutes West to its intersection with the Southwestern line of State Highway Number 7; thence South 6 degrees and 12 minutes West along the Southwestern line of State Highway Number 7 to its intersection with the South line of said Southwest Quarter of the Northwest Quarter of said Section 29, Township and Range; thence East along the South line of said Southwest Quarter of the Northwest Quarter of said Section 29, Township and Range, except that part of the Northwest 150.00 feet of the above described property which lies Northeastly of a line described as follows: Beginning at a point on the Northwest line of the above described property distant 188.55 feet Southeastly from the Northeast corner of said above described property; thence South 22 degrees and 37 minutes West 107.9 feet to the South line of said North half of the Northwest Quarter of the Southwest Quarter of said Section 29, except the South 125.00 feet of the said North half of the North half of the Northwest Quarter of the Southwest Quarter of said Section 29.

Parcel 2:
 That part of the North half of the Northwest Quarter of the Southwest Quarter of Section 29, Township 117, Range 22, lying West of a line described as follows: Commencing at a point on the North line of said North half of the Northwest Quarter of the Southwest Quarter 743 feet East of the Northwest corner thereof; thence running South 12 degrees and 3 minutes East 213 feet; thence South 14 degrees and 40 minutes West 182.7 feet; thence South 75 degrees and 23 minutes West 208.1 feet; thence South 10 degrees and 37 minutes West 107.9 feet to the South line of said North half of the Northwest Quarter of the Southwest Quarter of said Section 29, except the South 125.00 feet of the said North half of the Northwest Quarter of the Southwest Quarter of said Section 29.

- EASEMENT NOTES CORRESPONDING TO SCHEDULE B - PART II, COMMERCIAL PARTNERS TITLE, LLC COMMITMENT NUMBER 37085**
- Item 11 - Easement for public highway purposes, in favor of the City of Minnetonka, as created in document dated July 6, 1930, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcels 1 and 2)
 - Item 12 - Easement for public highway purposes, together with the right to construct and maintain temporary access lanes, in favor of the State of Minnesota, as created in document dated July 6, 1930, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcels 1 and 2)
 - Item 13 - Easement for underground gas lines, gas mains, service pipes, and other fixtures and appurtenances, in favor of the Minnesota Gas Company, as created in document dated November 17, 1972, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 2)
 - Item 14 - Easement for sanitary sewer purposes, in favor of the City of Minnetonka, a municipal corporation, as created in document dated June 13, 1977, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 2)
 - Item 15 - Easement for ingress and egress, for the benefit of City of Minnetonka, a Minnesota municipal corporation, over the South 125.00 feet of the West 183.00 feet of the North half of the Northwest Quarter of the Southwest Quarter of Section 29, Township 117, Range 22, as created in document dated May 4, 1978, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 2)
 - Item 16 - Easement for highway purposes, in favor of the City of Minnetonka, as created in document dated April 25, 1978, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 1)
 - Item 17 - Easement for highway purposes, in favor of the City of Minnetonka, as created in document dated April 25, 1978, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 2)
 - Item 18 - Easement for public right-of-way, sanitary sewer and watermain, storm drain and drainage and other public purposes, in favor of the City of Minnetonka, as created in document dated May 6, 1978, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcels 1 and 2)
 - Item 19 - Terms and conditions of and easements contained in Backsplat Easement Agreement dated January 11, 1977, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 1)
 - Item 20 - Easement for recreational purposes, in favor of the City of Minnetonka, a Minnesota municipal corporation, as created in document dated July 12, 1990, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcels 1 and 2)

HUTCHINS DRIVE
 Easement for ingress and egress in favor of the City of Minnetonka and owners as contained in deed dated May 4, 1978, and by record on the Certificate of Title affects the property and is shown on the survey. (Affects Parcel 2)

NOTES
 Bearings shown are based on an assumed datum.
 Utilities shown are from information furnished by the City of Minnetonka, Xcel Energy, Retient Energy, and Oweat in response to Gopher State One Call Ticket No. 80293746 and 131512885. All other utility companies failed to respond.
 Contact Gopher State One Call at 800-252-1166 for precise utility locations before any construction shall begin.
 Area of property = 565,792 square feet (12.99 acres)
 Area of property excluding roadway = 521,903 square feet (11.98 acres)
 Number of striped parking stalls: 347 regular and 12 handicap.
 Zoning of property: B-2 (Limited Business District)
 This property is located in Flood Zone AE, X and Y (two classes of flood zone X). The lines shown hereon were taken from a FEMA map and are shown in an approximate location only. The actual lines would need to be field located as directed by FEMA. This information was taken from Flood Zone Panel No. 27053203175 with an effective date of September 2, 2004. The definition of the flood zones are printed on the survey face.
 Building setbacks, zoning and flood zone information obtained from the City of Minnetonka.
 Easements shown were taken from Commercial Partners Title, LLC, Title Commitment File No. 37085, with an effective date of May 18, 2013.

Rehder and Associates, Inc.
 CIVIL ENGINEERS AND LAND SURVEYORS
 3440 Federal Drive - Suite 110 - Eden Prairie, Minnesota • Phone (800) 452-9001
 JOB: 134-2652.010

Dated this 6th day of June, 2013.

Thomas J. Adam, Land Surveyor
 Minnesota License No. 43414

Rehder & Associates, Inc.

Civil Engineers and Land Surveyors

3440 Federal Drive - Suite 110 - Eden Prairie, Minnesota • Phone (800) 452-9001

Job: 134-2652.010

Resolution No. 2020-

**Resolution approving an interim use permit, with setback variance,
for a garden market at 17555 Highway 7**

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

Section 1. Background.

1.01 The subject property is located at 17555 Highway 7. It is legally described as:

Parcel 1:

That part of the Southwest Quarter of the Northwest Quarter of Section 29, Township 117, Range 22, described as follows: Beginning at a point on the South line of said tract 743 feet East of the Southwest corner thereof; thence North 6 degrees and 12 minutes West to its intersection with the Southeasterly line of State Highway Number 7; thence Southwesterly along the Southeasterly line of State Highway Number 7 to its intersection with the South line of the Southwest Quarter of the Northwest Quarter of said Section, Township and Range; thence East along the South line of said Southwest Quarter of the Northwest Quarter to the point of beginning, except that part of the Northwesterly 150.00 feet of the above described property which lies Northeasterly of a line described as follows: Beginning at a point on the Northwesterly line of the above described property distant 188.55 feet Southwesterly from the Northeast corner of said above described property; thence Southeasterly at a right angle to said Northwesterly line a distance of 150.00 feet and said line there terminating.

1.02 Untiedt's Vegetable Farm, Inc., has requested an interim use permit to operate a seasonal garden market on the subject property annually from May 1st through Oct. 31st. The request includes a setback variance from 100 feet to 75 feet.

1.03 On March 5, 2020, 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. The commission recommended that the city council approve the permit, with setback variance.

Section 2. Standards.

2.01 By City Code §300.05 Subd.5, no interim use permit may be issued unless the

following standards are met:

1. The general performance standards in §300.16 Subd.2 will be met;
2. The use will not delay anticipated development or redevelopment of the site;
3. The use will not be in conflict with any provisions of the city code on an ongoing basis;
4. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;
5. The property on which the use will be located is currently in compliance with all applicable city code standards;
6. The use is allowed as an interim use in the applicable zoning district;
7. The date or event that will terminate the use can be identified with certainty;
8. The use will not impose additional unreasonable costs on the public; and
9. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

2.02

City Code §300.18 Subd.7 outlines the following specific interim use permit standards for transient sales:

1. Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;
2. Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;
3. Must have written authorization from property owner;
4. Business operator must secure all applicable licenses and approvals from the city, Hennepin County or other appropriate jurisdictions;
5. Sight visibility clearances at street intersections and access points must be provided in accordance with §300.15, Subd.9(e) of this ordinance or as determined by the city to protect public safety;
6. No portion of the use may take place within 100 feet of any developed property zoned for residential use;

7. Signs are subject to the following:
 - a. No more than four signs are allowed, which do not exceed 32 square feet in aggregate;
 - b. Incidental product or pricing signs must be placed directly next to the appropriate product;
 - c. Product advertising is permitted, but must be included in the maximum allowed sign area;
 - d. The signs must have a professional appearance and must be securely mounted or erected in a safe location; and
 - e. These limitations apply to all signs associated with the use, including those affixed to vehicles;
8. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;
9. The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and
10. Violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit.

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

Section 3. Findings.

3.01 The request would meet the general standards outlined in City Code §300.05 Subd.5

1. The proposed garden market would be consistent with city goals and policies, would not have an undue adverse impact on government facilities, utilities or services, and would not impact public health safety, or welfare.

2. There is no redevelopment currently anticipated in the area. Nevertheless, as a seasonal transient use, the proposed garden center will not impact redevelopment potential of the site.
3. The proposed use would not impact required parking, access, or setbacks.
4. Other than bringing more visitors to the commercial center, the seasonal use is not anticipated to impact the surrounding uses.
5. There are no outstanding zoning violations on the property.
6. Transient sales are allowed by interim use permit in the B-2 zoning district.
7. The proposed transient sales are not anticipated to result in any public costs.
8. As a condition this resolution:
 - a) The interim use permit is granted to Untiedt's Vegetable Farms, Inc. If either Untiedt's decides not to operate at the location or the property owner chooses not to renew a lease, the permit would be null and void.
 - b) The applicant must agree in writing to the conditions of resolution.

3.02 The request would meet the specific standards outlined in §300.18 Subd.7

1. The garden center would be located in a currently unutilized area of parking.
2. The garden center would not obstruct site circulation. It would be located in a currently unutilized area of parking.
3. The proposal has been reviewed by engineering and public works staff. Site visibility clearances would be provided.
4. Though a setback variance is required, the proposal would meet the variance standard.
6. As conditions of this resolution:
 - a) The business operator is responsible for securing all necessary permits and licenses.
 - b) Prior to beginning operation on May 1, 2020, one of the following must be submitted: (1) a letter from the property owner authorizing

use of the site; or (2) a copy of the final signed lease agreement.

- c) The applicant must apply for a temporary sign permit each year. Any proposed signage must comply with ordinance standards.
- d) Display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable.

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

1. Intent of the Ordinance. The intent of the setback requirement pertaining to transient sales is to ensure appropriate separation between these areas and residential land uses, so as to minimize real and perceived nuisance impacts. The location of the garden center would meet this intent. Though it would be set back 75 feet from the closest residential property line instead of the required 100 feet, the area would be over 300 feet from the closest residential structure and would be further separated from this structure by existing vegetation, a public trail, and Purgatory Creek.
2. Consistent with Comprehensive Plan. The subject property is located in the Highway 7/County Road 101 Area village center. One of the overall themes outlined in the comprehensive plan is to “provide development and redevelopment opportunities that encourage vitality, promote identity, and improve livability” in village centers. The requested variance is consistent with this goal.
3. Practical Difficulties. There are practical difficulties in complying with the ordinance:
 - a) Reasonableness and Neighborhood Character. The proposed 75-foot setback is reasonable and would not impact the character of the surrounding area. Though the garden center would be set back 75 feet from the closest residential property line instead of the required 100 feet, the area would be over 300 feet from the closest residential.
 - b) Unique Circumstance. The existing shopping center property on which the garden center would be located technically abuts four residential properties. However, the usable area of the commercial property is separated from the useable area of the residential property by existing vegetation, a public trail, and Purgatory Creek. In total, this a unique circumstance not common to similar commercial properties.

Section 4. City Council Action.

- 4.01 The above-described conditional use permit is approved, subject to the following conditions:
1. The applicant must agree, in writing, to the conditions of this resolution and the resolution must be recorded with Hennepin County.
 2. This permit is issued for Untiedt's Vegetable Farm, Inc. to annually operate a garden market on the subject property from May 1 through Oct. 31. The market may be open daily from 10 a.m. to 7 p.m. Any change in the operator or dates of operation will render this permit void.
 3. Untiedt's Vegetable Farm, Inc is responsible for obtaining all necessary licenses and approvals from the city, Hennepin County or any other appropriate jurisdictions.
 4. Prior to beginning operation on May 1, 2020:
 - a) Submit one of the following: (1) a letter from the property owner authorizing use of the site; or (2) a copy of the final signed lease agreement.
 - b) Submit a plan for treating or preventing runoff to Purgatory Creek. The plan should outline on site use of fertilizers, pesticides, and watering practices.
 5. The garden market must be generally located in the parking lot north of the northernmost retail tenant space. However, city staff may administratively approve a change in the location within the parking lot, so long as the square footage of the area occupied does not increase.
 6. The market must display items such that existing sight lines and parking lot access lanes are not obstructed. Items must be displayed in the most compact manner reasonably practicable.
 7. The approval does not approve any signs. A sign permit application must be submitted for staff review and approval.
 8. The site must be cleaned of all merchandise, equipment and debris within three days of the last day of operation.
 9. The city council may reasonably add or revise conditions to address any future unforeseen problems. Further, the city council may revoke the interim use permit if any future traffic, parking or public safety issues arise as a result of the market's operation.
 10. Violation of any of the above standards would result in an immediate revocation of the interim use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 23, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on March 23, 2020.

Becky Koosman, City Clerk

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description	Conditional use permit for a licensed residential care facility (assisted living and memory care) at 3727 Shady Oak Road
Recommendation	Recommend the city council adopt the resolution approving the conditional use permit

Background

By state law, licensed care facilities that serve six or fewer residents are permitted uses in all residential zoning districts. The city cannot place restrictions on such facilities above or beyond the restrictions placed on any other single-family home in the community. Further, as permitted uses, no special city zoning review or approval is required.

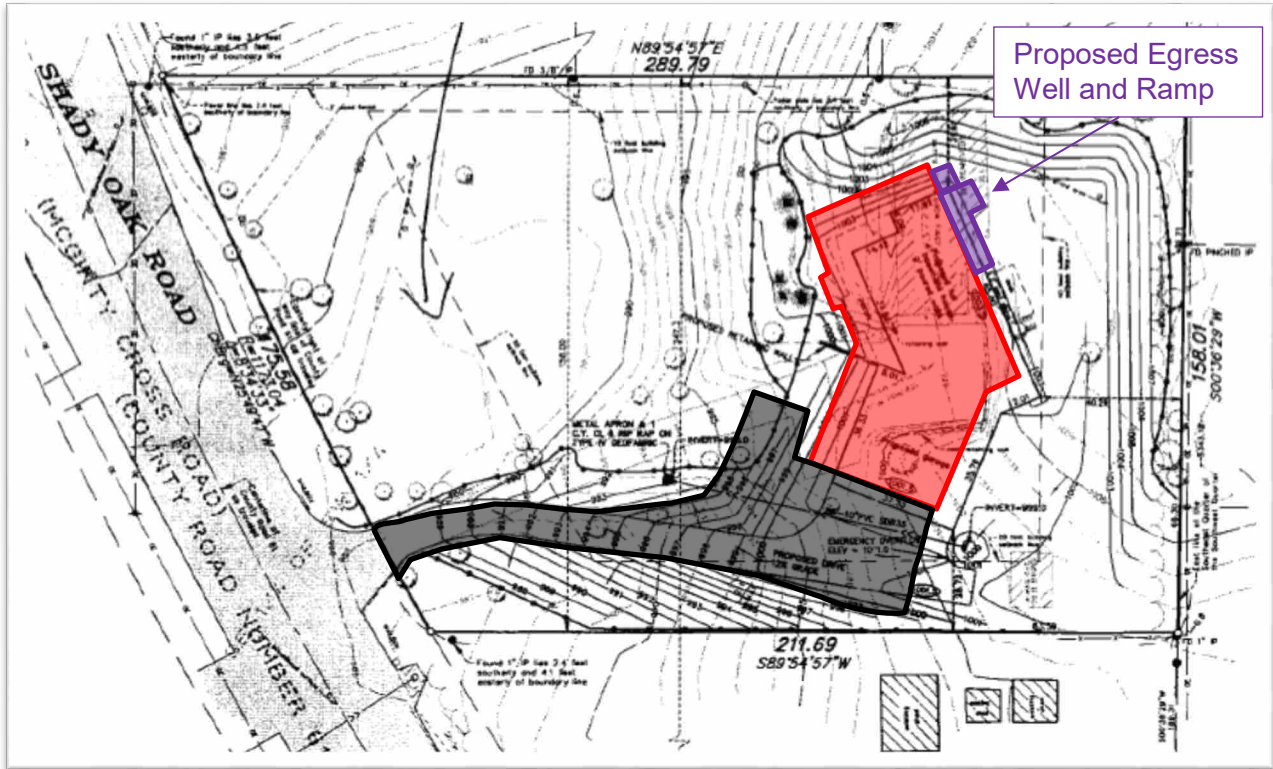
Individual communities have the authority to allow and regulate facilities serving more than six residents. Historically, the City of Minnetonka has held the view that licensed care facilities provide a valuable service to community residents and their family members. The city has chosen to allow, as conditional uses, facilities that serve between 7 and 12 residents. (See Supporting Information Section.)

Proposal

Spirit Care Homes is proposing to open a new residential care facility at 3727 Shady Oak Road. This facility would serve up to 12 people for assisted living and memory care. To accommodate the use, changes would be made to the interior of the home, include installation of an elevator. No substantive changes would be made to the exterior the home. The proposed use requires a conditional use permit. (See attached.)

Existing Property

- Lot Size: 40,766 square feet (0.94 acres)
- Use: Residential Single-Family Home
- Buildings (shown in red on next page)
 - Home:
 - Originally constructed in 2003, remodeled in 2010
 - 6,688 total square feet, which includes a three car garage
- Frontage/Access: Shady Oak Road



Staff Analysis

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

- **Are there external building improvements that would alter the single-family character of the property or neighborhood?**

No. With the exception of an egress window well and accessibility ramp on the rear of the home, the applicant has not proposed any additions onto the existing single-family home. All other home modifications would be interior. None of the described changes would expand the footprint of the home or alter the physical, single-family home character of the structure or neighborhood. (See attached.)

- **Are minimum conditional use permit standards met?**

Yes. The applicant's proposal meets or exceeds the general and specific conditional use permit standards outlined in the city code. (See Supporting Information section.)

Summary Comment

The city's residential care facility ordinance was re-written in 2013. The primary purpose of the update was to provide conditional use permit standards under which care facilities are appropriately balanced with the real and perceived impacts such facilities may have on

surrounding residential properties. The proposed Spirit Care Homes facility meets all of the general and specific conditional use permit standards (See Supporting Information section.)

Recommendation

Recommend the city council approve a conditional use permit for a licensed residential care facility at 3727 Shady Oak Road.

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

Supporting Information

Surrounding Land Uses

The property is surrounded by single-family homes.

Planning

Guide Plan designation: Low density residential
Zoning: R-1 Single family residential district

Proposal

The applicant has proposed to create a 12-resident care facility at the subject property. The care facility would operate out of the main floor and second floor of the subject home. The floor area of these two levels is 4,093 square feet.

The main floor would have:

- Two Single Bedrooms,
- One Shared Bathroom,
- Kitchen,
- Dining Room,
- Living Room, and
- Salon/Barber Room.

The second level would have:

- Laundry Room,
- Three Shared Bathrooms,
- Six Single Bedrooms, and
- Two Double Bedrooms (with Private Bathrooms).

The applicant has decided to use the basement level of the home as a private residence, which is permitted under city code. This area has not been included in the area calculation for the care facility and may not be used as part of the residential care facility without future approval from the city council.

Conditional Uses

A conditional use is a use of a property that is permitted so long as certain conditions – which are clearly outlined in city code – are met. A conditional use permit (CUP) is both the city’s acknowledgement that the code-defined conditions have been met and mechanism to outline various regulations to ensure the conditions continue to be met into the future. A conditional use permit “attaches” to the property for which it has been approved, not to the property owner who applied for the permit.

CUPs may be granted to general land uses. In other words, the city may grant a CUP for a fast food restaurant, but not a CUP for a specific company/owner, like McDonalds. The city may grant a CUP for non-service station having gasoline pumps, but not a CUP specifically for Super America. This distinction between general and specific uses is because the conditions outlined in the zoning ordinance cover generalities of the land use. For instance, the conditions require a certain amount of parking for fast food

restaurants and certain vehicle stacking area for gas stations. The zoning ordinance does not, and should not, concern itself with whether a restaurant serves burgers or tacos or what type of gasoline is offered for sale at a station.

It is the same for residential care facilities. The conditions outlined in code look at building square-footage, off-street parking, and the like. The conditions do not distinguish between the type of care provided at a facility, the population residing at the facility, or the owner of the property on which the facility is located.

Approved CUPs for 7-12 residents

In the last 16 years, the City of Minnetonka has approved four conditional use permits for 7 to 12 resident licensed residential care facilities. These facilities include:

Care Facility	Year Approved	Number of Residents	Home Area Per Resident	Property Area per Resident
City Code Requirements	-	12 maximum	300 sq. ft.	3,000 sq. ft.
Counter Point Recovery 5022 Baker Road	2017	8 substance abuse	491 sq. ft.	6,845 sq. ft.
One Twelve 12401 Minnetonka Blvd.	2015	12 substance abuse	365 sq. ft.	1,375 sq. ft.*
Rakhma Grace Homes 5126 Mayview Road	2012	15 memory care	326 sq. ft.	2,730 sq. ft.*
Gianna Homes 4605 Fairhills Road E	2004	10 memory care	628 sq. ft.	4,356 sq. ft.
Spirit Care Homes 3727 Shady Oak Road (Proposed)	-	12 assisted living and memory care	341 sq. ft.**	3,402 sq. ft.

* Variances required

**Does not include basement area (not part of care facility)

Licensing

The city requires a conditional use permit for residential care facilities serving 7 to 12 people. However, the city is not the licensing or regulatory authority for these types of facilities. The Minnesota Department of Human Services and Department of Health are the licensing authorities for residential care facilities. As a condition of approval, the applicant must obtain licensing to provide residential care for up to 12 people prior to operation at the subject site.

Building Review

As with any home remodel done in the city, the applicant would be required to apply for a building permit for modifications done to the home. This review would take place if the CUP is approved and would ensure that the building is compliant with all required state building code and Americans with Disabilities Act (ADA) requirements.

Environmental Health Review

Prior to occupancy of more than six residents, the applicant would need to apply for and receive a lodging and food license from the city's community development department. This requirement has been include in the resolution as a condition of approval.

General CUP Standards

By City Code §300.16 Subd. 2, no conditional use permit may be granted unless the city council determines that all of the general standards are met. The proposed accessory structure would meet the general standards outlined in city code, as it would:

1. Be consistent with the intent of the ordinance. A 7-12 person licensed residential care facility is a conditionally permitted use within the R-1 District.
2. Be consistent with the goals, policies and objectives of the comprehensive plan. The 2030 comprehensive plan notes the growing senior population within the city. Within the Housing Plan Chapter of the Comprehensive Plan, the city acknowledges that it must encourage development of a variety of housing types at various costs and rents to ensure housing for this population.
3. Not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
4. Not have an undue adverse impact on the public health, safety, or welfare of the community.

Specific CUP Standards

By City Code §300.16 Subd.3(g) licensed residential care facilities or community based residential care facilities serving 7 to 12 residents must meet the following standards:

1. 3,000 square feet of lot area for each overnight resident, based on proposed capacity;

Finding: The subject property is 40,766 square feet in size. This area exceeds the 36,000 square foot area needed for 12 residents.

2. 300 square feet of residential building area for each overnight resident, based on proposed capacity.

Finding: The residential care facility area of the home is 4,093 square feet in size, exceeding the 3,600 square feet required for 12 residents. Please note, the basement has not been included in this area as the applicant has proposed this area for a private residence and it will not be used as part of the residential care facility.

3. In R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may

exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:

- a. the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or
- b. the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.

Finding: No new additions are being proposed that would increase the square footage of the subject home. However, the subject property's FAR is 0.13, which is less than the largest FAR within the area (0.21).

4. No external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;

Finding: No external building improvements are proposed that would alter the original, residential character of the home.

5. Traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:
 - a. in R-1 and R-2 districts, the use is not permitted on properties that gain access by private roads or driveways that are used by more than one lot;
 - b. the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;
 - c. the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.

Finding: The subject property currently has a driveway that only the subject home uses for access. The property is located on Shady Oak Road, a major collector and county roadway, which prohibits street parking. The subject property includes a three-stall garage and has outdoor parking spaces for at least four vehicles. City code limits outdoor vehicle parking to four vehicles at any time, excluding vehicles of occasional guests who do not work or reside on the property. A condition of approval has been added to the resolution reflecting this maximum amount of outdoor parking on the site. The seven parking spaces would limit traffic on site while still accommodating the residents, staff and limited guests expected on the site.

- 6) No on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;

Finding: The subject property is located on Shady Oak Road, which prohibits on street parking. The property includes a three-stall garage and outdoor parking for at least four vehicles. The applicant indicates that drivers/parkers at the proposed property would include:

- Two, day-time care givers,
- One chef,
- One night caregiver;
- Facility manager (only on site intermittently), and
- Residents of the basement unit.

As proposed, care facility residents are not allowed to have vehicles on the premises and all other vehicles frequently visiting the site (delivery services of food, medication, mail etc.) will be on site for no more than an hour, so they have not been included in this list. The existing garage and proposed driveway could accommodate all of these drivers/parkers even if they were all to be on site at the same time.

- 7) All facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

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

- 8) Landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;

Finding: The subject property is bordered by vegetation to the north, south, east and west. In addition, there is a privacy fence along the south side of the property. The subject home is located over:

- 120 feet from Baker Road;
- 140 feet from the northern home;
- 75 feet from the eastern home; and
- 125 feet from the southern home.

The existing vegetation and physical separation create adequate buffering from the subject structure, which is not being exteriorly altered, and neighboring homes.

- 9) Submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;

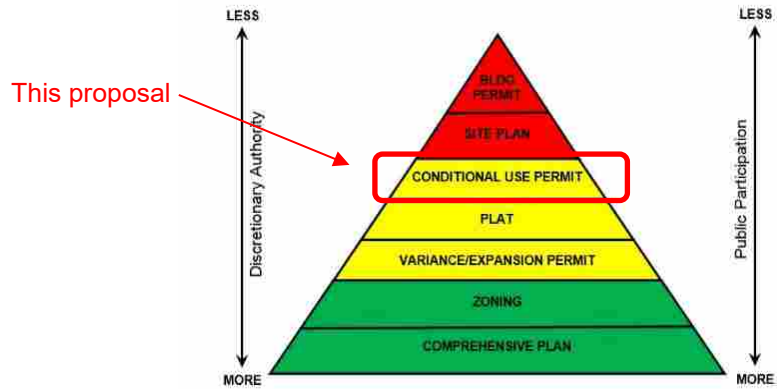
Finding: This information has been submitted and is attached to this report.

- 10) Submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and

Finding: No new construction, excluding the ramp and egress window well, or exterior building/site changes are being proposed.

- 11) Additional conditions may be required by the city in order to address the specific impacts of a proposed facility.

Pyramid of Discretion



Motion Options

The planning commission has three options:

1. Concur with the staff recommendation. In this case, a motion should be made recommending the city council approve the request based on the findings outlined the staff-drafted resolution.
2. Disagree with staff's analysis. In this case, a motion should be made recommending the city council deny the request. This motion must include findings outlining how the CUP standard is not met.
3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Neighborhood Comments

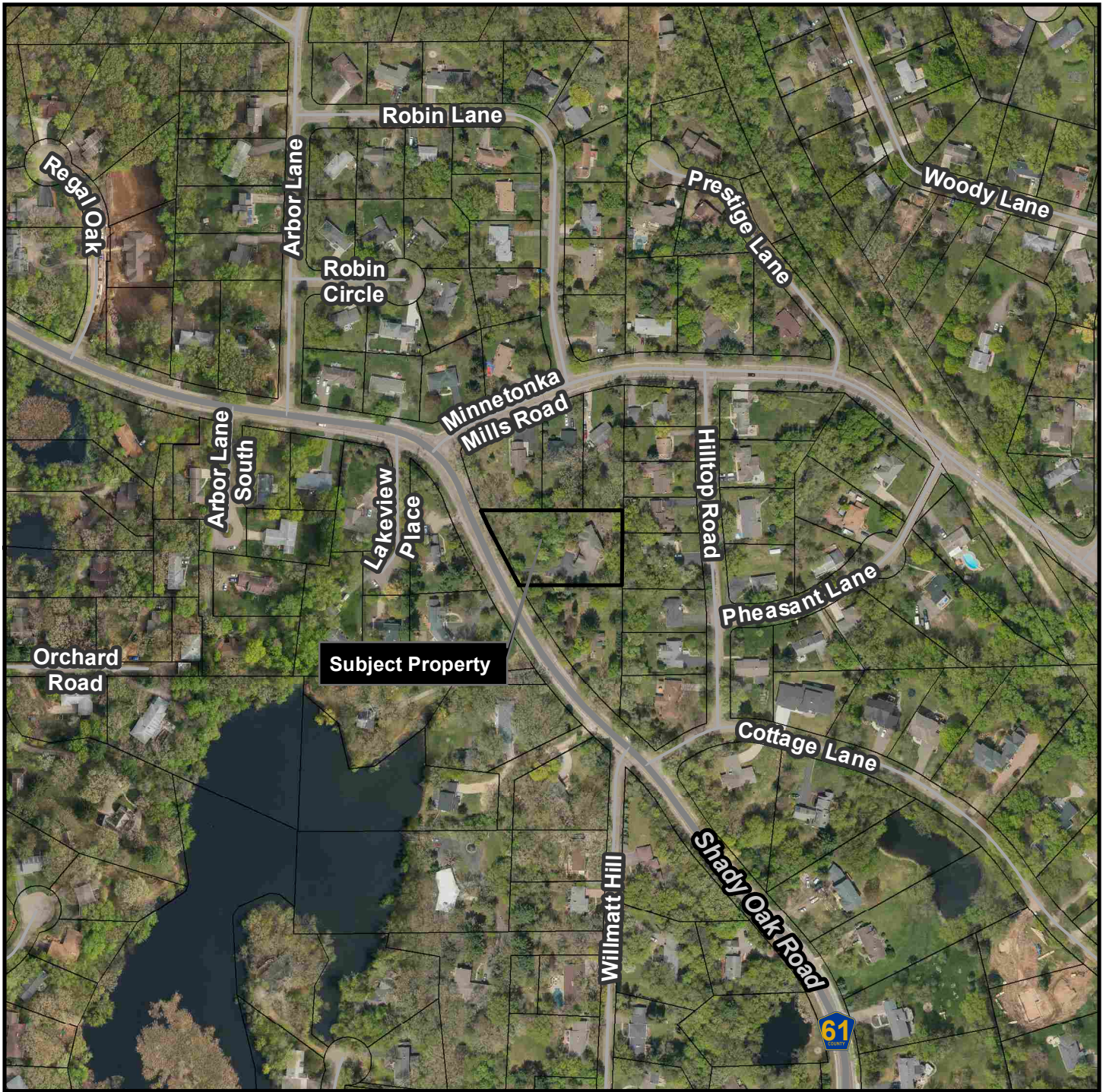
The city sent notices to 47 area property owners and staff has received two comments to date. (See attached.)

Voting Requirement

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

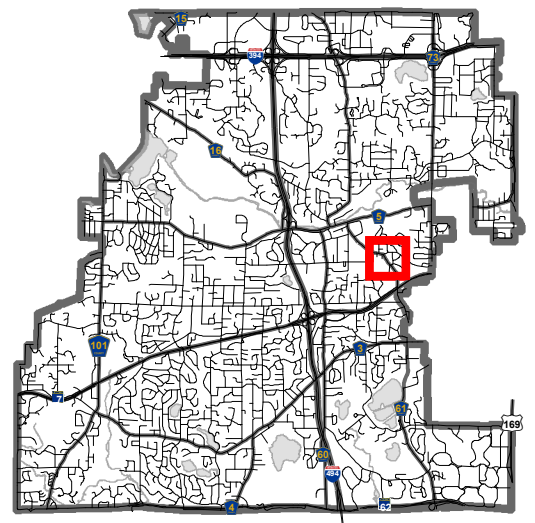
Deadline for Decision

May 4, 2020



Location Map

Project: Spirit Care Homes
Address: 3727 Shady Oak Rd



CERTIFICATE OF SURVEY WITH PROPOSED GRADING PLAN

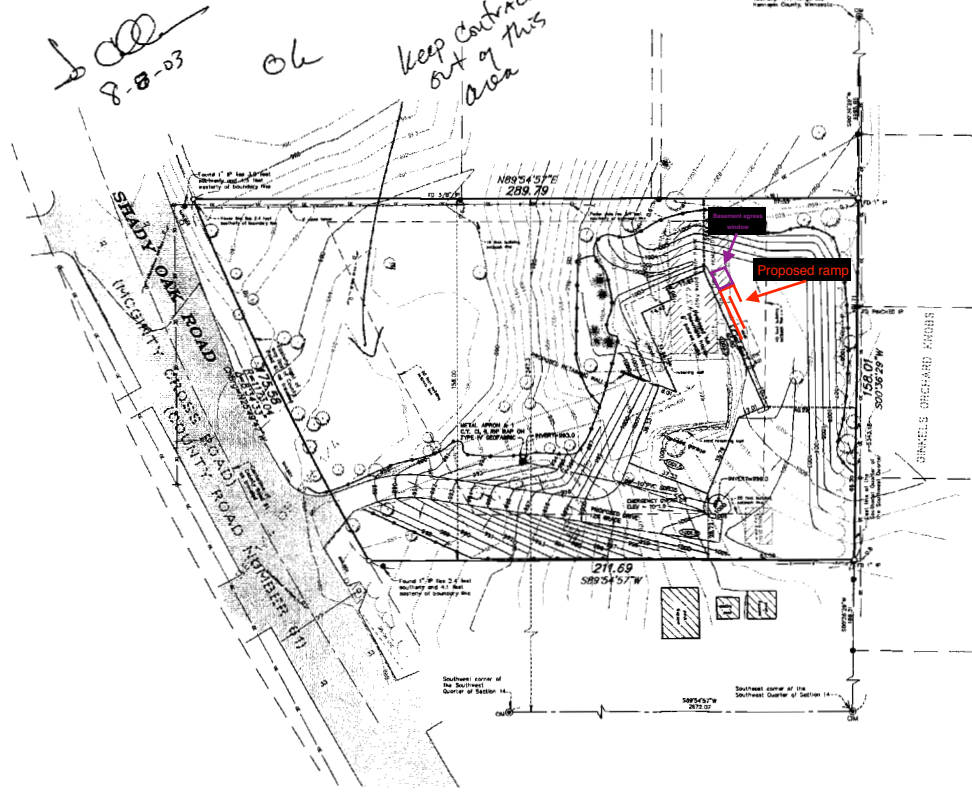
CARLSON CUSTOM HOMES

3727 SHADY OAK ROAD

8-8-03
OK

Keep Contractors
out of this
area

Northern corner of the
Section 14, Township 21N,
Range 22E, County of Washington,
Minnesota.



- LEGEND**
- - BORN MONUMENT FOUND
 - - BORN MONUMENT NOT FOUND AND MARKED
 - - BORN MONUMENT FOUND
 - - EAST BORN MONUMENT
 - ⊕ - ELECTRIC POWER POLE
 - ⊖ - SANITARY CLEAN OUT
 - ⊞ - 1/2\"/>
- PROPOSED ELEVATIONS**
- Grade Sheet elev. = 100.0
Top of Bench pin = 100.5
Lowest elev. pin = 99.8

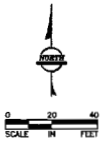
PROPERTY DESCRIPTION: (As provided by client)
The SW 1/4 Sec. 14 of the South 21st Twp. of Range 22E, Township 21N, Range 22E, County of Washington, Minnesota, containing 1.56 Acres, more or less, as shown on the plat of the City of Chaska, Minnesota, recorded in the County of Washington, Minnesota, at the City of Chaska, Minnesota, on 11/11/02.

NOTE
The surveyor has reviewed the proposed grading plan and has determined that it is in accordance with the proposed grading plan and the proposed grading plan.

BASES OF MEASUREMENT
For the bearings and distances of the proposed grading plan, the surveyor has used the bearings and distances of the proposed grading plan as shown on the plat of the City of Chaska, Minnesota, recorded in the County of Washington, Minnesota, at the City of Chaska, Minnesota, on 11/11/02.

BENCHMARK
The top of the benchmark is 100.5 feet above the datum of 1985 (see the City of Washington).

RECEIVED
AUG 06 2003



	REVISIONS Revision 1: 8-1-03 Revision 2: 8-8-03 Revision 3: 8-8-03 Revision 4: 8-8-03	I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Professional Surveyor under the laws of the State of Minnesota. Surveyor: Stuart D. Harvey DATE: 7-8-03 REG. NO. 11092	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 Professional Surveyor under the laws of the State of Minnesota. Surveyor: Kurt M. Kisch DATE: 7-8-03 REG. NO. 27898	BOOK # 528 PAGE # 21-2 DRAWN: P.D. CHECKED: ROJ
	Surveyor: Stuart D. Harvey Title: Surveyor License No.: 11092 State: Minnesota	Surveyor: Kurt M. Kisch Title: Surveyor License No.: 27898 State: Minnesota	Surveyor: Kurt M. Kisch Title: Surveyor License No.: 27898 State: Minnesota	Surveyor: Kurt M. Kisch Title: Surveyor License No.: 27898 State: Minnesota

CARLSON CUSTOM HOMES
1440 Bavarian Shores Drive
Chaska, Minnesota 55318

3727 SHADY OAK ROAD
PART OF THE SW 1/4 OF
SECTION 14, TOWNSHIP 117
RANGE 22

CERTIFICATE OF SURVEY
WITH PROPOSED GRADING PLAN

SHEET #
1/1
PROJECT #
2003J007L

Subject Home

Shady Oak Road

Minnetonka Mills Road





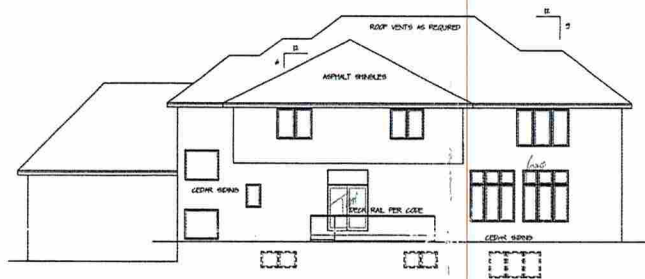
SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE



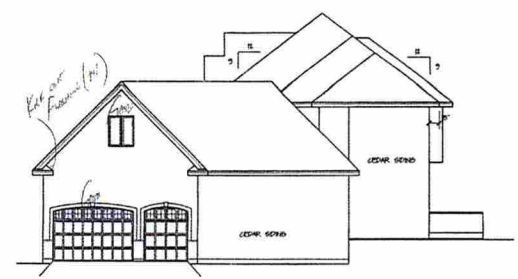
SPIRIT Care Homes, LLC
Proposed Residential Assisted Living Care Home



3727 Shady Oak Rd,
Minnetonka, MN 55305



BACK ELEVATION
SCALE: 1/8" = 1'-0"



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

*Chalk & Fine
All exterior doors
hardware trim*



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

RESIDENCE FOR:
KEN NASH

CONTRACTOR:
**CARLSON
CUSTOM HOMES**

MINNESOTA HOME DESIGN
© COPYRIGHT 2003
THIS SET OF PLANS AND SPECIFICATIONS IS THE PROPERTY OF MINNESOTA HOME DESIGN. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THESE PLANS WITHOUT THE WRITTEN CONSENT OF MINNESOTA HOME DESIGN IS STRICTLY PROHIBITED. MINNESOTA HOME DESIGN SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON. HOME DESIGN AND CONSTRUCTION ARE SEPARATE COMPANIES.

SHEET TITLE:
ELEVATIONS

PLAN NUMBER:
1666

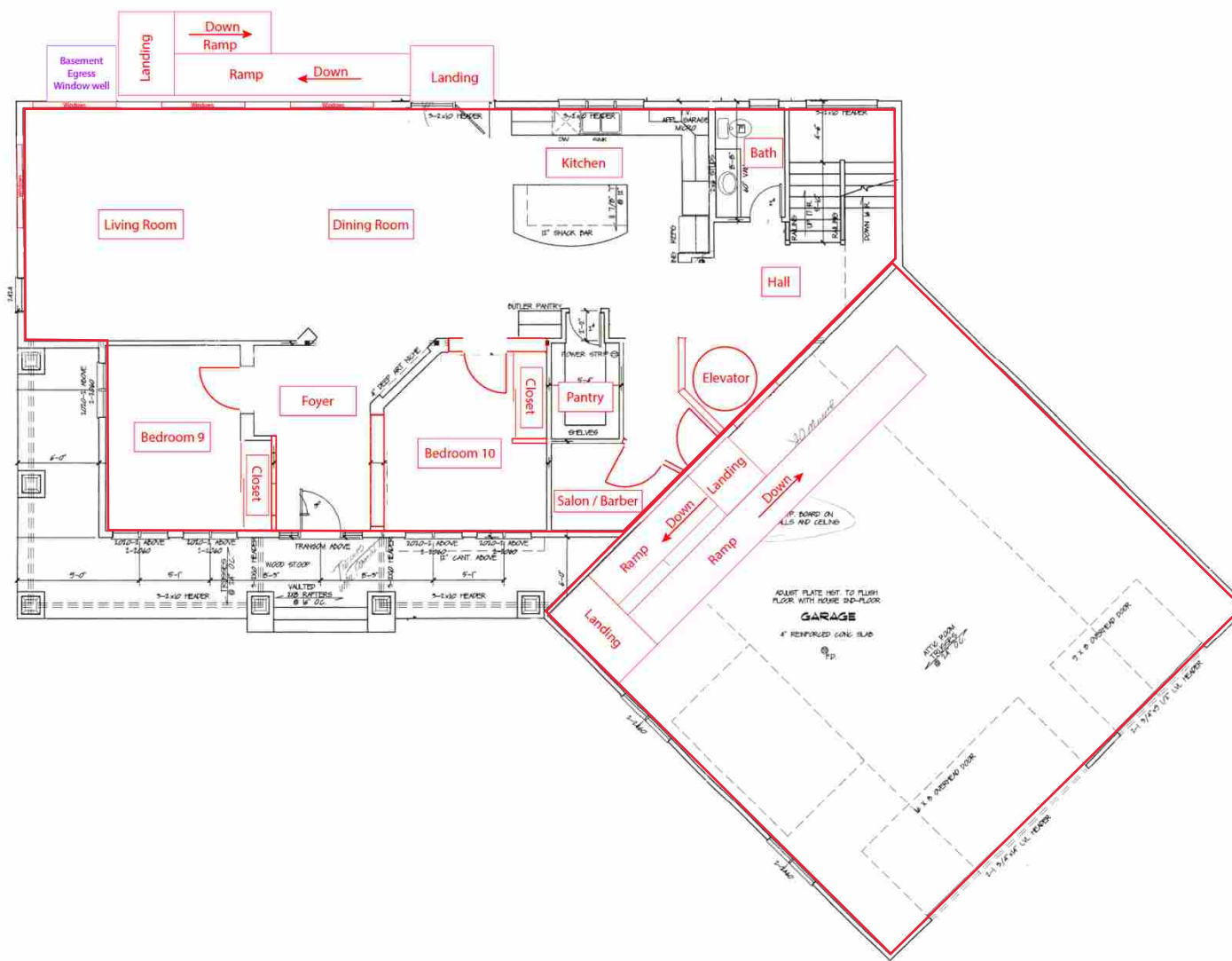
DATE:
6-5-03

REVISIONS:
T-7-03

LOF NO. BLOCK NO.
DEVELOPMENT:
SHEET NUMBER:
2 OF 6

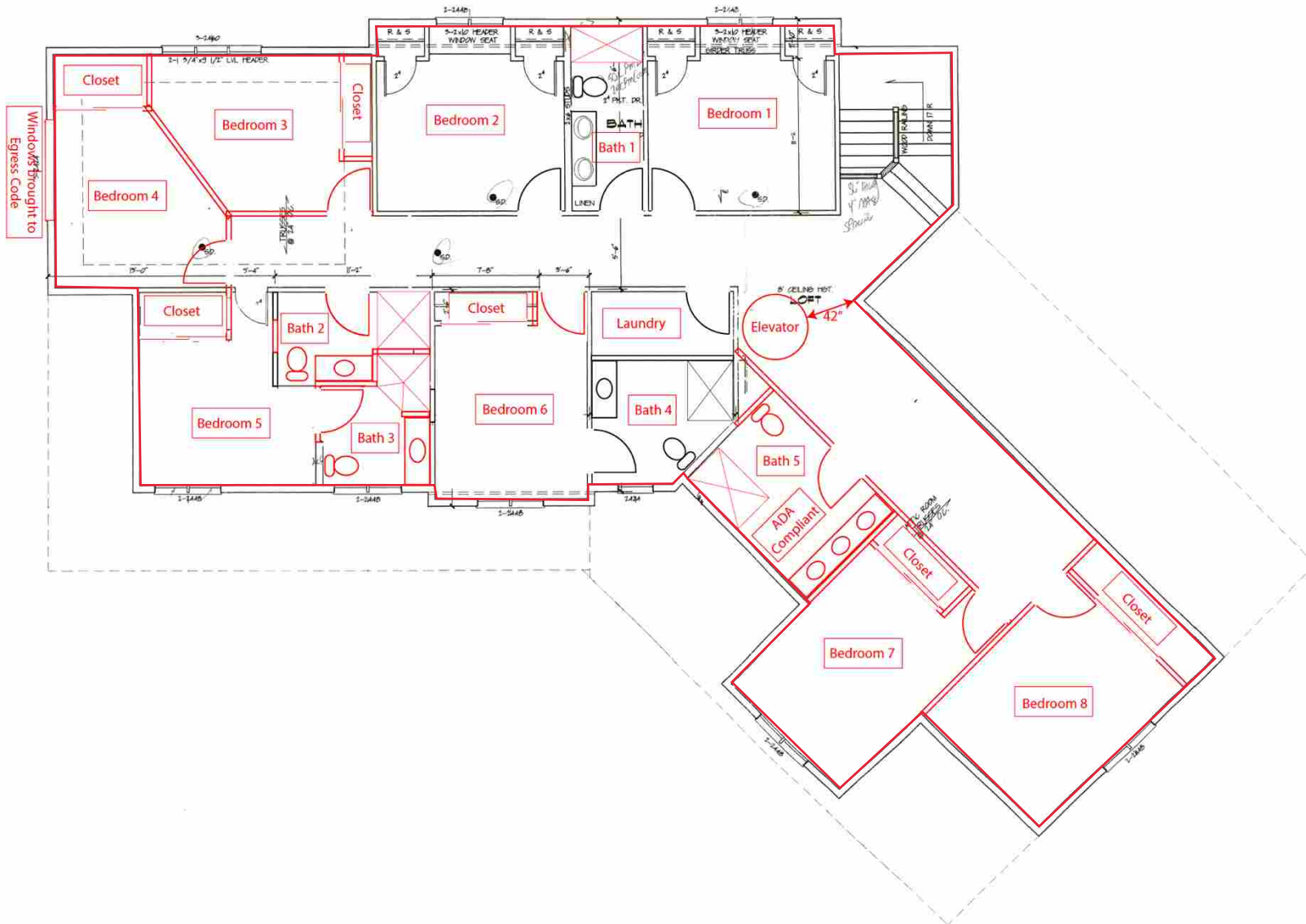


Main Level





Second Floor





SPIRIT Care Homes

ASSISTED LIVING AND MEMORY CARE

CONDITIONAL USE PERMIT REQUEST

CITY OF MINNETONKA

JANUARY 9th, 2020

**3727 Shady Oak Rd,
Minnetonka, MN 55305**

Property Owner: Ilitch Diaz-Gutierrez and Ria Marikit P. Foslien.
115 University Ave NE, Unit 503
Minneapolis, MN 55413

Proposed Business: SPIRIT Care Homes, LLC.





Submittal contents:

Included in this packet are the (A) property details, (B) summary of proposal, (C) background, (D) existing residential care homes in Minnetonka, (E) project proposal, (F) specific standards for conditional use permit with corresponding responses, (G) leadership and (H) supporting documents.

A. Property details

Address: **3727 Shady Oak Rd,
Minnetonka, MN 55305**
Square feet: 6,033 sq ft.
Lot: 0.94 acres
Zoning: R-1
Parcel #: 1411722340009
Year built: 2003
Parking: Three-stall attached garage
Roof: Asphalt shingles
HOA: Not applicable

B. Summary of proposal

We request a conditional use permit to increase the occupancy limit from 6 to 12 residents, for our state-licensed home for assisted living and memory care.

C. Background:

Assisted living includes a broad range of personal care and supportive services that meet the needs of frail older people and other adults whose capacity for self-care is limited because of a chronic illness; injury; physical, cognitive or mental disability; or other health-related conditions. By definition, elderly people that require assisted living are protected under the Federal Fair Housing Act¹ against discrimination in housing on the basis of race, color, religion, sex, disability or familial status.

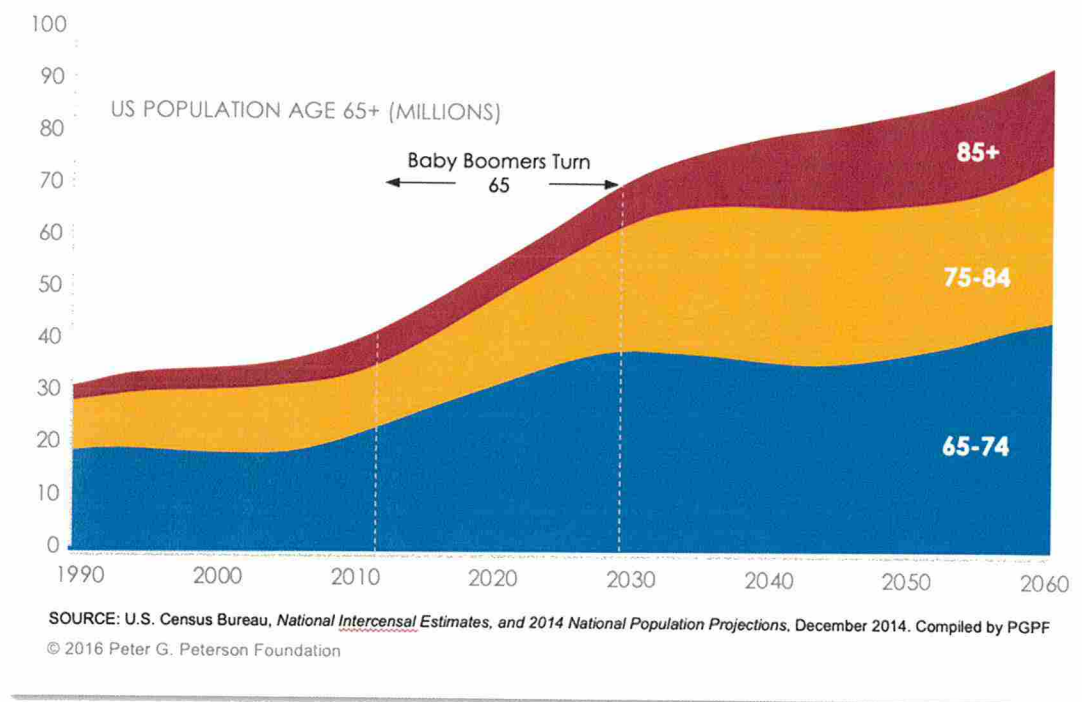
Although people of all ages may need long-term care services, the risk of needing these services increases with age. The number of Americans over age 65 is projected to shift from 47.8 million in 2015 to over 87.9 million in 2050, representing an increase of 84% and comprising 22% of the population². The population aged 85 and over is projected to triple, from 6.3 million in 2015 to over 18.9 million in 2050, and will account for almost 5% of the U.S. population². The number of older people in the United States with significant physical or cognitive disabilities is projected to increase from 6.3 million in 2015 to 15.7 million in 2065³. Recent projections using microsimulation modeling estimate that about one-half of Americans reaching age 65 will need long-term care services³.

¹ The Fair Housing Act is codified at 42 U.S.C. §§ 3601–19.

² Bureau, U. C. (2014). Methodology, Assumptions, and Inputs for the 2014 National Projections.

³ Favreault M, D. J. (2016). Long-term services and supports for older Americans: Risks and financing. ASPE Research Brief.

Figure 1. The U.S. elderly population is growing rapidly and living longer.



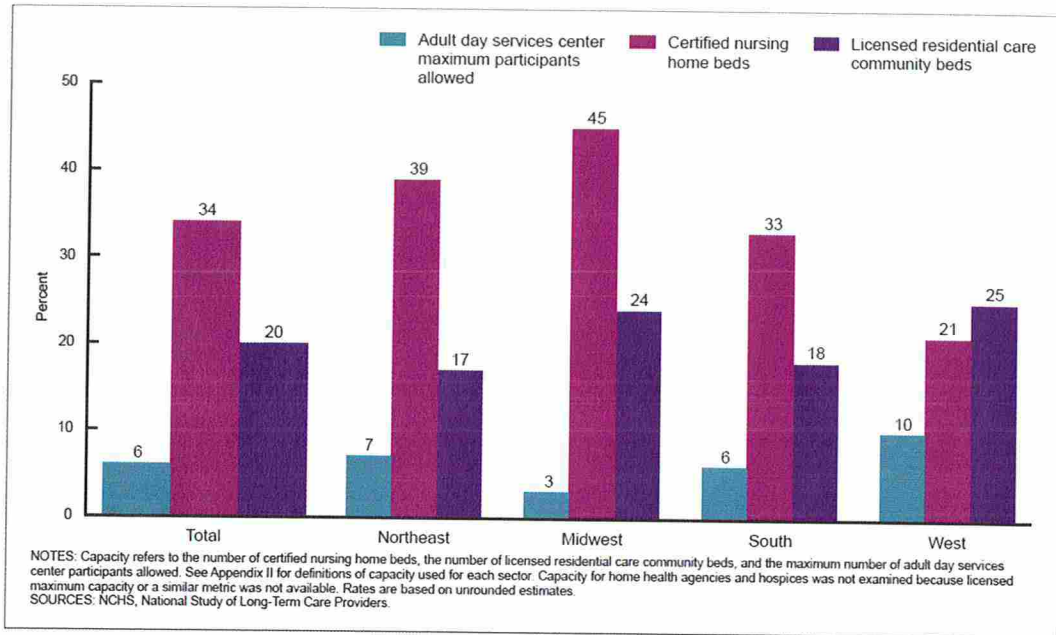
The desire for a “home” environment with a superior level of care is driving the need for an alternative type of senior care that offers both the best care ratio and a premium housing option. This alternative living option is called a “**residential care home**”. By comparison, the typical “big-box” assisted living *facility* often leaves a resident feeling they live in a hotel and not a home. Resident to caregiver ratios commonly exceed 10-15:1 while a care home is typically 5 to 7:1.

According to the latest National Study of Long-Term Care Providers 2015-2016, there are 28,900 residential care communities in the United States with a total of 996,100 licensed beds⁴. Residential care communities ranged in capacity from 4 to 518 beds, with an average of 35 licensed beds. In the Midwest, there are only **24 licensed residential care community beds per 1,000 people aged 65 and over**⁴ (**Figure 2**). Only 29% of all residential care communities reported having a waiting list, and on average, 7 people were waiting for beds, with an **average waiting time for admission of 153 days**⁵.

⁴ Harris-Kojetin, L.D., Sengupta, M., Lendon, J.P., Rome, V., Valverde, R. and Caffrey, C., 2019. Long-term care providers and services users in the United States, 2015-2016.

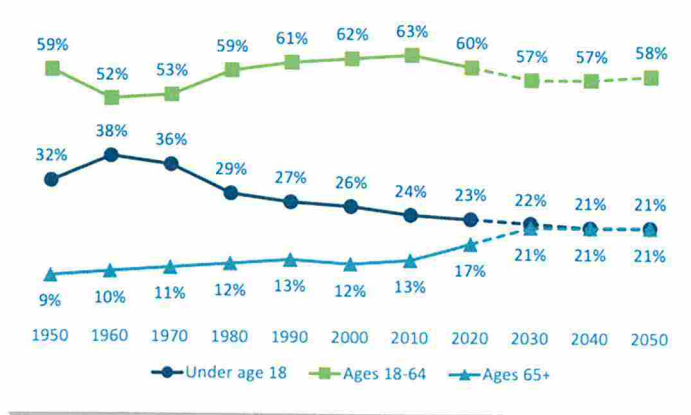
⁵ Khatutsky G, O. C. (2016). *Residential care communities and their residents in 2010: A national portrait*. Department of Health and Human Services. Publication No. 2016-1041. Hyattsville, MD: National Center for Health Statistics.

Figure 2. Long-term care services provider capacity per 1,000 people aged 65 and over, by sector and region; United States, 2015-2016.



State of Minnesota: Minnesotans are living longer than ever before. By 2030, approximately one in five Minnesotans will be age 65 or older. Not only is the overall number of older adults increasing, but those born with or who acquired disabilities, and living with chronic conditions are living longer as well. According to the Minnesota State Demographic Center’s Minnesotans with Disabilities: Demographic and Economic Characteristics report, in 2010, 10.0% of Minnesotans reported a disability; by 2015, that share had risen to 10.9%, reflecting about 593,700 state residents. Continued growth in the number and percentage of Minnesotans with disabilities is anticipated, given the overall aging of our state’s population and rising disability prevalence later in life.

Figure 3. Historical and projected population shares by age in the state of Minnesota.



Source: MN State Demographic Center, “Demographic Considerations For Long-Range & Strategic Planning,” March 2016.



Currently, in the state of Minnesota there are 800 assisted living communities, providing 30,600 beds with an average of 35 people served. Most services used to be provided only in institutions. Now, many services are provided in people's home and community. Society is moving into an era of customization and individualization of services for people, so they are able to get just what they need, when they need it. The Minnesota Department of Health is promoting community integration, person-centeredness, choice, and independence. Trends in the service system demonstrate this change.

Increasingly, individuals with more complex needs have been able to live in their community. In the past, fewer services were available in the community and people who needed more assistance had to move to institutional settings to receive that support. As specialized services have become increasingly available, people have been able to remain in their home and community. By 1995, the balance in Minnesota's system had shifted from predominantly institution-based to predominantly *home* and community-based. Today, **83% of the people receiving long-term services and supports (LTSS) get them through home and community-based services.**

D. Existing residential care homes in Minnetonka:

In the City of Minnetonka, there are approximately **11** large assisted living facilities and **13** residential care homes licensed by the state of Minnesota. The **occupancy rates are 90-100% with waitlists up to 2 years.** To our knowledge, the city of Minnetonka has approved in the past two conditional use permits for 7 to 12 residents, for state-licensed residential care homes for assisted living and memory care (Rhakma and Gianna homes).

Table 1. Residential care homes in **Minnetonka**, licensed by the state of Minnesota.

Residential care homes	Capacity	Occupancy	Waitlist
Rhakma	15	100%	12 people, 3-6 months
Steven's residence	7	100%	Do not take waitlist
Gianna homes	10	90%	3 people
Morning glory#1	6	100%	Do not take waitlist
Morning glory#2	6	100%	Do not take waitlist
Legacy care home#1	6	100%	
Legacy care home#2	6	100%	
Legacy care home#3	6	100%	
Guardian homes	?	?	
Nurturing care residence	6	100%	Do not take waitlist
Stonecrest living	6	100%	
Avalon Memory Care	6	100%	Do not take waitlist
Minnetonka Assisted Living	5	100%	Do not take waitlist



E. Project proposal:

Our goal is to build a home with the highest standards and unsurpassed, compassionate care for assisted living and memory care, that would set us apart from any other residential care home in the state of Minnesota. Our home would partner up and support local businesses including co-ops for groceries, transportation companies, home health care agencies, hospice, physical and occupational therapy, respiratory therapy, among others. **SPIRIT Care Homes, LLC** would also be involved in the community with strong affiliations with senior centers and faith-based facilities.

Earth-friendly business practices will help us minimize the carbon footprint by maintaining a culture of reduce-reuse-recycle. We are committed to constantly reduce our target emissions to minimize the environmental impact.

We want to become a role model for other future residential care homes. At our community, there will be absolutely no discrimination on the basis of age, gender, religion, race/ethnicity, disability, or socioeconomic status.

Services provided:

1. **Safety:** fire suppression (full sprinkler system and fire extinguishers), wired smoke and CO2 detectors, surveillance cameras, home security system, locked medication and resident charts, secured doors for dementia purposes, 10 min drive (4 mi) to Methodist hospital. Safety pendants for residents in case of needing assistance.
2. **Standard services:** housekeeping, laundry, 3 meals a day and unlimited snacks, on-site chef, personal toiletries (shampoo, toothpaste, soap, etc).
3. **Home care service package:** RN on call 24/7, monthly MD/NP assessments, on-site CNA/HHAs, medication management including insulin injections, available speech therapy, physical and occupational therapy.
4. **Caregivers:** 6:1 staff ratio (one of the highest in the industry) for assistance with activities of daily living (stand assist, transfer, hygiene, bathing, grooming, feeding, etc.). Awake staff at night, highly trained hand-picked caregivers, individualized care plans for residents and ongoing assessments.
5. **Life enrichment/social engagement:** Daily reflections, spiritual readings, life story sharing, pet therapy, aromatherapy, music therapy, massage therapy, weekly group outings and companionships (individual), intergenerational volunteer visitors weekly.
6. **House features:** Excellent location with easy access through I-494 and Minnetonka Blvd. or highway 7. Architecturally elegant and senior accessible. Two-story home with 6 private bedrooms and two shared bedrooms on the second floor. Two private bedrooms and a beauty shop on the main floor, with a large family room and gourmet kitchen. Basement will be used for office space and storage. Residents will not have access to the basement. There will be four shared bathrooms on the second level, one shared bathroom and one public bathroom (staff and visitors) on the main floor, and one bathroom in the basement. Three fireplaces, elevator, outdoor patio/grill, one-acre lot with extensive outdoor space and beautiful greenery, compost, bonsai garden, 3-stall attached garage and ample parking spots for visitors.



With the ability to have 12 residents instead of 6, we would be able to offer:

- All-inclusive pricing, equal and unbiased care to residents.
- Higher staff-ratio for more individualized and higher quality care.
- Financial support for residents, EW, CADI waiver, etc.
- Free transportation for outings or doctor appointments.
- More outings and better activities for the residents.
- Beauty shop and elevator.
- Full-time life enrichment specialist.
- Full-time chef for on-site fresh cooked meals.
- High quality staff (LPNs, RNs, CNAs, HHAs).
- Better working conditions and benefits for caregivers (higher salary, health insurance, paid vacation time, etc).
- Ongoing training in dementia and assisted living for caregivers to maintain quality of care.
- Donation of 10% of our profits to local charity.

Finally, we strongly believe that our goals are in line with the **city of Minnetonka's comprehensive guide plan 2030⁶**:

“The aging of the population will trigger increased needs for services such as health care, recreation, technology, education, employment and retirement, and housing: To prepare for the rapid increase in the senior population, the City will need to work with and encourage developers and housing providers to develop a variety of housing types at various costs and rents with features that cater to the diverse and changing desires and needs of its senior population.”

The proposed actions by the **city of Minnetonka** are:

1. Work to diversify housing choices available to seniors in order to fulfill the unmet senior housing needs in the community.
2. Identify potential sites for senior housing development and inform developers that may want to construct senior housing as to these sites.
3. Promote the use of —green technologies, sustainable building techniques and design, and energy efficient products in new construction and redevelopment projects.
4. Promote the use of Universal Design techniques in both new construction and redevelopment to ensure accessibility.

With the current high occupancy rates and long waitlist times, people from Minnetonka are being forced to seek for a home in a nearby city. Research has shown that the farther out the family member moves out, the less likely it is for them to be visited by their loved ones. With the approval of the conditional use permit we would contribute to satisfy this urgent need, allowing people of Minnetonka to stay here, in the city that they love and grew up in.

⁶ <https://www.minnetonkamn.gov/government/departments/community-development/planning-zoning/comprehensive-guide-plan/2030-comprehensive-guide-plan>



SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

F. Specific standards

- 1) 3,000 square feet of lot area for each overnight resident, based on proposed capacity;

-The subject property is **40,946 square feet** in size. This area exceeds the 36,000 square feet area required for **12 residents**.

- 2) 300 square feet of residential building area for each overnight resident, based on proposed capacity;

-The existing building is **6,033 square feet** in size, exceeding the 3,600 square feet required for **12 residents**.

- 3) in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:

- a. the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or
- b. the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.

-No new additions are being proposed.

- 4) no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;

-No external building improvements are being proposed.

- 5) traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:
- a. in R-1 and R-2 districts, the use is not be permitted on properties that gain access by private roads or driveways that are used by more than one lot;
 - b. the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;
 - c. the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.

-The property is located on a major collector road according to the city's 2030 comprehensive plan. The driveway is only used for our property and includes a 3-stall attached garage with outdoor parking space for at least 4 more vehicles. Our facility will have 1 chef and 3 caregivers



during daytime and one caregiver at night. Our facility manager will be parked at the facility intermittently depending on the need for inspections. All other vehicles are expected to park at our facility no more than 1 hour a day (including delivery services of food, medication, mail, etc.). Our 7 on-site parking spaces can accommodate for staff, occasional guests and emergency vehicles without problems. Residents will not have vehicles parked at our facility.

-In terms of emergency vehicles, our driveway meets the requirements for emergency vehicle use for parking and turning around. We do not expect to have frequent use of emergency vehicles.

- 6) no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;

-No on-street parking will be permitted at our facility. Our private driveway meets all the requirements mentioned above. With our 7 on-site parking spaces we will be able to limit on-site traffic and accommodate;

- o Five daytime staff members (1 chef, 3 caregivers and 1 manager)
- o One night-time caregiver
- o Occasional visitors or emergency vehicles.

- 7) all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

-Our facility will comply with all requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;

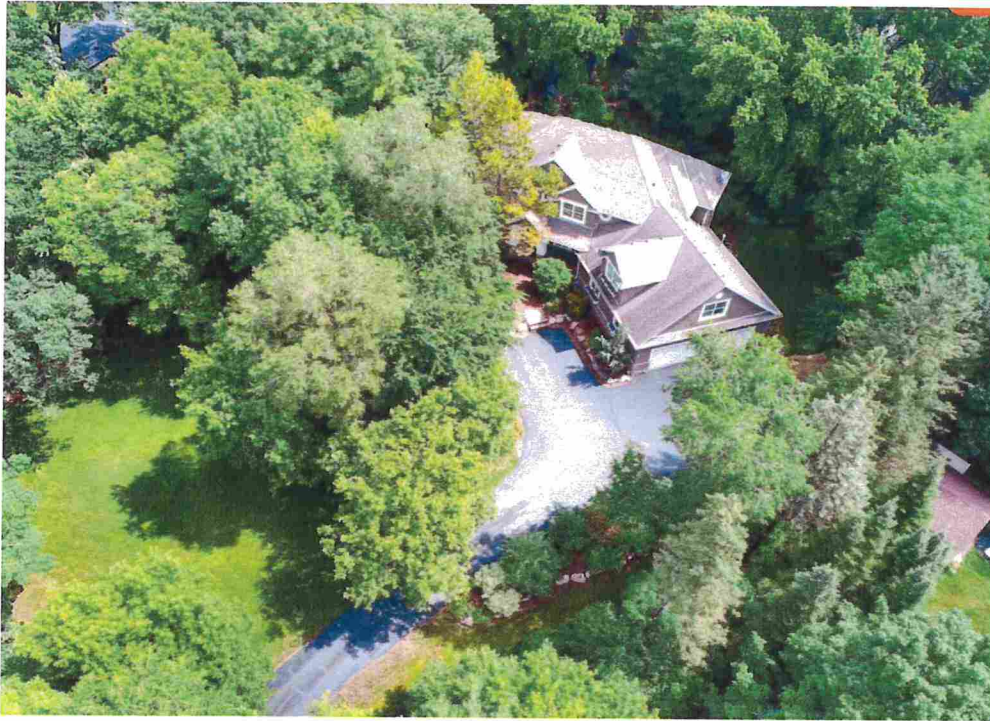
- 8) landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;

-The home is nestled in a one-acre private wooded lot and sits back from the road. There is abundant greenery surrounding the property offering privacy and physical separation from the neighboring properties (see attached pictures).



SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

A) Aerial view



B) Back of the house; surrounding vegetation.



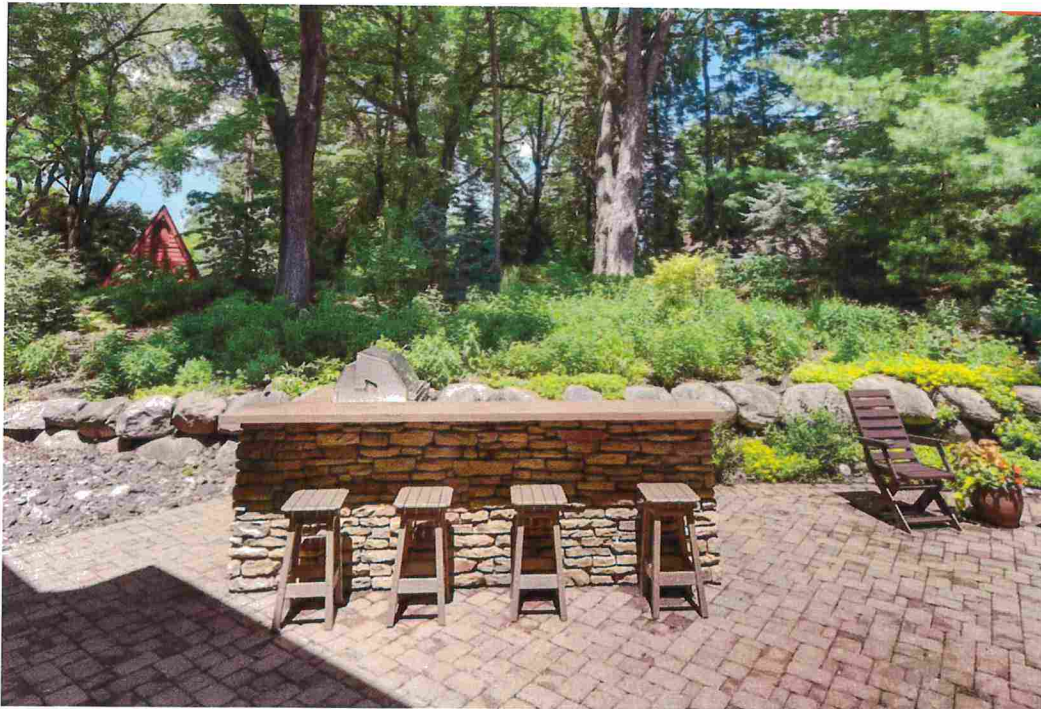


SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

C) Backyard.



D) Outdoor patio.





SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

- 9) submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;

-See attached requested documents.

- 10) submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and

-See attached building plan.

- 11) additional conditions may be required by the city in order to address the specific impacts of a proposed facility.



SPiRiT Care Homes
ASSISTED LIVING AND MEMORY CARE

CAREGIVER STAFFING SCHEDULE (Sample)

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<u>Day: 6 am-6pm</u> CG #1 CG #2	<u>Day: 6 am-6pm</u> CG #3 CG #4	<u>Day: 6 am-6pm</u> CG #3 CG #4	<u>Day: 6 am-6pm</u> CG #3 CG #4	<u>Day: 6 am-6pm</u> CG #3 CG #4	<u>Day: 6 am-6pm</u> CG #1 CG #2	<u>Day: 6 am-6pm</u> CG #1 CG #2
<u>Night: 6pm-6am</u> CG #5	<u>Night: 6pm-6am</u> CG #6	<u>Night: 6pm-6am</u> CG #6	<u>Night: 6pm-6am</u> CG #6	<u>Night: 6pm-6am</u> CG #6	<u>Night: 6pm-6am</u> CG #5	<u>Night: 6pm-6am</u> CG #5

Substitutes: CG #7, #8, #9.

Assistants: A #1, A#2.



ACTIVITY CALENDAR 2020

SPIRIT Care Homes, LLC

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Arts & crafts 15:00 Walking club 15:30 Jackpot bingo 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Balloon volleyball 15:00 Documentary 15:30 Wine and cheese social 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Walking club 15:00 Jeopardy 15:30 Card games 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Coloring club 13:00 Baking 15:00 Bingo 15:30 Domino 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Pet therapy 15:00 Music appreciation 15:30 Happy hour 17:30 TV show	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Walking club 15:00 Gardening club 15:30 Book readings 17:30 Movie night
9:30 Coffee chat, daily news 9:45 Daily Devotions, church outing 10:30 Chair Yoga 13:00 Arts & crafts 15:00 Sundae social 15:30 Jackpot bingo 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Balloon volleyball 15:00 documentary 15:30 Crossword social 17:30 Massage therapy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Manicure 15:00 Tai Chi 15:30 Jackpot bingo 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Jackpot bingo 17:30 Aromatherapy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Coloring 15:00 Baking 15:30 House social 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Music appreciation 15:00 Happy hour 15:30 Wheel of fortune 17:30 Comedy night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Book readings 15:00 Walking club 15:30 Tai Chi 17:30 Movie night
9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Bonsai club 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Recycling 101 15:00 Crossword 15:30 Domino 17:30 Card games	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Jackpot bingo 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Documentary 15:00 Walking club 15:30 Meditation 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Knitting club 15:00 Walking club 15:30 Resident memories 17:30 TV show	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Resident choice 15:00 Walking club 15:30 Happy hour 17:30 Jeopardy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Arts & crafts 15:00 Gardening club 15:30 Jackpot bingo 17:30 Movie night
9:30 Coffee chat, daily news 9:45 Daily Devotions, church outing 10:30 Chair Yoga 13:00 Sing along 15:00 Walking club 15:30 Poetry appreciation 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Baking 15:00 Walking club 15:30 Music appreciation 17:30 Massage therapy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Meditation 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Documentary 15:00 Walking club 15:30 Card games 17:30 Aromatherapy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Biography 15:00 Walking club 15:30 Domino 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Bonsai techniques 15:00 Walking club 15:30 Happy hour 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Bonsai club 15:00 Walking club 15:30 Tai Chi 17:30 Movie night
9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Waling club 15:00 Bonsai club 15:30 Jackpot bingo 17:30 Movie night	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Crossword social 17:30 Massage therapy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Knitting club 15:00 Walking club 15:30 Book readings 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Arts & crafts 15:00 Walking club 15:30 Recycling 101 17:30 Evening relaxation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Documentary 15:00 Walking club 15:30 Resident memories 17:30 Poetry appreciation	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Exercise 13:00 Resident choice 15:00 Walking club 15:30 Happy hour 17:30 Jeopardy	9:30 Coffee chat, daily news 9:45 Daily Devotions 10:30 Chair Yoga 13:00 Arts & crafts 15:00 Walking club 15:30 Jackpot bingo 17:30 Movie night

Each month we host a family party on one of the Saturday "Open House Visits." The theme is as follows:

January- Goal Setting Celebration
February- Valentine's Party
March- Spring Time Crafting
April- Easter Egg Hunt
May- Memorial Day BBQ
June- Father's day Party

July- 4th of July Party
August- Live Music and Food Trucks
September- Fall Time Crafting
October- Trick or Treat Social
November- Thanksgiving Meal
December- Christmas Party

Sample Menu



WEEKLY MENU



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
4/10	4/11	4/12	4/13	4/14	4/15	4/16
Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea
AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack
Juice	Juice	Juice	Juice	Juice	Juice	Juice
Lunch	Lunch	Lunch	Lunch	Lunch	Lunch	Lunch
Chicken Pot Pie Salad Peaches in syrup	Turkey Meatloaf Mashed Potatoes Vegetable Jello	Lasagna Garlic Bread Vegetable Fresh Fruit	Meat Stew Dinner Roll Vegetable Ice Cream	Baked Chicken Mashed Potatoes Vegetable Pudding	Baked Tilapia Vegetable Mandarin Oranges Jello	Pork Chops Chips Vegetable Pudding
PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack
Cookies	Popcorn	Orange Slices	Nut Mix	Dried Peaches	Smoothies	Dried Cranberries
Supper	Supper	Supper	Supper	Supper	Supper	Supper
Sloppy Joes Chips Green Beans Ice Cream	Egg Salad Chicken Soup Cookies	Pasta Salad Crackers Vegetable Peaches	Quesadillas Baked Beans Tortilla Chips Salad Jello	Grilled Cheese Sandwich Tomato Soup Crackers Ice Cream	Potato Salad Crackers Sliced Tomatoes Mandarin Oranges	Hot Dog Sandwich French Fries Cucumber Salad Jello

***Grilled Cheese Sandwich, Peanut Butter and Jelly, or Tuna Salad are always available if resident prefers.**

SPIRIT Care Homes, LLC
3727 Shady Oak Rd
Minnetonka MN 55305



WEEKLY MENU

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
4/3	4/4	4/5	4/6	4/7	4/8	4/9
Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea
AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack
Juice	Juice	Juice	Juice	Juice	Juice	Juice
Lunch	Lunch	Lunch	Lunch	Lunch	Lunch	Lunch
Chicken and Rice Dinner Vegetable Pudding	Salmon Loaf with Cream Sauce Mashed Potatoes Vegetable Jello	Turkey Patties on a Bun French Fries Vegetable Fresh Fruit	Beef Enchiladas Refried Beans Vegetable Peaches	Ham and Potato Casserole Vegetable Pudding	Sloppy Joes Vegetable Mandarin Oranges Jello	Tuna Casserole Chips Vegetable Pudding
PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack
String Cheese	Ritz with Cream Cheese	Rice Crispy Treats	Fruit Cups	Popcorn	Crackers with Peanut Butter	Smoothies
Supper	Supper	Supper	Supper	Supper	Supper	Supper
Turkey Sandwich Chips Green Beans Ice Cream	Potato Salad Soup Cookies	Chicken Salad Crackers Vegetable Peaches	Tuna Salad Sandwich Dill Pickles Soup Cookies	Ham and Cheese Sandwich Tomato Salad Crackers Ice Cream	Egg Salad Sandwich Chips Vegetable Brownies	Grilled Cheese Sandwich French Fries Tomato Soup Jello

Grilled Cheese Sandwich, Peanut Butter and Jelly, or Tuna Salad are always available if resident prefers.



WEEKLY MENU



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
4/17	4/18	4/19	4/20	4/21	4/22	4/23
Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea
AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack
Juice	Juice	Juice	Juice	Juice	Juice	Juice
Lunch	Lunch	Lunch	Lunch	Lunch	Lunch	Lunch
Hot Dog on a Bun Sweet Potato Fries Fresh Fruit Pudding	Chili Cornbread Vegetable Cake	Deli Sandwich Pasta Salad Baked Beans Jello	Chicken Pot Pie Green Salad Fruit Cup Brownie	Quiche Roasted Potatoes Muffin Ice Cream	Pizza Party Chips Fresh Fruit Cookies	Hamburger Cole Slaw Potato Soup Apple Crisp
PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack
Cookies	Popcorn	Orange Slices	Nut Mix	Dried Peaches	Smoothies	Dried Cranberries
Supper	Supper	Supper	Supper	Supper	Supper	Supper
Tater Tot Casserole Green Beans Dinner Roll Spiced Pears	Baked Chicken Broccoli Cheesy Biscuits Blondie	Taco Salad Chips/Salsa Rice and Beans Cherry Crisp	Ravioli Vegetable Fresh Fruit Cookies	Chicken Alfredo Vegetable Garlic Bread Jello	Pot Roast Dinner Rolls Green Salad Pudding	BBQ Chicken Mashed Potatoes Vegetable Jello

Grilled Cheese Sandwich, Peanut Butter and Jelly, or Tuna Salad are always available if resident prefers.



WEEKLY MENU



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
4/24	4/25	4/26	4/27	4/28	4/29	4/30
Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea	Cereal, waffle, or toast, eggs (scrambled or soft boiled) bacon fruit juice coffee or tea
AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack	AM Snack
Juice	Juice	Juice	Juice	Juice	Juice	Juice
Lunch	Lunch	Lunch	Lunch	Lunch	Lunch	Lunch
Chicken Noodle Soup Crackers Fruit Cup	Pulled Pork Sandwich Chips Macaroni Salad Cookies	Country Fried Chicken Salad Breadstick Fresh Fruit	Potato and Chicken Casserole Orange Slices Bread Basket Brownies	Pea Soup Mushroom Ravioli Vegetable Ice Cream	Sweet and Sour Chicken Fried Rice Fresh Fruit	Pepperoni Pasta Bake Fresh Fruit Chips Cookies
PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack	PM Snack
String Cheese	Ritz with Cream Cheese	Rice Crispy Treats	Fruit Cups	Popcorn	Crackers with Peanut Butter	Smoothies
Supper	Supper	Supper	Supper	Supper	Supper	Supper
Spaghetti and Meatballs Green Beans Garlic Bread Warmed Peaches	Lemon Fish Rice Broccoli Cake	Sirloin Tips Baked Potato Vegetable Ice Cream	Pork Tenderloin Scalloped Potatoes Carrots Jello	BBQ Chicken Mashed Potatoes Broccoli Lemon Squares	Baked Ham Pasta Salad Fresh Fruit Cookies	Stuffed Chicken Risotto Creamed Spinach Pudding

***Grilled Cheese Sandwich, Peanut Butter and Jelly, or Tuna Salad are always available if resident prefers.



SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

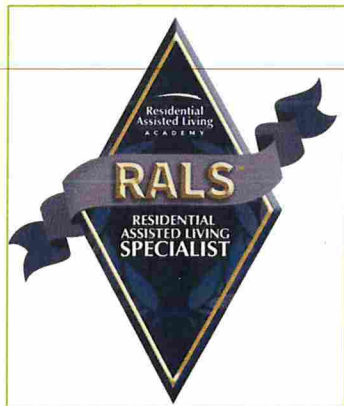
G. Leadership:

Ilitch Diaz-Gutierrez, MD **Founder/Managing member**



Dr. Diaz-Gutierrez is a physician specializing in thoracic surgery. He commonly treats diseases of the elderly such as lung cancer and lung transplants among others. He is an Assistant Professor of Surgery at the University of Minnesota, with more than 16 years of experience in healthcare. He is a member of the patient safety committee at the University of Minnesota Medical Center. He also has a background in real estate investing with rental properties.

Dr. Diaz-Gutierrez was born and raised in Mexico City. Growing up in a developing country contributed to Ilitch's spirit of helping others that are less fortunate, whether it is because of age, gender, social or economic status.



In Mexican culture, the family is one of the most important elements in society, possessing a strong sense of unity with unique traditional values. When people age, they are considered wiser, with a profound sense of appreciation. Usually, they move into their children's home when they need assistance, creating multigenerational families that enrich our culture.

As a **RALS™** (Residential Assisted Living Specialist), Ilitch has earned the **highest level of professional certification in the industry.**

Ria Foslien, RN
Founder/Managing member

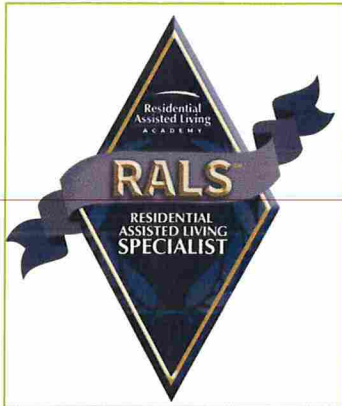


Ria Foslien is a registered nurse that works at the Minneapolis VA Medical Center in cardiac surgery. She is currently pursuing a Master's degree to become an Adult Gerontology Acute Care Nurse Practitioner.

Ria's ultimate professional goal is to work with a surgical group that provides exceptional care to elderly patients, while being involved in quality improvement projects within her community.

Ria has worked as a caregiver in various settings including Assisted Living, Memory Care, Medical/Surgical units, pediatrics and more. She has experience with the aging population as a CNA/HHA, and is familiar with the limitations and challenges of providing care in "big box" assisted living facilities.

As a **RALS™** (Residential Assisted Living Specialist), Ria has earned the **highest level of professional certification in the industry.**



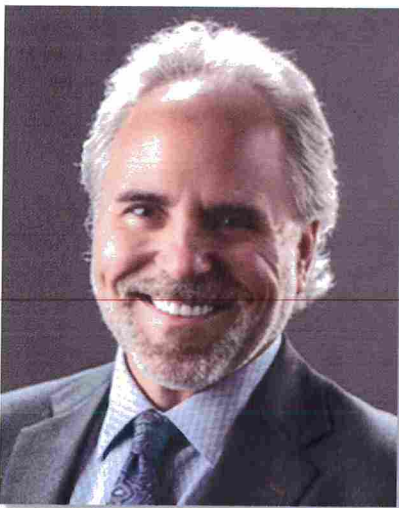


SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

Expert Advisors:

SPIRIT Care Homes, LLC has secured an expert advisory team for ongoing consultation in business planning, cash flow management, investment analysis, site selection, architectural design and review, construction/renovation, and operational management.

Gene Guarino, Founder CEO Residential Assisted Living Academy™



Gene is a seasoned practitioner in the senior assisted home care industry and a RAL industry leader. As an internationally recognized Master Trainer, Mr. Guarino has helped thousands of entrepreneurs reach their business and financial goals.

Gene is a 35-year business professional, a CFP (Certified Financial Planner / US and Australia), an author, and frequent TV and radio guest. Mr. Guarino is founder and President of Residential Assisted Living Academy™ located in Phoenix, AZ. Mr. Guarino has been contracted by **SPIRIT Care Homes, LLC** to consult on an ongoing basis.

Residential Assisted Living Academy™

Residential Assisted Living Academy™ is America's industry leader for educating and supporting investor / entrepreneurs in the process of Living care homes throughout the United States.





SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

**Jim Guarino, Senior RAL Academy
Associate Advisor**

**Senior Housing Investment Partners, LLC
Founder**



Jim has trained, consulted and advised thousands of entrepreneurs in business, investing, real estate, marketing, finance and personal development over the past 30-years.

He's led hundreds of seminars throughout the United States and is author of the Amazon #1 best-seller "*The Insider's Guide to Senior Housing Investing*".

Jim regularly supports RAL Academy Associates while actively managing Senior Housing Investment Partners, LLC, a capital management firm specializing in senior housing investment opportunities.

Residential Assisted Living Academy™

Residential Assisted Living Academy™ is America's industry leader for educating and supporting investor / entrepreneurs in the process of Living care homes throughout the United States.





SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

Chris Beadle
Financial advisor and mortgage broker



Regional Sales Managing Director,
American Mortgage & Equity Consultants, Inc
(AMEC). Mr. Beadle has 18 years of
experience in mortgage services. AMEC is a
family-owned mortgage financing company
that has grown from a few employees in a
branch office to 500+ employees in over 70
offices.



Awards:

Mortgage Executive Magazine Top 100
Mortgage Companies in America: 2017, 2018
Top 50 Best Companies to work for: 2018
Scotsman Guide
Top Mortgage Lenders: Top Overall Volume:
2016, 2017, 2019
Star Tribune Minneapolis Top 150 Companies
to Work for: 2016, 2017, 2018, 2019

Jaren Johnson
Real Estate Attorney



Johnson Law Office, PLLC — Real Property Law Specialist. Jaren is certified by the Minnesota State Bar Association, a designation held by less than 400 attorneys in Minnesota.

In addition to real property law, Jaren handles both transactional and litigation matters involving corporate law, partnership disputes, entity formation, estate planning, and asset protection. He was also recently named a “Super Lawyer” by *Minnesota Law & Politics* magazine, a listing of the top five percent of attorneys in the state.

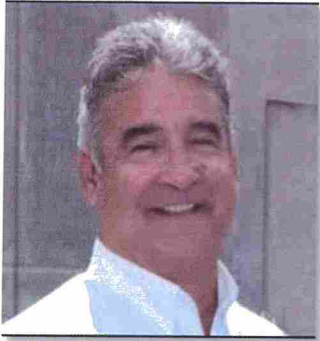


At the Johnson Law Office, PLLC, we handle all types of real estate law practices, engaging in commercial and residential transactions as well as litigation. We work with a diverse range of individuals and businesses, representing developers, contractors, real estate brokers and agents, appraisers, landlords, tenants, and many other parties.



SPIRIT Care Homes
ASSISTED LIVING AND MEMORY CARE

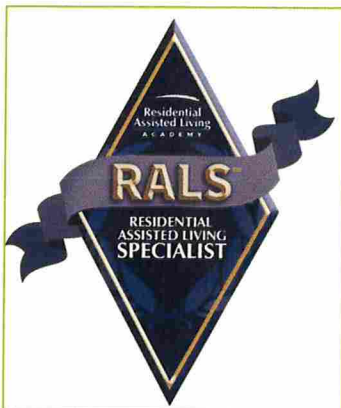
Steve Clark, RCI, CDT.
Builder and Construction specialist



Founder and CEO at Owner Builder Advisors (OBA), and Construction Inspection Specialists (CIS Inspects). Both companies offer a wide range of construction, management and marketing expertise throughout the construction and renovation process (with over 40 years of experience). OBA helps is providing consulting services to several residential assisted living homes nationally.



The firm provides construction cost analysis, level of completion analysis, project progress inspections, course of construction inspections, and a host of due diligence and risk management services for all types of commercial and private lenders nationwide.



As a **RALS™** (Residential Assisted Living Specialist), Steve has earned the **highest level of professional certification in the industry.**

From: [mary jo brouillard](#)
To: [Drew Ingvanson](#)
Subject: 3727 Shady Oak Rd.
Date: Wednesday, February 26, 2020 11:45:35 AM

Hi,

I recently heard about the purchase of the property at 3727 Shady Oak Rd. and it's intended use. I live on Willmatt Hill.

They mention it will be owner occupied. I see no mention of that when they talk about the number of people who will be there daily. They say 3 caregivers and a chef, but what about the monthly family gatherings, the intergenerational visits, the people who will providing the music and all the other activities they talk about when trying to sell their services. I am totally aware of the need for such places but I feel more care needs to be taken in regards to their location. This is disruptive to the neighboring people, especially the poor people whose driveway is directly across from 3727. It also decreases the value of the homes neighboring it.

I also want to mention this is the second business visibly operating out of a home in a 2 block area. I am talking about the brick home on the east side of Shady Oak next to the pond and Hwy 7.

I needed to put in my 2 cents even though I know how these things go and the city will allow it as they did with the Lone Lake Mountain Bike Trail.

Sincerely,

Mary Jo Brouillard

From: [Patricia Haeg](#)
To: [Drew Ingvalson](#)
Subject: 3727 Shady Oak Rd
Date: Tuesday, February 25, 2020 12:18:33 PM

I'd like to let you know that my husband and I are opposed to the care home facility being situated in a residential neighborhood. We are particularly concerned with the increase in traffic. It is unrealistic to believe that there will only be 4 cars in the driveway at a time with all the services they intend to provide.

We also feel there should be a sign on the property stating what the proposed project is so people are aware of it.

Thank you,

William and Patricia Haeg
3744 Shady Oak Rd

From: Jackson Tomlinson
Sent: Thursday, February 27, 2020 8:42 PM
To: Drew Ingalson
Subject: SPIRIT Care Homes

Hi Drew,

We spoke on the phone Monday about the SPIRIT Care Homes project. I am writing you to voice my concerns about the project as filed with the city. Attached you will find a letter from the prospective developers which seems to contradict information provided in the application to the city. My wife and I specifically chose to plant our roots in this neighborhood because it is not a hub of commercial activity.

The application as written, we feel, is naively optimistic with regard to:

- 1. Negligible increase in traffic;** 12 individuals, 5 staff, 2 homeowners, along with regular deliveries in support of this commercial operation will absolutely increase traffic. The previous owners were a single family who did not run a senior care facility out of the home. To say that traffic will not increase as a result of what this conditional use permit allows is simply ignoring the obvious impact cramming 14 more people into the existing space will have on traffic.
- 2. Near non-existent use of emergency services.** In a letter to area residents, the developers have stated they expect 0.03 emergency services visits per resident per annum; 1 ambulance visit every 3 years ($0.03 \text{ visits} * 12 \text{ residents} * 12 \text{ months}$) seems wildly optimistic given the needs of the proposed residents.
- 3. Irreparable physical alterations limiting future use of the property.** As proposed in the application, the home will undergo substantial costly renovations to support this commercial endeavor which will render the home unusable for future use as a single-family home. We have great concern what is to become of the property should the commercial endeavor fail. No contingency plans are indicated in the proposal about what is to become of the property in the future should the trend of intimate luxury senior accommodations wane.
- 4. Overstating the adequacy of access and parking.** The application states that no modifications will be made to the home's driveway; as close neighbors we have witnessed many service vehicles struggle to enter/exit the property and navigate its unusually steep grade and narrow path to the home. This year alone we have witnessed several private snowplows slide off the steep embankment requiring a one or more tow trucks to assist in removal. Further more, if there are at times, 5 staff, 2 homeowners, service vehicles, and occasional visitors, the 7 available spots will be entirely inadequate. Should access and parking prove to be an issue, the developers will have no choice but to significantly alter the driveway from its current state.
- 5. Safety.** With no sidewalks and only a narrow shoulder on Shady Oak Rd, we are concerned for the safety of the proposed residents during excursions such as the walk club outlined in the weekly schedule. The only practical solution for excursions off the property will be to transport residents in vehicles further impacting traffic (see point 1).

Our concerns are voiced as committed, established residents of Minnetonka. The only beneficiaries of the proposal are those directly attached to the commercial endeavor, at the expense of the Huntingdon residents. Only negative impacts including traffic and lost opportunity to bring another family into the Huntingdon community are yielded from the approval of this permit. While we understand the need to provide comfortable and diverse housing to our seniors, the boutique luxury proposal in this application is not addressing the more pressing needs of affordable housing and will irreparably alter the fabric of our residential neighborhood.

Sincerely,

Jackson & Elizabeth Tomlinson

Dear neighbor,

We would like to introduce ourselves and bring you some information about our request for a conditional use permit to the City of Minnetonka. We have purchased a home in your neighborhood (3727 Shady Oak Rd) and we are planning on opening an **owner-occupied care home for elderly people with disabilities and/or dementia**.

First, we would like to give you some background to understand the increasing need for these types of homes. There are approximately 77 million baby boomers in America, every day 10,000 people turn 65 years old, every day 4,000 people turn 85 years old. By 2030, approximately one in five Minnesotans will be age 65 or older, and 70% of them will need assistance with activities of daily living (bathing, toileting, dressing, etc.). Currently, in the state of Minnesota there are **800 assisted living communities**, providing only **30,600 beds**.

As a physician and a nurse, we have experienced first-hand how difficult and stressful can be to find a high-quality place for a loved one. Our goal is to provide a *place* that they need as well as the compassionate *care* that they must receive. The solution is a home just like yours, in your own neighborhood, where they can receive all the care that they need: 24/7 awake staff, RN on call 24/7, dementia care, home cooked meals, housekeeping, laundry, physical therapy, aromatherapy, music therapy, and much more.

Second, I would like to address specifically any concerns that you may have about having a care home like this in your own neighborhood;

Will it look like a nursing home? No. The exterior character of the home will not change at all, and from the outside it will look just like any other home in the neighborhood. Only the inside will be remodeled to be senior friendly.

Will there be any parking on the street? No. We have plenty of off-street parking, and on-street parking will not be allowed at our care home.

Will traffic increase when the home is up and running? No. The residents that will live in our property are elderly disabled people and will not have a vehicle. Only the staff will commute to the home, this includes 2 caregivers during the day and one at night.

Will there be emergency vehicles coming frequently to the house? No. A care home like this receives .03 emergency runs per resident, per year in average.

Will there be people with dementia wandering on the neighborhood? No. Our care home will be a state-licensed facility, and by law all the perimeters have to be secured. If the residents are to be in the outdoor spaces, they will be supervised at all times.

Is the home safe? Yes. Our care home will have the highest standards in safety, including a fully automatic fire sprinkler system, surveillance cameras, secured access, remote monitoring services, locked medications and charts, safety pendants for residents, and more.

Third, if you are supportive of this project, it would really help if you could submit your comments to the city of Minnetonka at the following link: <https://www.minnetonkamn.gov/services/projects/planning-projects/spirit-care-homes>

Lastly, please do not hesitate to contact us if you have any other questions.

Ilitch Diaz-Gutierrez, MD
Ria Foslien, RN
505-818-7180
ilitchmd@gmail.com

Resolution No. 2020-

**Resolution approving a conditional use permit for licensed residential care facility at
3727 Shady Oak Road**

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

Section 1. Background.

1.01 Spirit Care Homes has requested a conditional use permit to operate a 7 to 12 person licensed residential care facility at 3727 Shady Oak Road.

1.02 The property is legally described as:

UNPLATTED 14 117 22 N 158 FT OF THE S 347 3/10 FT OF THAT PART OF THE SE 1/4 OF SW ¼ LYING E OF CO ROAD NO 61

1.03 On March 5, 2020, the planning commission held a public hearing on the proposal. The applicant was provided the opportunity to present information to the planning commission. The planning commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council deny the permit.

Section 2. Standards.

2.01 City Code §300.16 Subd. 2 outlines the general standards that must be met for granting a conditional use permit. These standards include:

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

- 2.02 City Code §300.16 Subd. 3(g) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:
1. 3,000 square feet of lot area for each overnight resident, based on proposed capacity;
 2. 300 square feet of residential building area for each overnight resident, based on proposed capacity;
 3. In R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:
 - a) The proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features; or
 - b) The applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.
 4. No external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;
 5. Traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:
 - a) In R-1 and R-2 districts, the use is not permitted on properties that gain access by private roads or driveways that are used by more than one lot;
 - b) The use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;

- c) The use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.
6. No on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;
7. All facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;
8. Landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;
9. Submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;
10. Submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and
11. Additional conditions may be required by the city in order to address the specific impacts of a proposed facility.

Section 3. Findings.

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

1. A 7-12 person licensed residential care facility is conditionally-permitted within the R-1 District. As such, the request to operate a 12-person licensed residential care facility within a home in the R-1 District is consistent with the intent of the ordinance.

2. The proposal is consistent with the goals, policies, and objectives of the 2030 comprehensive plan. The 2030 Comprehensive Plan notes the growing senior population within the city. Within the Housing Plan Chapter of the 2030 Comprehensive Plan, the city acknowledges that it must encourage development of a variety of housing types at various costs and rents to ensure housing for this population.
3. The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff. The use is not anticipated to have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.
4. The proposal has been reviewed by the city's building, engineering, planning, natural resources, and fire staff. The proposal is not anticipated to have an undue adverse impact on the public's health, safety, or welfare.

3.02 The proposal meets the specific conditional use permit standards outlined in City Code 300.16 Subd.3(g)

1. The subject property is 40,766 square feet in size. This area exceeds the 36,000 square foot area needed for 12 residents.
2. The residential care facility area of the home is 4,093 square feet in size, exceeding the 3,600 square feet required for 12 residents. Please note, the basement has not been included in this area as the applicant has proposed this area for a private residence and it will not be used as part of the residential care facility.
3. No new additions are being proposed that would increase the square footage of the subject home. However, the subject property's FAR is 0.13, which is less than the largest FAR within the area (0.21).
4. No external building improvements are proposed that would alter the original, residential character of the home.
5. The subject property currently has a driveway that only the subject home uses for access. The property is located on Shady Oak Road, major collector and county roadway, which prohibits street parking. The subject property includes a three-stall garage and has outdoor parking spaces for at least four vehicles. City code limits outdoor vehicle parking to four vehicles at any time, excluding vehicles of occasional guests who do not work or reside on the property. The seven parking spaces would limit traffic on site while still accommodating the residents, staff and limited guests expected on the site.
6. The subject property is located on Shady Oak Road, which prohibits on street parking. The property includes a three-stall garage and outdoor parking for at least four vehicles. The applicant indicates that

drivers/parkers at the proposed 12-resident facility would include:

- Two day time care givers,
- One chef,
- One night caregiver;
- Facility manager (only on site intermittently), and
- Residents of the basement unit.

As proposed, residents are not allowed to have vehicles on the premises and all other vehicles frequently visiting the site (delivery services of food, medication, mail etc.) will be on site for no more than an hour, so they have not been included in this list. The existing garage and proposed driveway could accommodate all of these drivers/parkers even if they were all to be on site at the same time.

7. As a condition of this resolution, the facility must conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;
8. The subject property is bordered by vegetation to the north, south, east and west. In addition, there is a privacy fence along the south side of the property. The subject home is located over:
 - 120 feet from Baker Road;
 - 140 feet from the northern home;
 - 75 feet from the eastern home; and
 - 125 feet from the southern home.

The existing vegetation and physical separation create adequate buffering from the subject structure, which is not being exteriorly altered, and neighboring homes.

9. The applicant has submitted detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity.
10. No new construction, excluding the ramp and egress window well, or exterior building/site changes are being proposed.

Section 4. City Council Action.

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

1. Prior to occupancy by more than six care facility residents:
 - a) This resolution must be recorded with Hennepin County.

- b) The facility must be licensed by the Minnesota Department of Human Services or Minnesota Department of Health to provide care to up to 12 people.
 - c) The facility must be brought into compliance with all requirements of the Minnesota state building code, fire code, and health code.
 - d) The applicant must apply for and receive a lodging and food license from the City of Minnetonka.
- 2. The applicant must apply for a permit to complete the egress window wells and ramp.
 - 3. The basement of the home may only be used as a private residence. If the property owner wishes to incorporate any part of the basement into the residential care facility area of the home, an amendment to this condition use permit is required.
 - 4. The property must comply with all provisions of City Code §845, Public Nuisances.
 - 5. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - 6. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 5, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on March 5, 2020.

Becky Koosman, City Clerk

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description	Preliminary plat, with lot width at setback variance, for FRETAM 29 th ADDITION at 16856 Sherwood Road
Recommendation	Recommend the city council adopt the resolution denying the plat, with variance

Introduction

The subject property is located at the end of the Sherwood Road cul-de-sac. Roughly half of the 1.58-acre lot is considered buildable, situated outside of wetland and associated floodplain areas. The property is generally wooded; trees include several large oak and hackberry. The property is improved with a single-family home, constructed in 1954, and a detached garage.

Proposal

Curt Fretham is proposing to divide the property into two, single-family residential lots. The existing home and garage would remain and a new home would be constructed to the east. The proposal requires approval of a preliminary plat, with lot width at setback variance:

	Lot Area*	Lot Width at Right-of-Way	Lot Width at Setback	Lot Depth	Buildable Area*
Required	22,000 sq.ft.	65 ft	110 ft	125 ft	3,500 sq.ft.
Lot 1	22,055 sq.ft.	75 ft	110 ft	125 ft	4,465 sq.ft.
Lot 2	46,880 sq.ft.	65 ft	96 ft	340 ft	3,965 sq.ft.

* all numbers rounded down to nearest 5 sq.ft.

Primary Questions and Analysis

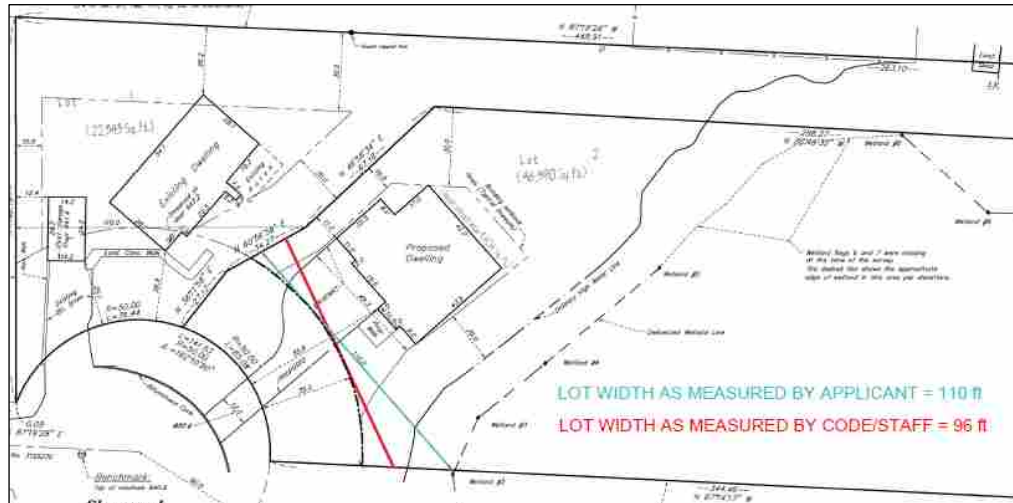
A land-use proposal is comprised of many details. These details are reviewed by members of the city's economic development, engineering, fire, legal, natural resources, planning, and public works departments and divisions. These details are then aggregated into a few primary questions or issues. The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

- **Are minimum subdivision standards met?**

No. The subdivision ordinance outlines minimum area and dimensional standards for properties zoned R-1, low-density residential. One standard requires that lots zoned R-1 be a minimum of 110 feet width at the required front yard setback.¹ In the case of lots on Sherwood Road, the required front yard setback is 35 feet.

¹ Area and dimension standards differ by zoning classification. The subject property is zoned R-1.

The plan submitted by the applicant suggest that the proposed lots would be 110 feet in width. However, the width measurement illustrated on the plan is not taken at the required 35-foot front yard setback. Rather, it is taken 70 feet from the front property line. This measurement location is contrary to both the direction outlined in code and to the city's historical practice of measuring lot width. Proposed Lot 2 requires a lot width at setback variance from 110 feet to 96 feet.



- **Is a variance standard met?**

No. If a subdivision does not meet minimum area and dimensional standards – requiring a variance – the city has discretion in the approval or denial of the plat. The subdivision ordinance states that a variance “may be granted, but is not mandated,” when an applicant meets the burden of proving that:

1. Reasonable Use. The proposed variance is 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. Unique Circumstance. 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. Character of Neighborhood. The variance would not adversely affect or alter the essential character of the neighborhood.²

It is staff's opinion that the lot width at setback variance would not meet the variance standard.

² City Code §400.55

1. Reasonable Use. The lot width variance is not reasonable. Rather, it would simply allow for construction of an additional home in the Sherwood Road neighborhood. Such construction may benefit the property owner, but it would not objectively improve the appearance or stability of the neighborhood. Instead, it would result in grading, tree removal, and increased impervious surface adjacent to a wetland.
2. Unique Circumstance. There is no circumstance inherently unique to the property justifying the variance. Rather, the variance is based on the applicant's desire to create two lots on a property that is simply not wide enough.
3. Character of Neighborhood. The requested variance and resulting lot would not be characteristic of the surrounding area. There are 10 properties located on, and taking their primary access from, Sherwood Drive. All of the lots, including the subject property in its current configuration, meet or exceed the 110-foot lot width requirement.

Staff Recommendation

Recommend that the city council adopt the resolution denying the preliminary plat, with lot width at setback variance, for FRETAM 29th ADDITION at 16856 Sherwood Road

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

Supporting Information

Surrounding Land Uses

The subject property is surrounded by single-family homes, zoned and guided for low-density residential use.

Site Conditions: Existing

Topography

The northwest corner of the subject property is the highest point of the lot. From this point, grade falls roughly 22 feet to the large wetland and associated floodplain located southeast of the existing home.

Wetland and Floodplain

The wetland partially located on the property is classified as a Manage 1 wetland. The plans submitted by the applicant suggest that a wetland delineation has been completed. However, to date, the delineation document has not been submitted for natural resources staff review and confirmation. Field confirmation can only occur during the growing season. A 100-year floodplain extends upland from the floodplain edge.

Trees

The property contains 19 high priority trees and 44 significant trees.³

Site Conditions Proposed

Topography/Grading

The general grading plan submitted by the applicant suggests that two to six feet of fill would be placed to accommodate construction of the new home and driveway.

Wetland and Floodplain

No fill or excavation would occur within the wetland or 100-year floodplain area. The new home and driveway would meet setback requirements from the wetland, as indicated on the plan, and the floodplain.

³ By City Code §300.28 Sub.19(b):

- A high priority tree is generally defined as a tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards: (1) a deciduous tree that is at least 15 inches diameter except certain species; (2) a coniferous tree that is at least 20 feet in height, except certain species; or (3) a tree that is in a group of deciduous trees that are at least eight inches diameter or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street.
- A significant tree is generally defined as a tree that is structurally sound and healthy and that is either a deciduous tree at least eight inches diameter or a coniferous tree at least 15 feet in height.

Trees

Based on the general grading plans submitted, the following tree removal would be anticipated.⁴

	Existing	Removed
High Priority	19	6 or 32%
Significant	44	3 or 7%

This level of tree removal/impact would be allowed under the Tree Protection Ordinance. During property subdivision, the ordinance limits removal/impact to 35% of high priority trees.

Utilities

Public utilities are available in Sherwood Road.

R-1A Zoning

The narrative submitted by the applicant includes discussion of R-1A zoning. During early conversations with city staff, applicant representatives asked whether R-1A zoning would be appropriate as the majority of existing lots on Sherwood Road are under 22,000 square feet in size. R-1A zoning of the subject property would allow for smaller lot size and width.

By city code, the city may consider rezoning a property to R-1A when:

1. The proposed R-1A development will be appropriately integrated into existing and proposed surrounding development; and
2. Either of the following is met:
 - At least 60 percent of existing lots within 400 feet of the proposed R-1A development, and along 1,000 feet on both sides of street on which the proposed development is located, have lot areas less than the R-1 standards as outlined in city code section 400; or
 - All lots within the R-1A development will be served by a new street.

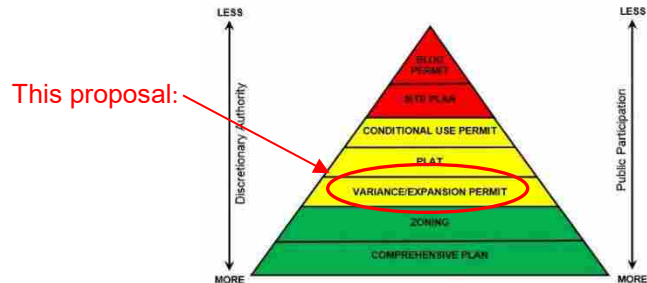
Staff indicated to the applicant that it would not support a rezoning. While it is true that the existing lots on Sherwood Road are under 22,000 square feet in size, all of the lots meet or exceed the required 110-foot lot width. The FRETAM 29th lots would be the opposite; both would be over 22,000 square feet in size, but one lot would be under the required width. In staff's opinion, R-1A zoning would not allow for new development to be integrated into the existing

⁴ By City Code §300.28 Subd.19(f)(3)(d), a tree is considered removed if 30% or more of the critical root zone of is compacted, cut, filled or paved.

neighborhood, instead it would simply allow for lesser lot widths eliminating the need for a lot width variance.

While the applicant include information related to R-1A in the project narrative, the current proposal does not include a rezoning request.

Pyramid of Discretion



Voting Requirement

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

Motion Options

The planning commission has three options:

1. Concur with the staff recommendation. In this case a motion should be made recommending the city council adopt the resolution denying the preliminary plat with lot width at setback variance.
2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council approve the proposed plat. This motion must include a statement as how the variance standard is met.
3. Table the request. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Neighborhood Comments

The city notified 59 property owners of the proposed subdivision and received seven written comments to date. See attached.

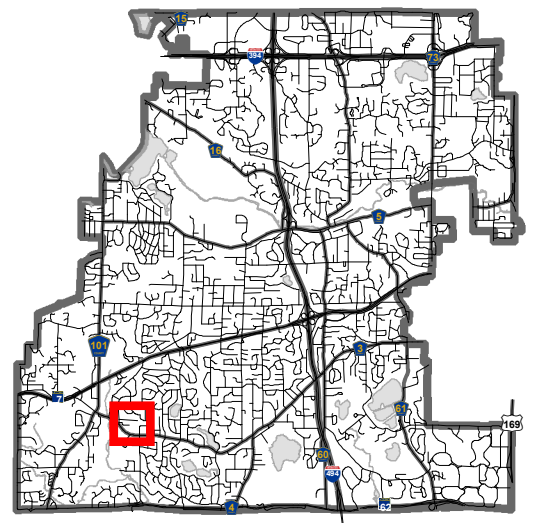
Deadline for Action

May 18, 2020



Location Map

Project: Fretham 29th Addition
Address: 16856 Sherwood Rd



LEGAL DESCRIPTION:

That part of the North 165 feet of the South 1/4 of the SE 1/4 of the SW 1/4 Section 29, Township 117, Range 22, lying East of the West 624 feet thereof and lying West of the Southerly extension of the West line of Lot 13, Block 1, Sjoberg's Second Addition, Hennepin County, Minnesota.

SCOPE OF WORK & LIMITATIONS:

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- While we show the building setback lines per our client, we suggest you show this survey to the appropriate city officials to be sure that the setback lines are shown correctly. Do this BEFORE you use this survey to design anything for this site.
- We show a proposed division of the property. Please review the proposal to see that it is what you intend and submit to those governmental agencies that have jurisdiction to obtain their approvals, if you can, before making any decisions regarding the property.
- Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.
- Note that all building dimensions and building tie dimensions to the property lines, are taken from the siding and or stucco of the building.

STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes iron survey marker, set, unless otherwise noted.

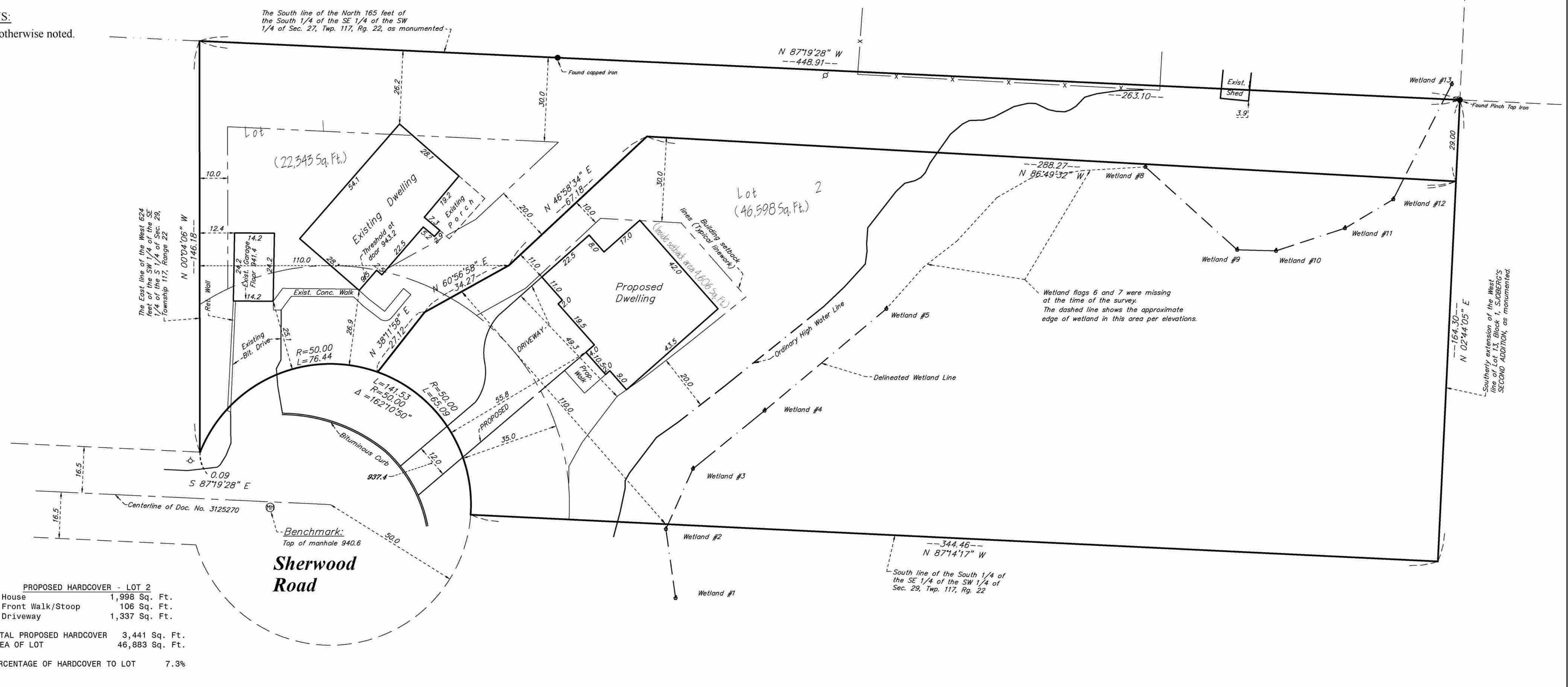
PRELIMINARY PLAT

FRETHAM 29TH ADDITION

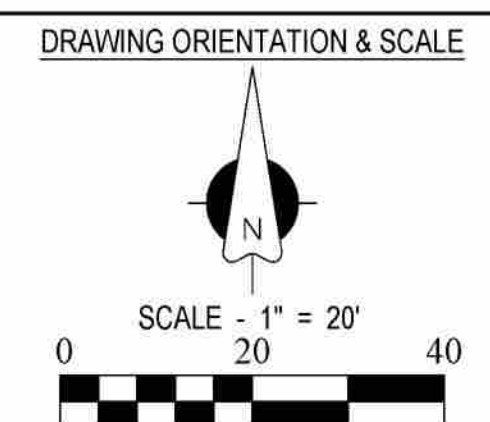
LEGEND

	= CATCH BASIN
	= GAS METER
	= FIRE HYDRANT
	= POWER POLE
	= MANHOLE
	= TELEPHONE PED.
	= ELEC. TRANSFORMER
	= WELL
	= GATE VALVE
	= LIGHT POLE
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	= FENCE LINE
	= SANITARY SEWER LINE
	= WATER LINE
	= GAS LINE
	= STORM DRAIN LINE
	= OVERHEAD UTILITY LINE
	= CONCRETE SURFACE

EXISTING HARDCOVER - LOT 1		PROPOSED HARDCOVER - LOT 2	
House	1,596 Sq. Ft.	House	1,998 Sq. Ft.
Garage	342 Sq. Ft.	Front Walk/Stoop	106 Sq. Ft.
Bit. Driveway	498 Sq. Ft.	Driveway	1,337 Sq. Ft.
Concrete Areas	178 Sq. Ft.		
Porch	228 Sq. Ft.		
Ret. Wall	35 Sq. Ft.		
TOTAL EXISTING HARDCOVER	2,877 Sq. Ft.	TOTAL PROPOSED HARDCOVER	3,441 Sq. Ft.
AREA OF LOT	22,057 Sq. Ft.	AREA OF LOT	46,883 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	13.0%	PERCENTAGE OF HARDCOVER TO LOT	7.3%



DATE	REVISION DESCRIPTION



CLIENT NAME / JOB ADDRESS

LAKE WEST DEVELOPMENT

16856 SHERWOOD ROAD

MINNETONKA, MN

Advance
Surveying & Engineering, Co.

17917 Highway 7
Minnetonka, Minnesota 55345
Phone (952) 474-7964
Web: www.advsur.com

I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Thomas M. Bloom

Thomas M. Bloom
42379
LICENSE NO.
SEPTEMBER 9, 2019
DATE

DATE SURVEYED: JUNE 14, 2019

DATE DRAFTED: JUNE 17, 2019

SHEET TITLE

PRELIMINARY PLAT

DRAWING NUMBER

190328 TB

SHEET SIZE 22 X 34

SHEET NO.

S1

SHEET 1 OF 1

LEGAL DESCRIPTION:

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- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
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PRELIMINARY PLAT

FRETHAM 29TH ADDITION

GRADING & EROSION CONTROL NOTES:

BEFORE DEMOLITION AND GRADING BEGIN:

- Install silt fence/bio roll around the perimeter of the construction area.
- Sediment control measures must remain in place until final stabilization has been established and then shall be removed. Sediment controls may be removed to accommodate short term construction activity but must be replaced before the next rain.
- A temporary rock construction entrance shall be established at each access point to the site and a 6 inch layer of 1 to 2 inch rock extending at least 50 feet from the street into the site and shall be underlain with permeable geotextile fabric. The entrance shall be maintained during construction by top dressing or washing to prevent tracking or flow of sediments onto public streets, walks or alleys. Potential entrances that are not so protected shall be closed by fencing to prevent unprotected exit from the site.
- Contractor shall install inlet protection on all existing storm sewer inlets in accordance with the city standard details. Inlet protection shall also be provided on all proposed storm sewer inlets immediately following construction of the inlet. Inlet protection must be installed in a manner that will not impound water for extended periods of time or in a manner that presents a hazard to vehicular or pedestrian traffic.

DURING CONSTRUCTION:

- When dirt stockpiles have been created, a double row of silt fence shall be placed to prevent escape of sediment laden runoff and if the piles or other disturbed areas are to remain in place for more than 14 days, they shall be seeded with Minnesota Department of Transportation Seed Mixture 22-111 at 100 lb/acre followed by covering with spray mulch.

- A dumpster shall be placed on the site for prompt disposal of construction debris. These dumpsters shall be serviced regularly to prevent overflowing and blowing onto adjacent properties. Disposal of solid wastes from the site shall in accordance with Minnesota Pollution Control Agency requirements.
- A separate container shall be placed for disposal of hazardous waste. Hazardous wastes shall be disposed of in accordance with MPCA requirements.
- Concrete truck washout shall be in the plastic lined ditch and dispose of washings as solid waste.
- Sediment control devices shall be regularly inspected and after major rainfall events and shall be cleaned and repaired as necessary to provide downstream protection.
- Streets and other public ways shall be inspected daily and if litter or soils has been deposited it shall promptly be removed.
- If necessary, vehicles, that have mud on their wheels, shall be cleaned before exiting the site in the rock entrance areas.
- Moisture shall be applied to disturbed areas to control dust as needed.
- Portable toilet facilities shall be placed on site for use by workers and shall be properly maintained.
- If it becomes necessary to pump the excavation during construction, pump discharge shall be into the stockpile areas so that the double silt fence around these areas can filter the water before it leaves the site.

- Temporary erosion control shall be installed no later than 14 days after the site is first disturbed and shall consist of broadcast seeding with Minnesota Department of Transportation Seed Mixture 22-111 at 100 lb/acre followed by covering with spray mulch.
- Erosion control measures shown on the erosion control plan are the absolute minimum. The contractor shall install temporary earth dikes, sediment traps or basins and additional silt fencing as deemed necessary to control erosion.

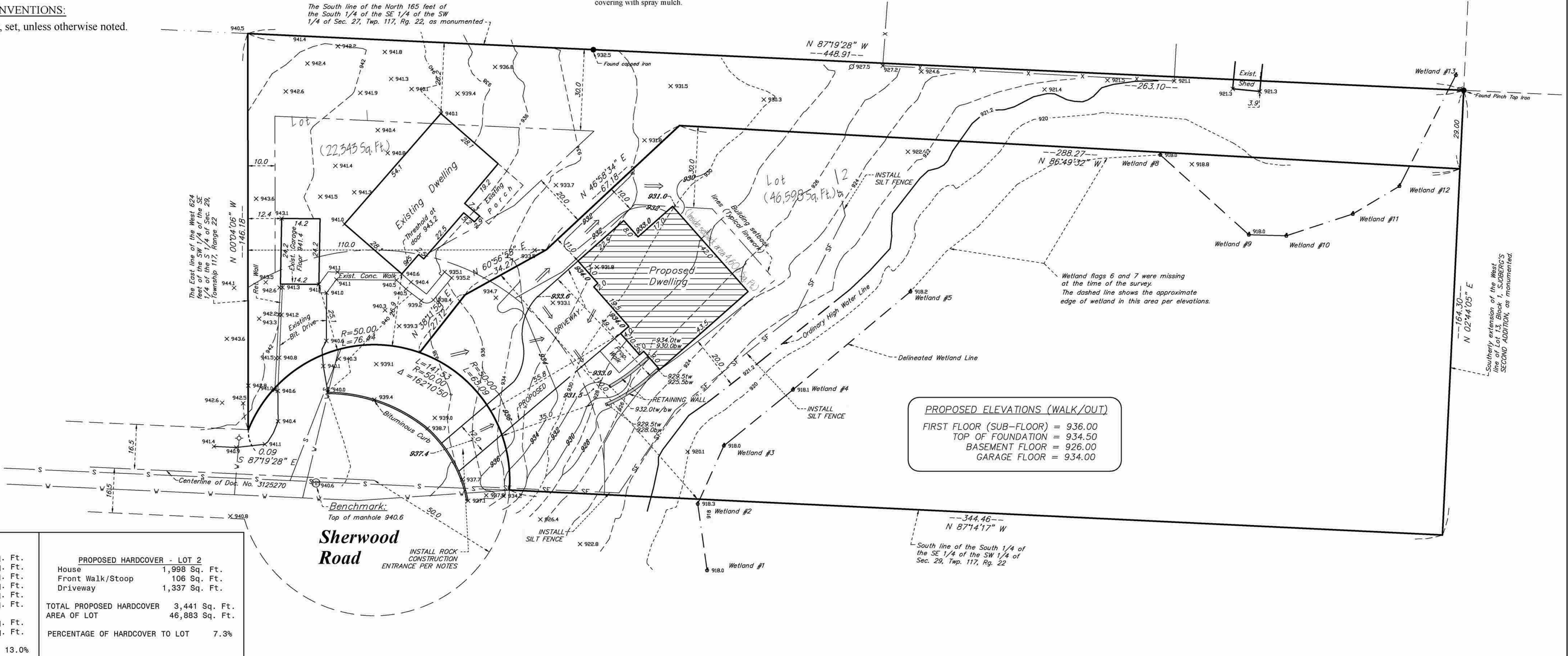
SITE WORK COMPLETION:

- When final grading has been completed but before placement of seed or sod an "as built" survey shall be done per City of Minnetonka requirements to insure that grading was properly done.
- When any remedial grading has been completed, sod or seeding shall be completed including any erosion control blankets for steep areas.
- When turf is established, silt fence and inlet protection and other erosion control devices shall be disposed of and adjacent streets, alleys and walks shall be cleaned as needed to deliver a site that is erosion resistant and clean.
- Contractor shall maintain positive drainage of a minimum 2% slope away from proposed building.

LEGEND

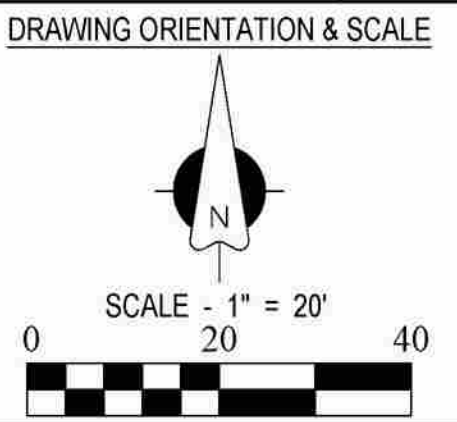
- CATCH BASIN
- GAS METER
- FIRE HYDRANT
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- TELEPHONE PED.
- ELEC. TRANSFORMER
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- CONCRETE SURFACE

EXISTING HARDCOVER - LOT 1		PROPOSED HARDCOVER - LOT 2	
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TOTAL EXISTING HARDCOVER	2,877 Sq. Ft.		
AREA OF LOT	22,057 Sq. Ft.		
PERCENTAGE OF HARDCOVER TO LOT	13.0%		



PROPOSED ELEVATIONS (WALK/OUT)
 FIRST FLOOR (SUB-FLOOR) = 936.00
 TOP OF FOUNDATION = 934.50
 BASEMENT FLOOR = 926.00
 GARAGE FLOOR = 934.00

DATE	REVISION DESCRIPTION



CLIENT NAME / JOB ADDRESS

LAKE WEST DEVELOPMENT
 16856 SHERWOOD ROAD
 MINNETONKA, MN

Advance
 Surveying & Engineering, Co.

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I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Thomas M. Bloom
 # 42379
 LICENSE NO.
 SEPTEMBER 9, 2019
 DATE

DATE SURVEYED: JUNE 14, 2019

DATE DRAFTED: JUNE 17, 2019

SHEET TITLE
PRELIMINARY PLAT

DRAWING NUMBER
190328 TB

SHEET SIZE **22 X 34**

SHEET NO.
S2

SHEET 1 OF 1

LAKE WEST

DEVELOPMENT, LLC

January 20, 2020

Drew Ingvalson
Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Written Statement for 16856 Sherwood Rd Subdivision Request

Mr. Ingvalson,

I would like to request Preliminary Plat approval in order to redevelop the property at 16856 Sherwood Road in Minnetonka, MN. This submittal proposes subdividing the property into 2 single family lots.

The project is comprised of one parcel of 1.58 acres (68,995 sf) and is served by Sherwood Road (approx. 800 ft in length), terminating at the end of its cul-de-sac. The property slopes generally to the Southeast towards a wetland. The City of Minnetonka has reviewed the site as too small to be regulated as Woodland Preservation Area and provided Lake West with direction for tree inventory, which we have agreed to and provided the Tree Inventory and Tree Preservation Plan per their direction.

The original intent of the project was to re-zone to R-1A as stated in its purpose:

“To continue and promote a diversity of housing by providing a single-family alternative to the R-1 zoning district. Development within this district may occur at densities not exceeding three dwelling units per acres. ”

The subdivision fit within the R-1A designation by way of the district standards to its neighboring properties (i.e., lot area, lot width, and setbacks). However, City staff has directed us away from re-zoning to R1-A. The proposed subdivision meets R-1 standards without asking for any variances or re-zoning to R-1A.

If there is any additional information I can provide, please advise.

Sincerely,

Curt Fretham
952-653-1345
curtf@lwestdev.com

Attachments

16856 Sherwood Rd - 400' Radius

PID	SF	ACRES	ZONING	OWNER	ADDRESS	CITY_STATE_ZIP
29-117-22 34 0003	14,436	0.33	R-1		17026 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0004	19,301	0.44	R-1		17018 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0005	19,298	0.44	R-1		17000 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0008	95,808	2.20	R-1		34 ADDRESS UNASSIGNED	MINNETONKA MN 00000
29-117-22 34 0009	29,404	0.68	R-1		16861 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0012	16,796	0.39	R-1		17015 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0029	34,388	0.79	R-1		17019 CLEAR SPRING TER	MINNETONKA MN 55345
29-117-22 34 0030	24,653	0.57	R-1		17001 CLEAR SPRING TER	MINNETONKA MN 55345
29-117-22 34 0031	24,763	0.57	R-1		16917 CLEAR SPRING TER	MINNETONKA MN 55345
29-117-22 34 0032	33,024	0.76	R-1		16909 CLEAR SPRING TER	MINNETONKA MN 55345
29-117-22 34 0033	24,764	0.57	R-1		16901 CLEAR SPRING TER	MINNETONKA MN 55345
29-117-22 34 0034	29,641	0.68	R-1		5238 CLEAR SPRING DR	MINNETONKA MN 55345
29-117-22 34 0035	33,888	0.78	R-1		5246 CLEAR SPRING DR	MINNETONKA MN 55345
29-117-22 34 0046	15,787	0.36	R-1		17026 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0048	15,600	0.36	R-1		17014 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0049	15,450	0.35	R-1		17002 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0050	15,495	0.36	R-1		16860 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0051	15,540	0.36	R-1		16848 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0052	15,585	0.36	R-1		16836 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0053	15,630	0.36	R-1		16824 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0054	15,353	0.35	R-1		16812 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0055	23,487	0.54	R-1		16800 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0056	19,306	0.44	R-1		16803 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0058	4,211	0.10	R-1		34 ADDRESS UNASSIGNED	MINNETONKA MN 00000
29-117-22 34 0059	15,033	0.35	R-1		16823 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0060	15,033	0.35	R-1		16835 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0061	15,033	0.35	R-1		16847 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0062	15,033	0.35	R-1		16859 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0063	15,033	0.35	R-1		17001 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0064	15,033	0.35	R-1		17013 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0065	15,033	0.35	R-1		17025 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0066	17,486	0.40	R-1		17037 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0068	53,523	1.23	R-1		16811 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0071	201	0.00	R-1		34 ADDRESS UNASSIGNED	MINNETONKA MN 00000
29-117-22 34 0072	20,664	0.47	R-1		17027 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0073	16,846	0.39	R-1		17003 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0075	15,512	0.36	R-1		17038 PATRICIA LA	MINNETONKA MN 55345
29-117-22 34 0076	21,477	0.49	R-1		17049 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 43 0011	21,981	0.50	R-1		5330 SCENIC HEIGHTS DR	MINNETONKA MN 55345
29-117-22 43 0018	22,012	0.51	R-1		5337 SCENIC HEIGHTS DR	MINNETONKA MN 55345
29-117-22 43 0069	20,311	0.47	R-1		5308 OAK DR	MINNETONKA MN 55345
29-117-22 43 0070	37,567	0.86	R-1		5300 OAK DR	MINNETONKA MN 55345
32-117-22 12 0017	19,091	0.44	R-1		5401 SCENIC HEIGHTS DR	MINNETONKA MN 55345
32-117-22 21 0045	45,236	1.04	R-1		34 ADDRESS UNASSIGNED	MINNETONKA MN 00000
32-117-22 21 0046	42,816	0.98	R-2		34 ADDRESS UNASSIGNED	MINNETONKA MN 00000
32-117-22 21 0047	39,781	0.91	R-2		16820 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0059	20,151	0.46	R-2		16826 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0060	20,109	0.46	R-2		16824 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0061	19,014	0.44	R-2		16834 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0062	19,963	0.46	R-2		16832 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0067	6,267	0.14	R-2		17130 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0068	18,609	0.43	R-2		17136 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0069	33,730	0.77	R-2		16920 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0071	35,845	0.82	R-2		16912 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0072	30,672	0.70	R-2		17008 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0073	20,454	0.47	R-2		17120 EXCELSIOR BLVD	MINNETONKA MN 55345
32-117-22 21 0074	12,869	0.30	R-2		17124 EXCELSIOR BLVD	MINNETONKA MN 55345
TOTAL ROWS	57					
R-1 Lot Area Req.	22,000					
Below	38	67%				
Above	19	33%				
TOTAL	57					

Proposed R-1A Development						
29-117-22 34 0006	68,995	1.58	R-1		16856 SHERWOOD RD	MINNETONKA MN 55345

* R-1A Applicability Standards (b)(1)

At least 60 percent of existing lots within 400 feet of the proposed R-1A development, and along 1000 feet *on both sides of the street on which the proposed development is located*, have lot areas less than the R-1 standards as outlined

16856 Sherwood Rd - 1000 ft*

PID	SF	ACRES	1000 SF	ZONING	OWNER	ADDRESS	CITY_STATE_ZIP
29-117-22 34 0003	14,436	0.33	Y	R-1		17026 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0004	19,301	0.44	Y	R-1		17018 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0005	19,298	0.44	Y	R-1		17000 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0009	29,404	0.68	Y	R-1		16861 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0012	16,796	0.39	Y	R-1		17015 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0072	20,664	0.47	Y	R-1		17027 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0073	16,846	0.39	Y	R-1		17003 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0076	21,477	0.49	Y	R-1		17049 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0067	25,475	0.58	Y	R-1		17050 SHERWOOD RD	MINNETONKA MN 55345
29-117-22 34 0077	17,524	0.40	Y	R-1		17055 SHERWOOD RD	MINNETONKA MN 55345
TOTAL ROWS	10						
R-1 Lot Area Req.	22,000						
Below	8	80%					
Above	2	20%					
TOTAL	10						

1,000 Road Radius							
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Proposed R-1A Development							
29-117-22 34 0006	68,995	1.58		R-1		16856 SHERWOOD RD	MINNETONKA MN 55345

* R-1A Applicability Standards (b)(1)

At least 60 percent of existing lots within 400 feet of the proposed R-1A development, and along 1000 feet *on both sides of the street on which the proposed development is located*, have lot areas less than the R-1 standards as outlined in the city code section 400.

February 20, 2020

Ms. Susan Thomas, AICP
Assistant City Planner
City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Re: Fretham 29th Addition proposal

Dear Ms. Thomas:

Thank you for the opportunity to provide comments on the Fretham 29th Addition project. As a nearby neighbor, there are two areas of concern that I have:

- *Change in the neighborhood character*
Our neighborhood contains a large amount of mature trees—especially on the lot of the proposed project. This project would likely remove most of the trees on that lot between grading and the construction. I understand this project does not trigger any tree preservation; however, the removal of so many trees in this proposal should be considered.

Additionally, the since it is likely larger homes will be built on these properties this would also change the character. Our neighborhood is a neighborhood of well-kept 1950's era rambler homes with relatively modest square footages. New homes are likely to be significantly larger square footages and therefore out of character with the existing neighborhood.

- *Request for a variance*
In the proposal, the applicant is requesting a variance for lot width at setback. Per City Code 400.055, the applicant must prove three standards for a variance to be considered. In reviewing the standards, it does not appear that the applicant has met all three of these standards—in particular standard b.

The circumstances that the applicant is asking for relief from are being precipitated by his desire to subdivide the lot. The majority, if not all properties, in the neighborhood—including the property in its existing form, meet the lot width at setback standard. Therefore, the circumstances here are not unique for the property and are also not unique for the neighborhood. Additionally, the variance request is needed because of the applicant's desire to subdivide and sell the lot(s)/house(s) which is solely an economic consideration.

Thank you again for your time and consideration.

Sincerely,


James Durbin
17015 Sherwood Road
Minnetonka, MN 55345

Susan Thomas

From: Oestenstad's
Sent: Wednesday, February 26, 2020 8:44 AM
To: Kissy Coakley
Cc: Susan Thomas
Subject: Fretham 29th Addition

Dear Kissy Coakley,
City Council Member District 4

We are disturbed by the proposal to divide the lot on Sherwood Road into 2 lots. We live on the cul-de-sac of Patricia Lane to the north. One reason those of us with homes in the vicinity were attracted to the area is due to the large number of beautiful mature trees. We love being able to look out of our office at our little patch of woods and see all the birds and wildlife. Likewise, the proposed new house plot sits right in the middle of another beautiful little patch of woods. The people adjacent to this property bought their houses in part due to the beautiful setting afforded by those trees and natural areas. It is disturbing to see the possibility of the city approving cutting down most of those trees in order for 1 developer to make a nice profit, as well as the city to pad its tax base.

The property is a low area and we imagine would require a lot of fill. To build this close to a swamp area makes no sense. With rainfall at a maximum in recent years, many people in the area have had soggy basements. Why build where this is likely to happen? Also, adding more driveway space to the area just adds to the potential of harmful run-off into the swamp and more flooding.

Many birds, deer, fox, squirrels, coyotes, ducks, and even turkeys make their homes in this area and other natural areas in our community. Wood ducks nest nearby. Unfortunately, due to the development of the city to increase their tax base and population, these areas are becoming fewer and fewer for the wildlife, which deserve to live here too.

Please consider this opinion carefully when making your decisions.

Thank you.
Betty & Larry Oestenstad
16800 Patricia Lane

Susan Thomas

From: MILLER MILLER
Sent: Wednesday, February 26, 2020 9:58 AM
To: Susan Thomas; Kissy Coakley
Subject: Lot division Fretham 29th

To whom it may concern,

As someone who lives across the swamp from the proposed build, I am taken aback that this would even be considered as an option. I honestly feel the city already overstepped its boundaries by approving a building site off of excelsior blvd literally right up to the pond/marsh. I get that more housing is needed as the city grows, but reaching into a large wetland like this that filters and rehabilitates all the rain runoff from several neighborhoods seems excessive and frankly, out of bounds. My kids watch 8-10 deer bed down in the marsh every night and 4 dozen wood ducks and mallards each spring. We snowshoe through the area in the winter. What happened to protecting wetlands? This feels, looks and smells like a money grab and not a concern from the city at housing options for all. What I want to know is what is behind this? Last year, you approve the twin home on excelsior blvd, this year you split lots and start filling in the marsh, what is coming next? Minnetonka should save money through reducing layers of its administration, not chopping down forests to add tax revenue streams. Please think about the decisions you make and the ENTIRE impact those decisions make.

Thanks,

John Miller
16811 Patricia Lane

Susan Thomas

From: Kevin Hughes
Sent: Wednesday, February 26, 2020 6:04 PM
To: Susan Thomas
Subject: Fretham 29th addition

Dear Ms. Thomas,

We recently received notice in the mail regarding the Subdivision of said property, 16856 Sherwood Road. My wife Cathy and I Purchased our home at 16835 Patricia Lane 28years ago. One of the great points in making this our forever home was the unobstructed view the the Wetland directly behind our home. The Wetland here is a very intrical part of our community. It not only serves as a filter for the ground water, But also is a sanctuary for the wildlife in the area and is very active all times of the year. The area also serves as an Educational place for the children in the neighborhood and also a prior generation that grew up here. With a little luck many more to come.

So you can understand now why we are so nonplussed at why someone would try to cram two structures onto a very small parcel of land especially when a majority falls within the floodplain of the wetland. This is marginalizing what is being pressured the most, "The Wetland". We are absolutely NOT in favor of this said proposal. We instead favor a renovation/Flip of the existing property. This will insure proper aesthetics that meet the look of the rest of our neighborhood and Mr. Curt Fretham can still make a profit. Thank you for your time.

Respectfully, Kevin and Cathy Hughes

Sent from my iPad

Susan Thomas

From: Kimberly Miller
Sent: Wednesday, February 26, 2020 8:18 PM
To: Susan Thomas; Kissy Coakley
Subject: Fretham 29th Addition - 16856 Sherwood Road

February 26, 2019

City of Minnetonka
Planning Division
14600 Minnetonka Blvd.
Minnetonka, MN 55345

RE: Fretham 29th Addition - 16856 Sherwood Road

Dear City of Minnetonka Council Members:

I am writing to express my concern over the proposed plan to divide the property located at 16856 Sherwood Road to build a 4,600+ SF single family residence on the subdivided lot. My primary concern is upsetting the existing wetland located behind where the proposed build is set to be constructed. There is a great deal of wildlife that lives in that area including many deer, owls, red foxes, etc. This wetland is greatly valued by the residents that reside on Patricia Lane, as it offers them to not only enjoy the wildlife in a natural setting from the rear views of their properties. I am concerned that building this large structure will drive out many of the animals that take residence in this area. It will also obstruct the view for some of the Patricia Lane residents to enjoy the beautiful natural setting, which was of great appeal to them when they originally purchased their homes. The house that is proposed to be built is also very disproportionate in size to the neighborhood it is proposed to be constructed in, and I believe will be an eyesore for the existing residents on Sherwood Road. All of those homes were built in the 1960 and 70's, and constructing such a large home has the potential to cause the neighborhood to lose the charm of their existing exterior elevations.

Thank you for your time in considering the many negative effects the plan to build in this location may have to this appreciated natural area. Minnetonka's wetland areas are highly valued by this community and disrupting them can have detrimental effects to its wildlife.

Kind regards,

Kim Miller
16811 Patricia Lane
Minnetonka, MN 55345

Susan Thomas

From: Beth Boal
Sent: Thursday, February 27, 2020 9:07 AM
To: Kissy Coakley
Cc: Susan Thomas
Subject: Fretham 29th Addition

Dear Kissy Coakley,

Thank you for your service to our community. We wanted to let you know we would be very very sad if the wetland behind our house turned into a large home. We care deeply about the need for affordable housing in our community, but believe the build of a large home only contributes to the widening gap of access to affordable housing in our community. If a large home was there we would be so sad to see this natural resource.... home to many birds, owls, deer, fox, squirrels, coyotes, ducks, and even turkeys disturbed. In addition, the property is a low area and would require a lot of fill. With rainfall at a maximum in recent years, many people in the area have had soggy basements.

We hope you consider this before proceeding in approving this proposal.

Thank you,

Eric and Beth Boal

16859 Patricia Lane

Susan Thomas

From: Carl Breczinski
Sent: Thursday, February 27, 2020 9:58 AM
To: Kissy Coakley; Susan Thomas
Cc: Erin Breczinski
Subject: Comments on Fretham 29th Addition

Dear City of Minnetonka Planning Commission and City Council members:

We are writing to express concern with the application for variance for the subdivided lot size at 16856 Sherwood Road (Fretham 29th Addition). This property is located directly south of our home at 16847 Patricia Lane. We're asking that the requested variance for lot size for subdivision of this property be denied.

If this property is subdivided and a new home is constructed on the property, it would have a negative effect on the neighborhood. After learning that the plan is to remove 31% of the existing high priority trees from this lot, I am especially concerned. If this is 31% of the total high priority trees on the entire lot (including the wetland area) there would be very little tree cover left on the usable portion of the lot surrounding the home. This lot would be comprised primarily of the wetland area with a very small usable yard – without a decent sized yard with trees, it would not fit the neighborhood. I also believe the change would be harmful to the wildlife populations that call the wetland and woods home which is one of the perks we enjoy about our property.

Further, if this lot is subdivided, the resulting lots will have very little usable outdoor space. Although the yards of existing homes in this area are not huge, every property does have a meaningful amount of usable lawn area in our yards. The proposal to subdivide the lot would result in both the existing house and the new house having almost no usable yard which would not be in keeping with the rest of the neighborhood.

We are also concerned that a home built directly behind ours will lower our home's value because the beautiful wooded view we now enjoy will be replaced with a view of a large home. We purchased this specific home for the views of the wetland, trees, and the wildlife. We also chose this home due to the privacy that not having a house behind ours provides. We did not believe, based on the zoning and the property features, that it would be possible to build a house on the property directly behind ours.

Finally, we do not feel that a new home fits the personality of our neighborhood with its homes built in the 1950's and 1960's. Building a new, large home does not benefit our neighborhood in any way and it would be incongruous to the current neighborhood aesthetic.

If you have any questions or comments please do not hesitate to contact us.

Best regards,

Carl and Erin Breczinski
16847 Patricia Lane

Resolution No. 2020-

**Resolution denying the preliminary plat, with lot width at setback variance,
for FRETAM 29th ADDITION at 16856 Sherwood Road**

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

Section 1. Background.

1.01 The property is located at 16856 Sherwood Road. It is legally described as:

That part of the North 165 feet of the South 1/4 of the Southeast 1/4 of the Southwest 1/4 Section 29, Township 117, Range 22, lying East of the West 624 feet of thereof and lying West of the Southerly extension of the West line of Lot 13, Block 1, Sjoberg's Second Addition, Hennepin County, Minnesota

1.02 Curt Fretam has requested approval of the FRETAM 29th ADDITION preliminary plat. The plat would divide the subject property into two lots. The plat requires a lot width at setback variance from 110 feet to 96 feet.

1.03 On March 5, 2020, the planning commission held a hearing on the proposed plat. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council deny the preliminary plat, with lot width variance.

Section 2. General Standards.

2.01 City Code §400.030 outlines general design requirements for residential subdivisions. These standards are incorporated by reference into this resolution.

2.02 City Code §300.02 defines lot width at setback as the horizontal distance between side lot lines as measured at the required front yard setback established by this ordinance.

2.03 By City Code §400.055, a variance to the 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.

Section 3. Findings.

3.01 The proposed preliminary plat does not meet the standards for residential subdivisions as outlined in City Code §400.030. The plat requires a lot width at setback variance.

3.02 The applicant has not meet the burden of proof for approval of variance as outlined in City Code §400.055.

1. Reasonable Use. The lot width variance is not reasonable. Rather, it would simply allow for construction of an additional home in the Sherwood Road neighborhood. Such construction may benefit the property owner, but it would not objectively improve the appearance or stability of the neighborhood. Instead, it would result in grading, tree removal, and increased impervious surface adjacent to a wetland.
2. Unique Circumstance. There is no circumstance inherently unique to the property justifying the variance. Rather, the variance is based on the applicant's desire to create two lots on a property that is simply not wide enough.
3. Character of Neighborhood. The requested variance and resulting lot would not be characteristic of the surrounding area. There are 10 properties located on, and taking their primary access from, Sherwood Drive. All of the lots, including the subject property in its existing configuration, meet or exceed the 110-foot lot width requirement.

Section 4. Council Action.

4.01 The above-described preliminary plat, with lot width at setback variance, is hereby denied based on the findings outlined in Section 3 of this resolution.

Adopted by the City Council of the City of Minnetonka, Minnesota, on March 23, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on March 23, 2020.

Becky Koosman, City Clerk

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description Ordinance amending the zoning ordinance and subdivision ordinances relating to appeals.

Recommendation Recommend the city council adopt the ordinance.

Background

The zoning and subdivision ordinances outline the procedure for appealing decisions of the city planner, city engineer, and the planning commission:

- Any person aggrieved by a decision of the city planner or city engineer may appeal the decision to the planning commission. The appeal must be submitted in writing within 10 days of the date of the decision.
- Similarly, any person aggrieved by a final decision of the planning commission may appeal the decision to the city council. The appeal must be submitted in writing within 10 days of the date of the decision.

Neither the zoning nor subdivision ordinances include any provision for appealing a decision of the city council. In other words, there is no appeal period – or time limit – under which an aggrieved party may file legal action against the city. The Minnesota Supreme Court referenced an ordinance-defined appeal period in a recent zoning decision.

Proposal

Staff is proposing an amendment to the zoning and subdivision ordinances, establishing that a person may appeal a final decision to Hennepin County District Court within 60 days of the written notice of the decision of the city council.

Staff Comment

The proposed amendment would not require any change to the “post-decision” administrative processes. Staff already provides copies of signed resolutions/ordinances – approving or denying applications – following meetings. Neither would the amendment prevent an applicant from moving forward on a project approved by the city. Rather, the amendment would simply establish a timeframe under which a person or group opposed to a zoning or subdivision decision may appeal a decision to the courts. The 60 day deadline reflects the deadline established by the Minnesota Rules of Civil Appellate Procedure.

Staff Recommendation

Recommend the city council adopt to the ordinance amending the zoning ordinance and subdivision ordinances relating to appeals.

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

Ordinance No. 2020-

**An Ordinance amending sections 300.04 and 400.065 of the Minnetonka City Code,
relating to appeals from final city decisions on zoning and subdivision applications**

The City of Minnetonka Ordains:

Section 1. Section 300.04(6) of the Minnetonka City Code is amended to read as follows:

6. Appeals.

- a) Any person aggrieved by a decision of the planning commission regarding an application on which the decision of the planning commission may be final may appeal such decision to the city council. The appeal shall be submitted in writing within 10 days of the date of the decision or the decisions stands. Upon appeal, the city council shall consider the request within 90 days unless an extended period is agreed with the appellant. The city council may reverse the decision of the planning commission by an affirmative vote of two-thirds of its full membership.
- b) A person aggrieved by a decision of the city planner or the city engineer that is made under the authority of this ordinance may appeal such decision to the planning commission. The appeal must be submitted in writing within 10 days of the date of the decision. A person aggrieved by a decision of the planning commission regarding such appeal may appeal the decision of the planning commission to the city council. The appeal must be submitted in writing within 10 days of the decision. The city council may reverse the decision of the planning commission by an affirmative vote of at least two-thirds of its full membership.
- c) In any matter in which the planning commission's decision is not final but is a recommendation to the city council, the city council may adopt, modify or reject the recommendation of the planning commission by vote of a simple majority of those present, unless otherwise required by this ordinance.
- d) A person aggrieved by a final city decision on any application made under this chapter 3 may seek judicial review by filing an action with the Hennepin County District Court within 60 days after the date that the city provides written notice of the final decision to the applicant.
- e) Any applicant who obtains a building permit, starts construction, begins a use in reliance upon the decision of the planning commission, or any combination of those activities, prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city the applicant will be notified of the appeal and informed as to the date of the city council meeting where it will be heard.

Section 2. Section 400.065 of the Minnetonka City Code is amended by changing the title of the

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

section to read as follows:

Section 400.065. Violations; Penalties; Appeals.

Section 3. Section 400.065 of the Minnetonka City Code is amended by adding a new subdivision 5, to read as follows:

5. Appeals.

A person aggrieved by a final city decision on any application made under this chapter 4 may seek judicial review by filing an action with the Hennepin County District Court within 60 days after the date that the city provides written notice of the final decision to the applicant.

Section 4. This ordinance is effective upon passage.

Adopted by the city council of the City of Minnetonka, Minnesota, on March 23, 2020.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: Feb. 24, 2020

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

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

Becky Koosman, City Clerk

Minnetonka Planning Commission Meeting

Agenda Item 9

Other Business

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description	Election of Planning Commission Officers
Recommendation	Hold an election for the positions of Chair and Vice Chair

Background

The Planning Commission Bylaws state that the commission shall have officers consisting of a chair and a vice chair. The officers shall be elected for a one-year period at the first meeting in March of every year. If there is no quorum at the first regular meeting in March, the election shall be held at the next regular meeting having a quorum. Officer roles are:

- Chair: The chair shall preside over all meetings of the commission. If the chair and vice chair are absent, the commission members present shall designate one of themselves to serve as chair.
- Vice Chair: The vice chair shall perform all the duties of the chair in the absence of the chair.

Planning commission officers for 2019 were Brian Kirk, who served as chair and Josh Sewell, who served as vice chair. Brian Kirk left the planning commission to begin serving as a councilmember in January. The planning commission roster for 2020 includes:

- Josh Sewell
- John Powers
- Matt Henry
- Megan Luke
- Alex Hanson
- Amanda Maxwell
- David Waterman

Staff Recommendation

Hold an election for the positions of Chair and Vice Chair.

Originator: Loren Gordon, AICP, City Planner

MINNETONKA PLANNING COMMISSION
March 5, 2020

Brief Description Review of the planning commission's bylaws and policies

Recommendation Readopt the bylaws and policies

Introduction

The planning commission's bylaws require that the commission review its bylaws and policies each year. The current bylaws and policies are attached.

Comments

Although the planning commission adopts the bylaws and policies each year, changes to the bylaws and policies are not proposed every year. In 2018, the planning commission adopted the following policy changes:

- The inclusion of "expansion permits" in the policy considerations.
- The addition of "dimensional standards" when considering undersized lots.
- The addition of considerations for volume additions that don't increase the building floor area or building height. An example would be dormer and bay window additions.

In 2019, staff proposed no changes but there was some interest in a policy regarding front yard porches. Although the commission did not adopt a policy change at that time, staff suggested this could be reviewed in the future.

The commission's bylaws contain policies for house additions which would include porches. Specifically, items 2 and 5 below could be applicable in reviewing porch setback variances. Alternatively, specific policies for porches could be adopted. Garages are a specific property improvement with policies that apply to all properties as they are improvements to accommodate vehicles typical to residential properties. Porches depend more on a specific home design and may not be customary to all structures.

B. House Additions

1. *Reasonable use of property is considered in light of general City-wide development standards.*
2. *Variances and expansion permits to allow setback intrusion are considered in light of reasonable use as long as the variance or expansion permit is limited to the greatest extent practicable.*
3. *Variances and expansion permits are considered in light of providing room additions of functional size with adequate internal circulation.*
4. *Variances and expansion permits that do not increase the floor area or building height are considered reasonable use.*

5. *The configuration and position of the existing house is considered when reviewing variance and expansion permit requests.*
6. *The proposed addition should be designed to conform to development constraints of the property.*
7. *Variances and expansion permits are considered in light of mature tree location and preservation opportunities.*

Commissioners should review the bylaws and policies and advise staff of any suggested changes. There are no proposed changes to the planning commission bylaws or policies for 2020.

Staff Recommendation

Readopt the bylaws and policies.

Originator: Loren Gordon, AICP, City Planner

CITY OF MINNETONKA PLANNING COMMISSION BYLAWS

ARTICLE I - GENERAL

The Minnetonka Planning Commission is established under City Code section 300.04 and Minnesota State Statutes Annotated section 462.354, subdivision 1(2).

ARTICLE II - PURPOSE

The commission is appointed by the City Council to assist and advise the City Council in the administration of the City Zoning Ordinance, Guide Plan and Subdivision Ordinance: to conduct public hearings upon matters as required by the provisions of City Code, section 300, and on any other matters referred by the City Council.

ARTICLE III - MEETINGS

Section I. Regular Meetings

The regular meetings of the commission will be held at the offices of the City of Minnetonka, located at 14600 Minnetonka Boulevard. The meeting schedule will be as designated on the official city calendar. All meetings will be open to the public, except as otherwise provided by law.

The planning commission meeting will convene at 6:30 P.M. and conclude no later than 11:00 P.M. unless a majority of the members present vote to continue the meeting beyond 11:00 P.M. for a single item. Items not covered by 11:00 P.M. will be automatically continued to the next planning commission meeting and given priority placement on the agenda.

Before opening a public hearing, the chair will ask for a presentation from the applicant. The chair will then open the public hearing. At larger public hearings, the chair will request a presentation from any neighborhood representatives. Following that, the chair will ask for comments from any other members of the public. The chair will encourage the applicant and neighborhood representatives to limit their presentations to about fifteen minutes each. The chair will encourage other public speakers to limit their time to about eight minutes, so everyone has time to speak at least once. However, time limits will be at the discretion of the chair. Once everyone has spoken, the chair may allow speakers to return for additional comments. The public hearing will remain open until the chair determines that all information and statements have been heard. The chair may then close the public hearing and limit discussion to members of the commission.

The voting order shall be alphabetical according to the last name of each commissioner. The voting order shall rotate alphabetically at each planning commission meeting. The presiding officer shall always vote last.

Section II. Special Meetings

A special meeting may be held when deemed necessary by four members of the commission or by the request of the city council.

Section III. Quorums

At any duly called meeting of the commission, a majority of the active members shall constitute a quorum.

Section IV. Agendas

An agenda for each meeting shall be prepared by the Planning Department for the City in cooperation with the chair. The agenda shall be delivered to all members of the commission along with supporting data on the Friday before the next regular meeting.

The commission may continue consideration of any scheduled item when supportive material for that item has not been delivered to the members five (5) full business days before the meeting at which it is considered.

The city planner shall add items to the consent agenda that he or she considers to be routine. The planning commission shall hold one public hearing and then approve all such items with one motion. Before voting on the consent agenda, the chair will open the hearing, announce each item and ask if anyone wishes to have a separate discussion or vote on that item. If so, the commission will then remove that item from the consent agenda and hold a separate hearing on it after voting on the consent agenda items. There will be no staff presentation or discussion by the public or commission on the items remaining on the consent agenda. However, the chair may allow informational questions without removing an item from the consent agenda. Items approved under the consent agenda are approved subject to the staff recommendations.

Section V. Voting

Any vote that requires a two-thirds majority shall be based on the current planning commission membership, excluding any vacant positions. Members present must vote on all agenda items, unless disqualified because of a conflict of interest under the City's Code of Ethics or State law.

ARTICLE IV - OFFICERS

Officers of the commission shall consist of the chair and a vice chair. The officers shall be elected for a one-year period at the first meeting in March of every year. If there is no quorum at the first regular meeting in March, the election shall be held at the next regular meeting having a quorum.

- A. Chair: The chair shall preside over all meetings of the commission. If the chair and vice chair are absent, the commission members present shall designate one of themselves to serve as chair.
- B. Vice Chair: The vice chair shall perform all the duties of the chair in the absence of the chair.
- C. Secretary: The Secretary is a non-elected member of the Planning Department staff. The secretary shall keep an accurate account of meetings and proceedings of meetings, send written notices and agendas of all meetings to members, keep a policy file of all commission records and documents, and notify the city council in writing of all commission conclusions and recommendations.

ARTICLE V - CODE OF ETHICS

The planning commission members shall abide by the Code of Ethics established in Section 115 of the Minnetonka Code as amended from time to time. Additionally, no planning commissioner shall act as a representative for someone else for any planning or zoning item that comes before the Minnetonka Commission or Council. A planning commissioner may represent a planning or zoning item for their own property or property in which they have a real interest.

ARTICLE VI - PARLIAMENTARY PROCEDURE

The proceedings of the commission shall be governed by and conducted according to the latest rules of Roberts Rules of Order, as revised.

ARTICLE VII - AMENDMENTS

The commission shall review its bylaws and policies at the first meeting in March of each year. These bylaws may be amended or altered by a majority vote of the members of the commission at any regular or special meeting, having a quorum, provided the amendment was mailed or delivered to the commission members at least five days before the meeting.

Revised February 2008;
Readopted with changes March 3, 2011

CITY OF MINNETONKA PLANNING COMMISSION POLICIES

General Policies regarding specific types of variance and expansion permit requests:

The following policies are not intended to be hard and fast rules, since each variance or expansion permit 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 and expansion permits to allow setback intrusion are considered in light of reasonable use as long as the variance or expansion permit is limited to the greatest extent practicable.
3. Variances and expansion permits are considered in light of providing room additions of functional size with adequate internal circulation.
4. Variances and expansion permits that do not increase the floor area or building height are considered reasonable use.
5. The configuration and position of the existing house is considered when reviewing variance and expansion permit requests.
6. The proposed addition should be designed to conform to development constraints of the property.

7. Variances and expansion permits 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 and expansion permits are considered in light of the size and configuration of the structure so that the variance or expansion permit is limited to the greatest extent possible.
4. Variances and expansion permits are considered in light of impacts to adjoining properties.
5. Neighborhood characteristics may be considered for review of accessory attached structures.
6. Deck variances and expansion permits 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 and dimensional standards 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; March 1, 2018