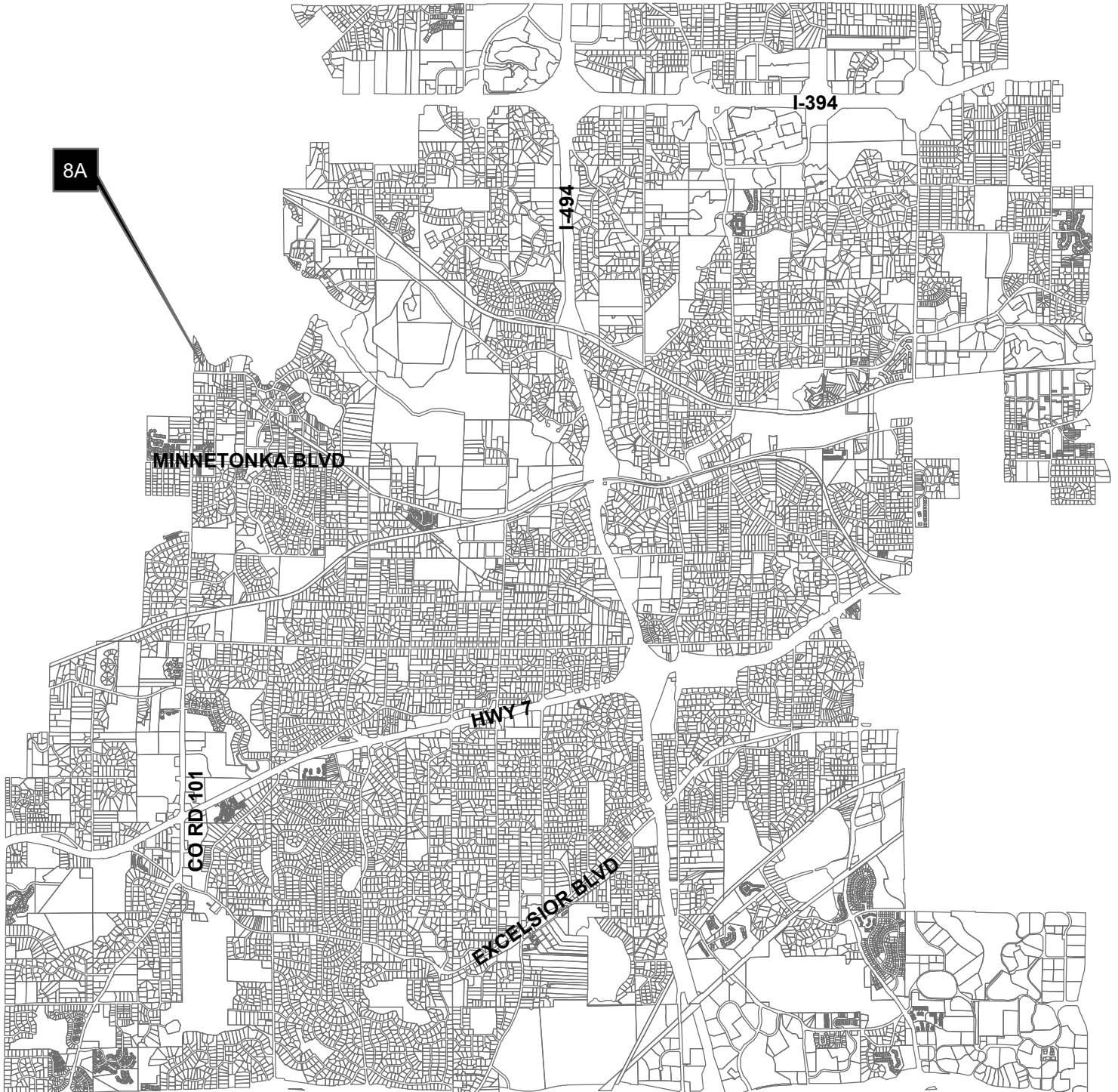




CITY OF
MINNETONKA

**CITY OF MINNETONKA
PLANNING COMMISSION
AUG. 20, 2020**

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





Planning Commission Agenda

Aug. 20, 2020 – 6:30 p.m.

Virtual Meeting via WebEx

Due to the COVID-19 health pandemic, the planning commission's regular meeting place is not available. Pursuant to Minn. Stat. § 13D.021, planning commission members will participate in the meeting remotely via WebEx. Members of the public who desire to monitor the meeting remotely or to give input or testimony during the meeting can find instructions at <https://www.minnetonkamn.gov/government/virtual-meeting-information>.

1. Call to Order

2. Roll Call

3. Approval of Agenda

4. Approval of Minutes: Aug. 6, 2020

5. Report from Staff

6. Report from Planning Commission Members

7. Public Hearings: Consent Agenda.

8. Public Hearings: Non-Consent Agenda Items

A. Items concerning a detached structure with an accessory apartment at 17502 Co Rd 101

Recommend the city council adopt the resolution approving the permit (4 votes)

- Recommendation to City Council (Aug. 31, 2020)
- Project Planner: Ashley Cauley

9. Adjournment

Planning Commission Agenda

Aug. 20, 2020

Page 2

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 Sept. 10, 2020 agenda.

Project Description	169 Underpass – FAP and WAP
Project Location	Hwy 169 and Smetana
Assigned Staff	Susan Thomas
Ward Councilmember	Brian Kirk, Ward 1

Project Description	Raden Residence, EXP
Project Location	4811 Acorn Ridge Road
Assigned Staff	Susan Thomas
Ward Councilmember	Kissy Coakley, Ward 4

Project Description	Meyer Residence – CUP
Project Location	17003 Sherwood Road
Assigned Staff	Ashley Cauley
Ward Councilmember	Bradley Schaeppi, Ward 3

Project Description	Choices Psychotherapy – CUP
Project Location	10201 Wayzata Blvd
Assigned Staff	Ashley Cauley
Ward Councilmember	Rebecca Schack, Ward 2

**Unapproved
Minnetonka Planning Commission
Virtual Meeting
Minutes**

Aug. 6, 2020

1. Call to Order

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

2. Roll Call

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

Staff members present: City Planner Loren Gordon, Assistant City Planner Susan Thomas, and Network Administrator Jeff Dulac.

3. Approval of Agenda

Hanson moved, second by Powers, to approve the agenda as submitted with a modification to item 7B, preliminary and final plat of Crest Ridge Corporate Center Second Addition at 10955 and 11055 Wayzata Blvd., provided in the change memo dated Aug. 6, 2020.

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

4. Approval of Minutes: July 9, 2020

Maxwell moved, second by Luke, to approve the July 9, 2020 meeting minutes as submitted.

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

5. Report from Staff

Gordon reported that the next regular planning commission meeting is scheduled to be held Aug. 20, 2020 and there will be a virtual bus tour for planning and economic development authority commissioners on Aug. 27, 2020.

6. Report from Planning Commission Members

Maxwell announced that Taco Theresa's is open, the site has ample parking, and she recommends the food.

7. Public Hearings: Consent Agenda

Dulac indicated that no one from the public was waiting to speak.

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

Waterman moved, second by Hanson, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows and with the modification made in the change memo dated Aug. 6, 2020:

A. Expansion permit for a garage addition at 4133 Windridge Circle.

Adopt the resolution approving the expansion permit for a garage addition at 4133 Windridge Circle.

B. Preliminary and final plat of Crest Ridge Corporate Center Second Addition at 10955 and 11055 Wayzata Blvd.

Recommend that the city council adopt the resolution and a modification provided in the change memo dated Aug. 6, 2020 approving the preliminary and final plats with a setback variance for Crest Ridge Corporate Center Second Addition at 10955 and 11055 Wayzata Blvd.

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

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

8. Public Hearings

A. Conditional use permit for a licensed daycare facility at 2000 Plymouth Road.

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

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

Powers asked how many parking stalls could be removed and the site still meet parking requirements. Thomas answered that 20 parking stalls could be removed and the site would still meet individual parking requirements for each use. Staff would be comfortable with removing more than 20 stalls due to some vacancies and the uses having different peak demand times for parking. The current plan would remove 18 parking stalls to accommodate an outdoor play area.

Waterman asked if locating the play area on the west side had been considered. He noted that picking up and dropping off a child would happen inside the building.

Natalia Pretelt, applicant, stated that:

- She appreciates the opportunity to address the commission.
- Both of her children went to the same type of daycare in Minneapolis. She is excited to start the same franchise.
- Locating the playground on the west side of the building was her first choice, but there was a slope that would have needed leveling and the franchise owners suggested that the east side would provide a better opportunity for drivers to identify the use as a daycare center since the playground would be more visible.
- She will be discussing with the franchise owner how to best handle dropping off and picking up children next week. Due to Covid, staff have been bringing children in and out of the building. Starting on Monday, one parent will be allowed to go in the daycare to drop off or pick up a child while wearing a mask.

In response to Powers' question, Ms. Pretelt stated that the doors would be locked and parents would have a key fob. There would also be video cameras.

Maxwell asked what type of fencing would be used around the outdoor play area. Ms. Pretelt explained that the project would adhere to the fence regulations required by the franchise business and the state which licenses daycare centers.

Chair Sewall asked if the large-motor-activity room would be large enough. Ms. Pretelt explained that the current plan shows that the large-motor-activity room would be 700 square feet, but the updated plans have increased the size of that room to 815 square feet. There would be no more than 20 children in the activity room at a time, so there would be plenty of room for activities.

The public hearing was opened. Dulac indicated that no one from the public was waiting to comment. No testimony was submitted and the hearing was closed.

Powers felt that this is the type of business Minnetonka needs. The proposal meets all of the conditional use permit requirements. He would rather see maximizing the outdoor space for the children than protecting the parking stalls for a potential future use. He thinks the west side would be a better location for the outdoor play area. The air conditioning units make noise on the east side.

Henry felt it would be a great addition. He wishes the applicants the best of luck with it. The Ridgedale Center area is becoming more of a village area which is good.

Waterman agreed. The proposal would be a great use for the space. It meets all of the conditional use permit standards. He supports staff's recommendation.

Maxwell supports the proposal. She was comfortable having the play area on the east side.

Luke felt the proposal would be a good use of the space. She wishes the applicant good luck with the business.

Hanson supports the proposal.

Chair Sewall was less concerned with parking. Vehicles cueing may be an issue. The drop-off-peak time may be a challenge, but it would be a quick in and out. He supports the proposal.

Maxwell moved, second by Powers, to recommend that the city council adopt the resolution approving the permit for a licensed daycare facility at 2000 Plymouth Road.

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

This item is scheduled to be reviewed by the city council on Aug. 31, 2020.

9. Adjournment

Luke moved, second by Henry, to adjourn the meeting at 7:10 p.m. Motion carried unanimously.

By: _____

Lois T. Mason
Planning Secretary

Minnetonka Planning Commission Meeting

Agenda Item 8

Public Hearing: Non-Consent Agenda

MINNETONKA PLANNING COMMISSION
Aug. 20, 2020

Brief Description

Items concerning a detached accessory structure, with an accessory apartment, at 17502 Co Rd 101:

- Conditional use permit, with an expansion permit, to increase the height of an existing detached structure to 17 feet; and
- Conditional use permit, with a locational variance, for an accessory apartment.

Recommendation

Recommend the city council approve the request

Proposal

The property at 17502 Co Rd 101 is roughly 34,000 square feet in size. The property contains a detached garage that is 525 square feet in size with a nonconforming setback of three feet.¹ The actual construction date of the garage is unknown but the garage appears in aerial photographs dated 1957, ten years prior to the adoption of the city's first zoning ordinance.

The property owner is proposing to remove the existing detached garage in order to construct a new garage. The garage would be located within the existing footprint, but the height would be increased to allow for an accessory dwelling unit above. The proposal requires:

- A conditional use permit, and expansion permit, to increase the height of a nonconforming detached structure to 17-feet.²
- A conditional use permit, with a locational variance, for an accessory dwelling unit.³



Detached garage

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 detached garage is considered non-conforming because it was constructed prior to the adoption of the city's first zoning ordinance.

² By City Code §300.10, Subd. 4, “accessory structures, except swimming pools, unless covered with an accessory structure, exceeding 12 feet in height or an aggregate of 1,000 square feet of gross floor area” are conditionally-permitted uses.

³ By City Code §300.10, Subd. 4(d), accessory apartments are conditionally permitted uses. By city code definition, an accessory apartment is located within the primary dwelling unit. As such, a locational variance to allow the unit to detach from the primary unit is required.

Primary Analysis

- Is the requested conditional use permit, and expansion permit, to allow a detached structure in excess of 12 feet reasonable?

Yes, the conditional use permit, and expansion permit, to increase the height of the garage to 17 feet is reasonable. The garage would be reconstructed within the footprint with the existing, nonconforming garage. The reconstructed garage would not encroach further into the required setback. The structure would comply with all of the standards outlined in city code for such structure. Those standards and staff's findings are outlined in the "Supporting Information" section of this ordinance.

- Is the requested conditional use permit, with a locational variance, to allow an accessory apartment reasonable?

Yes. The conditional use permit, with the locational variance, to allow an accessory apartment is reasonable, as:

1. The apartment would be 470 square feet in size, which is substantially less than what would be allowed by ordinance.
2. The apartment would comply with the specific conditional use permit standards outlined in city code for accessory apartments.
3. The locational variance would allow for reasonable use of a detached garage.
4. The apartment would maintain the visual characteristics of a detached garage and would be architecturally consistent with the future home.

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

Supporting Information

Project No. 20017.20a
Property 17502 Co Rd 101
Applicant Kathryn Alexander, on behalf of Alexander Design Group and the property owners

Surrounding and Subject Property

	Subject Property	North	South	East	West
Use	Single family residential home	Lake Minnetonka	Single family residential home	Single family residential home	Single family residential home
Zoning	R-1		R-1	R-1	R-1
Guide plan designation	Low density residential		Low density residential	Low density residential	Low density residential

Expansion Permit Vs. Variance

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.

By ordinance, staff could administratively approve a permit to reconstruct an accessory structure within the same footprint with the same mass and size as the existing structure. The applicant is proposing to remove the existing structure and construct a new, taller structure within the same footprint. An expansion permit is required to increase the height of the structure within the nonconforming front yard setback.

Impervious surface

By code, the maximum impervious surface requirements are as follows:

- No more than 30-percent within 150 feet of the ordinary high water level (OWHL) elevation of 929.4 feet.
- No more than 75-percent outside of 150 feet of the OHWL.

The survey does not accurately calculate the amount of existing and proposed impervious surface. Staff has quickly reviewed and calculate the amount of existing and proposed impervious surface and believes that it will be acceptable. However, as a condition of approval, the applicant must submit a revised survey.

Ordinance Standards

CITY CODE STANDARD		STAFF FINDING
		The proposal would meet the general conditional use permit standards as outlined in City Code §300.16, Subd. 2:
1.	The use is consistent with the intent of the ordinance;	
2.	The use is consistent with the goals, policies and objectives of the comprehensive plan;	
3.	The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and	
4.	The use does not have an undue adverse impact on the public health, safety and welfare	
		The proposal would meet the specific conditional use permit standards as outlined in City Code §300.16, Subd. 3(d) for accessory apartments:
1.	To be created only on property zoned for single family detached dwellings and no more than one apartment to be created in any dwelling.	The property is zoned R-1. The proposal includes only one accessory apartment.
2.	Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;	City Code defines a temporary absence as “establishing residence outside of the Twin Cities metropolitan area for a period not to exceed 12 months but during which period the subject property continues to be the applicant’s legal or principal residence. As a condition of approval, the property owners must sign a written statement agreeing to this standard.
3.	Adequate off-street parking to be provided for both units of housing with parking to be in a garage, carport, or on a paved area specifically intended for that purpose but not within a required turnaround;	Sufficient parking would be available onsite. The accessory apartment would be located over a two-car detached garage with additional parking available the driveway. The site plan suggests that a new home, with an attached, three car garage, would be built in the future.
4.	May be created by the conversion of living space within the house but not by the conversion of garage space unless space is	The accessory apartment would be constructed over a reconstructed, two-car garage. Additional garage space could

	available for a two car garage on the lot without the need for a variance.	be constructed on the property without a variance.
5.	An accessory apartment must be no more than 35-percent of the gross living area of the house or 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.	The apartment would be 470 square feet in size. This is significantly less than the code would allow.
6.	Exterior changes to the house must not substantially alter the single family character of the structure;	The reconstructed garage and apartment would have a single family character.
7.	No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;	Permits for the new structure will be required. Nonetheless, this has been included as a condition of approval.
8.	To be permitted only where it is demonstrated that the accessory unit not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and	The structure would not have an undue adverse impact on adjacent properties and would not substantially alter the character of the neighborhood.
9.	All other provisions of this ordinance related to single family dwelling units to be met, unless specifically amended by this subdivision.	But for the locational variance, the proposal would meet this requirement.
The proposal would meet the standards as outlined in City Code §300.16, Subd. 3(f) for detached garages in excess of 12 feet in height:		
1.	Side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;	The garage would meet the standard. The garage would have the following side and rear setbacks: <ul style="list-style-type: none"> • Western side yard setback: 22 feet • Rear yard setback: 238 feet • Eastern side yard setback: 63 feet

2.	No additional curb cuts to be permitted;	The property currently has three curb cuts. According to the proposed site plan, the current curb cut providing access to the detached garage would be removed pending approval by Hennepin County.
3.	Not to be used for commercial activities;	This has been included as a condition of approval.
4.	Structure to be architecturally consistent with the principal structure;	The new garage would be architecturally compliment the future home.
5.	Landscaping to be required to buffer views when the structure is highly visible from adjoining properties; and	Landscaping is included on the perspective images. This has been included in a condition of approval.
6.	Site and building plan subject to section 300.27 of this [zoning] ordinance.	The reconstructed garage would comply with site and building standards as outlined below.
The proposed garage would meet all site and building standards as outlined in City Code §300.27, Subd. 5.		
1.	Consistency with the elements and objectives of the city's development guides, including comprehensive plan and water resources management plan;	The subject property is zoned and guided for low density residential. As a detached garage is an allowed accessory use on residential property, the use is consistent with the city's development guides. Additionally, the proposal has been reviewed by the members of the city's planning, engineering, public works, and fires staff and found to be generally consistent with the city's development guides.
2.	Consistency with this ordinance;	But for the expansion permit and the locational variance, the proposal is consistent with the ordinance.
3.	Preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;	The new, taller garage would be located in the footprint of the existing garage and would not result in the removal of trees. The survey indicates that future site improvements include relocation of the

		driveway from the east to the west side of the property, grading and a new home.
4.	Creation of harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;	The reconstructed garage would be within the footprint of the existing garage, which has a non-conforming front yard setback. This is appropriately located.
5.	Creation of a functional and harmonious design for structures and site features, with special attention to the following: a. An internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community; b. The amount and location of open space and landscaping; c. Materials, textures, colors, and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and d. Vehicular and pedestrian circulation, including walkways, interior drives, and parking in terms of location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.	The reconstructed garage would not negatively impact the property's internal sense of order, amount of location and open space, materials, and circulation of the property.
6.	Promotion of energy conservation through design, location, orientation and	The structure would be required to meet energy

	elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and	standards as a new construction.
7.	Protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light, and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.	This has been included as a condition of approval.
The accessory apartment is not located within a principal structure. Rather, the apartment would be located within a reconstructed detached garage. The apartment would meet the variance standards as outlined in City Code §300.07, Subd. 1:		
1.	Purpose and intent of the zoning ordinance:	The intent of the zoning ordinance as it pertains to accessory apartments is to ensure that single-family residential properties on which apartments are created maintain the visual appearance of a single-family property. The structure, containing the apartment, would visually maintain the appearance of a single family detached garage and would not negatively impact the visual appearance of the single-family property.
2.	Consistent with the comprehensive plan:	Accessory apartments are consistent with the housing goals of the Comprehensive Guide Plan, as they add to the diversity of housing types, sizes, and prices in the community.
3.	Practical Difficulties a. Reasonableness:	The locational variance, would allow for an accessory apartment, which is a reasonable use on properties zoned for single family homes.

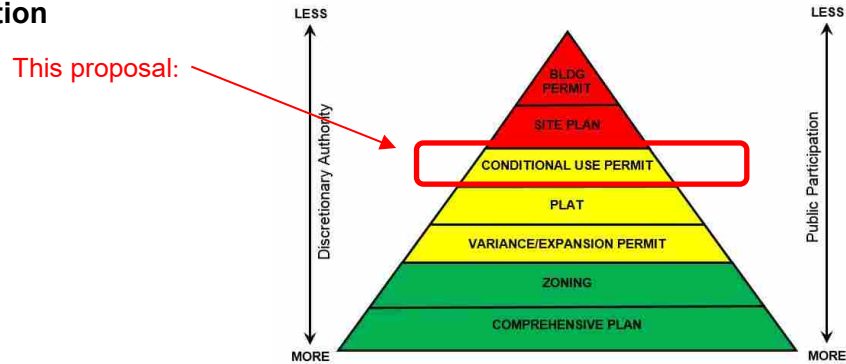
	b. Unique Circumstance:	The existing garage was built at least 10 years prior to the adoption of the city's first zoning ordinance with a three foot setback. This is a circumstance not unique to similarly zoned properties.
	c. Character of the locality:	The accessory apartment would be constructed over a reconstructed garage. While the garage would visually change, the garage would maintain the existing setback.
By city code, an expansion permit for non-conforming use may be granted, but is not mandated, when an applicant meets the burden of proving that:		
1.	The proposed expansion is reasonable use of the property, considering such things as: <ul style="list-style-type: none"> • Functional and aesthetic justifications for the expansions; • Adequacy of off-street parking for the expansion; • Absence of adverse off-site impacts from such things as traffic, noise, dust, odors and parking; • Improvement to the appearance and stability of the property and neighborhood; 	The reconstructed garage would be within the footprint of the existing garage. The garage would provide adequate off-street parking.
2.	The circumstances justifying the expansion are unique to the property, are not caused by the land owner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and	The detached garage, predates the city's first zoning ordinance by at least 10 years. The expansion permit would increase the height of the structure within the required setback, but the structure would not encroach further into the setback.
3.	The expansion would not adversely affect or alter the essential character of the neighborhood.	The expansion would not adversely impact the essential character of the neighborhood.

Natural Resources

Best management practices must be followed during the course of site preparation and construction activities. This would include

installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing. As a condition of approval the applicant must submit a construction management plan detailing these management practices.

Pyramid of Discretion



Voting Requirement

The planning commission will make a recommendation to the city council. A recommendation for approval requires an affirmative vote of a simple majority. The city council's approval requires an affirmative vote of five members, due to the parking variance.

Motion Options

The planning commission has three options:

1. Concur with staff recommendation. In this case, a motion should be made recommending the city council adopt the resolution approving the requests.
2. Disagree with staff's recommendation. In this case, a motion should be made recommending the city council deny the requests. This motion must include a statement as to why denial is recommended.
3. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

Neighborhood Comments

The city sent notices to 26 area property owners and received no comments to date.

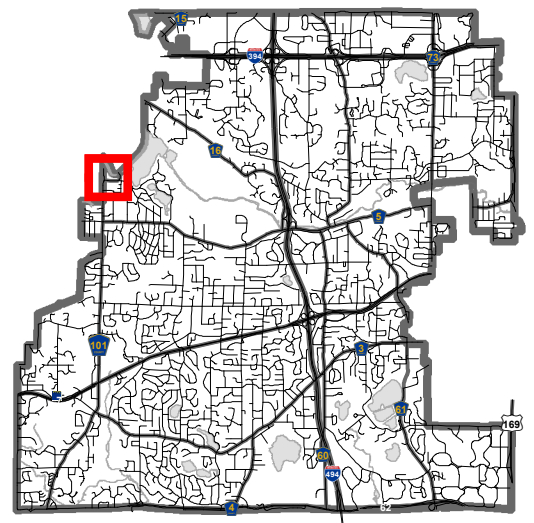
Deadline for Decision

Nov. 17, 2020



Location Map

Project: Rotsch Residence
 Address: 17502 Co Rd 101



Members of the Planning Commission & City Council,

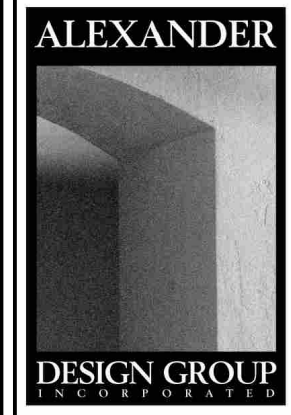
We are requesting a CUP for the garage we want to rebuild in the same location on our property.

Our plan is to build a new residence on our property and we would like the detached garage to be rebuilt and match the architecture of the new home. It would be the exact same footprint and location as the one that is there now. We are looking to move the garage door off of Hwy. 101 so as to provide safer ingress and egress from the road. We are also wanting the roof pitches to be steeper and interesting so to coordinate with the main house and allow us to have a caretaker unit above the garage.

Thankyou in advance for your time,

Jeff & Chris Rotsch

Kathryn Alexander



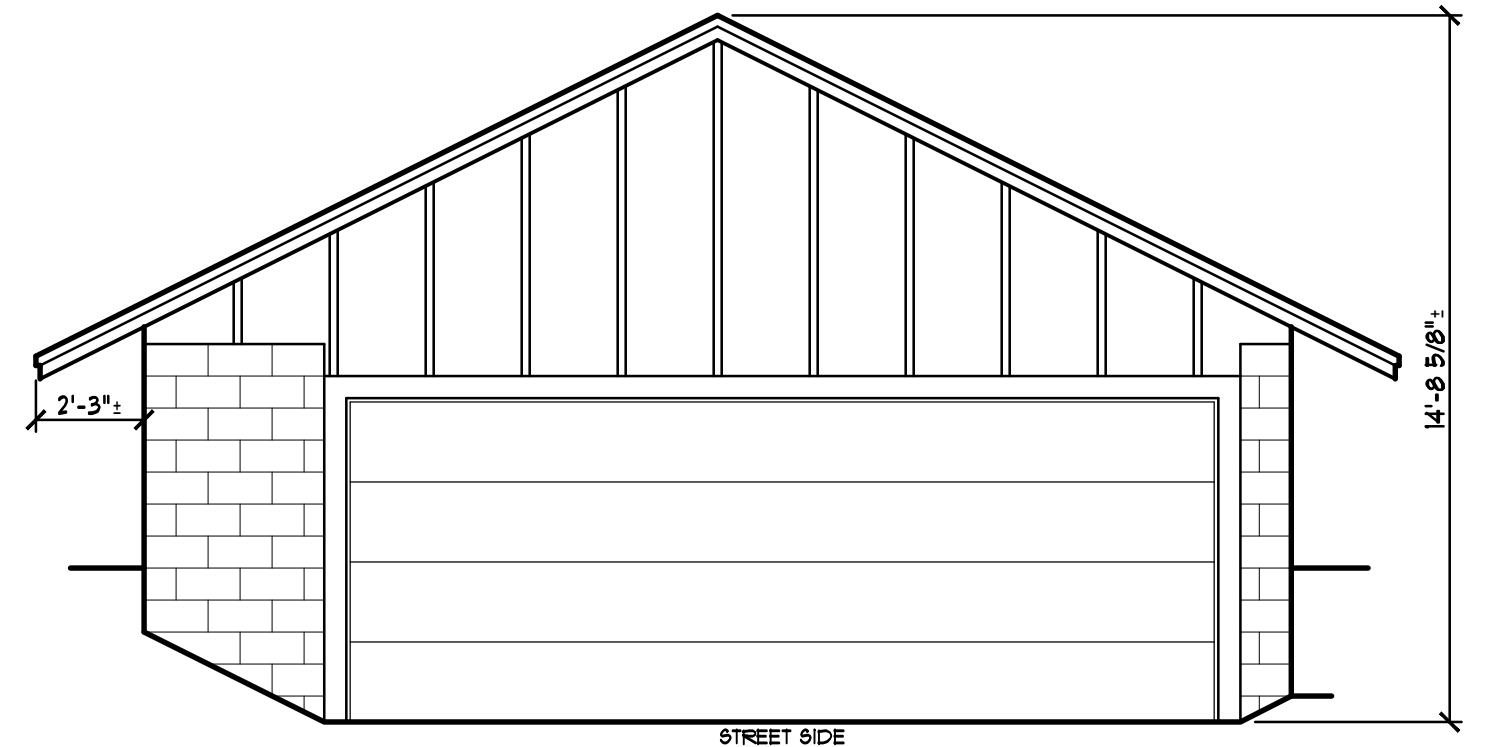
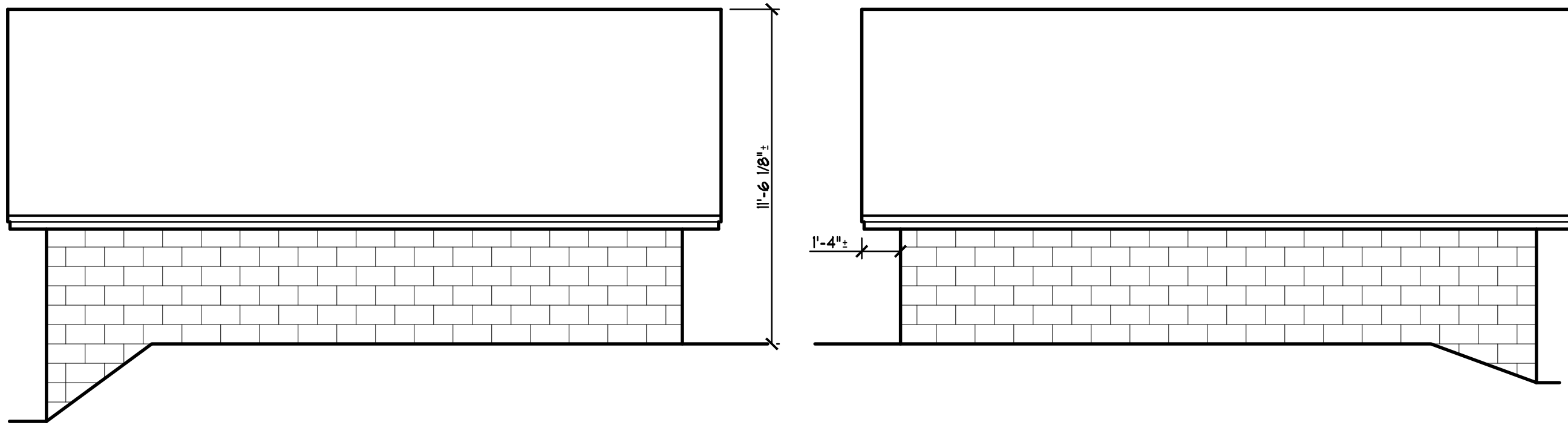
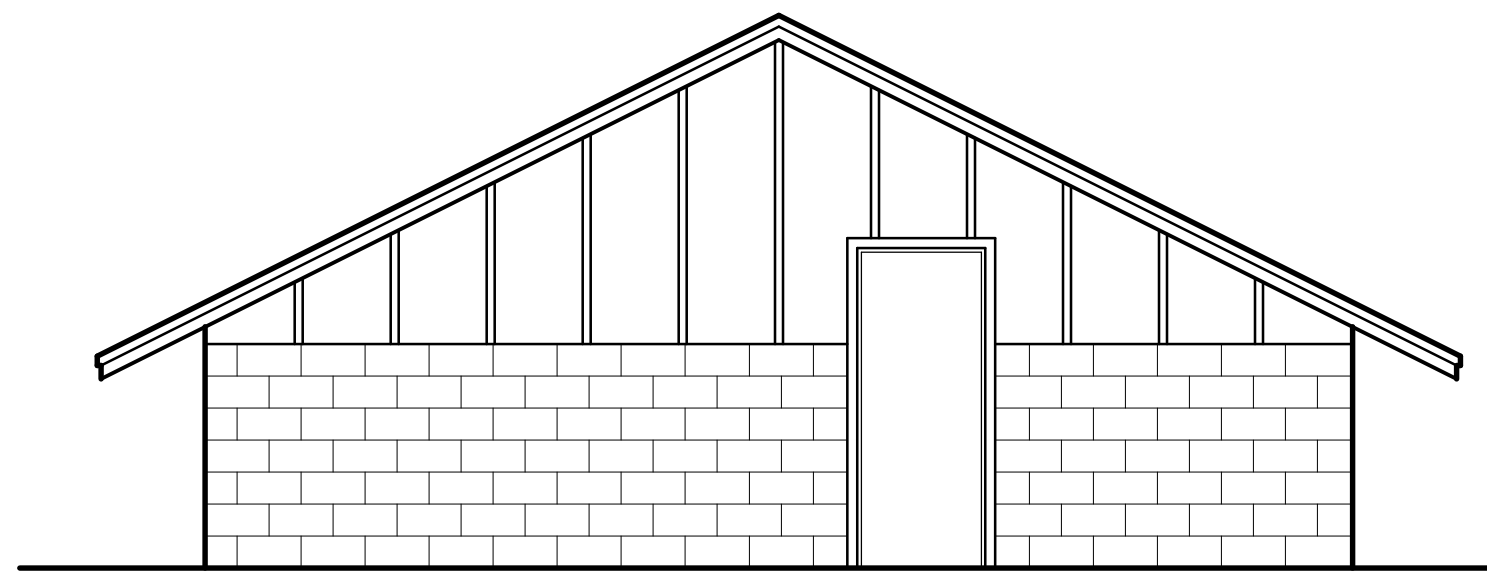
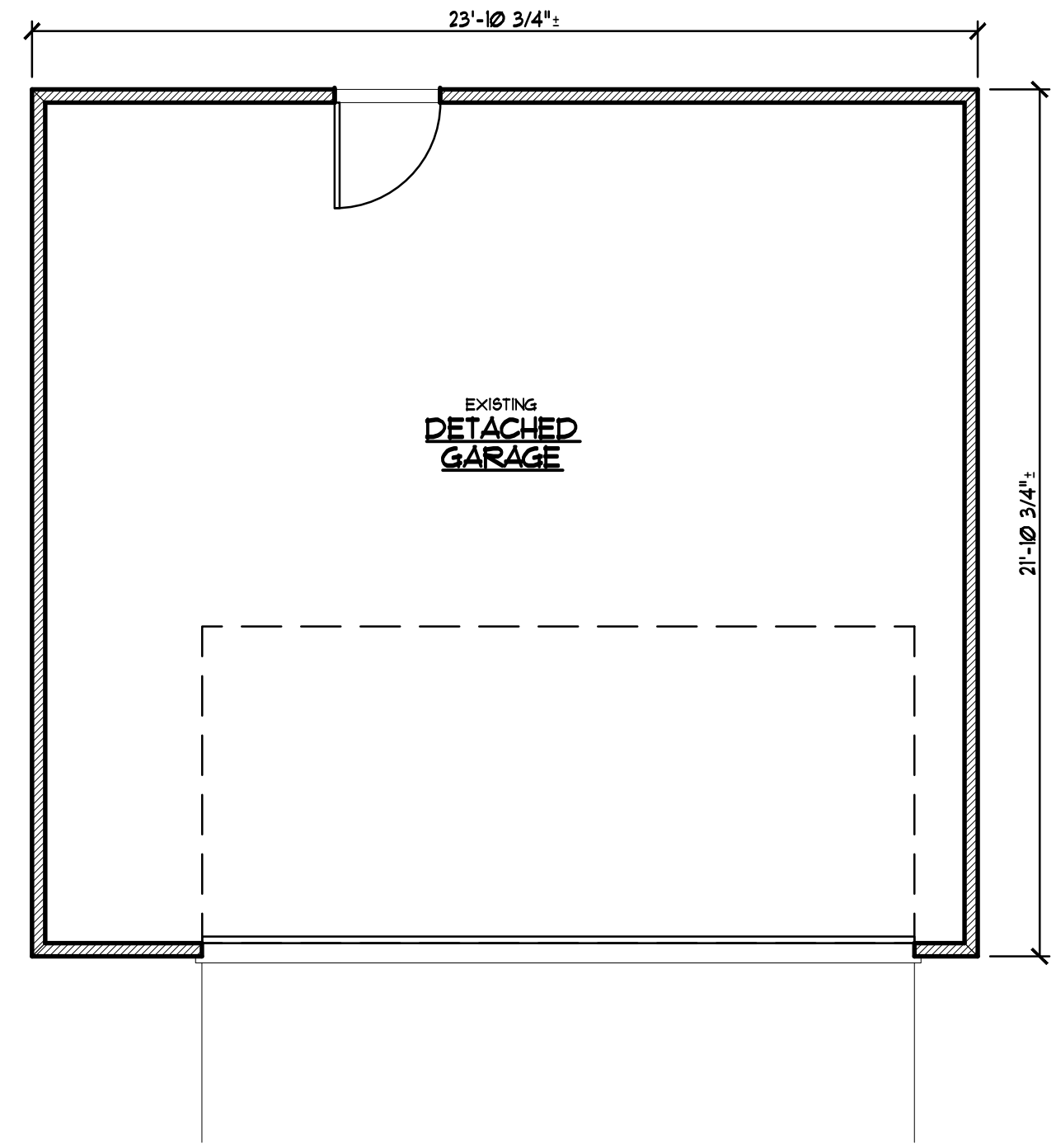
401 EAST LAKE STREET
WAYZATA, MN 55391
Phone: 952.473.8777
FAX: 952.473.8222

ISSUE DATE:
30 JULY 2020
PREVIOUS ISSUE DATES:

DRAWING DESCRIPTION:
EXISTING DETACHED GARAGE

CLIP SET

ROTSCH RESIDENCE
17502 CO. RD. 101
WAYZATA, MN 55391



EXISTING DETACHED GARAGE PLANS
SCALE: 1/4"=1'-0"

1957 aerial

17500

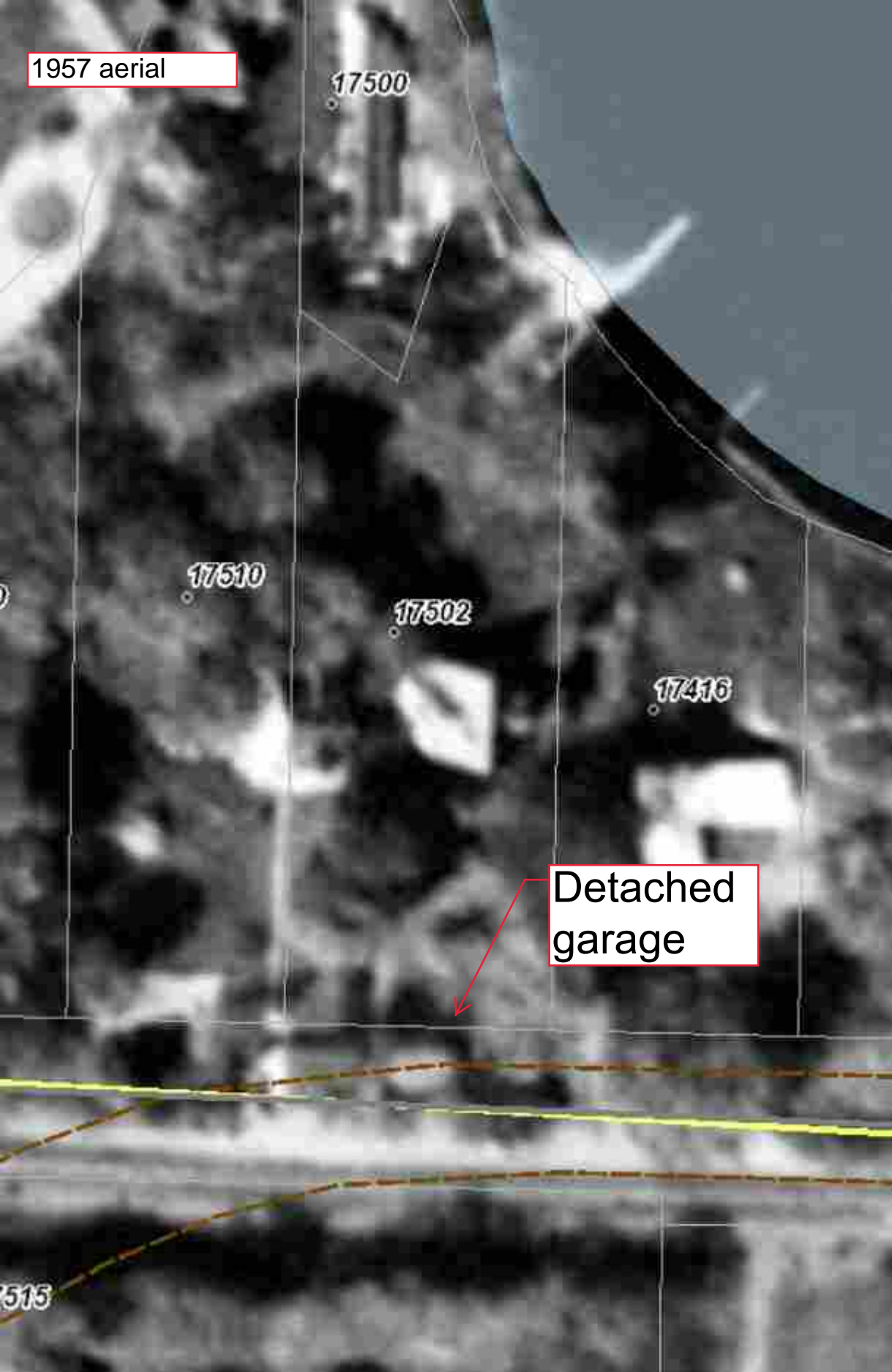
17510

17502

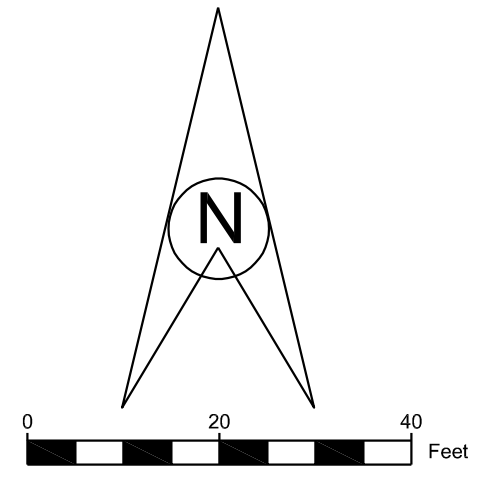
17416

Detached garage

17515

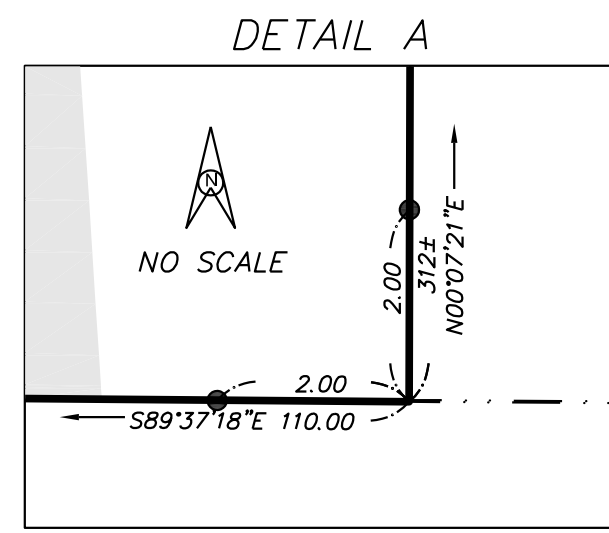


Certificate of Survey



- LEGEND**
- 942 — denotes Existing Contour
 - × 942.00 denotes Existing Spot Elevation
 - denotes Power Pole
 - ⊗ denotes Gate Valve
 - ⊕ denotes Hydrant
 - FF denotes Finished Floor Elevation
 - SS denotes Sanitary Sewer Line
 - OHE — denotes Overhead Power Line

Proposed Elevations:
 Top of Foundation = 959.46
 Basement Floor = 950.50
 Garage Floor = 958.90



EXISTING HARDCOVER CALCULATIONS:

AREA TO OHWL =	34,278±	S.F.
AREA		
Existing House	1,749	S.F.
Decks	1196	S.F.
Garage	523	S.F.
Shed	366	S.F.
Pavers	468	S.F.
Steps	31	S.F.
Concrete Apron	34	S.F.
Concrete Walk	238	S.F.
Bituminous Walk	43	S.F.
Bituminous Drive	6834	S.F.
TOTAL	11482	S.F.
% HARDCOVER	33.5	%

PROPOSED HARDCOVER CALCULATIONS:

AREA TO OHWL =	34,278±	S.F.
AREA		
Proposed House	4,095	S.F.
Proposed Porch	157	S.F.
Proposed Deck	791	S.F.
Decks	238	S.F.
Garage	523	S.F.
Shed	366	S.F.
Proposed Drive	8131	S.F.
TOTAL	14301	S.F.
% HARDCOVER	41.7	%

Surveyors Note:

The Bearings shown on the drawing are based upon the Hennepin County Coordinate System and differ from the legal description. The angles formed by the bearings are the same.

PROPERTY DESCRIPTION

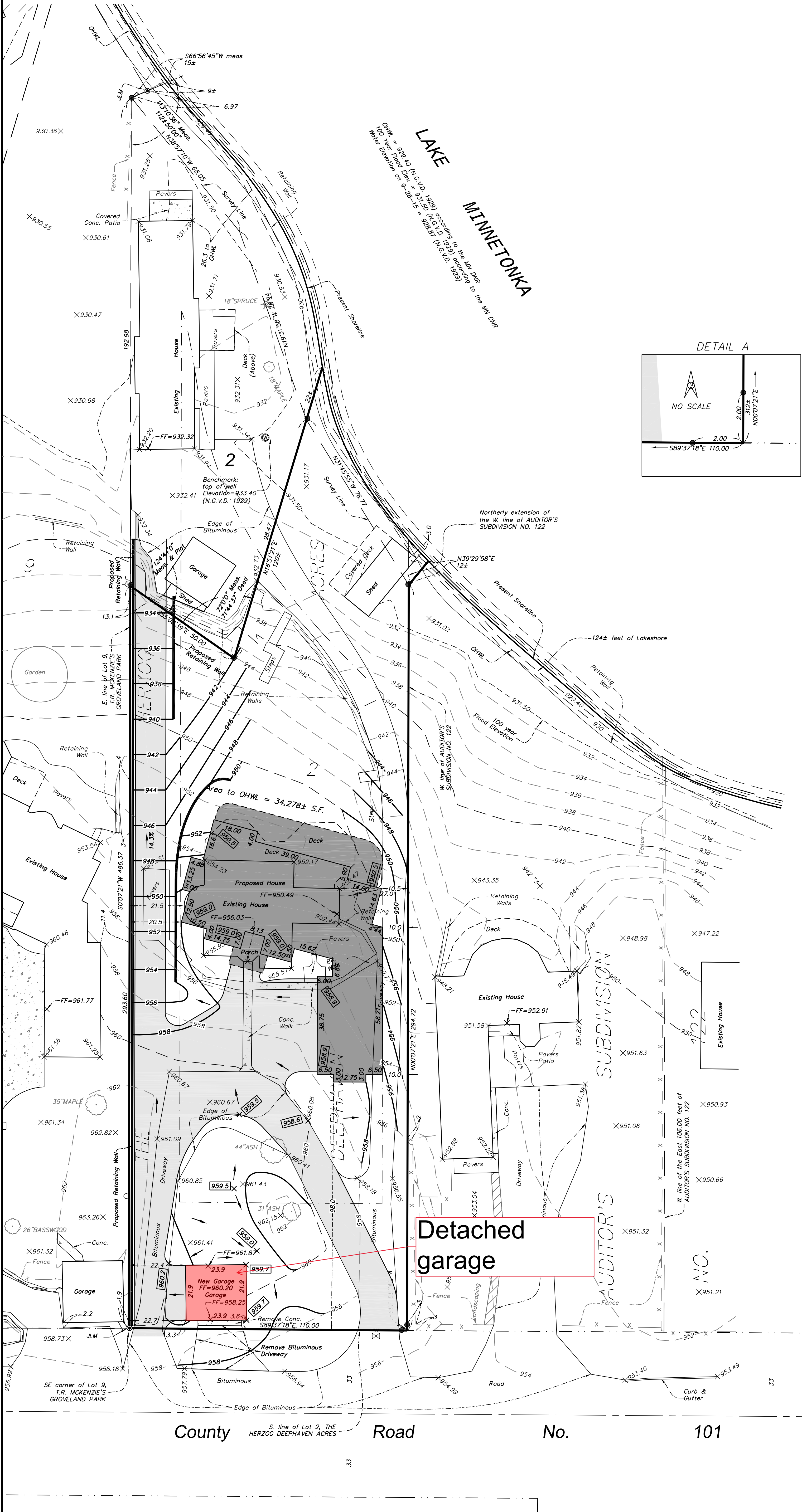
That part of Lot 2, "THE HERZOG DEEPHAVEN ACRES"; all described as follows:

Beginning at the Southeast corner of Lot 9, T.R. MCKENZIE'S GROVELAND PARK, Hennepin County, Minnesota; thence on an assumed bearing of North, along the East line of said Lot 9, a distance of 293.6 feet; thence South 55 degrees 16 minutes 00 seconds East 50 feet; thence North 16 degrees 44 minutes 00 seconds East 120 feet, more or less, to the shore line of Lake Minnetonka; thence Southerly, along said lakeshore to the intersection with the West line of AUDITOR'S SUBDIVISION NO. 122 and its Northerly extension; thence on a bearing of South, along said Northerly extension and said West line, a distance of 310 feet, more or less, to the South line of said Lot 2; thence North 88 degrees 29 minutes 16 seconds West, along said South line, to the point of beginning. The most Westerly boundary line of the above described land has been marked by judicial landmarks set pursuant to Torrens Case No. 19338.

AND

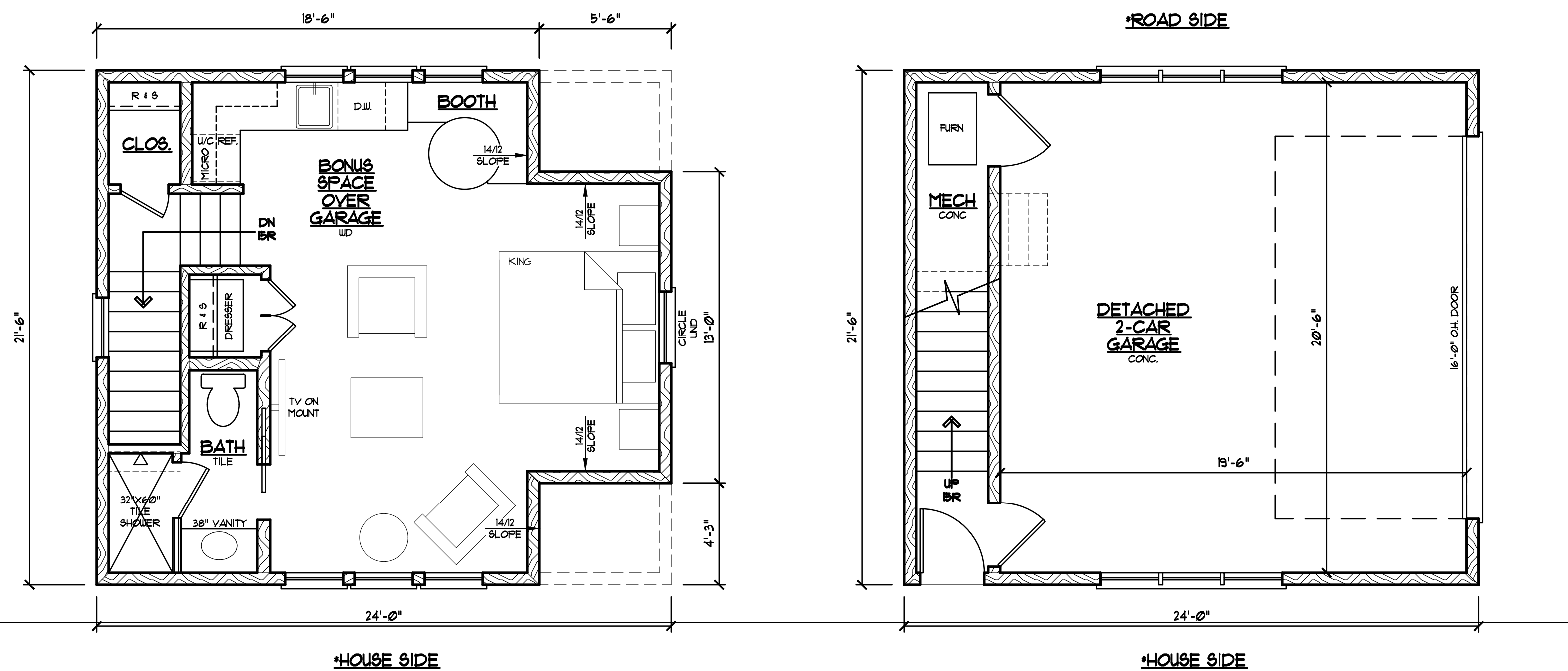
That part of said AUDITOR'S SUBDIVISION NO. 122, that lies Northwesternly of the following described line:

Commencing at the Southwest corner of said AUDITOR'S SUBDIVISION NO. 122; thence on an assumed bearing of North 00 degrees 07 minutes 21 seconds East, along the West line of said AUDITOR'S SUBDIVISION NO. 122, a distance of 294.72 feet to the point of beginning of said line; thence North 39 degrees 29 minutes 58 seconds East to the shoreline of Lake Minnetonka and said line there terminating.

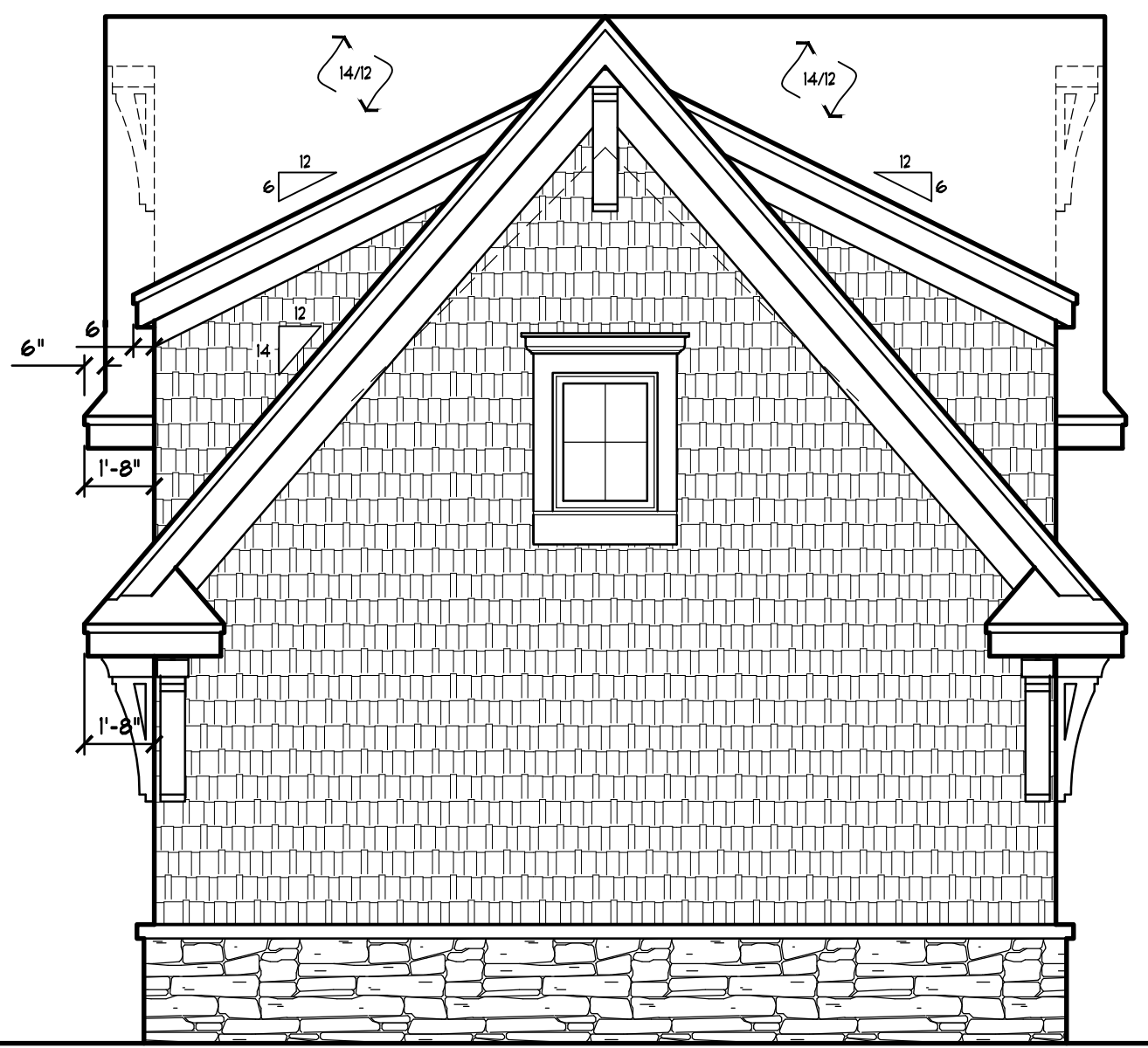


<p>Preliminary Plot of Lot 9 T.R. MCKENZIE'S GROVELAND PARK, and Lot 2, HERZOG DEEPHAVEN ACRES, Hennepin County, Minnesota.</p> <p>Revised: 7-15-2020 - Proposed House, Driveway, and Grades - S.O.S.</p>	<p>I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.</p> <p><i>Paul E. Otto</i> Paul E. Otto License #40062 Date: 7-20-2020</p>	<p>Requested By:</p> <h2 style="text-align: center;">Alexander Design Group, Inc.</h2> <p>Date: 9-28-15 Drawn By: S.O.S. Scale: 1"=20' Checked By: P.E.O.</p>	<div style="text-align: center;"> <p>OTTO ASSOCIATES Engineers & Land Surveyors, Inc.</p> </div> <p>www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763)682-4727 Fax: (763)682-3522</p> <p>● denotes iron monument found ○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062</p> <p>Project No. 19-0471</p>
---	--	--	--





1 DETACHED GARAGE FLOOR PLANS
SCALE: 1/4"=1'-0"



3 EAST ELEVATION
SCALE: 1/4"=1'-0"



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



2 SOUTH ELEVATION
SCALE: 1/4"=1'-0"



2 WEST ELEVATION
SCALE: 1/4"=1'-0"

Resolution No. 2020-

Resolution approving a conditional use permit for an accessory structure in excess of 12-feet in height, with an expansion permit, at 17502 County Road 101

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

Section 1. Background.

1.01 Kathryn Alexander, on behalf of Alexander Design Group and the property owners, has requested a conditional use permit for an accessory structure in excess of 12-feet in height, with an expansion permit.

1.02 The subject property is located at 17502 County Road 101. It is legally described as:

That part of Lot 2, "THE HERZOG DEEPHAVEN ACRES", all described as follows:

Beginning at the Southeast corner of Lot 9, T.R. MCKENZIE'S GROVELAND PARK, Hennepin County, Minnesota; thence on an assumed bearing of North, along East line of said Lot 9, a distance of 293.6 feet; thence South 55 degrees 16 minutes 00 seconds East 50 feet; thence North 16 degrees 44 minutes 00 seconds East 120 feet, more or less, to the shore line of Lake Minnetonka; thence Southerly, along said lakeshore to the intersection with the West line of AUDITOR'S SUBDIVISION No. 122 AND its Northerly extension; thence on a bearing of South, along said Northerly extension and said West line, a distance of 310 feet, more or less, to the South line of said Lot 2; thence North 88 degrees 29 minutes 16 seconds West, along said South line, to the point of beginning. The most Westerly boundary line of the above described land has been marked by judicial landmarks set pursuant to Torrens Case No. 19338.

AND

That part of said AUDITOR'S SUBDIVISION NO. 122, that lies Northwesterly of the following described line:

Commencing at the Southwest corner of said AUDITOR'S SUBDIVISION NO. 122; thence on an assumed bearing of North 00 degrees 07 minutes 21 seconds East, along the West line of said AUDITOR'S SUBDIVISION NO. 122, a distance of 294.72 feet to the point of beginning of said line; thence North 39 degrees 29

minutes 58 seconds East to the shoreline of Lake Minnetonka and said line there terminating.

1.03 Based on aerial photography, an existing detached garage was constructed at least 10 years prior to the adoption of the city’s first zoning district.

	Required by code	Existing	Proposed
Accessory structure building height	12 feet; structures exceeding 12 feet in height require a conditional use permit.	7.5 feet	17 feet *
Front yard setback	50 feet	3 feet	3 feet **
* requires a conditional use permit			
** requires an expansion permit to increase the height of a structure within the setback			

1.04 The proposed garage would be constructed in the same location, with the same footprint as the existing garage.

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

1.05 City Code §300.29 Subd. 3(g) allows expansion of a nonconformity only by variance or expansion permit.

1.06 City Code §300.29 Subd. 7(c) authorizes the planning commission to grant expansion permits.

1.07 On Aug.20, 2020 the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve 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 are incorporated into this resolution by reference.

2.02 City Code §300.16 Subd. 3(f) outlines the following specific standards that must be met for granting a conditional use permit for detached garages, storage sheds, or other accessory structures in excess of 1,000 square feet of gross floor area or 12 feet in height:

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

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

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

Section 3. Findings.

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

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

1. The garage would comply with the required side and rear setbacks. The garage would have the following setbacks:
 - Western side yard setback: 22 feet
 - Rear yard setback: 238 feet
 - Eastern side yard setback: 63 feet

2. The property currently has three curb cuts. According to the proposed survey, the current curb cut providing access to the detached garage would be removed pending approval by Hennepin County.
3. This has been included as a condition of approval.
4. The reconstructed garage would architecturally compliment the future home.
5. Landscaping is providing on the perspective images. This has also been included as a condition of approval.
6. The reconstructed garage would comply with site and building plan standards as outlined in Section 300.27 of the ordinance.

3.02 The apartment meets the variance standard outlined in City Code §300.29 Subd. 7(c):

1. REASONABLENESS AND NEIGHBORHOOD CHARACTER: The garage would:
 - a) Be located within the footprint of a garage that was originally constructed prior to the adoption of the city's first zoning ordinance.
 - b) Not encroach further into the required setback.
 - c) Not negatively impact the character of the surrounding neighborhood.
2. UNIQUE CIRCUMSTANCE: The existing garage, predates the city's first zoning ordinance by at least 10 years. The expansion permit would allow the increase of the height of the structure, but would not allow the structure to encroach further into the required setback.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.
2. Prior to issuance of the building permit:
 - a) The applicant/property owner must contact Hennepin County to discuss the project and access requirements. Written correspondence with the county must be submitted to the city.
 - b) Submit an updated survey to show that the work will not exceed

maximum impervious surface requirements.

- c) Submit a landscape plan for review and approval by city staff.
- 3. If the curb cut for the portion of the driveway to be removed is approved, it must be removed and full height curb installed.
- 4. The accessory structure cannot be used for commercial activities.
- 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 a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on Aug. 31, 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 Aug. 31, 2020.

Becky Koosman, City Clerk

Resolution No. 2020-

Resolution approving a conditional use permit for an accessory apartment, with a locational variance, at 17502 County Road 101

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

Section 1. Background.

1.01 By city code, an accessory apartment is defined as a smaller secondary unit, located within a principal dwelling unit that includes provisions for sleeping, cooking, and sanitation independent of the principal dwelling unit. This definition includes secondary dwelling units that have exterior entrances separate from the principal dwelling unit and secondary dwelling units that are accessed only through the principal dwelling unit.

1.02 Accessory apartments are conditionally-permitted on single-family residential properties.

1.03 Kathryn Alexander, on behalf of Alexander Design Group and the property owners, has requested a conditional use permit for an accessory apartment, to be located above a detached, accessory structure.

1.04 The property is located at 17502 County Road 101. It is legally described as:

That part of Lot 2, "THE HERZOG DEEPHAVEN ACRES", all described as follows:

Beginning at the Southeast corner of Lot 9, T.R. MCKENZIE'S GROVELAND PARK, Hennepin County, Minnesota; thence on an assumed bearing of North, along East line of said Lot 9, a distance of 293.6 feet; thence South 55 degrees 16 minutes 00 seconds East 50 feet; thence North 16 degrees 44 minutes 00 seconds East 120 feet, more or less, to the shore line of Lake Minnetonka; thence Southerly, along said lakeshore to the intersection with the West line of AUDITOR'S SUBDIVISION No. 122 AND its Northerly extension; thence on a bearing of South, along said Northerly extension and said West line, a distance of 310 feet, more or less, to the South line of said Lot 2; thence North 88 degrees 29 minutes 16 seconds West, along said South line, to the point of beginning. The most Westerly boundary line of the above described land has been marked by judicial landmarks set pursuant to Torrens Case No. 19338.

AND

That part of said AUDITOR'S SUBDIVISION NO. 122, that lies Northwesterly of the following described line:

Commencing at the Southwest corner of said AUDITOR'S SUBDIVISION NO. 122; thence on an assumed bearing of North 00 degrees 07 minutes 21 seconds East, along the West line of said AUDITOR'S SUBDIVISION NO. 122, a distance of 294.72 feet to the point of beginning of said line; thence North 39 degrees 29 minutes 58 seconds East to the shoreline of Lake Minnetonka and said line there terminating.

1.05 On Aug. 20, 2020 the planning commission held a hearing on the proposal. The applicant was provided the opportunity to present information to the commission. The commission considered all of the comments received and the staff report, which are incorporated by reference into this resolution. The commission recommended that the city council approve the permit, with variance.

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 are incorporated into this resolution by reference.

2.02 City Code §300.16 Subd. 3(d) outlines the following specific standards that must be met for granting a conditional use permit for such facilities:

1. To be created only on property zoned for single family detached dwelling and no more than one apartment to be created in any dwelling;
2. Structures in which an accessory apartment is created to be owner-occupied, with the owner residing in either unit on a continuous basis except for temporary absences throughout the period during which the permit is valid;
3. Adequate off-street parking to be provided for both units of housing with such parking to be in a garage, carport, or on a paved area specifically intended for that purpose but not within a required turnaround;
4. May be created by the conversion of living space within the house but not by conversion of garage space unless space is available for a two-car garage on the lot without the need for a variance;
5. An accessory apartment must be no more than 35-percent of the gross living area of the house of 950 square feet, whichever is smaller. The gross living area includes the accessory apartment. The city council may approve a larger area where the additional size would not substantially impact the surrounding neighborhood.

6. Exterior changes to the house must not substantially alter the single family character of the structure;
7. No apartment to be created except in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city;
8. To be permitted only where it is demonstrated that the accessory unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the character of the neighborhood; and
9. All of other provisions of this ordinance relating to the single family dwelling units to be met, unless specifically amended by this subdivision.

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

Section 3. Findings.

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

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

1. The property is zoned R-1. The proposal includes only one accessory apartment.
2. City Code defines a temporary absence as “establishing residence outside of the Twin Cities metropolitan area for a period not to exceed 12 months but during which period the subject property continues to be the applicant’s legal or principal residence. As a condition of this resolution, the property owners must sign a written statement agreeing to this standard.
3. Sufficient parking would be available on site. The accessory apartment would be located over a two-car detached garage with additional parking available in the driveway. The site plan suggests that a new home, with an attached three-car garage would be built in the future.
4. The accessory apartment would be constructed over a reconstructed,

two-car garage. Additional garage space could be constructed on the property without a variance.

5. The apartment would be 470 square feet in size. This is significantly less than the code would allow.
6. The reconstructed garage and apartment would have a single-family character.
7. Permits for the new structure will be required. Nonetheless, this has been included as a condition of approval.
8. The structure would not have an undue adverse impact on adjacent properties and would not substantially alter the character of the neighborhood.
9. But for the locational variance, the proposal would meet this requirement.

3.02 The apartment meets the variance standard outlined in City Code §300.07 Subd. 1:

1. **PURPOSE AND INTENT OF THE ZONING ORDINANCE:** The intent of the zoning ordinance as it pertains to accessory apartments, is to ensure that single-family residential properties on which such apartments are created maintain the visual appearance of a single-family property. The structure containing the apartment would visually maintain the appearance of a single-family detached garage and would not negatively impact the visual appearance of the single-family property.
2. **CONSISTENT WITH THE COMPREHENSIVE PLAN:** Accessory apartments are consistent within the housing goals of the comprehensive guide plan, as they add to the diversity of housing types, sizes, and prices within the community.
3. **PRACTICAL DIFFICULTIES:** There are practical difficulties in complying with the ordinance:
 - a) **REASONABLENESS:** The locational variance is reasonable, as it would allow for an accessory apartment, which is a reasonable use on properties for single family homes.
 - b) **UNIQUE CIRCUMSTANCE:** The existing garage was built at least 10 years prior to the adoption of the city's first zoning ordinance and has a three foot front yard setback. This is a circumstance not common to similarly zoned properties.
 - c) **CHARACTER OF THE LOCALITY:** The accessory apartment would be constructed over a reconstructed garage. While the garage would visually change, the garage would maintain the

existing setback.

Section 4. City Council Action.

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

1. This resolution must be recorded with Hennepin County.
2. Prior to issuance of a building permit, the property owners must provide written confirmation that they will reside in either the principal structure or the accessory apartment on a continuous basis except for temporary absences throughout the period in which permit is valid.
3. The apartment must be in compliance with all applicable building, housing, electrical, plumbing, heating and related codes of the city.
4. The city council may reasonably add or revise conditions to address any future unforeseen problems.
5. Any change to the approved use that results in a significant increase in a significant change in character would require a revised conditional use permit.

Adopted by the City Council of the City of Minnetonka, Minnesota, on Aug. 31, 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 Aug. 31, 2020.

Becky Koosman, City Clerk