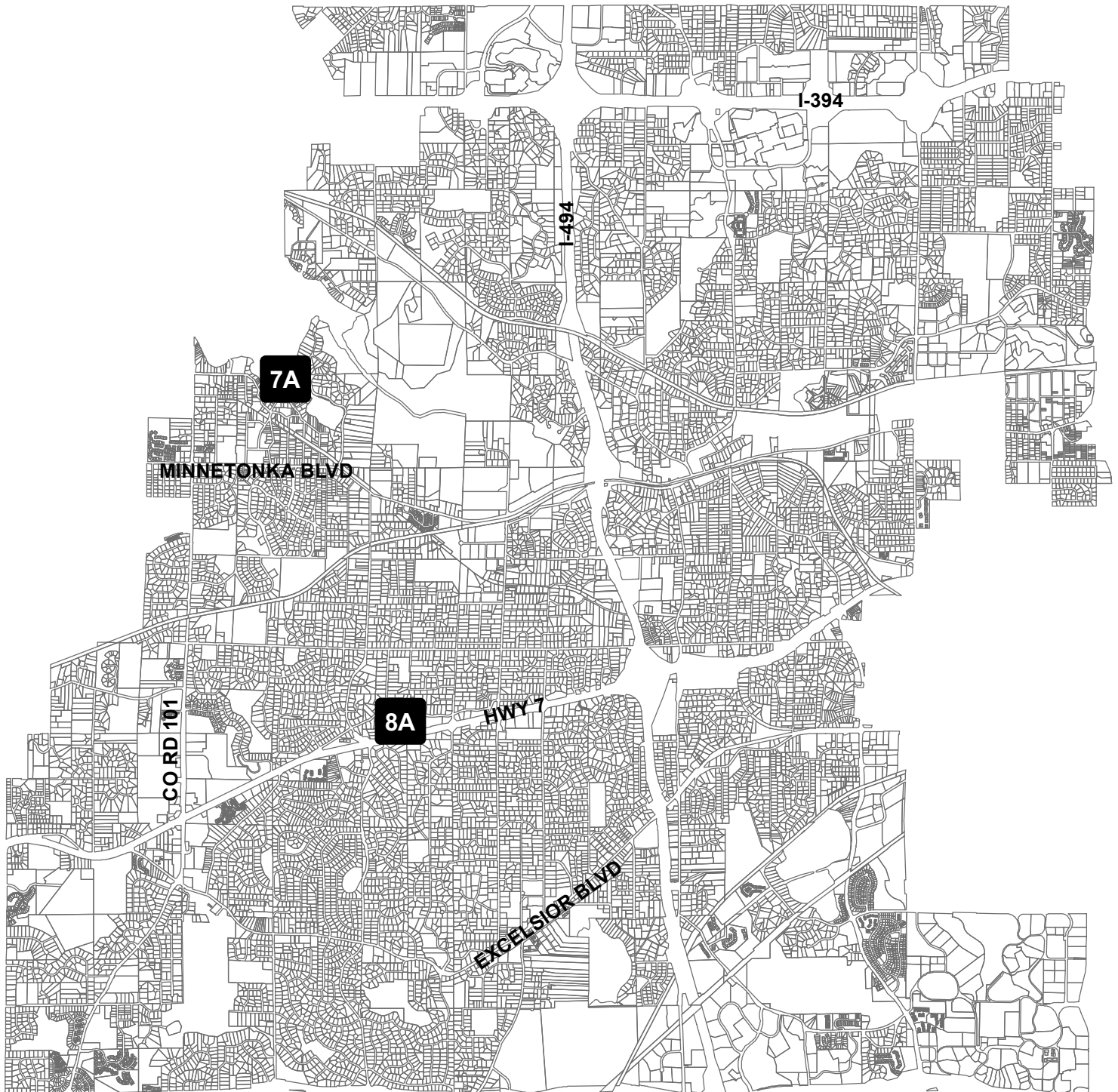




CITY OF  
**MINNETONKA**

**PLANNING COMMISSION  
CITY OF MINNETONKA  
MARCH 4, 2021**

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





## Planning Commission Agenda

March 4, 2021 – 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:** Feb. 18, 2021

**5. Report from Staff**

**6. Report from Planning Commission Members**

**7. Public Hearings: Consent Agenda**

- A. Resolution reaffirming an expansion permit replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd.

Recommendation: Adopt the resolution reaffirming the previous approval. (5 votes)

- Final Decision, subject to appeal
- Project Planner: Susan Thomas

**8. Public Hearings: Non-Consent Agenda Items**

- A. Resolution approving a conditional use permit for an expanded outdoor eating area, with setback variance, at 15600 Highway 7.

Recommendation: Recommend the city council adopt the resolution. (5 votes)

- Recommendation to City Council (March 22, 2021)
- Project Planner: Susan Thomas

## **Planning Commission Agenda**

**March 4, 2021**

**Page 2**

### **9. Elections**

- Election of Planning Commission Chair
- Election of Planning Commission Vice Chair
- Nomination of Sustainability Commission liason

### **10. Planning Commission Bylaws and Policies**

### **11. Adjournment**

**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 18, 2021 agenda.

<b>Project Description</b>	Bauer's Custom Hitches, conditional use permit
<b>Project Location</b>	13118 Excelsior Blvd
<b>Assigned Staff</b>	Ashley Cauley
<b>Ward Councilmember</b>	Brian Kirk, Ward 1

<b>Project Description</b>	Schoeck Residence, setback variance
<b>Project Location</b>	5721 Cedar Lane
<b>Assigned Staff</b>	Drew Ingvalson
<b>Ward Councilmember</b>	Kissy Coakley, Ward 4

<b>Project Description</b>	Rotsch Residence, setback variance
<b>Project Location</b>	17502 Co Rd 101
<b>Assigned Staff</b>	Drew Ingvalson
<b>Ward Councilmember</b>	Bradley Schaeppi, Ward 3

<b>Project Description</b>	Verizon – small cell wireless installations, conditional use permits
<b>Project Location</b>	Multiple locations
<b>Assigned Staff</b>	Susan Thomas
<b>Ward Councilmember</b>	Multiple wards

<b>Project Description</b>	Glen Lake Apartments, concept plan
<b>Project Location</b>	14317 Excelsior Blvd
<b>Assigned Staff</b>	Susan Thomas
<b>Ward Councilmember</b>	Brian Kirk, Ward 1

<b>Project Description</b>	Doran at Shady Oak Apartments
<b>Project Location</b>	5959 Shady Oak Road
<b>Assigned Staff</b>	Loren Gordon
<b>Ward Councilmember</b>	Brian Kirk, Ward 1

**Unapproved  
Minnetonka Planning Commission  
Virtual Meeting  
Minutes**

**Feb. 18, 2021**

**1. Call to Order**

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

**2. Roll Call**

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

Staff members present: City Planner Loren Gordon, Assistant City Planner Susan Thomas, Planner Drew Ingvalson, and IT Assistants Joonas Sundstrom and Gary Wicks.

**3. Approval of Agenda**

***Maxwell moved, second by Henry to approve the agenda as submitted with modifications provided in the change memo dated Feb. 18, 2021.***

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

**4. Approval of Minutes: Feb. 4, 2021**

***Waterman moved, second by Banks, to approve the Feb. 4, 2021 meeting minutes as submitted.***

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

**5. Report from Staff**

Gordon briefed the commission on land use applications considered by the city council at its meeting of Feb. 8, 2021:

- Adopted a resolution approving a conditional use permit for an accessory apartment on Oakwood Road Extension.
- Adopted a resolution approving a conditional use permit and parking variance to expand Mercy Hill Church, a religious institution, at 15408 and 15414 Minnetonka Industrial Road.
- Adopted an ordinance and resolution approving items related to Dick's Sporting Goods at 12437 Wayzata Blvd.
- Adopted a resolution adopting the Opus Alternative Urban Areawide Review and Mitigation Plan.

The next planning commission meeting is scheduled to be held March 4, 2021. An election of planning commission officers and appointment of the planning commission liaison to the sustainability commission will take place at that meeting.

**6. Report from Planning Commission Members:** None

**7. Public Hearings: Consent Agenda:** None

**8. Public Hearings**

**A. Resolution approving preliminary and final plats for EverGreen Orchard Estates, a two-lot subdivision at 3811 Baker Road.**

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

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

In response to Chair Sewall's question, Ingvalson acknowledged that neighbors have expressed concern for standing water that already occurs in the area now. Natural resources and engineering staff reviewed the application and found that it would not increase the volume or rate of water drainage and would meet all water drainage requirements.

Banks asked if the detached garage structure would remain. Ingvalson answered that the detached structure could remain as long as the lot has a principle structure. The applicant has indicated future plans to remove the structure.

Andrew Gillum, applicant, stated that:

- He appreciates Ingvalson's great presentation and laying out the proposal so nicely. The plan is to build two single-family houses on the property to increase the beauty and quality of the neighborhood.
- Berms would be added to provide stormwater management and privacy along Baker Road. The excavated footprint of the two houses and a little extra soil would be used to create the berms.
- The proposal would greatly improve the look of the neighborhood and eliminate the entrance from Baker Road which is now a traffic snarl.
- Nearly every existing tree would be preserved plus additional trees would be added to the site.
- The detached garage would be torn down after completion of the first house on the west lot. It does not look very nice and would be removed before the site would be put on the market.
- Stormwater management would be improved for the site.

- He was available for questions.
- He appreciates the commission's time.

Maxwell asked how recycling of building materials would work. Mr. Gillum explained that the structures would be selectively demolished. Habitat for Humanity would be given the opportunity to use doors and windows. Unfortunately, the two houses do not have much for useful structural materials, but what could be reused would be given that opportunity.

Banks asked if the proposed houses would be similar to those in the area. Mr. Gillum answered affirmatively. The lots would have large, mature trees and the houses would be between 3,400 and 3,900 square feet in size with an attached two to three car garage. No variances would be needed. The houses would be beautiful, made with nice materials and priced between \$850,000 and \$950,000.

In response to Henry's question, Mr. Gillum answered that the large, silver maple tree would be preserved.

The public hearing was opened.

Beth Dierker, 13009 Orchard Road, stated that the neighborhood has stormwater drainage issues. Her property receives drainage from the properties south of her property. The area has no storm sewers. She was concerned that water would travel from the south side of the property onto the south side of her property and flood Orchard Road potentially all the way down to Plymouth Road which it has done three to four times in the spring each year in the past. She has worked with city engineers who suggested that all of the properties in the area create rain gardens. She requested the applicant add a rain garden to both lots.

No additional testimony was submitted and the hearing was closed.

Ingvalson identified the drainage pattern for the proposed lots. There are specific conditions for when stormwater management requirements are applied. The proposal would not be allowed to increase the amount of water that would travel to surrounding properties. Engineering staff found that the proposal would meet all stormwater management requirements.

Mr. Gillum believes in each property being responsible for stormwater management. The current property has three structures with no rain gutters. The proposal would have two structures with rain gutters and spouts directed toward the driveway. There is a large amount of green space that the landscape specialist could check to see if it would be feasible to be used for a rain garden. The idea is to utilize the flat, gently sloping lot by routing all drainage from both lots to Baker Road into a catch basin that exists near the intersection of Baker Road and Orchard Road. If the city would like to beautify the area and construct a nice rain garden, then that would be a nice touch.

Waterman confirmed with Ingvalson that compliance with stormwater mitigation requirements would be reviewed during the building permit process.

Henry thought the applicant put a lot of thought into the proposal. The proposed houses would look nice and be a good addition to the neighborhood. He supports the project.

Waterman agreed with Henry. The proposal meets all standards and tree ordinance requirements. It looks like a great project. He appreciates the stormwater management practices already included in the proposal.

Maxwell concurred with commissioners. She supports staff's recommendation. The proposal would meet lot size and tree ordinance requirements and would replace two older houses with two new houses, so there would be no significant increase in impervious surface coverage. It would be an improvement to the neighborhood. She appreciates the effort by the applicant to preserve the existing trees and consider stormwater drainage issues for the site.

Banks concurred with commissioners. The proposal would be nice. He lives south of the property and frequently passes the site. It would be nice to see new, beautiful houses. The addition of gutters on the houses to direct the drainage may improve the existing drainage issues. City engineering staff would review the plans to prevent any adverse stormwater drainage impact.

Hanson felt that the proposal would provide an aesthetic benefit to the neighborhood. He looks forward to supporting it.

Chair Sewall agreed. The property seems like the perfect one to subdivide and support a single-family house on each lot. He hopes all subdivision applications could be this easy. The property is flat and most of the trees would be preserved. He supports staff's recommendation.

***Hanson moved, second by Henry, to recommend that the city council adopt the resolution approving the preliminary and final plat for Evergreen Orchard Estates.***

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

This item is tentatively scheduled to be reviewed by the city council on March 8, 2021.

**B. Items concerning Minnetonka Station at 10400, 10500, and 10550 Bren Road East.**

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.



Hanson likes the affordable housing and market rate units being mixed together rather than in separate buildings.

Hanson asked if the city has considered requiring multi-family residential developments to have charging stations for electric vehicles. Thomas noted that the city's new sustainability commission will consider creating a policy regarding charging stations and invited Hanson to ask the applicant if charging stations would be included in the project.

Henry confirmed with Thomas that the mass of the building on the trail side has been broken up since the commission last reviewed the proposal.

Mike Krych, partner with BKV Group, applicant, stated that:

- He thanked Thomas for working through some tough areas of the proposal. He appreciated her patience.
- He shared a presentation. The project goals include fitting the project in with the overall Opus plan.
- The building's east façade was pulled back 20 feet to widen the access point and allows room for additional landscaping. The proposal would provide a bike trail system, natural habitat and vegetation, and additional trees beyond ordinance requirements.
- There would be a unique, stormwater-management feature on the west side visible as an architectural-feature element.
- There would be a raised, outdoor courtyard; pool; quiet courtyard; large plaza spaces; guest parking; public art features; pet spa; and dwelling units with walkouts to yards and bike access.
- The overall design concept uses defined exterior materials. He provided additional renderings.
- He would continue to work with staff to decide on the type of public art to be incorporated.
- The building design would be screened by landscaping as the plantings mature.
- Corners of the building have been tiered to provide roof terraces to create variation and variety.
- There would be room for boulevard trees and landscaping near the café not shown in the current illustration.
- Visitor parking would be located on the outside and ten visitor stalls would also be located on the inside.

Hanson appreciated the presentation. He asked for the feasibility of increasing the number of stories. Mr. Krych explained that due to the building code requirements and ground water issues, the structure could have two levels of parking within the concrete structure and five stories above that.

Maxwell asked why it would not be feasible to lower the structure. Mr. Krych answered that the soil and water table prevents going lower, but two level units on the north and west side would screen the parking levels and the corners of the building would be stepped down to six stories to prevent the appearance of one, long façade. Material and color changes would create further interest and screen the parking area. There are plenty of buildings well over seven stories in the area, so the proposal would fit well in the overall Opus development.

Waterman asked what was traded to move the building back 20 feet. Mr. Krych answered that the size of some parking stalls and apartments were decreased.

In response to Henry's question, Jeff McMann, of Linden Street Investments and one of the partners of the proposal, stated that he is working with staff to determine the appropriate affordable housing component for the project. The Minnetonka Economic Development Authority Commission (EDAC) will review the applicant's proposal of 10 percent of the units being affordable with 50 percent AMI. That would exceed Minnetonka's policy regarding affordable housing. He is excited to make affordable housing part of the project.

Scott Richardson, of Linden Street Investments, stated that the discussion of affordable housing and TIF has fluctuated the last few months. None of the numbers in the report have been updated, but the current proposal would be reviewed by the EDAC on Feb. 25, 2021. Thomas confirmed that changes and the current proposal related to TIF and affordable housing would be reviewed by the EDAC and city council.

Chair Sewall supports integrating the affordable units with market-rate units rather than segregating them. Mr. Richardson confirmed that the affordable units would be disbursed throughout the market-rate units.

Henry asked if the city's pollinator-vegetation requirements would be met. Mr. Krych answered affirmatively. Thomas confirmed that compliance with the pollinator-vegetation ordinance would be a condition of approval. She explained that the Opus place-making document provides a specific list of the species of vegetation that are required to be planted for each property in Opus. The pollinator-vegetation ordinance and Opus place-making document would both apply to the proposal.

Henry liked the use of solar panels on the roof. He asked what renewable energy resources would be utilized. He suggested using soundproof insulation to provide privacy for residents. Mr. Krych stated that the proposal would be of high quality built for the long term. The proposal would meet building code requirements. A standard wall or floor would minimize sound. Doors, windows and corridors allow sound to travel further. The goal is to provide capture of solar power if feasible. The overall project design incorporates sustainable features including utilizing low VOC paints, capturing rain water, and utilizing permeable surfaces when possible. These improvements would improve upon the current conditions. Mr. Richardson emphasized that noise mitigation and sustainability are important to multi-family dwelling units. The building code

requirements are more stringent now than in previous years. One of the lead investors for the project runs a solar-energy company and is an expert.

Banks appreciated the applicant's presentation. He asked for the amount of rent that would be charged. Mr. Richardson answered \$2.17 per square foot which is in line with the market. A studio unit would be approximately 600 square feet in size; one-bedroom unit 750 square feet in size; and a two-bedroom 1,000 square feet in size. One-bedroom units would charge approximately \$1,600 a month for rent.

Chair Sewall asked if there would be a dog walk or play area. Mr. Krych pointed out a pet spa and dog relief area on the northeast corner of the site plan.

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

Henry asked how a visitor would access the indoor visitor-parking stalls. Mr. Krych explained that those stalls would be accessible to anyone. There would be a secure gate separating the visitor parking stalls from the resident parking stalls. Eighteen visitor stalls would be sufficient.

Waterman thanked the applicant and staff for a great presentation. The concept plan was well developed in October and makes this review very easy. The modification to the master development plan is reasonable. The site was previously approved to be developed with a multi-family residential use. The affordable-housing units would provide a public benefit and justify the PUD zoning. The proposed building and site design are appropriate for the area. The detail provided in the application makes it easy to review. He supports the proposal.

Hanson concurs with Waterman. He thanked the applicant for one of the best presented projects that he has seen in his three years on the commission. The plans and renderings make it clear to see what would happen. The proposal would be a great use of the site. For a large multi-family, residential project, this is the most unique building he has seen with the utilization of public art and glass on the ground floor. He is excited for the proposal to be built.

Banks agrees. He supports the proposal. The project would benefit the area. He hopes that at least ten percent of the units would be able to meet affordability requirements.

Maxwell concurs. She appreciates the detail that went into the concept plan review and made this review much easier. The master development plan amendment is reasonable contingent on the affordable housing component being finalized. The building and site designs are well done. She appreciates the effort made to turn functionally-necessary elements into aesthetically-designed elements that elevate the proposal including the visible stormwater management area and landscaping. She agrees that this proposal could be a marquee, flagship-style building for Minnetonka and BKV. It could be a real leader in sustainability. She supports the proposal. It is very well done and thought out.

Henry likes the changes to the proposal including the addition of solar panels, the reduction in visual mass of the corners of the building on the north side and the addition of rooftop trellises. The proposal is well done, detailed, and thoughtful. He looks forward to the proposal being built and taking a tour when completed.

Hanson requested city staff promote a bike café as a potential amenity for the Opus area and improve the maintenance, signage, and connectivity of the biking and walking paths in the area. Gordon provided that the Opus trail system is on a schedule to be upgraded. He agreed that the trails need to be improved to current standards.

Chair Sewall concurs with commissioners. The proposal is an important, corner-stone project. This is probably the best project he has seen proposed for Opus. The EDAC will work through the affordable housing component. He is a strong proponent for the integration of affordable units with market-rate units and opposes segregation of affordable units. He supports staff's recommendation.

***Banks moved, second by Maxwell, to recommend that the city council adopt the following items related to the properties at 10400, 10500, and 10500 Bren Road East: an ordinance approving a major amendment to the existing master development plan; a resolution approving final site and building plans; and a resolution approving preliminary and final plats.***

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

The city council is tentatively scheduled to review this item at its meeting on March 8, 2021.

## 9. Adjournment

***Hanson moved, second by Maxwell, to adjourn the meeting at 8:45 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 4, 2021**

**Brief Description** Resolution reaffirming an expansion permit to replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd.

**Recommendation** Adopt the resolution approving the expansion permit

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**Background**

On Dec. 5, 2019, the planning commission adopted Resolution No. 2019-39 approving an expansion permit to improve a non-conforming boathouse. (See the 2019 staff report [here](#).) As approved, the existing flat-roofed structure would be replaced by a pitched-roof structure in the same location.



EXISTING



APPROVED

By city code, a variance approval expires on Dec. 31 of the year following the approval, unless either: (1) the city has issued a building permit for the project covered by the approval; or (2) the planning commission has approved a time extension. Neither occurred for the subject boathouse. As such, the 2019 approval expired on Dec. 31, 2020.

Frontier Custom Builders, on behalf of the property owners, has requested that the planning commission reaffirm the 2019 approval.

**Staff Comment**

The zoning ordinance does not include any specific conditions under which a variance approval may be reaffirmed. The city has generally considered: (1) whether there have been changes to city code or policy that would affect the previous approval; and (2) whether such reaffirmation would adversely affect the interests of neighboring property owners.

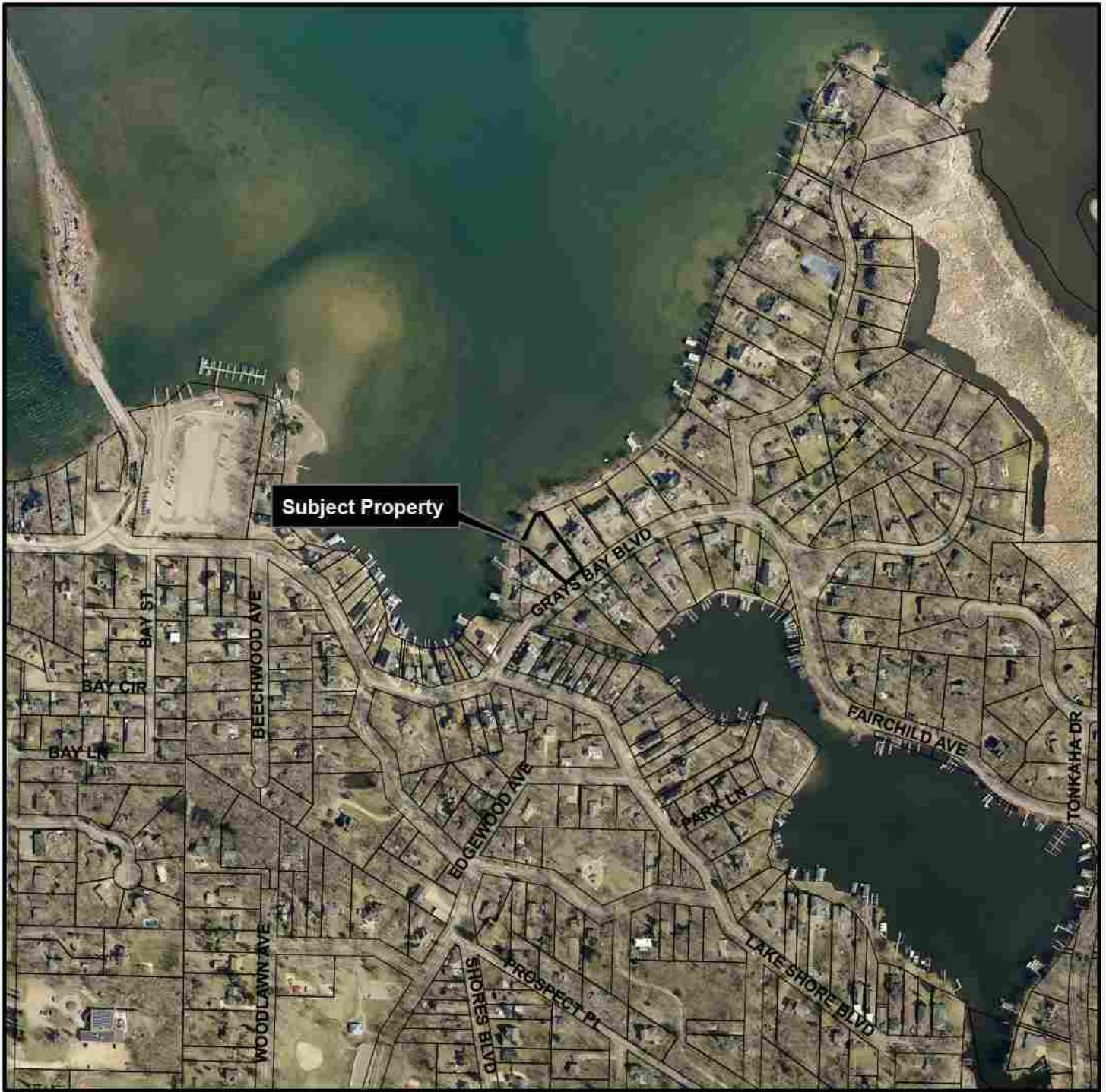
Staff finds:

- There have been no changes to city code or policy that would affect the previous approval.
- The reaffirmation would not adversely affect the interests of neighboring property owners.

**Staff Recommendation**

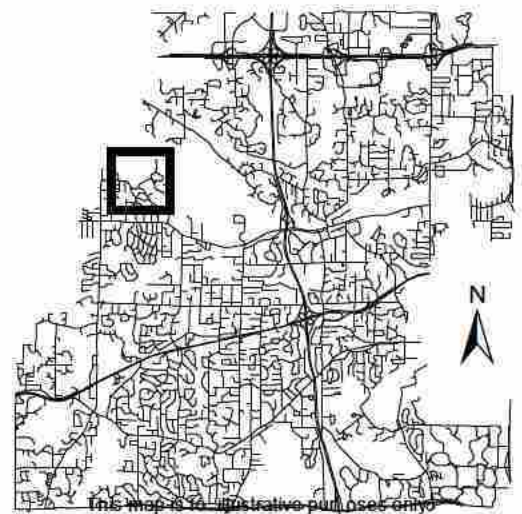
Adopt the resolution reaffirming an expansion permit to replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd.

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



### Location Map

Project: Sowada Residence  
Address: 16816 Gray's Bay Blvd



This map is for illustrative purposes only.



# Surveyors Certificate

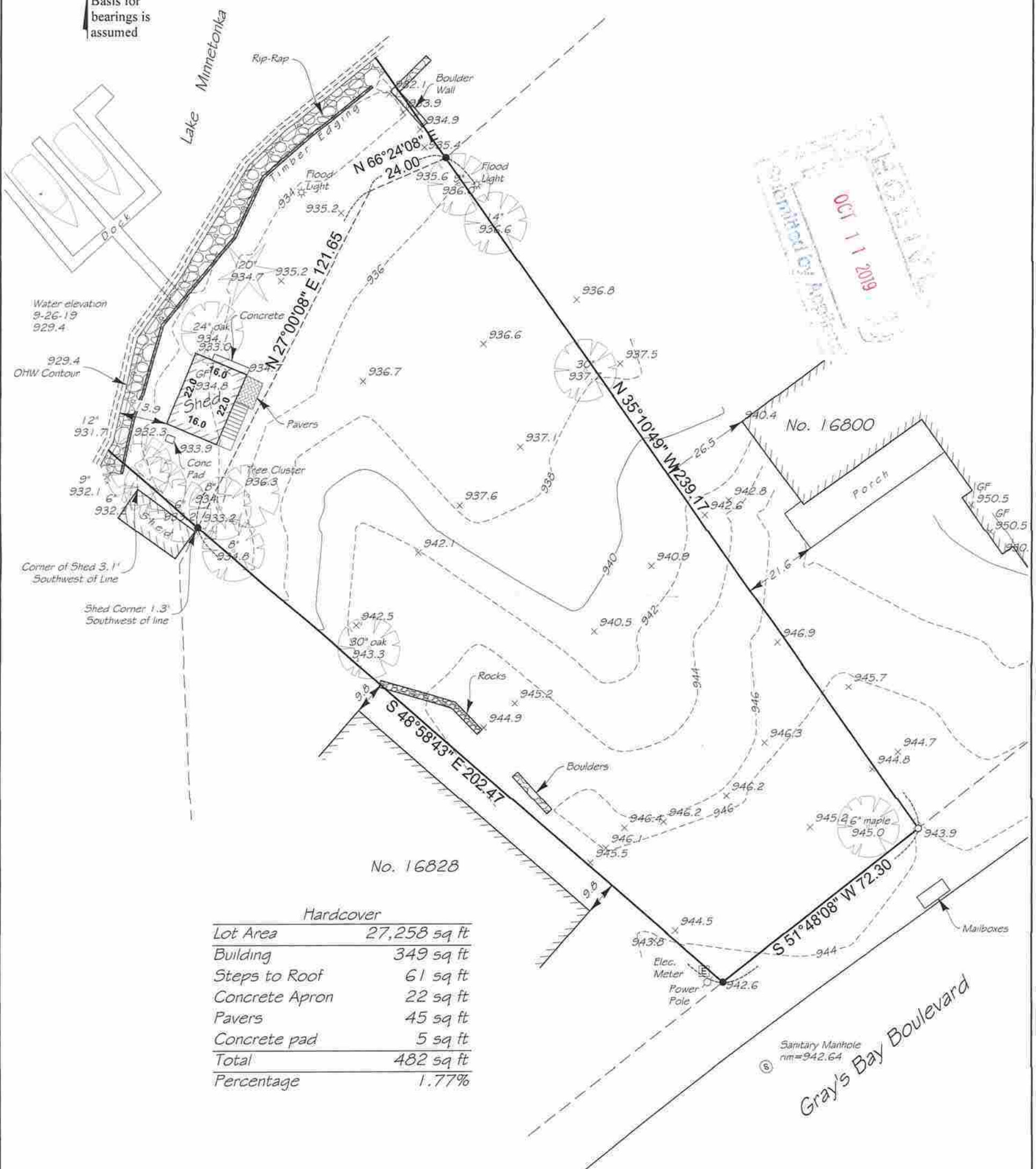
## Existing Conditions Survey For:

### FRONTIER CUSTOM BUILDERS

Property located in Section  
8, Township 117, Range 22,  
Hennepin County, Minnesota

- Denotes Found Iron Monument
- Denotes Iron Monument
- Denotes Wood Hub Set for excavation only
- ~ Denotes Existing Contours
- ~ Denotes Proposed Contours
- x000.0 Denotes Existing Elevation
- 000.0 Denotes Proposed Elevation
- ← Denotes Surface Drainage

Basis for  
bearings is  
assumed

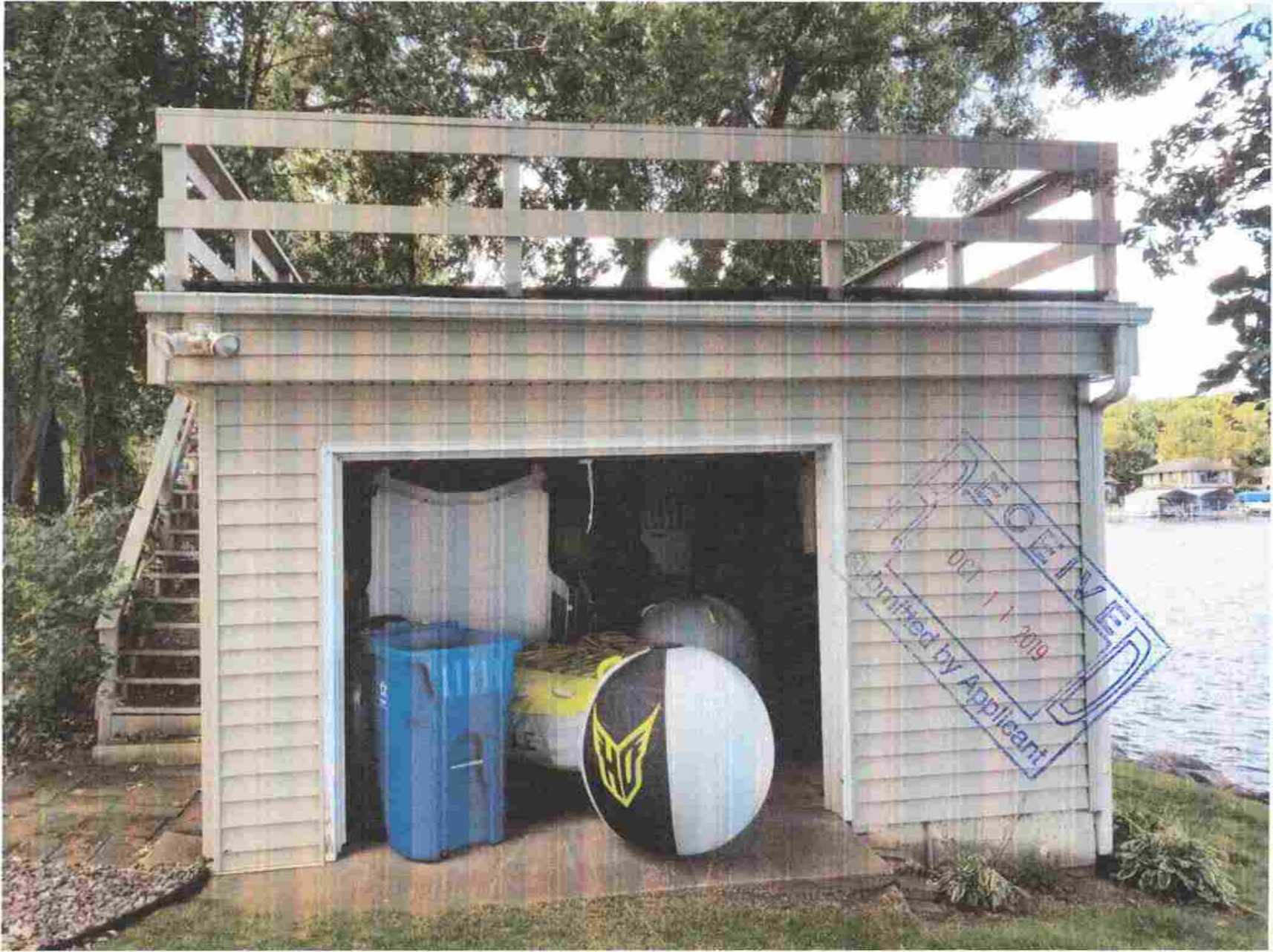


Submitted by: *[Signature]*  
OCT 11 2019

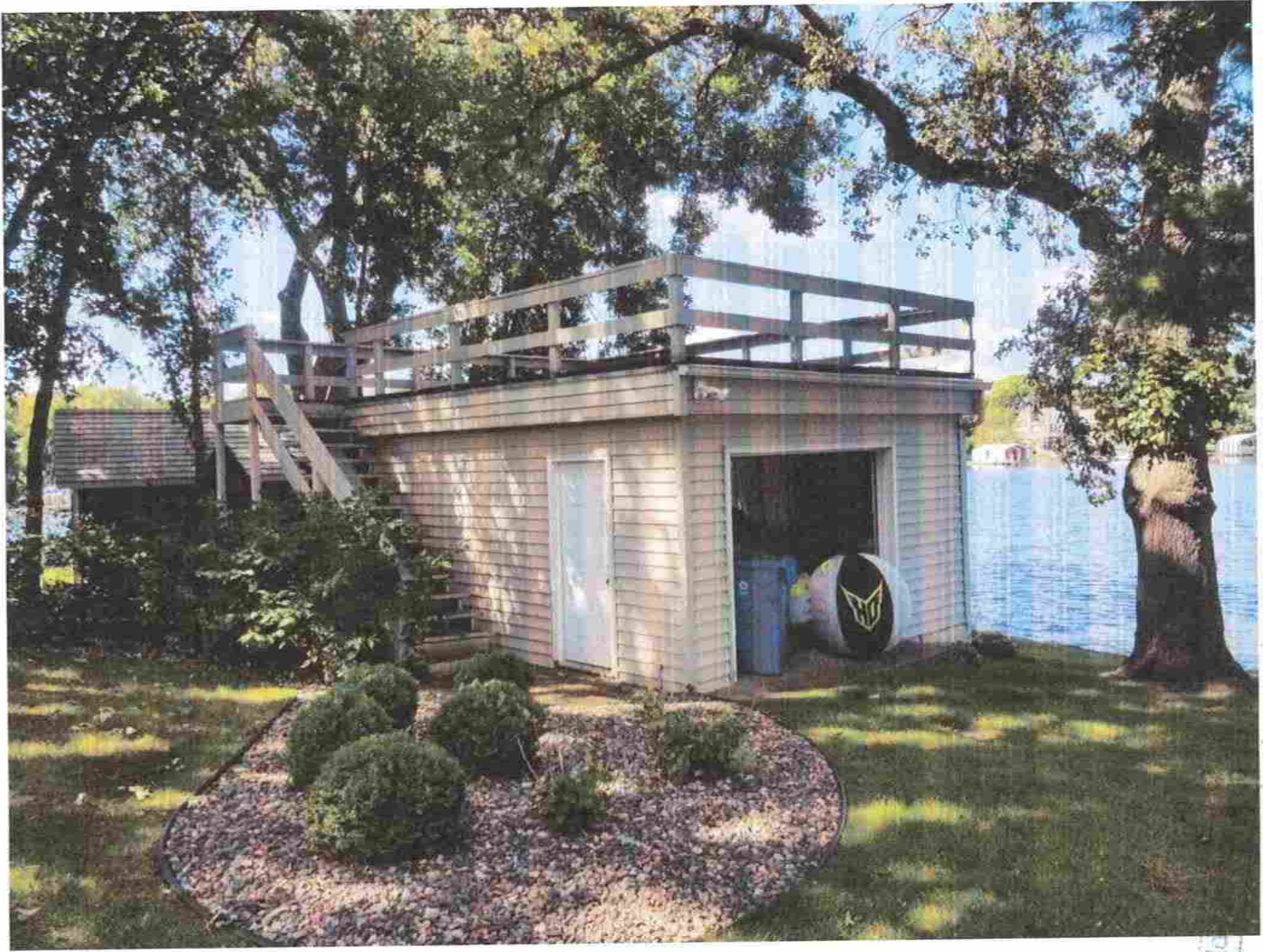
Hardcover	
Lot Area	27,258 sq ft
Building	349 sq ft
Steps to Roof	61 sq ft
Concrete Apron	22 sq ft
Pavers	45 sq ft
Concrete pad	5 sq ft
Total	482 sq ft
Percentage	1.77%

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

Legal Description Lot 5, Block 1, HERBERT T. THOMPSON AND SONS MINNETONKA ADDITION Hennepin County, Minnesota	Project No. 88711	Scale: 1" = 30'	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 26th day of September 2019.
	F.B.No. 1112-01	Drawn By <i>J. Munson</i>	
<b>DEMARC</b> LAND SURVEYING & ENGINEERING 7601 73rd Avenue North (763) 560-3093 Minneapolis, Minnesota 55428 DemarcInc.com	Address: 16816 Grays Bay Boulevard Minnetonka, MN		Signed <i>[Signature]</i> Gregory R. Frasch, Minn. Reg. No. 24992
	rev		



RECEIVED  
OCT 17 2019  
Submitted by Applicant



OCT 11 2019

Application

Sowada Boathouse  
Change roof from flat to 6/12 sloped roof pitch

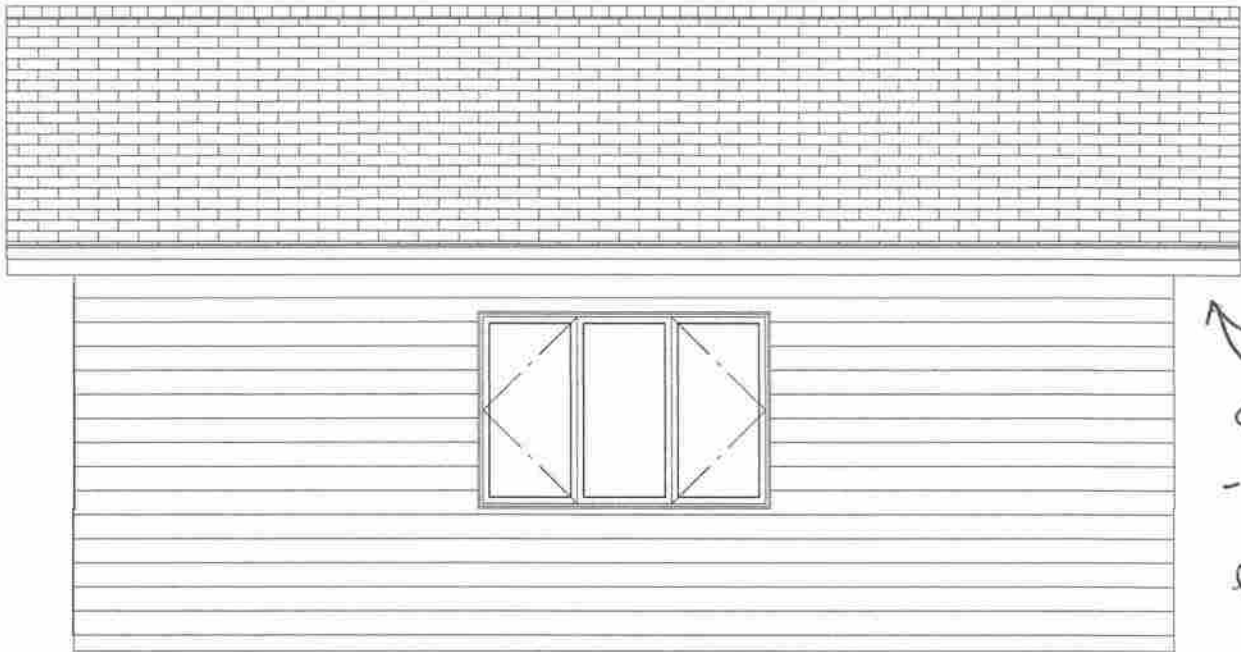


Scale  $\frac{1}{4}'' = 1'$

OCT 11 2019

Sowada Boat House  
Lake Side Elevation with 6/12 pitch sloped roof

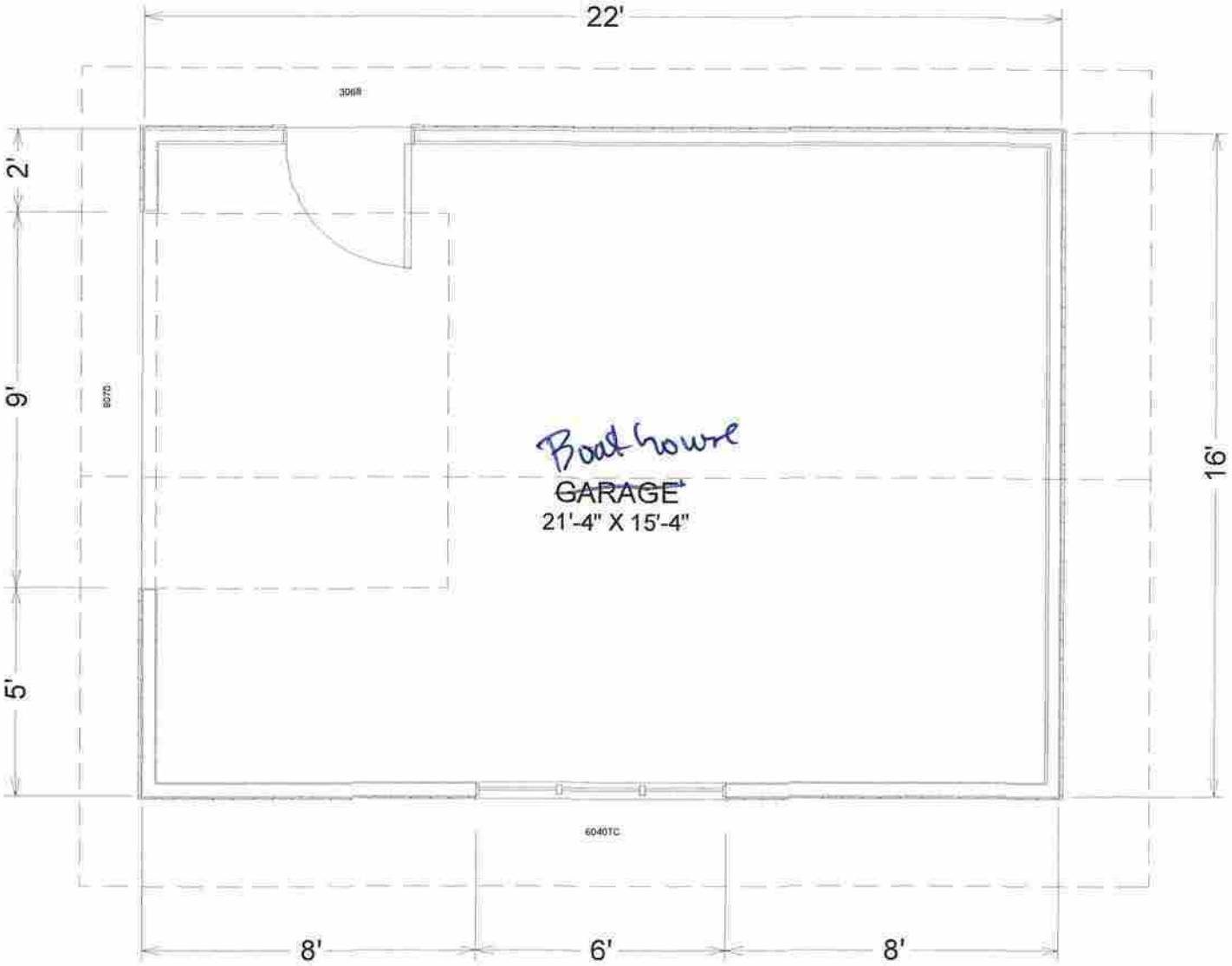
OCT 11 2019



↑ not to  
Scale  
- match  
existing  
pane size  
~~distance~~

Scale 1/4" = 1"

Sowada Boat House  
Floor Plan



RECEIVED  
OCT 11 2019  
Sowada Boat House

## Planning Commission Resolution No. 2019-39

### Resolution approving an expansion permit replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd

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

Section 1. Background.

- 1.01 The subject property is located at 16816 Grays Bay Blvd. It is legally described as: Lot 5, Block 1, HERBERT T. THOMPSON AND SONS MINNETONKA ADDITION, Hennepin County, Minnesota.
- 1.02 A flat-roofed accessory structure was constructed on the property prior to the adoption of the city's first zoning ordinance. The structure has non-conforming shoreland and floodplain setbacks.
- 1.03 Frontier Custom Builders, on behalf of the property owners, is proposing to remove the existing flat roof – and the stairway leading to the “roof deck” – and replace it with a pitched roof. This change would slightly increase the volume of the non-conforming structure. As such, an expansion permit is required.
- 1.04 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.

Section 2. Standards.

- 2.01 City Code §300.29 Subd. 7(c) states that an expansion permit may be granted, but is not mandated, when an applicant meets the burden of proving that:
  - 1. The proposed expansion is a reasonable use of the property, considering such things as functional and aesthetic justifications for the expansion; adequacy of off-site parking for the expansion; absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking;

and improvement to the appearance and stability of the property and neighborhood.

2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowners convenience, and are not solely because of economic considerations; and
3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Section 3. Findings.

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

1. Reasonableness and Neighborhood Character. The proposed change from a flat roof to a pitched roof is reasonable and would not negatively impact neighborhood character, as:
  - a) The change would not increase the footprint of the structure or the impervious surface of the site.
  - b) There are other similarly situated pitched roof structures in the immediate area.
2. Unique Circumstance. In the Minnesota climate, a pitched roof structure is generally preferable to a flat roof structure from a maintenance perspective. However, because the existing flat roof structure is non-conforming, this basic maintenance upgrade – from flat roof to pitched roof – could not be made without an expansion permit. This is a unique circumstance not common to all residentially-zoned properties.

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 Sept. 26, 2019.
  - Building elevations and floor plans, dated Oct. 11, 2019.
2. Prior to issuance of a building permit:
  - a) This resolution must be recorded with Hennepin County.



- b) Submit a plan for landscaping the northwest side of the structures. This plan may include native grass, shrubbery, or other plantings acceptable to natural resources staff.
  - c) Note the proposed façade and roofing colors. Colors must be complementary to the existing home.
- 3. The structure cannot be used principally for motorized watercraft storage.
  - 4. This expansion permit will expire on Dec. 31, 2020, unless the city has issued a building permit for the project covered by this resolution or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on Dec. 5, 2019.



\_\_\_\_\_  
Brian Kirk, Chairperson

Attest:



\_\_\_\_\_  
Fiona Golden, Deputy City Clerk

Action on this resolution:

Motion for adoption: Powers  
Seconded by: Sewall  
Voted in favor of: Powers, Sewall, Hanson, Henry, Knight, Kirk  
Voted against:  
Abstained:  
Absent: Luke  
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 Dec. 5, 2019.

\_\_\_\_\_  
Fiona Golden, Deputy City Clerk

**Susan Thomas**

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**Subject:** FW: Recorded Resolution for 16816 Grays Bay Blvd

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**From:** Nate Jurmu <[REDACTED].com>  
**Sent:** Friday, January 15, 2021 4:08 PM  
**To:** Loren Gordon <[lgordon@minnetonkamn.gov](mailto:lgordon@minnetonkamn.gov)>  
**Subject:** RE: Recorded Resolution for 16816 Grays Bay Blvd

Loren,

We applied for and received an expansion permit to replace a roof on a Boathouse at 16816 Grays Bay Blvd for our clients Peg & Mike Sowada, and they intended to do this work in 2020. Due to Covid-19 circumstances, they were unable to do so but contacted me this week about getting the project started this winter.

Is it possible to “reaffirm” this previous permit to allow this project to move forward into permitting? If so, what is the timing for the planning commission?

Thank you so much for your help with this!

Nate Jurmu



(612) 616-2252

[www.frontiercustombuild.com](http://www.frontiercustombuild.com)

## **Planning Commission Resolution No. 2021-**

### **Resolution reaffirming the previous approval of an expansion permit to replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd.**

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

Section 1. Background.

- 1.01 On Dec. 5, 2019, the planning commission adopted Resolution 2019-39 approving an expansion permit to replace the flat roof of an accessory structure with a pitched roof at 16816 Grays Bay Blvd.
- 1.02 The property is legally described as: Lot 5, Block 1, HERBERT T. THOMPSON AND SONS MINNETONKA ADDITION, Hennepin County, Minnesota.
- 1.03 The approval granted under Resolution 2019-39 expired on Dec. 31, 2020.
- 1.04 Frontier Custom Builders, on behalf of the property owners, has requested the planning commission reaffirm the 2019 approval.

Section 2. Findings

- 2.02 There have been no changes to city code or policy that would affect the previous approval.
- 2.03 The reaffirmation would not adversely affect the interests of neighboring property owners.

Section 3. Planning Commission Action.

- 3.01 The planning commission reaffirms Resolution 2019-39, based on the findings of that resolution and those listed in Section 2 above.
- 3.02 Approval is subject to the conditions of Resolution 2019-039, except that this approval will expire on Dec. 31, 2022, unless the city has issued a building permit for the project covered by this resolution or has approved a time extension.

Adopted by the Planning Commission of the City of Minnetonka, Minnesota, on March 4, 2021.

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Joshua Sewell, Chairperson

Attest:

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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 4, 2021.

---

Fiona Golden, Deputy City Clerk

# **Minnetonka Planning Commission Meeting**

## **Agenda Item 8**

Public Hearing: Non-Consent Agenda

**MINNETONKA PLANNING COMMISSION**  
**March 4, 2021**

<b>Brief Description</b>	Conditional use permit, with setback variance, for an expanded outdoor seating area at 15600 Hwy 7.
<b>Recommendation</b>	Recommend the city council adopt the resolution approving the permit, with variance

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**Background**

In 1971, a restaurant building was constructed on the property at 15600 Hwy 7. Over the next 50 years several restaurants have occupied the building, including Shakey's Pizza, The Hideaway, and Sydney's. Christo's, the most recent occupant, closed in Dec. 2020.

Craft and Crew Hospitality, LLC. has purchased the subject property and will be opening a new restaurant – Duke's on 7 – in the space. Craft and Crew own and operate several other restaurants in the metro area including The Block Food + Drink in St. Louis Park, Pub 819 in Hopkins, Stanley's NE Bar Room in Northeast Minneapolis, and The Howe Daily Kitchen & Bar in South Minneapolis. Each of these locations is dog-friendly. (For more information, see the Craft and Crew [website](#).)

**Proposal**

To accommodate the new restaurant, interior renovations and building façade updates are occurring. In addition to these administratively-approved changes, Craft and Crew is proposing to expand an existing outdoor seating area and construct an outdoor seasonal bar. As proposed, the expanded patio would be situated in a vacant green space, directly west of the restaurant building. The patio – both existing and expanded area – would be surrounded by a seven-foot decorative fence and a portion of the patio would be covered by a pergola.

The expanded patio requires a conditional use permit, with a setback variance. By city code, outdoor seating areas must be set back 200 feet from the residential properties. The patio would be 80 feet from the two-family residential property to the north.



Proposed patio exterior, as viewed from the southwest



Proposed patio interior, as viewed from the north

## 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 collaborative efforts of this larger staff review team.

- **Is the proposed use expansion generally appropriate?**

Yes. The subject property and building have been used for restaurant purposes for 50 years. Patio seating was offered at some of the previous restaurants. The applicant's proposal simply continues and expands this use.

- **Is the setback variance reasonable?**

Yes. The requested variance is reasonable for several reasons:

- Though the expanded patio area would be roughly 80 feet from the closest residential property, it would be 150 feet from the closest home. It would be further separated from this home by two fences – the seven-foot fence proposed around the patio and an existing 10-foot fence located near the north property line – and mature trees.



- The configuration of the existing building and parking lot, “leaves” an existing open space appropriately situated for outdoor dining. However, the subject property is just 240 feet deep through this area. As such, very little of this space could be used for seating without a variance.
- Staff does not anticipate that the requested variance would negatively impact the character of the neighborhood. The subject property and building have been used for restaurant purposes for 50 years. Patio seating was offered at some of these previous restaurants. The requested variance would not change these longstanding uses.

## Staff Recommendation

Recommend the city council adopt the resolution approving a conditional use permit, with setback variance, for an expanded outdoor seating area at 15600 Hwy 7.

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

### Supporting Information

#### Surrounding Land Uses

Northerly: Two-family homes, zoned R-2  
Easterly: North Memorial Clinic, zoned B-3  
Southerly: Hwy 7 and single-family homes beyond, zoned R-1  
Westerly: Office building, zoned B-1

#### Planning

Guide Plan designation: B-3, general business  
Zoning: PUD, planned unit development

#### Parking

The subject property contains 110 parking spaces. By city code, the proposed patio would not require a provision of more spaces. It has been the opinion of the city, and is reflected in the code, that patios do not represent "additional" seating at a restaurant. Rather, these areas represent a seating option. In other words, when a patio is open, customers may choose to sit in the patio instead of indoors.

Nevertheless:

1. In the event that additional parking is needed in the future, staff has suggested the applicant discuss the potential off-site parking agreement with the adjacent North Memorial Clinic.
2. As a condition of approval, no portion of the outdoor area may be enclosed in any way for cold-weather seasonal seating, unless the owner submits an executed parking agreement for off-site stalls as required by the parking ordinance.

#### CUP Standard

The proposed seating area would meet the general CUP standards, as outlined in City Code §300.21 Subd.2:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
4. The use is consistent with the city's water resources management plan;
5. The use is in compliance with the performance standards specified in section 300.28 of this ordinance; and
6. The use does not have an undue adverse impact on the public health, safety or welfare.



But for setback from the north property, the proposed seating would meet the specific conditional use permit standards for outdoor seating area as outlined in City Code §300.21 Subd. 4(p):

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

**Finding:** Access to the patio would be via the restaurant building. This has also be included as a condition of approval.

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

**Finding:** The expanded patio would be located 80 feet from the closest residential property, requiring a variance from this standard. See the "Variance" section below.

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

**Finding:** The outdoor dining area would be located in an existing, open area adjacent to the restaurant space and would not obstruct vehicular or pedestrian circulation.

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

**Finding:** The outdoor dining area would not obstruct any parking spaces.

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

**Finding:** The outdoor area would be located immediately adjacent to the principal use and accessed via the entrance to the principal use.

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

**Finding:** This is included as a condition of approval.

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

**Finding:** This is included as a condition of approval.

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

**Finding:** The outdoor area would be meet building setback requirements.

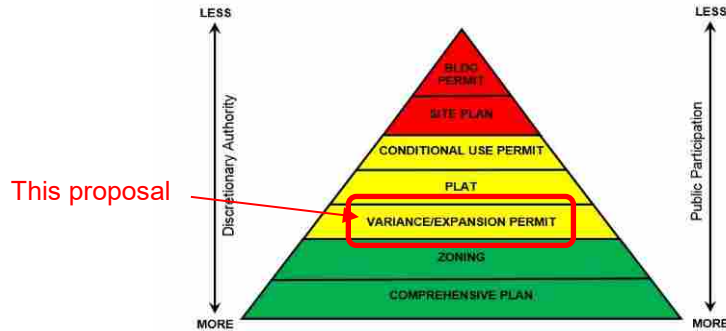
**Variance Standard**

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

- **Intent of the Ordinance.** The intent of the ordinance regarding setbacks for outdoor patios is to mitigate the real or perceived negatives impacts these areas may have on surrounding uses. The applicant's proposal meets this intent, as it would be visually separated from the adjacent residences. The expanded area would be surrounded by a new seven-foot fence. This would be in addition to an existing ten-foot opaque fence that is already located on the north property line.
- **Comprehensive Plan.** The subject property is guided for commercial use and has been used commercially for 50 years. The requested variance would not alter the longstanding commercial use of the site.
- **Practical Difficulties.** There are practical difficulties in complying with the ordinance.
  - **Reasonableness and Unique Circumstance.** The requested variance is reasonable. Though the expanded patio area would be roughly 80 feet from the closest residential property, it would be 150 feet from the closest home. It would be further separated from this home by two fences – proposed around the patio and existing along the property line – and mature trees.
  - **Unique Circumstance.** The configuration of the existing building and parking lot, "leaves" an existing open space appropriately situated for outdoor dining. However, the subject property is just 240 feet deep through this area. As such, very little of this space could be used for seating without a variance. Taken together, these circumstances are unique.
  - **Character of Locality.** Staff does not anticipate that the requested variance would negatively impact the character of the neighborhood. The subject property and building have been used for restaurant purposes for 50 years, which is slightly longer than the adjacent residential uses. Some of

these historical restaurant included patio dining. The requested variances would not change these longstanding uses.

### Pyramid of Discretion



### Motion Options

The planning commission will make a recommendation to the city council. Any recommendation requires the affirmative vote of a simple majority. The commission has three motion options:

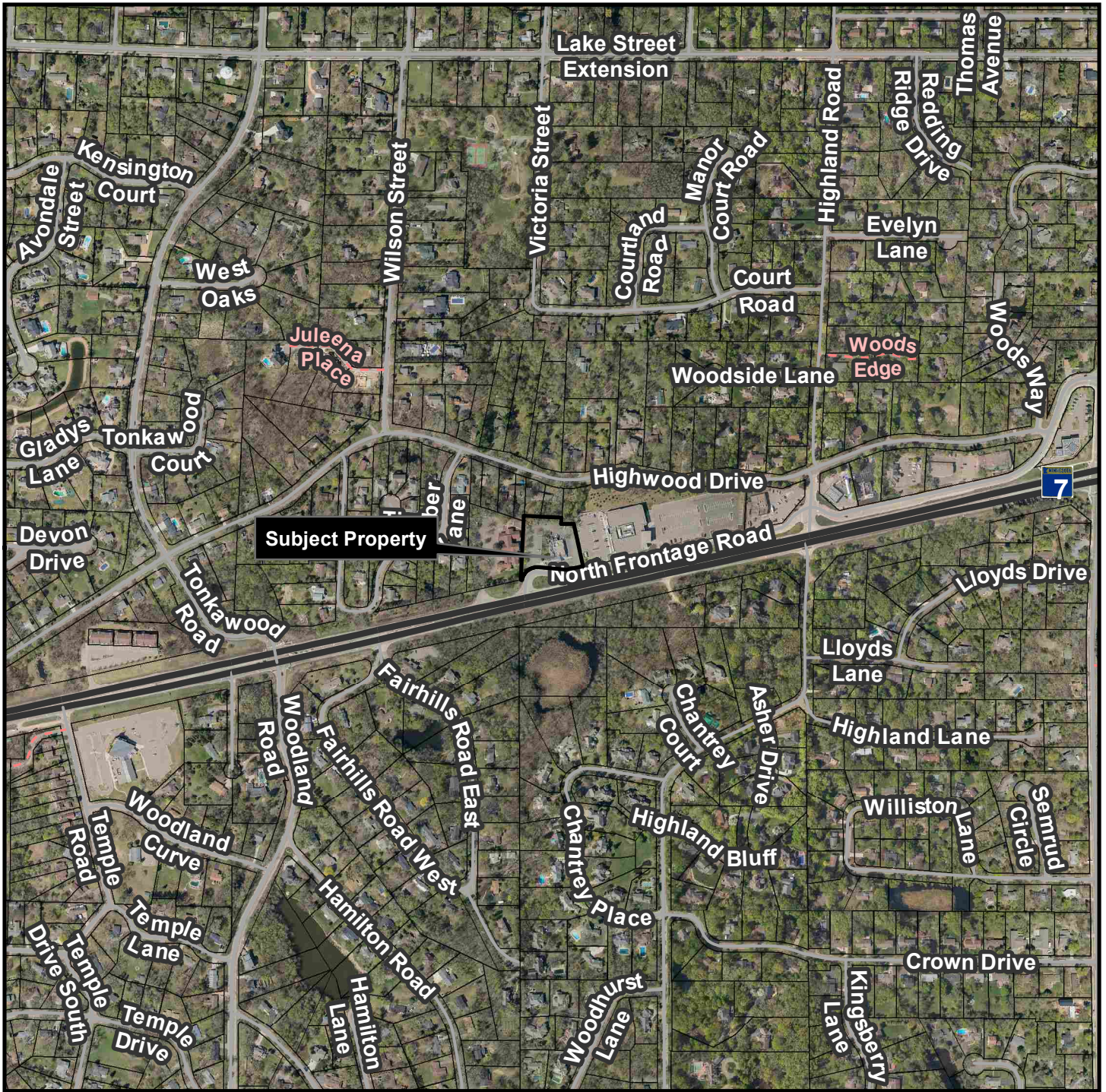
1. Concur with the staff recommendation. In this case a motion should be made recommending the council adopt the resolution approving the CUP, with variance.
2. Disagree with staff's recommendation. In this case, a motion should be made recommending the council deny the conditional use permit request. The recommendation should include findings as to how the CUP or variance standards are not being met.
3. Table the requests. In this case, a motion should be made to table the item. The motion should include a statement as to why the request is being tabled with direction to staff, the applicant, or both.

### Neighborhood Comments

The city sent notices to 51 area property owners and residents and received no responses to date.

### Deadline for Action

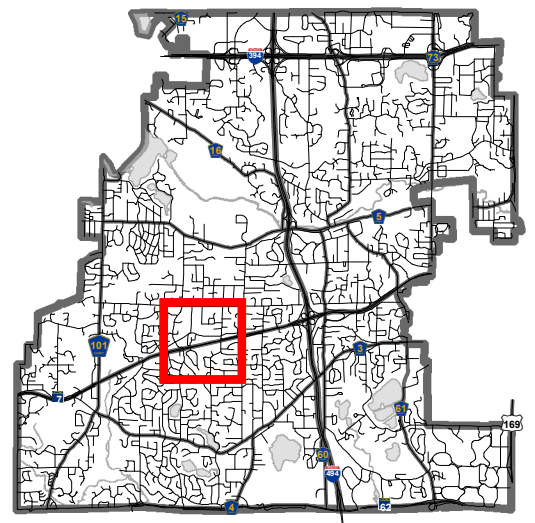
**May 10, 2021**

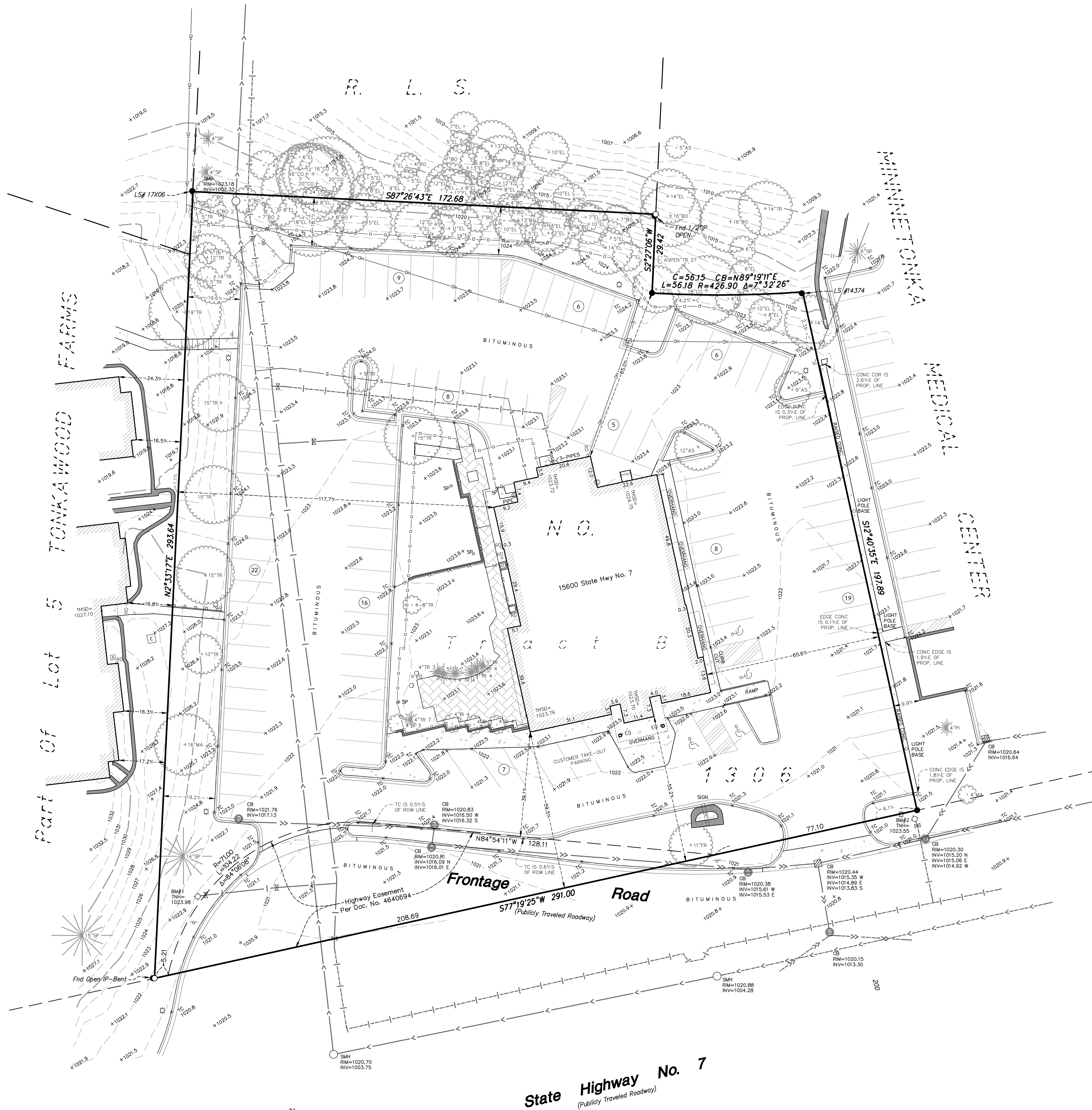


**Subject Property**

### Location Map

Project: Duke's  
Address: 15600 Hwy 7





### DESCRIPTION OF PROPERTY SURVEYED

(Per Hennepin County Tax Records)  
 Tract B, REGISTERED LAND SURVEY NO. 1306, Hennepin County, Minnesota. Subject to Highway.  
 Torrens Property  
 (Certificate of Title No. 1193536)

### SURVEY REPORT

- The purpose of this survey is to show partial topography and existing improvements for the requested area of the property.
- This survey was prepared without the benefit of a Title Commitment. There may or may not be easements of record encumbering this property.
- Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or reference by existing monuments or witness to the corners are shown hereon.
- The address, if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork is 15600 State Highway No. 7, Minnetonka, Minnesota, 55345.
- The Gross land area is 63,791 +/- square feet or 1.46 +/- acres  
 The Right of way area is 5,273 +/- square feet or 0.12 +/- acres  
 The Net area is 58,518 +/- square feet or 1.34 +/- acres
- The bearings for this survey are based on REGISTERED LAND SURVEY NO. 1306.
- Benchmark #1: Top nut of hydrant located near southwest corner of subject property, shown hereon.  
 Elevation = 1023.98 feet (NGVD/29)  
 Benchmark #2: Top nut of hydrant located near southeast corner of subject property, shown hereon.  
 Elevation = 1023.55 feet (NGVD/29)
- Striping of clearly identifiable parking spaces on surface parking areas and lots are shown hereon. The number and type of clearly identifiable parking stalls on this site are as follows: 106 Regular + 4 Disabled = 110 Total Parking Stalls.
- Substantial features observed in the process of conducting fieldwork, are shown hereon.
- We have shown underground utilities on and/or serving the surveyed property per Gopher State One-Call Ticket Nos. 203161361 and 203161347. The following utilities and municipalities were notified:

CITY OF MINNETONKA	(952)988-8400	COMCAST	(800)778-9140
COMCAST	(800)778-9140	CENTURYLINK	(800)778-9140
CENTER POINT ENERGY	(608)223-2014	MNDOT	(651)366-5750
XCCEL ENERGY	(800)848-7558		

- Utility operators do not consistently respond to locate requests through the Gopher State One Call service for surveying purposes such as this. Those utility operators that do respond, often will not locate utilities from their main line to the customer's structure or facility. They consider those utilities "private" installations that are outside their jurisdiction. These "private" utilities on the surveyed property or adjoining properties, may not be located since most operators will not mark such "private" utilities. A private utility locator may be contacted to investigate these utilities further, if requested by the client.
- Maps provided by those notified above, either along with a field location or in lieu of such a location, are very often inaccurate or inconclusive. EXTREME CAUTION MUST BE EXERCISED BEFORE AN EXCAVATION TAKES PLACE ON OR NEAR THIS SITE. BEFORE DIGGING, YOU ARE REQUIRED BY LAW TO NOTIFY GOPHER STATE ONE CALL AT LEAST 48 HOURS IN ADVANCE AT 811 or (651) 454-0002.
- Trees shown hereon are 8 inch diameter at breast height or greater. Other trees, less than 8 inches, may be on site but are not shown hereon.
- The field work was completed on November 18, 2020.
- Snow and ice conditions during winter months may obscure otherwise visible evidence of on site improvements and/or utilities.
- Highway Easement, dated 05/08/09, per Doc. No. T4640694, is shown hereon at the southwest corner of the property.

### SURVEY LEGEND

● FOUND IRON MONUMENT, MARKED "LS 43933", UNLESS SHOWN OTHERWISE	⊠ CATCH BASIN	—> STORM SEWER
○ SET 1/2 INCH X 14 INCH IRON MONUMENT, MARKED "LS 48988"	⊙ STORM MANHOLE	- - - - MAPPED STORM SEWER
CC CURB CUT	⊙ SANITARY MANHOLE	- - - - SANITARY SEWER
TC TOP OF CURB	⊙ HYDRANT	- - - - MAPPED SANITARY SEWER
THSD ELEV @ THRESHOLD	⊙ GATE VALVE	— WATERMAIN
TNH TOP NUT HYDRANT	⊙ AIR CONDITIONING UNIT	- - - - MAPPED WATERMAIN
AS ASH	⊙ DISABLED PARKING STALL	- - - - ELE MAPPED UG ELECTRIC
BI BIRCH	⊙ ELECTRIC METER	- - - - GAS MAPPED UG GAS
BD BOXELDER	⊙ ELECTRIC OUTLET	- - - - TEL MAPPED UG TELEPHONE
CD COTTONWOOD	⊙ ELECTRIC TRANSFORMER	— OH OVERHEAD UTILITY
EL ELM	⊙ FIRE CONNECTION	— II IRON FENCE
FR MISC FRUIT	⊙ GAS METER	— WOOD FENCE
MA MAPLE	⊙ GUARD POST	— GUARDRAIL
PI PINE	⊙ GUY WIRE	— CONCRETE CURB
SP SPRUCE	⊙ LIGHT POLE	— RETAINING WALL
TR TREE (GENERAL)	⊙ PARKING STALL COUNT	— CONCRETE
⊙ CONIFEROUS TREE	⊙ POWER POLE	— PAVERS
⊙ DECIDUOUS TREE	⊙ ROOF DRAIN	— NO PARKING
	⊙ SIGN	— CONTOUR
	⊙ SPIGOT	— 972.5 SPOT ELEVATION
	⊙ YARD LIGHT	

**CHRISTOS RESTAURANT**  
 15600 STATE HWY NO. 7  
 MINNETONKA, MN 55345

**CRAFT & CREW HOSPITALITY**  
 OWNER ADDRESS

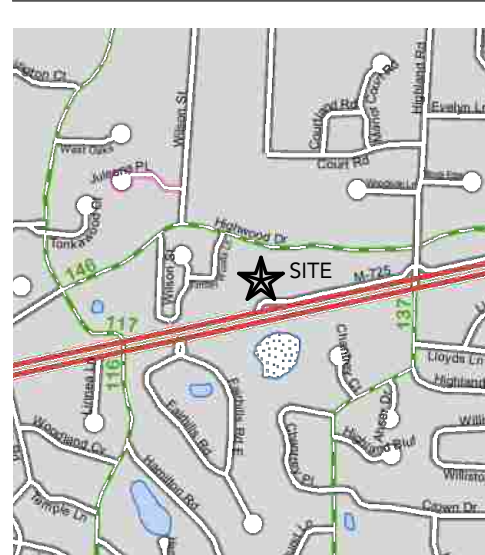
**LOUCKS**  
 PLANNING  
 CIVIL ENGINEERING  
 LAND SURVEYING  
 LANDSCAPE ARCHITECTURE  
 ENVIRONMENTAL  
 7200 Hemlock Lane, Suite 300  
 Maple Grove, MN 55369  
 763.424.5505  
 www.loucksin.com

**CADD QUALIFICATION**  
 CADD files prepared by the Consultant for this project are instruments of the Consultant's professional services for use solely with respect to this project. These CADD files shall not be used on other projects, for additions to this project, or for completion of this project by others without written approval by the Consultant. With the Consultant's approval, others may be permitted to obtain copies of the CADD drawing files for information and reference only. All intentional or unintentional revisions, additions, or deletions to these CADD files shall be made at the full risk of that party making such revisions, additions or deletions and that party shall hold harmless and indemnify the Consultant from any & all responsibilities, claims, and liabilities.

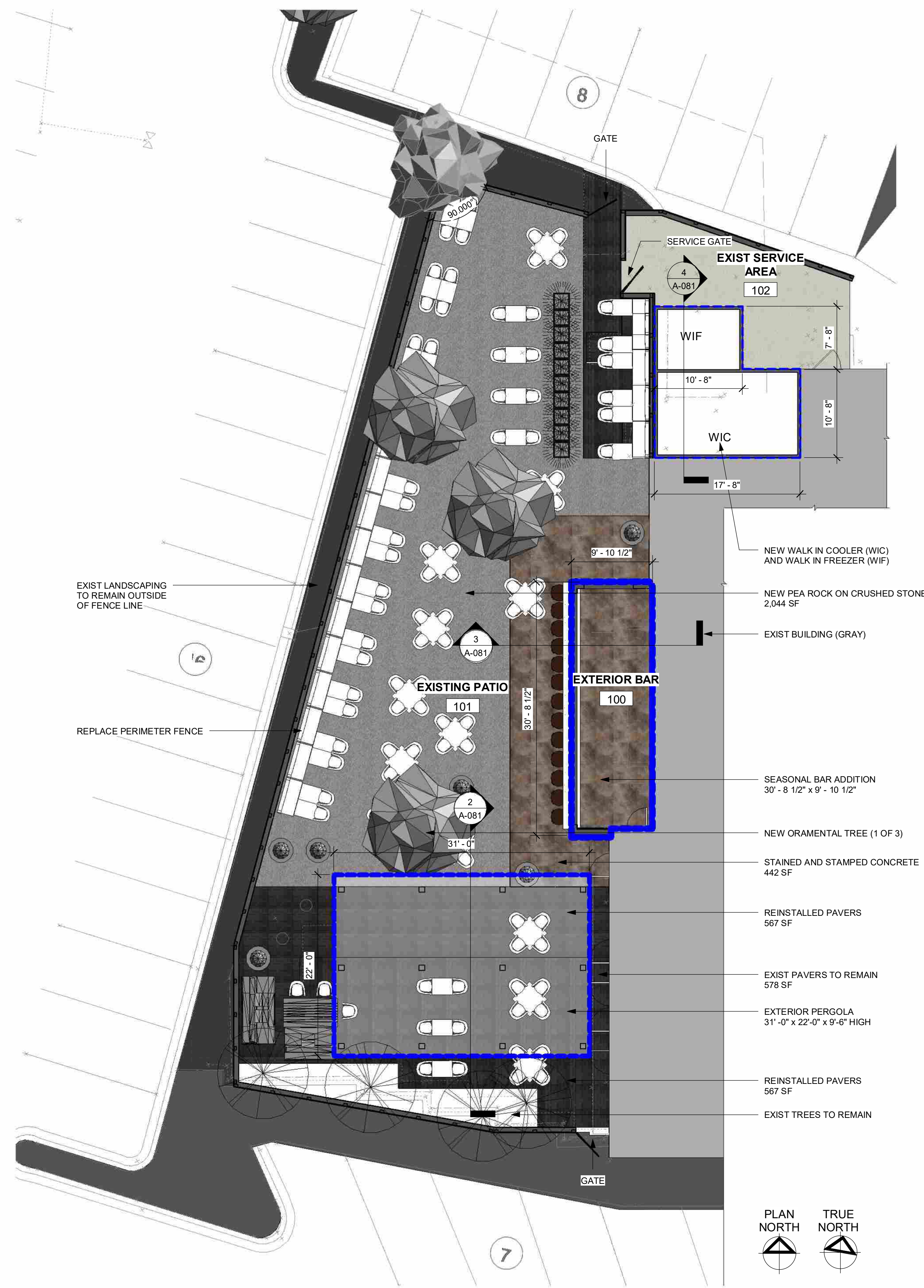
**SUBMITTAL/REVISIONS**  
 11/25/20 SURVEY ISSUED

**PROFESSIONAL SIGNATURE**  
 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.  
*Max L. Stanskiwicz - PLS*  
 License No. 48988  
 Date 11/25/20

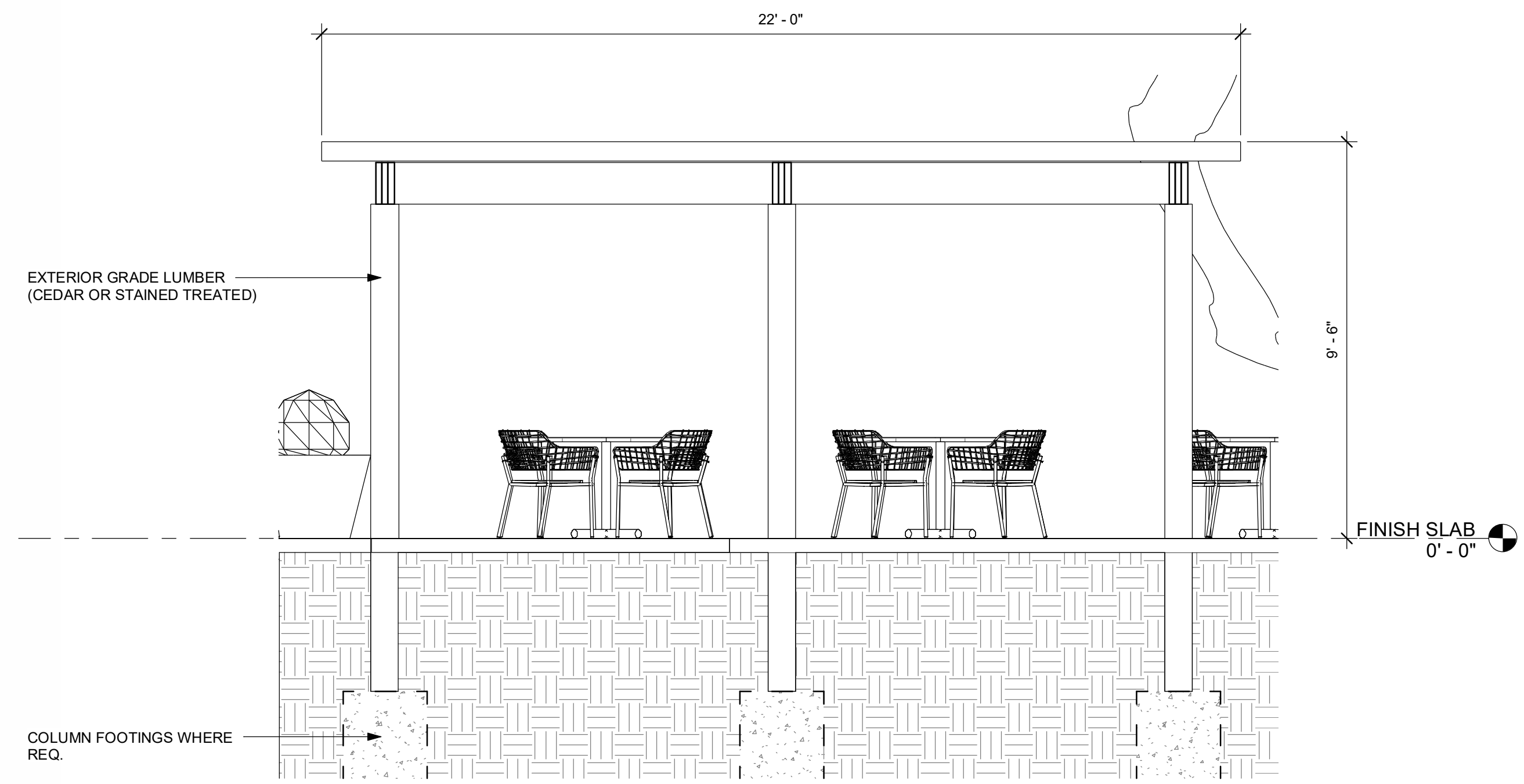
**QUALITY CONTROL**  
 Loucks Project No. 20-563  
 Project Lead MLS  
 Drawn By SFM  
 Checked By MLS  
 Field Crew CMS



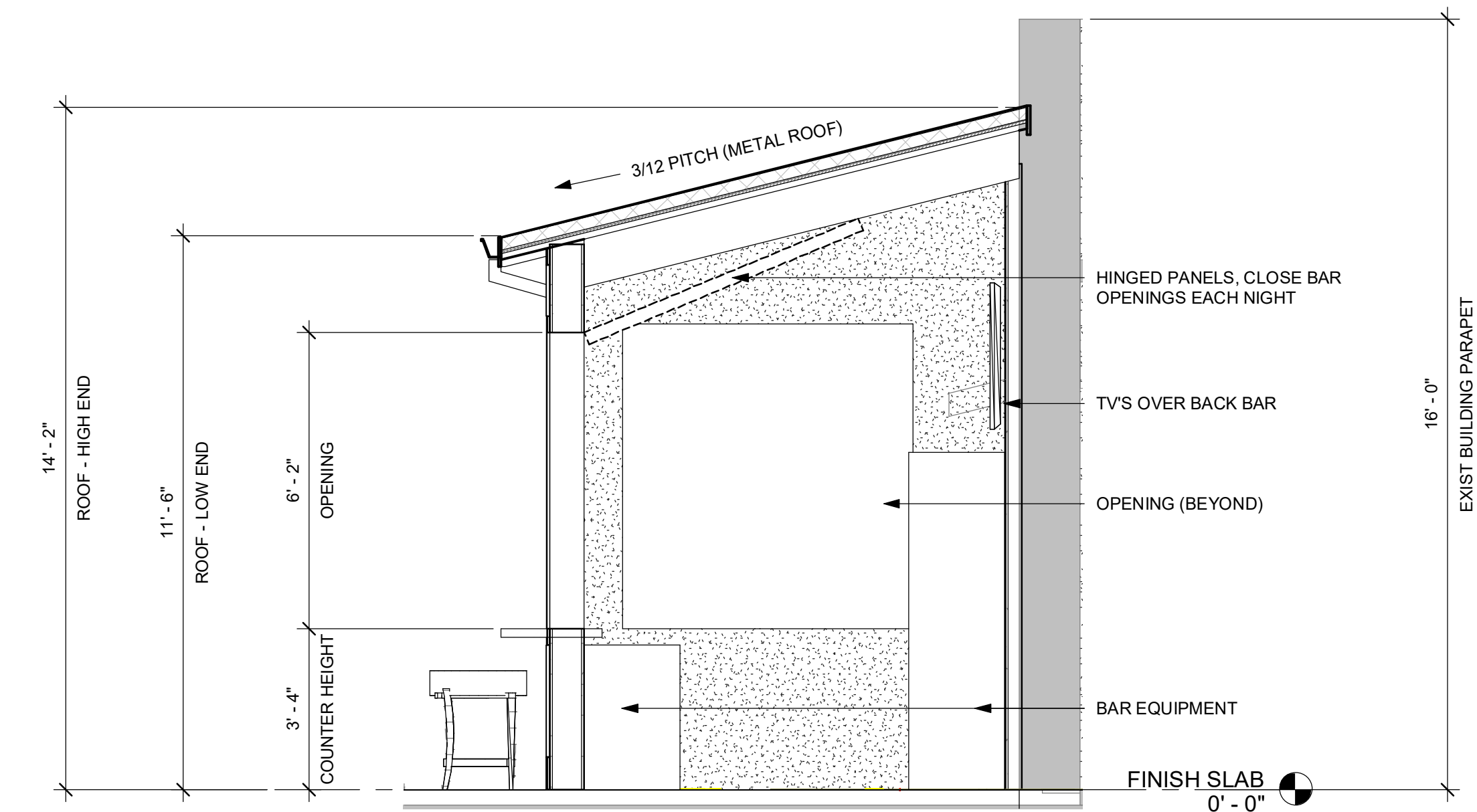
**BOUNDARY & TOPOGRAPHIC SURVEY**  
**1 OF 1**



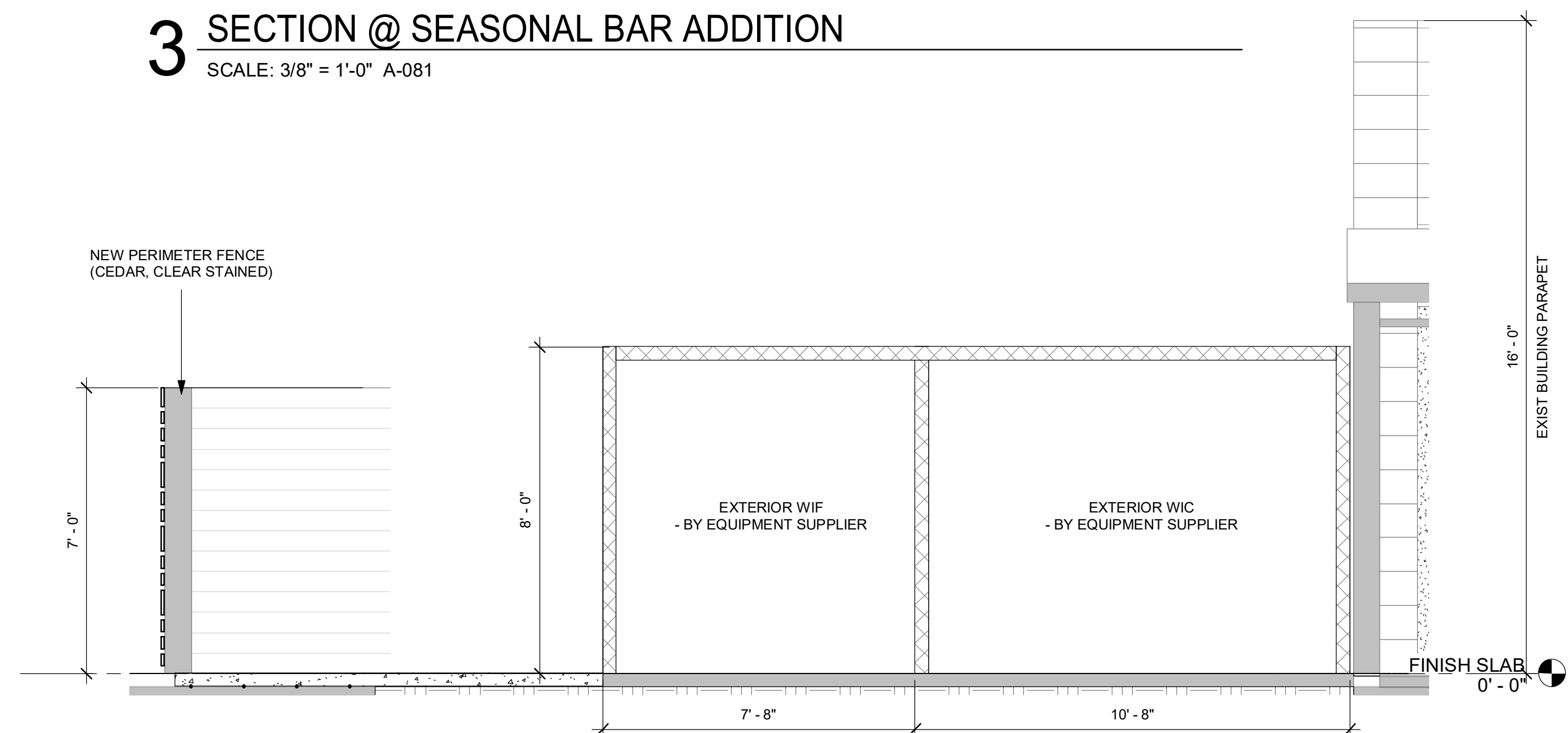
**1 SITE PREMISES PLAN**  
SCALE: 1/8" = 1'-0" A-081



**2 SECTION @ PERGOLA**  
SCALE: 3/8" = 1'-0" A-081



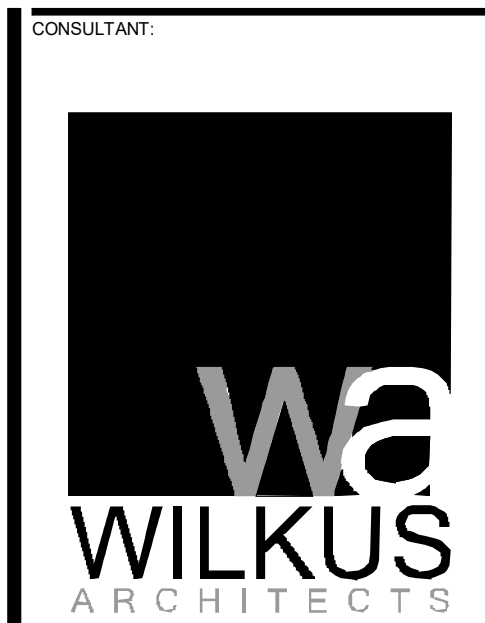
**3 SECTION @ SEASONAL BAR ADDITION**  
SCALE: 3/8" = 1'-0" A-081



**4 SECTION @ EXTERIOR WIC & WIF**  
SCALE: 3/8" = 1'-0" A-081

**NOT FOR CONSTRUCTION**





15 Ninth Avenue North Hopkins, MN 55343  
Phone: 952.541.8891 www.wilkusarch.com

CLIENT:  
**CRAFT & CREW**  
HOSPITALITY  
Luke Derheim  
Craft & Crew Hospitality  
15600 MN-7  
Minnetonka, MN 55345

PROJECT INFORMATION:  
**DUKE'S PKG 2 -  
SEASONAL BAR  
ADDITION**  
15600 MN-7  
Minnetonka, MN 55345

SEAL  
**NOT FOR  
CONSTRUCTION**

PROJECT NO.: 2020-0518  
DRAWN BY: KMT  
CHECKED BY: MMW

ISSUE: DATE:

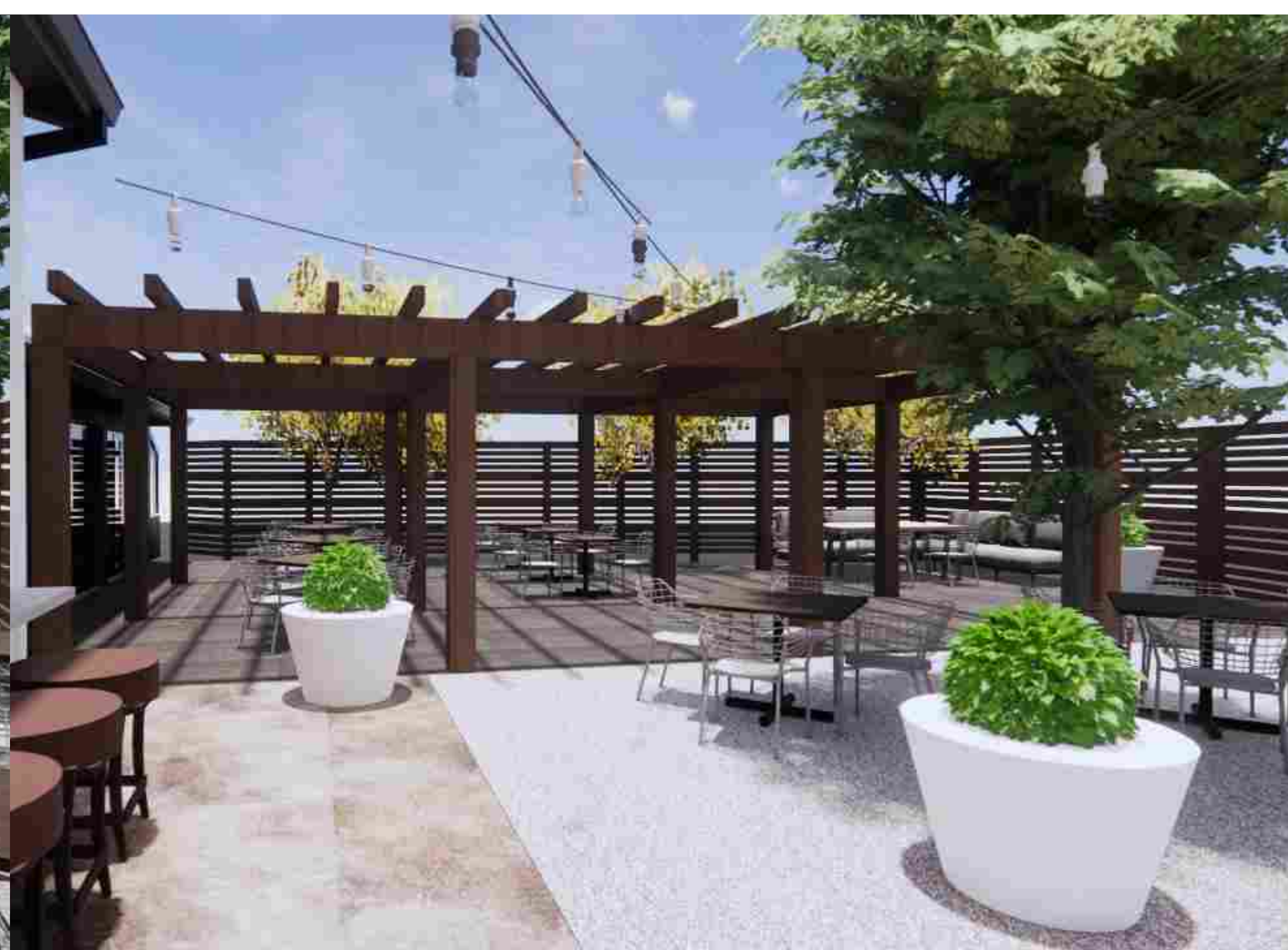
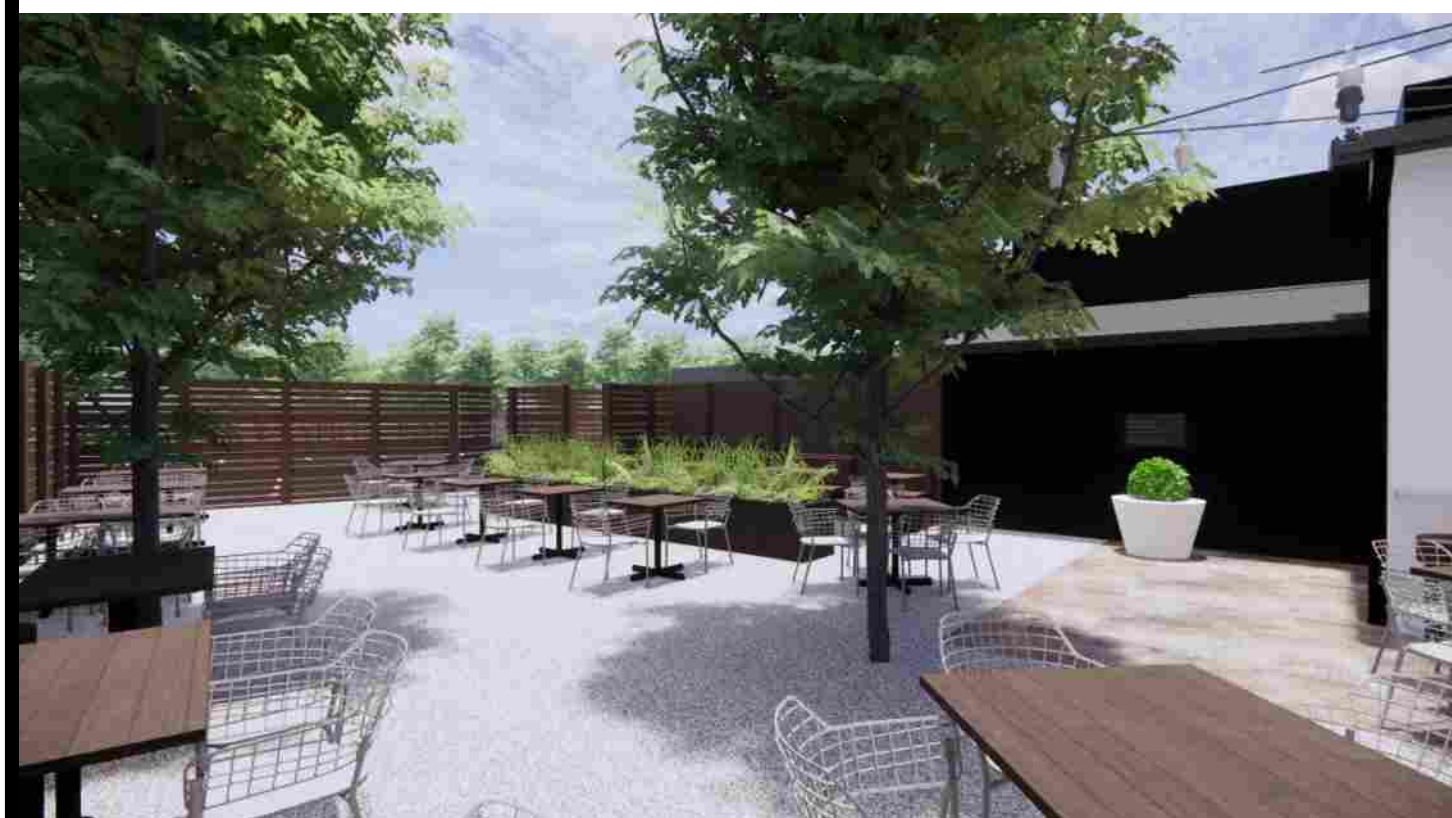
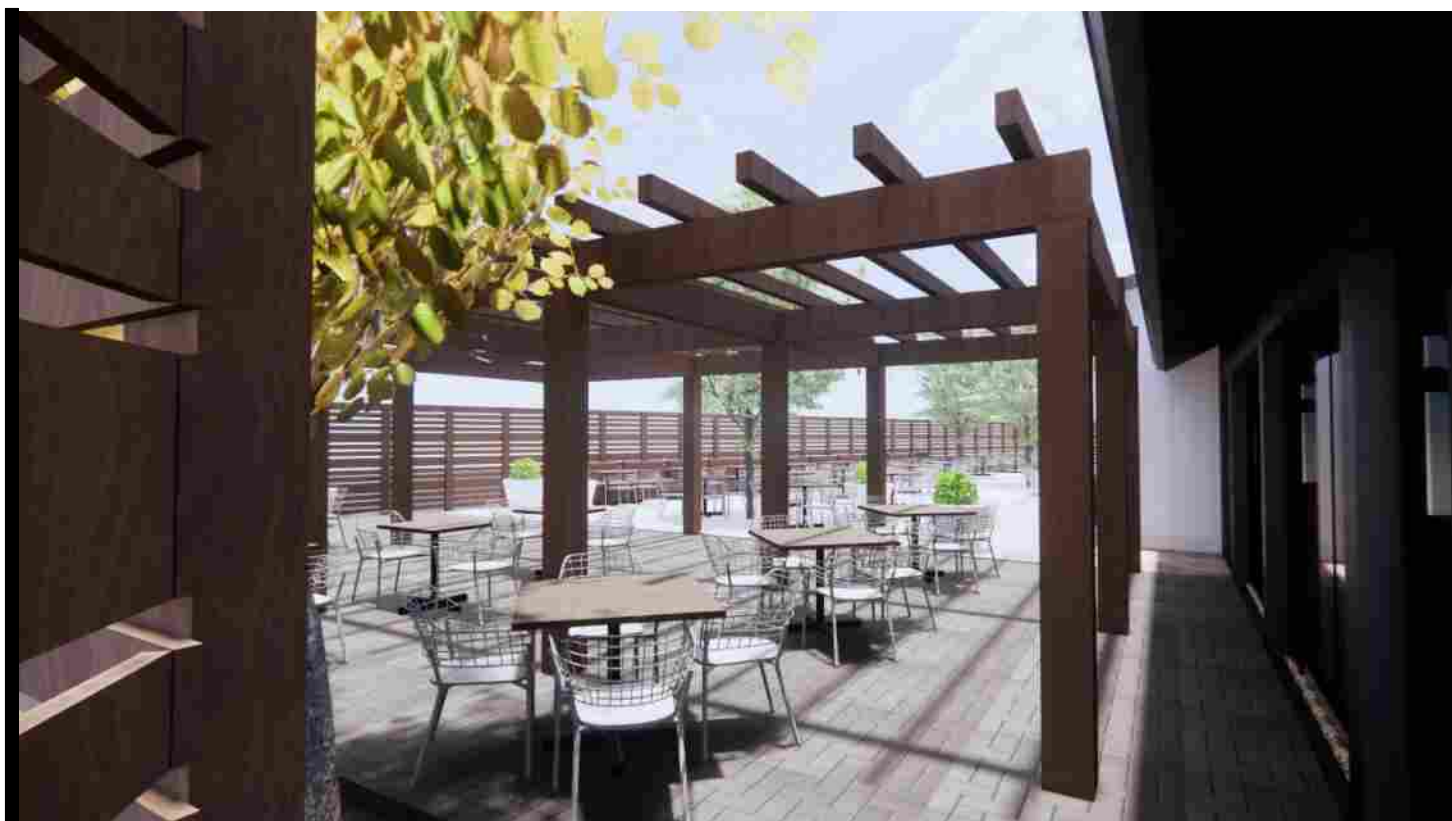
REVISION: DATE:

PROJECT LOCATION:  
MINNETONKA, MN

SHEET NUMBER/TITLE:  
**A-301**  
RENDERINGS

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15 Ninth Avenue North Hopkins, MN 55343  
Phone: 952.541.8891 www.wilkusarch.com

CLIENT:  
**CRAFT & CREW**  
HOSPITALITY  
Luke Derheim  
Craft & Crew Hospitality  
15600 MN-7  
Minnetonka, MN 55345

PROJECT INFORMATION:

**DUKE'S PKG 2 -  
SEASONAL BAR  
ADDITION**  
15600 MN-7  
Minnetonka, MN 55345

SEAL:

**NOT FOR  
CONSTRUCTION**

PROJECT NO.: 2020-0518  
DRAWN BY: KMT  
CHECKED BY: MMW

ISSUE: DATE:

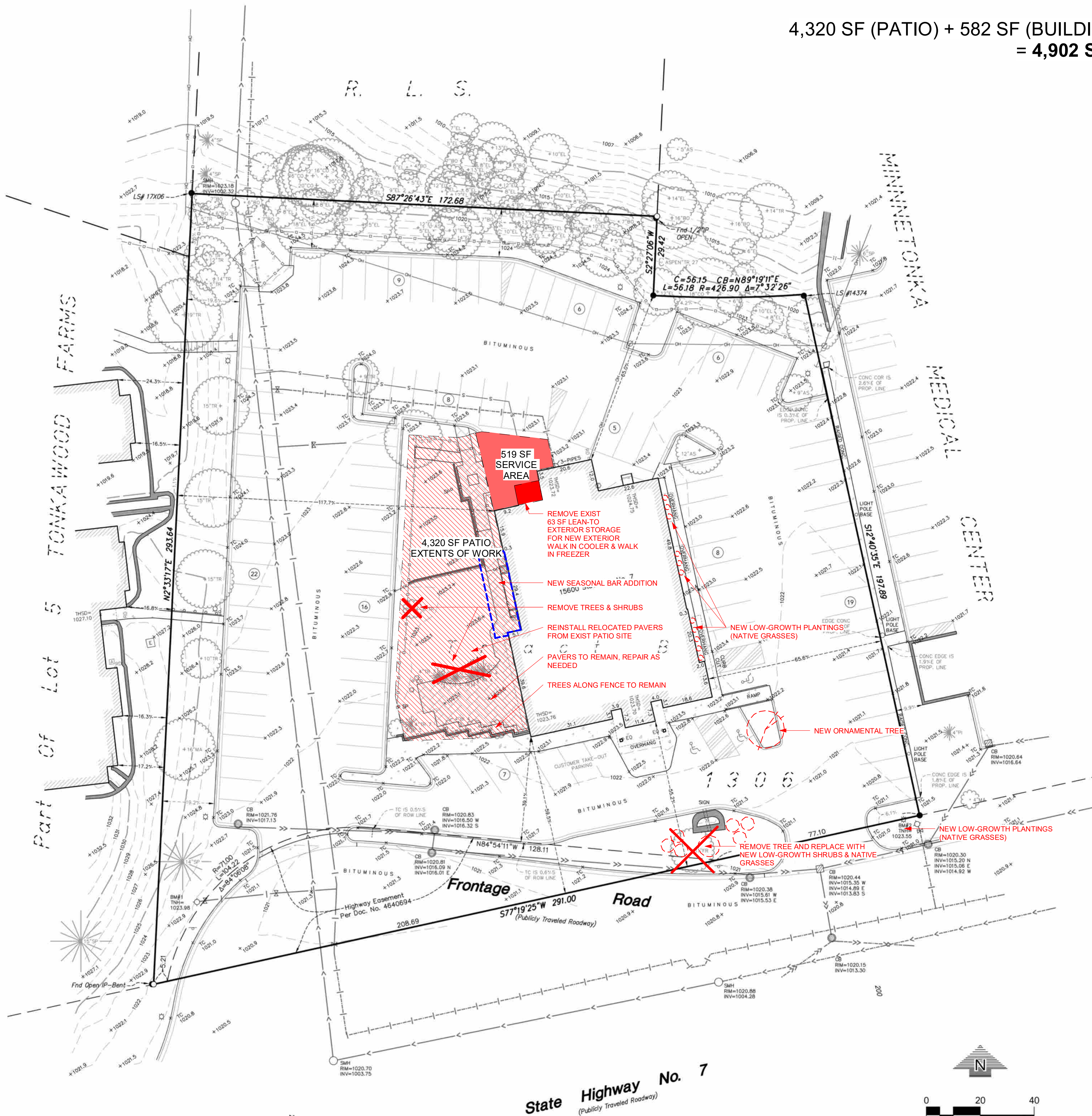
REVISION: DATE:

PROJECT LOCATION:  
MINNETONKA, MN

SHEET NUMBER/TITLE:  
**A-302**  
RENDERINGS - PATIO

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4,320 SF (PATIO) + 582 SF (BUILDING SERVICE AREA)  
= 4,902 SF AREA AFFECTED



**2 LANDSCAPE PLAN & EXTENTS OF WORK**  
SCALE: 1" = 20'-0" A-080



REMOVE EXISTING PLANTINGS, REPLACE WITH LOW-GROWTH SHRUBS & NATIVE GRASSES

ADD ADDITIONAL LOW-GROWTH SHRUBS AND NATIVE GRASSES



NEW ORNAMENTAL TREE

NEW LOW-GROWTH NATIVE GRASSES UNDER WINDOWS



REMOVE EXIST OUTDOOR STORAGE LEAN-TO (6'-4" x 9'-4") FOR NEW EXTERIOR WALK-IN COOLER & WALK-IN FREEZER

REPLACE EXISTING FENCE



ADDITION TO OCCUR WITHIN EXISTING PATIO

REPLACE EXISTING FENCE



REPLACE EXISTING FENCE

REPAINT EXISTING EXTERIOR

NEW BRICK VENEER WAINSCOT AT SOUTH ELEVATION

WRAP EXISTING BEAMS WITH CEDAR



15 11th Avenue North, Hopkins, MN 55343  
Phone: 952.341.9968 | www.wilkusarch.com

CLIENT:  
**CRAFT & CREW**  
HOSPITALITY  
Luke Derheim  
Craft & Crew Hospitality  
15600 MN-7  
Minnetonka, MN 55345

PROJECT INFORMATION:

**DUKE'S PKG 2 - SEASONAL BAR ADDITION**  
15600 MN-7  
Minnetonka, MN 55345

SEAL:  
**NOT FOR CONSTRUCTION**

PROJECT NO.: 2020-0518  
DRAWN BY: KMT  
CHECKED BY: MMW

ISSUE: DATE:

REVISION: DATE:

PROJECT LOCATION:  
MINNETONKA, MN

SHEET NUMBER / TITLE:

**A-080**  
SITE PLAN & LANDSCAPE PLAN

## **Resolution No. 2021-**

### **Conditional use permit, with setback variance, for an expanded outdoor seating area at 15600 Hwy 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 15600 Hwy 7 and is legally described as:

Tract B, REGISTERED LAND SURVEY NO. 1306, Hennepin County, Minnesota

Torrens Property  
(Certificate of Title No. 1193536)

1.02 In 1971, a restaurant building was constructed on the subject property. Over the next 50 years several restaurants have occupied the building and served on a small outdoor seating area located at the southwest corner of the building. The most recent occupant, Christo's, closed in December 2021.

1.03 Craft and Crew Hospitality, LLC. recently purchased the subject property and will be opening a new restaurant in the space. In addition to administratively-approved interior and façade changes, Craft and Crew is proposing to expand the existing outdoor seating area and construct an outdoor seasonal bar. The proposals requires a conditional use permit, with a setback variance from 200 feet to 80 feet.

1.04 Minnesota Statute §462.357 Subd. 6, and City Code §300.07 authorizes the city to grant variances.

1.05 On March 4, 2021, 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 the city council approve the conditional use permit, with variance.

Section 2. Standards.

2.01 City Code §300.21 Subd. 2 lists the following general standards that must be met for granting a conditional use permit:

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

2.02 City Code §300.21 Subd.4(p) lists the following specific standards that must be met for granting a conditional use permit for outdoor eating areas:

1. Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required, and the enclosure shall not be interrupted; access shall be only through the principal building;
2. Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or another method of screening acceptable to the city;
3. Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
4. Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;
5. Shall be located adjacent to an entrance to the principal use;
6. Shall be equipped with refuse containers and periodically patrolled for litter pick-up;
7. Shall not have speakers or audio equipment which is audible from adjacent parcels; and
8. Shall be located in compliance with building setback requirements.

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

3.02 The proposal meets the specific conditional use permit standards for outdoor eating areas as outlined in City Code §300.21 Subd.4(p):

1. Access to the patio would be via the restaurant building.
2. The expanded patio would be located 80 feet from the closest residential property, requiring a variance from this standard.
3. The outdoor dining area would be located in an existing, open area adjacent to the restaurant space and would not obstruct vehicular or pedestrian circulation.
4. The outdoor area would not obstruct any parking spaces.
5. The outdoor area would be located immediately adjacent to the principal use and accessed via the entrance to principal use.
6. As conditions of this resolution, the area:
  - Must be surrounded by an uninterrupted enclosure and must be accessible only from within the restaurant;
  - Must be equipped with refuse containers and periodically patrolled for litter pick-up; and
  - May not have speakers or audio equipment that is audible from adjacent parcels.
7. The outdoor area would meet building setback requirements.

3.03 The proposal would meet the variance standard as outlined in City Code §300.07:

1. Intent of the Ordinance. The intent of the ordinance regarding setbacks for outdoor patios is to mitigate the real or perceived negatives impacts these areas may have on surrounding uses. The applicant's proposal meets this intent, as it would be visually separated from the adjacent

residences. The expanded area would be surrounded by a new seven-foot fence. This would be in addition to an existing ten-foot opaque fence that is located near the north property line.

2. Comprehensive Plan. The subject property is guided for commercial use and has been used commercially for 50 years. The requested variance would not alter the longstanding use of the site.
3. Practical Difficulties. There are practical difficulties in complying with the ordinance.
  - a. Reasonableness. Though the expanded patio area would be roughly 80 feet from the closest residential property, it would be 150 feet from the closest home. It would be further separated from this home by two fences – the seven-foot fence proposed around the patio and an existing 10-foot fence located near the north property line – and mature trees.
  - b. Unique Circumstance. The configuration of the existing building and parking lot, “leaves” an existing open space appropriately situated for outdoor dining. However, the subject property is just 240 feet deep through this area. As such, very little of this space could be used for seating without a variance. Taken together, these circumstances are unique.
  - c. Character of Locality. The city does not anticipate that the requested variance would negatively impact the character of the neighborhood. The subject property and building have been used for restaurant purposes for 50 years. Patio seating was offered at some of the previous restaurants. The applicant’s proposal simply continues and expands this use.

Section 5. Council Action.

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

1. This resolution must be recorded with Hennepin County prior to the issuance of a building permit.
2. The outdoor dining area must:
  - a) Be surrounded by an uninterrupted enclosure and must be accessible only from within the restaurant.
  - b) Be equipped with refuse containers and periodically patrolled for litter pick-up;
3. Any outdoor speakers or audio equipment must not be audible from

adjacent parcels.

4. No portion of the outdoor area may be in enclosed any way for cold-weather seasonal seating, unless:
  - a. The owner submits a sewer and water accessibility charge (SAC) determination; and
  - b. The owner submits an executed parking agreement for off-site stalls as required by the parking ordinance.
5. A 10-foot, opaque fence must be maintained north of the existing parking lot unless otherwise approved by the city.
6. The property is subject to the provisions of the City Code §845, Public Nuisances.
7. The city council may reasonably add or revise conditions to address any future unforeseen problems.
8. 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 22, 2021.

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Brad Wiersum, Mayor

Attest:

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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 22, 2021.

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Becky Koosman, City Clerk



**MINNETONKA PLANNING COMMISSION**  
**March 4, 2021**

<b>Brief Description</b>	Election of planning commission officers and the sustainability commission liaison
<b>Recommendation</b>	Hold an election for the positions of Chair, Vice Chair and the sustainability commission liaison

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**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 an one-year period at the first meeting in March of every year. If there is no quorum at the first regular meeting in March, then the election shall be held at the next regular meeting with 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.

The city has created a new commission, the Minnetonka Sustainability Commission. This is a nine member commission with one of those nine members being a liaison from the planning commission. The planning commission should formalize a motion of the commission for a representative to the sustainability commission.

Planning commission officers for 2020 were Josh Sewell, who served as chair and Alex Hanson, who served as vice chair. The planning commission roster for 2021 includes:

- Josh Sewell
- John Powers
- Matt Henry
- Alex Hanson
- Amanda Maxwell
- David Waterman
- Derrick Banks

**Staff Recommendation**

Hold an election for the positions of chair, vice chair and the sustainability commission liaison.

Originator: Loren Gordon, AICP, City Planner

**MINNETONKA PLANNING COMMISSION**  
**March 4, 2021**

<b>Brief Description</b>	Review of the planning commission's bylaws and policies
<b>Recommendation</b>	Readopt the bylaws and policies

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### **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. More recently 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. In 2020, the topic was raised again but no action was taken, mostly due to shifting priorities with the pandemic.

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 2021.

**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