



Wayzata Planning Commission

Meeting Agenda

Monday, May 7, 2018
7:00 p.m.

Community Room
600 Rice Street East
Wayzata, Minnesota 55391

1. **Call to Order & Roll Call**
2. **Approval of Agenda**
3. **Consent Agenda**
 - a. Approval of April 16, 2018 Meeting Minutes
 - b. Adoption of Report and Recommendation of Approval of Conditional Use Permit at 433 Bushaway Rd
4. **Old Business Items**
 - a. None
5. **Public Hearing Items**
 - a. Benedict's Patio – 845 Lake St E
Conditional Use Permit and Variance
6. **Other Items:**
 - a. April 17th City Council Meeting Report – Commissioner Iverson
 - b. May 1st City Council Meeting Report – Commissioner Murray
 - c. Review of Development Activities
 - d. Next Meeting is May 21, 2018
5:30 p.m. – Workshop with City Council 5:30 p.m.
7:00 p.m. – Regular Meeting
7. **Adjournment**

NOTES:

- ¹ Members of the Planning Commission and some staff may gather at the Wayzata Bar and Grill immediately after the meeting for a purely social event. All members of the public are welcome.

**WAYZATA PLANNING COMMISSION
MEETING MINUTES
April 16, 2018**

AGENDA ITEM 1. Call to Order and Roll Call

Chair Buchanan called the meeting to order at 7:00 p.m.

Present at roll call were Commissioners: Plantan, Murray, Young, Buchanan, and Douglas.
Absent: Iverson and Flannigan. Director of Planning and Building Jeff Thomson and City Attorney David Schelzel were also present.

AGENDA ITEM 2. Approval of Agenda

Commissioner Plantan made a motion, Seconded by Commissioner Murray, to approve the April 16, 2018 meeting agenda as presented. The motion carried unanimously.

AGENDA ITEM 3. Consent Agenda

a.) Approval of March 19, 2018 Meeting Minutes

b.) Approval of April 2, 2018 Meeting Minutes

Chair Buchanan read the items on the Consent Agenda and asked if the Commissioners wished to remove any items for further discussion. Hearing no such requests, Chair Buchanan asked for a motion to approve the Consent Agenda as presented.

Commissioner Plantan made a motion, Seconded by Commissioner Murray, to approve the Consent Agenda as presented. The motion carried unanimously.

AGENDA ITEM 4. Old Business Items:

a.) Bly-Fence – 433 Bushaway Rd

i. Conditional Use Permit

Director of Planning and Building Thomson stated the Planning Commission reviewed the development application for a Fence CUP at 433 Bushaway Road, and held a public hearing at its meeting on April 2, 2018. At that meeting, there was a discrepancy in the plans as to whether the stone wall depicted along the front property line was a freestanding fence/wall, or a retaining wall. Mr. Thomson stated that since the last Planning Commission meeting, the applicant submitted revised plans that depict a reduction in the height of the wall along the south side of the driveway. With the revisions, the walls on both sides of the driveway would be retaining earth as retaining walls, not fences, and would be consistent with the approved grading plan. Therefore, Mr.

1 Thomson confirmed that the stone retaining walls in the plans that are part of the Application are
2 not subject to the City's fence requirements, and a Fence CUP is not needed for them. The only
3 item shown on the revised and current plans that requires the conditional use permit is the iron
4 gate across the driveway. The proposed gate would require the conditional use permit being up to
5 8-feet in height, but not for transparency in that it would meet the 50% openness requirement of
6 the fence ordinance. Mr. Thomson noted that there had been concerns brought up at the public
7 hearing regarding the arborvitae that have been planted on the property as part of the landscape
8 plan. He explained that there is a specific provision in the fence ordinance that plantings or hedges
9 that are constructed to act like a fence are not subject to the fence regulations. He noted that based
10 on the Commissions direction at the April 2 meeting, staff has prepared a Planning Commission
11 Report and Recommendation recommending denial of the conditional use permit but that the
12 Planning Commission could direct staff to prepare a draft Report and Recommendation
13 recommending approval for review at the next Planning Commission meeting based on the revised
14 plans and additional information presented.

15
16 Commissioner Murray asked if a wall was considered a retaining wall if it is at grade and a fence
17 if it is above grade.

18
19 Mr. Thomson stated in order to be considered a retaining wall, the top of the wall has to be at grade
20 with the back of the wall or flush with grade. If a wall extends beyond grade level it is considered
21 a fence and subject to the fence ordinance requirements. If the retaining wall were to be continued
22 upward and still comply with the fence ordinance it could only be a maximum height of 21-inches.
23 This would satisfy the 50% openness requirement.

24
25 Commissioner Murray clarified the open requirement for fences would not include the arborvitae
26 hedge that was planted.

27
28 Mr. Thomson stated this was correct.

29
30 Chair Buchanan asked if the applicant would be filling and grading the property to the height of
31 the proposed retaining wall, and if this had been approved by the City.

32
33 Mr. Thomson stated the approved grading on the south side of the driveway has not occurred, but
34 the property would be filled and graded to the height of the proposed retaining wall.

35
36 Commissioner Young stated he would support a recommendation of approval of the application
37 with the proposed revisions and clarifications. He noted that this application is difficult because
38 the residents expressed concerns about the property being "bumped up" and blocking views of the
39 lake. Given that the grading has already been approved by the City, and there are no restrictions
40 on the arborvitae, he concluded that there would be no reason to not approve the gate.

41
42 There being no further questions or discussion, Chair Buchanan asked for a motion on the
43 Application.

44

1 Commissioner Young made a motion, Seconded by Commissioner Plantan, to direct staff to
2 prepare a draft Planning Commission Report and Recommendation recommending approval of the
3 conditional use permit for the gate at 433 Bushaway Road.

4
5 Chair Buchanan accepted the motion and asked if there was any further discussion.

6
7 Commissioner Plantan stated there had been confusion at the last meeting regarding the
8 application, and the revisions have clarified the request. She stated the view to the lake is open for
9 about 80-feet after the arborvitae, and the proposed gate is in scale with the design.

10
11 Applicant, David Steingas, was recognized by Chair Buchanan and stated there had previously
12 been an 8-foot stockade fence on the property that blocked the view of the lake, and they are
13 planting the arborvitae to replace this fence. He stated there is a fence requirement for their pool
14 in the backyard for a 60-inch fence, and noted that they may be back to the Planning Commission
15 to ask for another conditional use permit to replace the proposed 42-inch fence on the south side
16 with a 60-inch fence that would meet the City's pool fencing requirements.

17
18 Commissioner Young asked why the Commission would not table this request if the additional
19 fencing would be eminent.

20
21 Mr. Steingas stated they are just considering this option for now.

22
23 There being no further discussion, Chair Buchanan called the motion to a vote. The motion carried
24 unanimously.

25
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27 **AGENDA ITEM 5. Public Hearing Items:**

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29 a.) None.

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32 **AGENDA ITEM 6. Other Items:**

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34 a.) April 3rd City Council Meeting Report – Commissioner Flannigan

35
36 Given Commissioner Flanagan's absence, Director of Planning and Building Thomson provided
37 a report on the April 3, 2018 City Council meeting. He noted that the Council meeting included
38 recognition of retiring firefighters, the introduction of four new fire fighters, and an update on the
39 Lake Effect design process. There will be a public open house in May to review the Lake Effect
40 design for Lake Street, Lake Street Plaza, and Depot Park. The City Council approved the
41 development agreement for Wayzata Blu with demolition expected to start by next week. The
42 City Council also approved two land use requests in accordance with the recommendation of the
43 Planning Commission, for the setback variances at 532 Ferndale and the height conditional use
44 permit and lot combination at 649 Ferndale. The City Council also approved the conditional use
45 permit for Verizon Wireless at 1000 Superior Blvd.

1 **b.) Review of Development Activities**

2
3 Mr. Thomson stated the draft Report and Recommendation for the CUP request at 433
4 Bushaway Road discussed earlier this meeting would be on the consent agenda at the May 7th
5 Planning Commission meeting, and the regular agenda would likely include a new application for
6 an outdoor patio on the agenda. The joint workshop with City Council and Planning
7 Commission for discussions on the tree ordinance has been scheduled for May 21 at 5:30 p.m.

8
9 Chair Buchanan asked staff to have copies of other city's tree ordinances, including Edina, for
10 this meeting.

11
12 Commissioner Plantan asked for an update on the Meyer Place project.

13
14 Mr. Thomson stated there had been a preconstruction meeting on April 6, and that the developers
15 have reported that they have secured financing and expect to start demolition on June 1.

16
17 **Next Meeting is May 7, 2018**

18
19 Director of Planning and Building Thomson noted the next regular meeting of the planning
20 Commission is scheduled for May 7, 2018.

21
22
23 **AGENDA ITEM 7. Adjournment.**

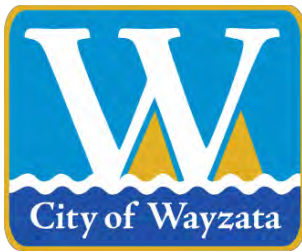
24
25 There being no further business on the agenda, Chair Buchanan asked for a motion to adjourn.

26
27 Commissioner Murray made a motion, seconded by Commissioner Plantan, to adjourn the
28 Planning Commission. The motion carried unanimously.

29
30 The Planning Commission meeting was adjourned at 7:25 p.m.

31
32 Respectfully submitted,

33
34 Tina Borg
35 *TimeSaver Off Site Secretarial, Inc.*



City of Wayzata Planning Commission Agenda Report

MEETING DATE: May 7, 2018	AGENDA ITEM: 3b
TITLE: Adoption of Report and Recommendation of Approval of Conditional Use Permit at 433 Bushaway Rd	
PROJECT NAME: Bly Fence	
ADDRESS: 433 Bushaway Rd	
PREPARED BY: Jeff Thomson, Director of Planning and Building	

BACKGROUND:

Application Overview

Steiner Koppelman and the property owners, Allan and Stacey Bly, have submitted a development application to construct an 8-foot tall entry gate in the front yard of the property at 433 Bushaway Road. The development application requests approval of a conditional use permit for a fence taller than 42 inches in the front yard.

Planning Commission Review

The Planning Commission reviewed the development application and held a public hearing at its meeting on April 2, 2018. The Planning Commission reviewed revised plans for the fence/entry gate at its meeting on April 16, 2018. After discussing the application, the Planning Commission voted five (5) in favor and zero (0) opposed to direct staff to prepare a report and recommendation of approval of the development application for adoption at the next Planning Commission meeting.

PLANNING COMMISSION ACTION:

City Staff has drafted the attached Planning Commission Report and Recommendation which recommends approval of the development application. The Report and Recommendation reflects the vote of 5-0, and includes the findings discussed by the Planning Commission.

ATTACHMENTS:

1. Draft Planning Commission Report and Recommendation



WAYZATA PLANNING COMMISSION

May 7, 2018

REPORT AND RECOMMENDATION OF APPROVAL OF CONDITIONAL USE PERMIT FOR A FENCE AT 433 BUSHAWAY RD

SUMMARY OF RECOMMENDATION

Approval* of Conditional Use Permit for Fence

** subject to certain conditions noted in Section 4 of this Report*

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Project. Steiner Koppelman and the property owners, Allan and Stacey Bly, (together, the “Applicant”) have submitted a development application (the “Application”) to install a driveway entrance gate in the front yard of the property at 433 Bushaway Road (the “Property”).
- 1.2 Application Request. As part of the Application, the Applicant is requesting approval of a conditional use permit (the “Fence CUP”) for a driveway entrance gate (considered a fence under the Zoning Ordinance) greater than 42 inches in height as depicted on the plans attached as Attachment A (the “Entrance Gate”). The Entrance Gate would be located at a driveway that runs between two retaining walls that have been constructed in the front yard of the Property, as part of the larger regrading that has been done to the Property.
- 1.3 Property. The street address, property identification number and owner of the Property are:

433 Bushaway Rd	08-117-22-22-0007	Allan and Stacey Bly
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- 1.4 Land Use. The Property is zoned R-1A/Low Density Single Family Residential District and guided Estate Single Family. It is also located in the S/Shoreland and FP/Floodplain overlay district.
- 1.5 Notice and Public Hearing. Notice of a public hearing on the Application was published in the *Wayzata Sun Sailor* on March 22, 2018. A copy of the notice was mailed to all property owners located with 350 feet of the Property on March 22, 2018. The public hearing on the Application was held at the April 2, 2018 Planning Commission meeting.
- 1.6 Planning Commission Review. The Planning Commission reviewed the Application at both its April 2 and April 16 meetings. After clarifications had been made to the Application and the scope of the requested Fence CUP, the Commission directed staff to prepare a draft Report & Recommendation of approval of the Application.

Section 2. STANDARDS

- 2.1 Standards for Fences. The definition of "fences" in the Zoning Ordinance includes "Fence" a gate erected as a dividing marker, visual or physical barrier. Section 801.02.2. Fences located in a front yard that are greater than 50 percent solid matter and exceed 42 inches in height require a conditional use permit. Section 801.18.1. City Code Section 801.18.1.F.2 outlines the following standards for evaluating fence conditional use permits:
 - A. The fence placement, height or design does not create a safety hazard with regard to, from or on a public street or roadway.
 - B. The fence placement, height or design does not create a safety problem or negatively affect adjoining properties or use.
 - C. The provisions of Section 801.04.2.F of the Zoning Ordinance are considered and satisfactorily met. Section 801.04.2.F of the Zoning Ordinance requires City Council to consider possible adverse effects of the proposed conditional use. Council's judgment shall be based upon (but not limited to) the following factors:
 1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
 2. The proposed use's compatibility with present and future uses of the area.
 3. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
 4. The propose use's effect on the area in which it is proposed.

5. The proposed use's impact upon property values in the area in which it is developed.
6. Traffic generated by the proposed use is in relation to capabilities of streets serving the property.
7. The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

Section 3. FINDINGS

Based on the Application materials, staff reports, public comment presented at the public hearing, and Wayzata's Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact:

3.1 Criteria for Fence CUPs.

- A. The placement, height and design of the Entrance Gate will not create a safety hazard with regard to, from or on a public street or roadway.
- B. The placement, height and design of the Entrance Gate will not create a safety problem or negatively affect adjoining properties and uses.
- C. The provisions of Section 801.04.2.F of the Zoning Ordinance have been considered and are all satisfactorily met. The Entrance Gate (the "Proposed Use") would have not have adverse effects on the surrounding area based upon the following:
 1. The Proposed Use is not inconsistent with any policies or provisions of the official City Comprehensive Plan.
 2. The Proposed Use is not incompatible with present and future uses of the area.
 3. The Proposed Use conforms with all relevant performance standards contained in the Zoning Ordinance.
 4. The Proposed Use will not have a material effect on the area in which it is proposed in that it is a small part of a larger improvement, landscaping and grading plan for the Property.
 5. The Proposed Use will not have a material impact upon property values in the area in that it is a small part of larger improvement, landscaping and grading plan for the Property.

6. The Proposed Use will not generate traffic.
7. The Proposed Use will not have an impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

Section 4. RECOMMENDATION

4.1 Planning Commission Recommendation. Based on the findings in section 3 of this Report, the Planning Commission recommends **APPROVAL** of the Fence CUP, subject to the following conditions:

- A. Other Permits and Standards. The Applicant must secure all necessary building, construction and other permits for improvements on the Property.
- B. Costs. All expenses of the City of Wayzata, including consultant, expert, legal, and planning incurred must be fully reimbursed by the Applicant.

Adopted by the Wayzata Planning Commission this 7th day of May 2018.

Voting For Approval Recommendation: Plantan, Murray, Young, Buchanan, and Douglas

Voting Against Approval Recommendation: None

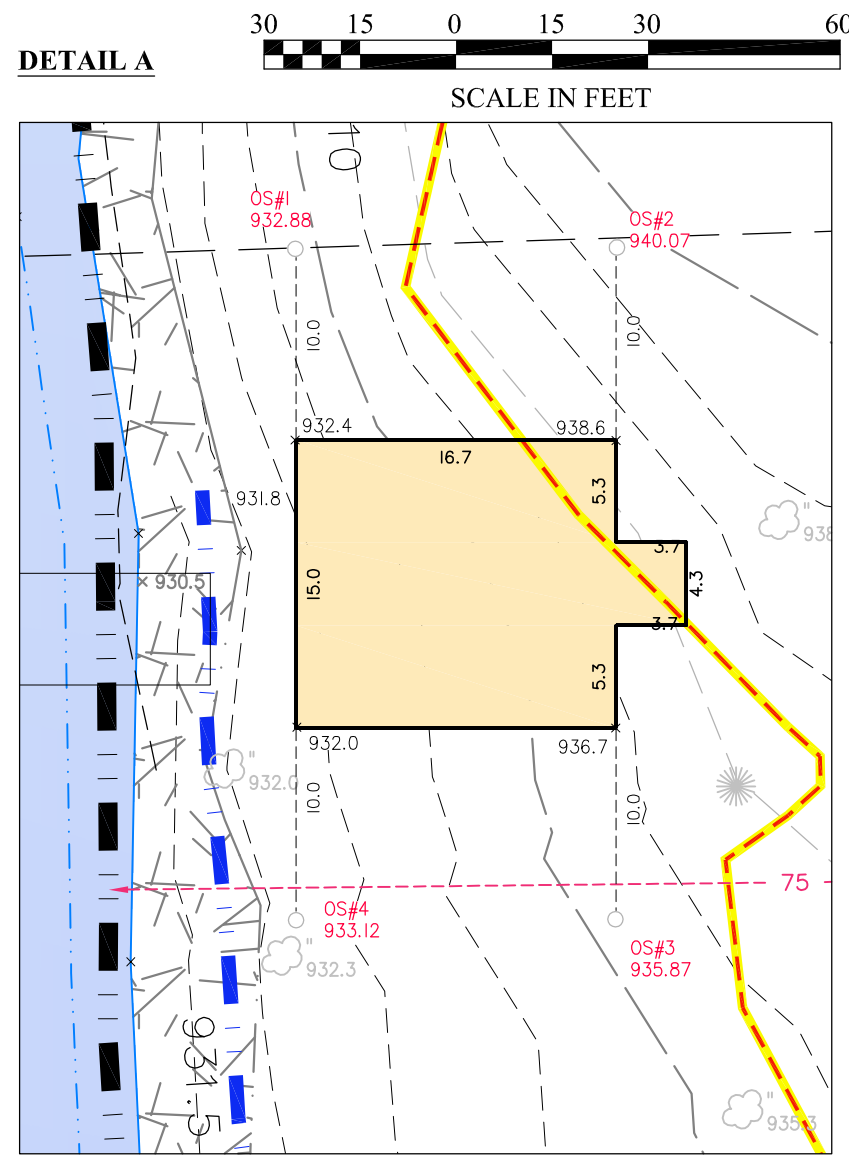
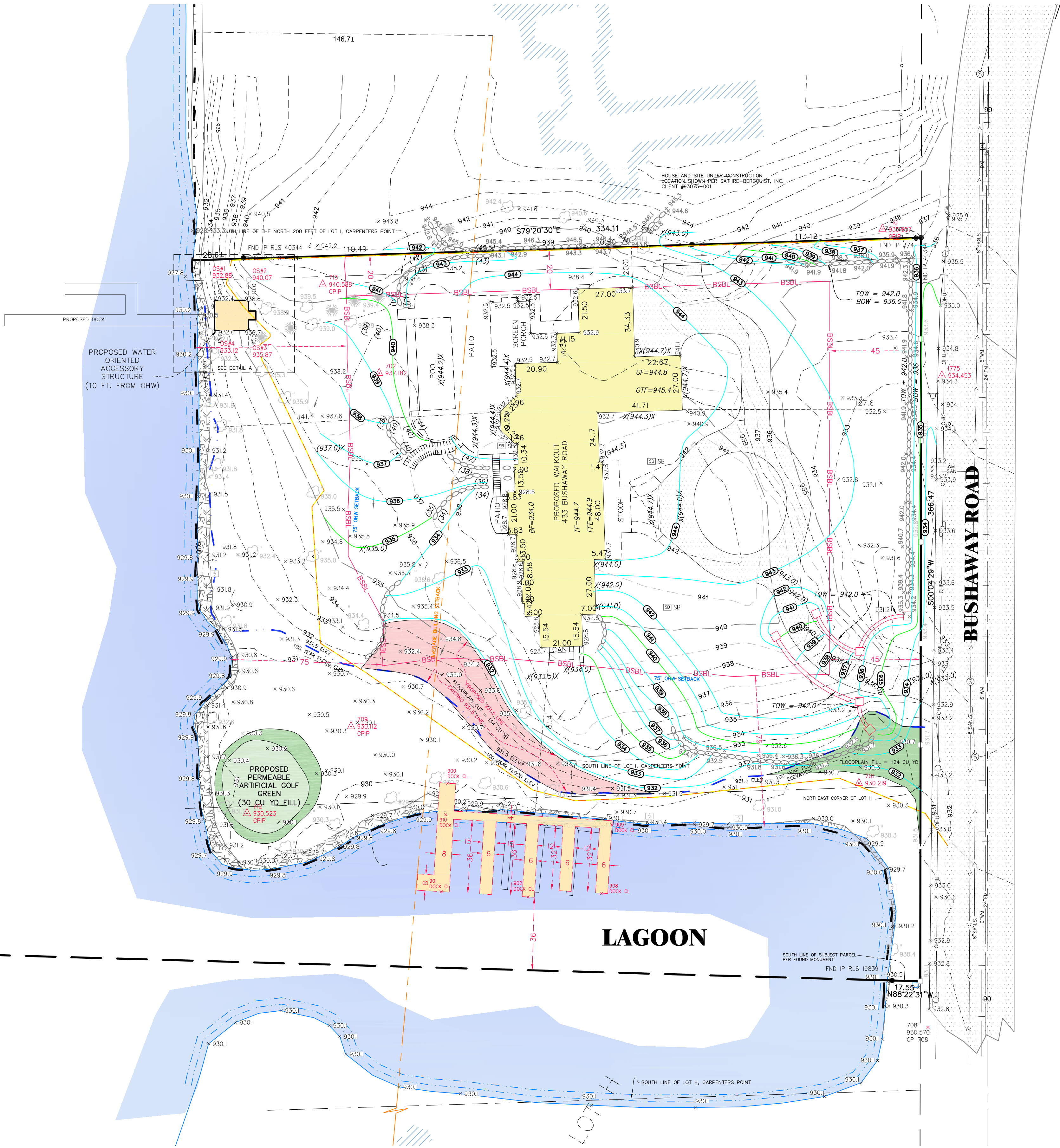
Abstaining: None

Absent: Flannigan and Iverson

Attachment A
Entrance Gate

DRAFT

LAKE MINNETONKA
"WAYZATA BAY"



DESCRIPTION OF PROPERTY SURVEYED

The south 10 feet of the north 200 feet of "Lot 1" of CARPENTERS POINT, Hennepin County, Minnesota and all that part of "Lot 1" of CARPENTERS POINT, Hennepin County, Minnesota, which lies south of a line which is parallel with the north line of said "Lot 1" and is distance 200 feet south of said north line; and that part of "Lot 1" of said CARPENTERS POINT, Hennepin County, Minnesota, described as follows: Commencing at the northeast corner of said "Lot 1"; thence running south on the east boundary line thereof 84.23 feet; to a point made by the intersection of said line with a line which is an extension to the northerly line of a steel culvert under the county road lying to the east of and at right angles to said east boundary line, which culvert permits the flow of water under said road to and from the lagoon on said "Lot 1"; thence westerly to the shore of said lagoon; thence northerly and westerly along the shore of said lagoon to the shore of Wayzata Bay, Lake Minnetonka; thence northerly along the shore of said Wayzata Bay to the north boundary line of said "Lot 1"; thence east along said north boundary line to the point of beginning, according to the plat thereof on file and of record in the office of the Register of Deeds, in and for Hennepin County, Minnesota.

- Site Address:** 433 Bushaway Road, Wayzata, Minnesota 55391
- Flood Zone Information:** This property appears to lie in Zone X (Area of areas outside the 1-percent annual chance floodplain, areas of 1% annual chance sheet flow flooding where average depths are less than 1 foot, areas of 1% annual chance stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 1% annual chance flood by levees. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones.) and Zone AE (Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. In most instances, base flood elevations derived from detailed analyses are shown at selected intervals within these zones.) per Flood Insurance Rate Map, Community Panel No. 27053C0328E, effective date of September 2, 2004.
- Parcel Area Information:**
Gross Area: 103,305 s.f. ~ 2.372 acres (Measured to Ordinary High Water Line.)
Gross Area: 82,715 s.f. ~ 1.899 acres (Measured to 931.5 flood elevation.)
- Site Elevation:** Elevations are based on MN/DOT Geodetic Station Name: Roger MN053 ~ Southeast Quadrant of Bushaway Road and Interstate 394. Elevation = 993.69 feet (NGVD29).
- Zoning Information:** The current Zoning for the subject property is R-1A (Low Density Single Family Estate District) per the City of Wayzata's zoning map dated April 28th, 2015. The setback, height, and floor space area restrictions for said zoning designation were obtained from the City of Wayzata found on their web site on the date of April 19th, 2016 and are as follows:

Principal Structure Setbacks:
Front Yard - 45 feet (Bushaway Road)
Rear Yard - 75 feet (Lake Side - From Ordinary High Water Line)
Side Yard - 20 feet

Allowable Building Height: 3 Stories or 40 feet, whichever is lesser.

Accessory Structure Setback:
Front Yard - 50 feet
Side Yard - 10 feet
Rear Yard - 10 feet

Allowable Hardcover: 10% Building Coverage - 10,331 sq. ft.
20% - 20,661 sq. ft. (Exception may apply)

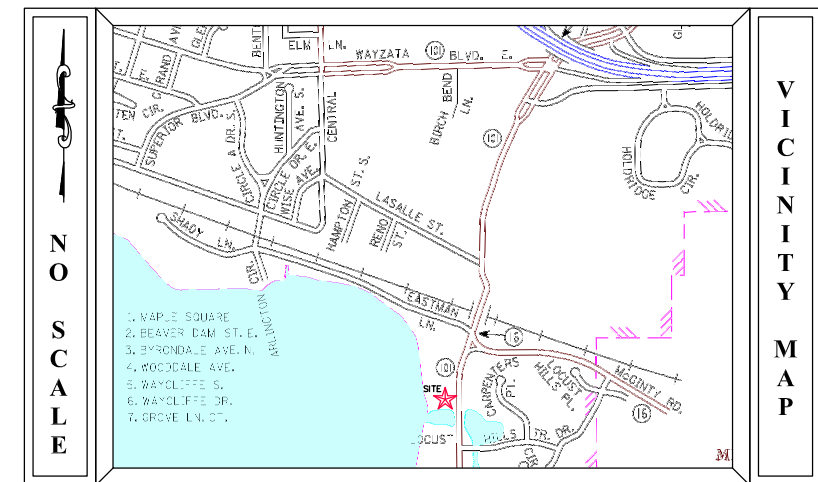
Lowest Allowable Floor Elevation = 934.00 ft.

*Zoning and Setback information provided by the Planning Department of the City of Wayzata. Contact the Planning Department for more information.

Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the current restrictions for this site.
- Utilities:** We have shown the location of utilities on the surveyed property by observed evidence only. There may be underground utilities encumbering the subject property we are unaware of. Please note that we have not placed a Gopher State One Call for this survey. There may or may not be underground utilities in the mapped area, therefore extreme caution must be exercised before any 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 651/454-0002.

Hardcover		Offset Irons (elevations are to the top of pipe)	
Lot Area	= 103,305 S.F.	OS #1= 938.68	OS #2= 938.56
House/Garage Area	= 7,798 S.F.	OS #3= 940.12	OS #4= 9940.5
Porch Area	= 813 S.F.	OS #5= 941.44	OS #6= 942.52
Driveway Area	= 6,423 S.F.	OS #7= 943.04	OS #8= 942.87
Stoop Area	= 888 S.F.	OS #9= 942.26	OS #10= 941.54
Patio Area	= 2,713 S.F.	OS #11= 940.92	OS #12= 932.95
Landscape Steps Area	= 168 S.F.	OS #13= 932.80	OS #14= 932.86
Retaining Walls Area	= 1,461 S.F.		
Decorative Wall Area	= 14 S.F.		
A/C Units / Generator Pads Area	= 44 S.F.		
Future New Boathouse Area	= 250 S.F.		
Total Area	= 20,472 S.F.		
House Coverage	= 8.34%		
Impervious Coverage	= 19.82%		

Proposed Elevations	= 944.8
Garage Floor	= 944.8
Top of Foundation	= 944.7
Basement Floor	= 934.0
First Floor	= 944.9



Bearings are based on the Hennepin County
Coordinate System (NAD 83 - 1986 adj.)

SURVEY LEGEND

● CAST IRON MONUMENT	⊠ A/C UNIT	▨ BITUMINOUS
⊠ CATCH BASIN	⊠ CABLE TV PEDESTAL	— BSBL — BUILDING SETBACK LINE
◁ FLARED END SECTION	⊠ ELECTRIC TRANSFORMER	— CTV — CABLE TV
⊠ GATE VALVE	⊠ ELECTRIC MANHOLE	— CONCRETE CURB
< GUY WIRE	⊠ ELECTRIC METER	— CONCRETE
⊠ HYDRANT	⊠ GAS METER	— CONTOUR EXISTING
○ SURVEY MONUMENT SET	⊠ GAS VALVE	— CONTOUR PROPOSED
● SURVEY MONUMENT FOUND	— GUARD RAIL	— DT — DRAIN TILE
△ SURVEY CONTROL POINT	⊠ HAND HOLE	— E.L.C. — ELECTRIC UNDERGROUND
○ LIGHT POLE	⊠ SOIL BORING	— FENCE
⊠ POWER POLE	⊠ TREE CONIFEROUS	— F.O. — FIBER OPTIC UNDERGROUND
⊠ SANITARY MANHOLE	⊠ TREE DECIDUOUS	— GAS — GAS UNDERGROUND
⊠ SANITARY CLEANOUT	⊠ TELEPHONE MANHOLE	— OHU — OVERHEAD UTILITY
⊠ SIGN	⊠ TELEPHONE PEDESTAL	===== RAILROAD TRACKS
— GROUND ELEVATION	⊠ TRAFFIC SIGNAL	— SANITARY SEWER
⊠ STORM DRAIN	⊠ UTILITY MANHOLE	— STORM SEWER
⊠ STORM MANHOLE	⊠ UTILITY PEDESTAL	— TEL — TELEPHONE UNDERGROUND
○ YARD LIGHT	⊠ WELL	— UTL — UTILITY UNDERGROUND
		— WATERMAIN

FIELD CREW	NO.	BY	DATE	REVISION
ALL	12	EMW	9/19/2017	REVISED BOAT HOUSE
DRAWN	13	EMW	9/26/2017	STAKED BOAT HOUSE
EMW	14	EMW	11/6/2017	UPDATED SITE PLAN PER CLIENT
CHECKED	15	EMW	11/8/2017	931.5 FILL/CUT, GREEN, HARDCOVER, DOCKS
DBP	16	EMW	12/4/2017	ADDED AREA TO FLOOD PLAIN CUT
DATE	17	EMW	12/15/2017	CLARIFIED PROPOSED 931.5 LINE
04-19-16	18	EMW	2/27/2018	REVISED ENTRY GATE AREA

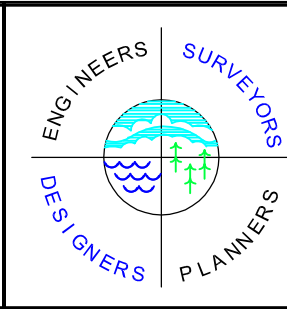
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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 28th day of April, 2016.

David B. Pemberton, PLS
pemberton@sathre.com

Minnesota License No. 40344



SATHRE-BERGQUIST, INC.
150 SOUTH BROADWAY WAYZATA, MN. 55391 (952) 476-6000

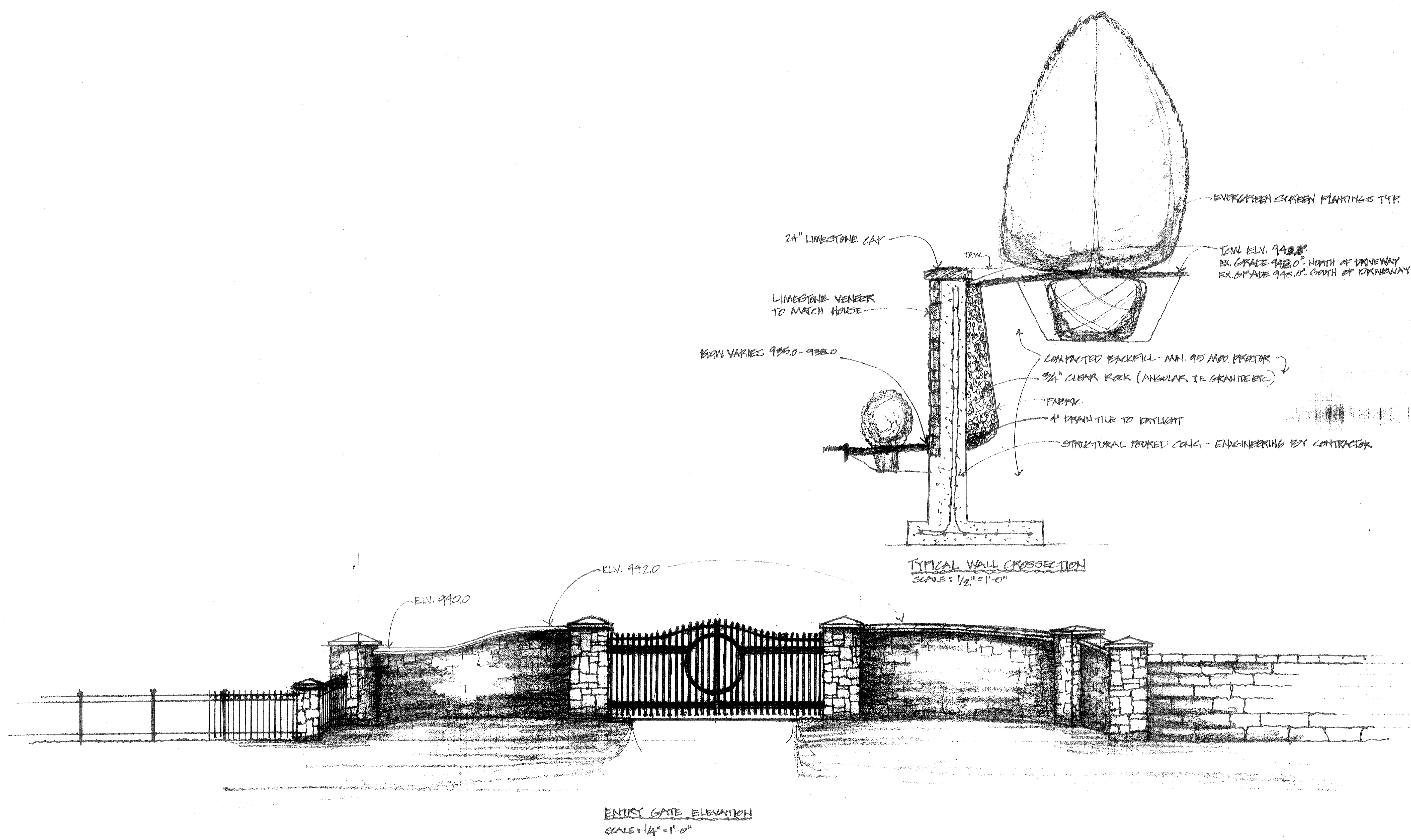
TWP.117 - RGE.22 - SEC.08
Project City: Wayzata
Hennepin County

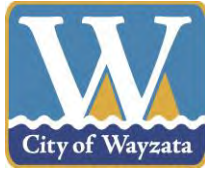
CERTIFICATE OF SURVEY

PREPARED FOR:
STEINER & KOPPELMAN

FILE NO.
87910-002

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1





**Staff Report
May 7, 2018**

Project Name: Benedict's Patio
Applicant Benedict's Morning Heroes
Addresses of Request: 845 Lake St E
Prepared by: Jeff Thomson, Director of Planning and Building
"60 Day" Deadline: June 3, 2018

Development Application

Introduction

The applicant, Benedict's Morning Heroes, and the property owner, Wayzata Bay West Retail, LLC, have submitted a development application to construct an outdoor dining café on the sidewalk adjacent to the restaurant at 845 Lake St E. The development application requests approval of a conditional use permit and a variance from the distance requirement from residentially-zoned properties.

Property Information

The property identification number and owner of the property are as follows:

Address	PID	Owner
845 Lake St E	06-117-22-42-0105	Wayzata Bay West Retail, LLC

The current zoning and comprehensive plan land use designation for the property are as follows:

Current zoning:	PUD/Planned Unit Development
Comp plan designation:	Downtown Mixed Use District
Overlay districts:	Shoreland Overlay District

Project Location

The property is in the Promenade of Wayzata development, between Superior Blvd and Promenade Ave:

Map 1: Project Location



Application Requests

As part of the submitted development application, the applicant is requesting approval of the following items:

- A. Conditional Use Permit: Within the PUD zoning district, outdoor sidewalk cafés are a conditional use.
- B. Variance: The conditional use permit standards for outdoor sidewalk cafes require that the café be at least 500 feet from a residential zoning district if the restaurant has a liquor license. The proposed sidewalk café would be located within 500 feet of single-family homes that are located on Shady Lane E to the south of the subject property.

Adjacent Land Uses.

The following table outlines the uses, zoning, and Comprehensive Plan land use designations for adjacent properties:

Direction	Adjacent Use	Zoning	Comp Plan Land Use Designation
North	Promenade of Wayzata	PUD/Planned Unit Development	Downtown Mixed Use District
East	Promenade of Wayzata	PUD/Planned Unit Development	Downtown Mixed Use District
South	Lake St	N/A	N/A
	Village Shoppes	C-2/Shopping Center Business District	Central Business District
West	Superior Blvd	N/A	N/A

	Municipal parking lot	C-2/Shopping Center Business District	Central Business District
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Map 2: Adjacent Land Uses

Zoning



Comp Plan Land Use Designation



Public Hearing Notice

The public hearing notice was published in the *Wayzata Sun Sailor* and mailed to all property owners within 350 feet of the subject property on April 19, 2018.

Analysis of Application

Proposed Plans

Benedict's is proposing to add an outdoor café on the sidewalk next to their restaurant on Lake Street. The outdoor café would be located on the front of the restaurant adjacent to the main entrance. The café would have 20 tables with up to 40 seats. The patio would be open seasonally during regular restaurant hours – Monday through Sunday, 6:30 a.m. to 3:00 p.m.

Conditional Use Permit Standards

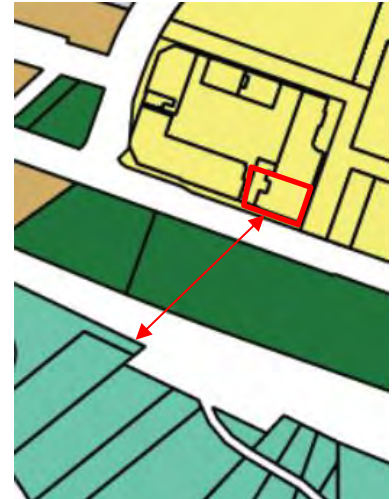
The zoning ordinance outlines the following conditional use permit standards for outdoor sidewalk cafes:

1. Functional Requirements.
 - a. Existing and/or proposed principal use shall conform to existing City zoning regulations.

Comment: The principal use as a restaurant is a permitted use in the PUD zoning district, and conforms to the zoning regulations.

- b. Cafe shall be a minimum distance from a R-1A, R-1, R-2, R-3, and R-4 residential zoning district:
 - (1) 200 foot minimum for non-alcoholic cafes.
 - (2) 500 foot minimum for alcoholic establishments.

Comment: Benedict's has a liquor license from the City for the service of alcoholic beverages. The proposed sidewalk café would be approximately 360 feet from the nearest residentially-zoned property, which is located on Shady Lane E behind the Village Shoppes on the opposite side of Lake Street. If the applicant intends to include the sidewalk café as part of the licensed premise for its liquor license, a variance from this conditional use permit standard is needed.



- c. Cafe area shall be limited to the public right-of-way abutting the lot front as defined by this Ordinance.

Comment: The proposed sidewalk café would be located in the public easement abutting the front of the lot.

- d. Cafe area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, etc. Segregation device(s) must not cause destruction to the sidewalk or other elements within the public right-of-way.

Comment: The proposed plans do not include details on how the sidewalk café would be segregated from the pedestrian circulation area. The applicant should provide this detail on the proposed plans.

- e. Minimum clear passage zone for pedestrians at the perimeter of the café shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, treegates, curbs, stairways, trash receptacles, street lights, parking meters, etc.

Comment: The proposed plans include a six foot clear zone on the south side of the sidewalk café to maintain pedestrian access and circulation.

- f. Overstory canopy of tree/umbrellas extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.

Comment: The proposed plans do not include any umbrella structures on the patio.

- g. A minimum of forty-two (42) inches shall be provided within aisles of cafe.

Comment: The proposed plans include a 42-inch aisle within the sidewalk café.

- h. Furniture and enclosed perimeter shall be movable to allow for seasonal changes.

Comment: The furniture would not be permanent and would be movable to allow for removal in the winter.

- i. No storage of furniture on sidewalk shall be allowed between the months of October and April.

Comment: This can be included as a condition of approval.

- j. No outside bar, cooking facility, food preparation or holding area, or wait station shall be established.

Comment: The proposed plans do not include any outdoor bar, cooking facility, food preparation or holding area or wait station.

- k. Any lighting used to illuminate the cafe area shall be so arranged as to reflect the light away from the adjoining property and public streets or alleys, and be in compliance with this Ordinance.

Comment: The proposed plans do not include any additional exterior lighting.

- l. No electronically amplified outdoor music, intercom, audio speakers, or other such noise generating devices shall be allowed in the cafe area.

Comment: The proposed plans do not include any amplified sound, but this can be included as a condition of approval.

2. Liability Requirements.

- a. The property owner, restaurant operator and the City shall enter into a hold harmless agreement, as provided by the City, exempting the City from all liability claims associated with the cafe use.

Comment: This can be included as a condition of approval.

- b. Maintenance of public right-of-way, including landscaping, for which the cafe is located upon shall be the property owner's responsibility.

Comment: The location of the outdoor patio is covered by a maintenance agreement that the master associated for the Promenade of Wayzata is responsible for maintaining the sidewalk area.

- c. Security of the cafe area shall be the responsibility of the property owner.

Comment: This can be included as a condition of approval.

- d. Property owner shall pick up litter within one hundred (100) feet of the cafe on a daily basis.

Comment: This can be included as a condition of approval.

- e. A special license for outdoor sidewalk cafe shall be renewed no later than November 1st of each year.

Comment: This can be included as a condition of approval.

3. Aesthetic Requirements.

- a. Furniture shall be washable, constructed of metal, plastic or other weather resistant materials and maintained in a safe and sanitary condition.

Comment: The tables and chairs on the plans would be washable.

- b. Plant material shall be in containers to allow for movement.

Comment: There are no planters shown on the proposed plans.

- c. Annual/perennial flowers shall be used to enhance streetscape aesthetics.

Comment: The proposed plans do not include any annual or perennial flowers.

- d. Canopies/umbrellas shall be used for summer sun protection subject to the provisions of this Ordinance.

Comment: The proposed plans do not include any canopies or umbrellas.

- e. One (1) covered trash receptacle matching appearance of other furniture shall be provided for every eight (8) tables.

Comment: There are no trash receptacles shown on the plans.

- f. Design of site furnishings and cafe layout shall be reviewed by the City prior to installation.

Comment: The application includes a plan for the layout of the sidewalk café.

4. The provisions of Section 801.04.2.F of this Ordinance are considered and satisfactorily met.

Action Steps

After considering the items outlined in this report and the public hearing held at the meeting, the Planning Commission should consider adoption of the draft *Planning Commission Report and Recommendation*, which recommends approval of the conditional use permit, subject to several conditions.

Attachments

Applicant's Narrative
Proposed Plans

Applicable Code Provisions for Review

Conditional Use Permits: City Code Section 801.04.2.F. states that the Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:

- A. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
- B. The proposed use's compatibility with present and future uses of the area.
- C. The proposed use's conformity with all performance standards contained herein (i.e., parking, loading, noise, etc.).
- D. The proposed use's effect on the area in which it is proposed.
- E. The proposed use's impact upon property values in the area in which it is developed.
- F. Traffic generated by the proposed use is in relation to capabilities of streets serving the property.
- G. The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

Variance Standards: Section 801.05.1.C provides the criteria for reviewing variances from the zoning ordinance, which are as follows:

- A. Variances shall only be permitted when they are:
 - (i) in harmony with the general purposes and intent of this Ordinance; and
 - (ii) consistent with the Comprehensive Plan.
- B. Variances may be granted when the Applicant for the variance establishes that there are practical difficulties in complying with this Ordinance.
- C. "Practical difficulties," as used in connection with the granting of a variance, means that:
 - (i) the property owner's proposal for the property is reasonable but not permitted by this Ordinance;
 - (ii) the plight of the landowner is due to circumstances unique to the property, and not created by the landowner; and
 - (iii) the variance, if granted, will not alter the essential character of the locality.
- D. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

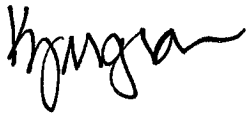
- E. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes, section 216C.06, subdivision 14, when in harmony with this Ordinance.
- F. The City Council shall not permit as a variance any use that is not allowed under this Ordinance for property in the zoning district where the affected person's land is located, except the City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling.
- G. The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- H. An application for a variance shall set forth reasons that the variance is justified under the criteria of this section in order to make reasonable use of the land, structure or building.

4.2.18

Benedict's Wayzata is requesting to open a sidewalk patio on Lake St. East. Please find our application and layout attached.

We will be operating 7 days per week from 6:30 am to 3:00 pm Monday through through Sunday.

Full service operations for our guests in Wayzata. Operations will remain within city guidelines meeting all regulations.

A handwritten signature in black ink, appearing to read 'K Ingram', with a stylized, flowing script.

Karen Ingram
General Manager
Benedict's Wayzata



10 South Eighth Street
Minneapolis, MN 55402

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sheadesign.com

consultant

project title

BENEDICT'S
883 County Rd 16
Wayzata, MN 55391

client

PRESBYTERIAN HOMES
THE PROMENADE OF WAYZATA

seal

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

PRINTED NAME David A. Shea III

SIGNATURE

DATE ISSUED

REG. NO.

12982

SIDEWALK SEATING PERMIT
04/02/2018

no. date issued for

project no.

7506.00

drawn

Author

date

04/02/2018

checked

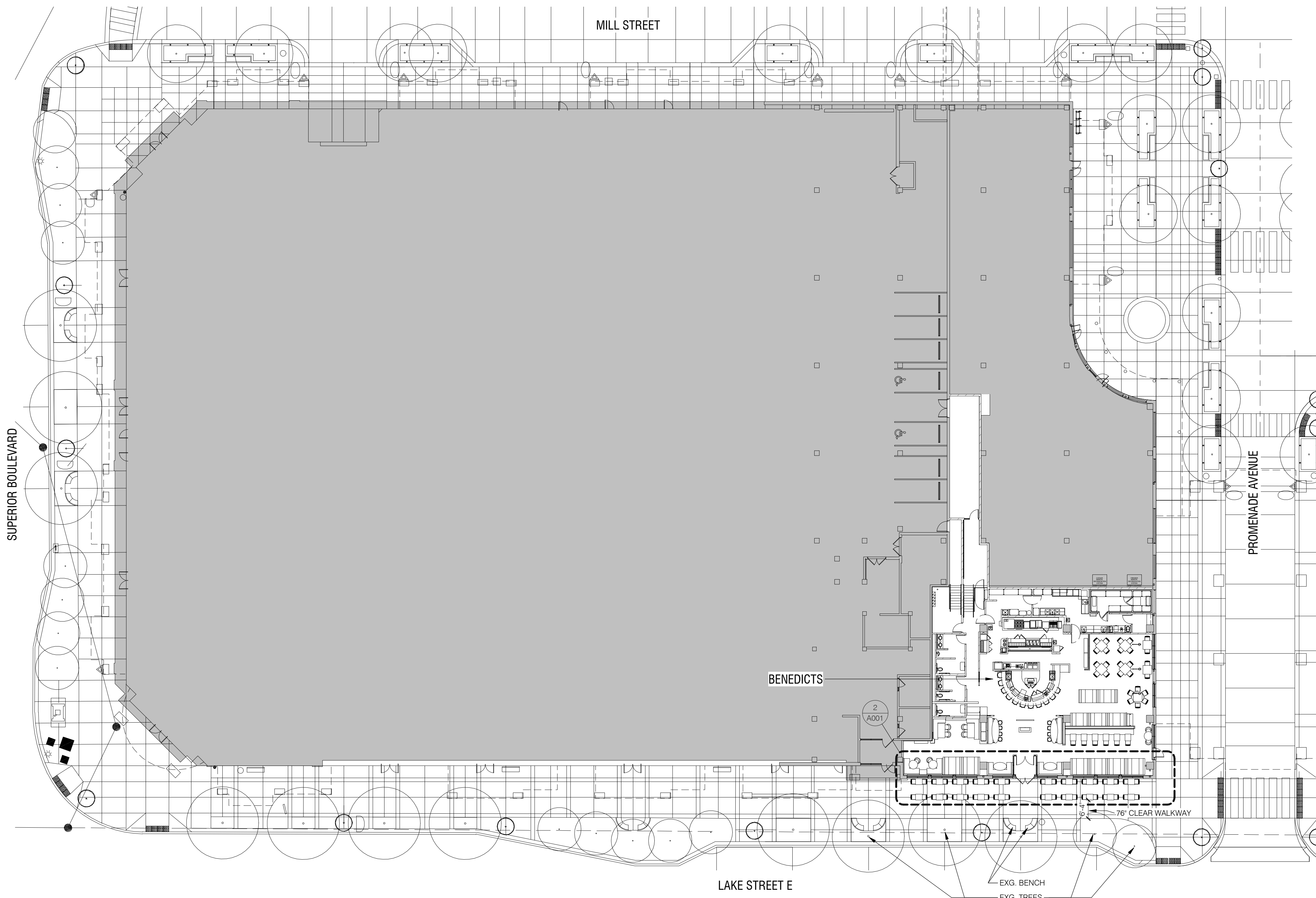
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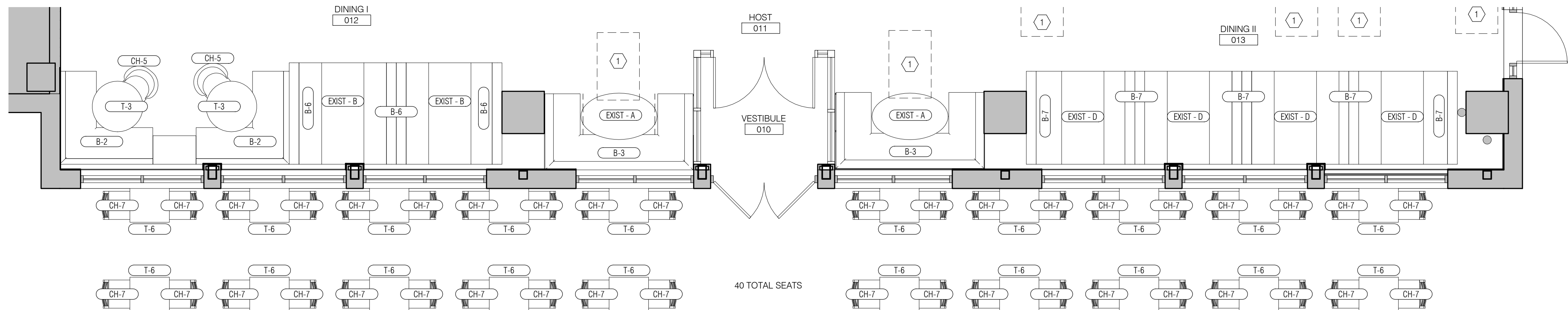
SITE PLAN WITH PATIO

A001

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1 SITE PLAN
A001 SCALE: 1" = 20'-0"



2 FLOOR PLAN - LEVEL 0.5
A001 SCALE: 1/4" = 1'-0"